

Testimony Concerning SB 248
Submitted to the Senate Judicial Proceedings Committee
February 5, 2020

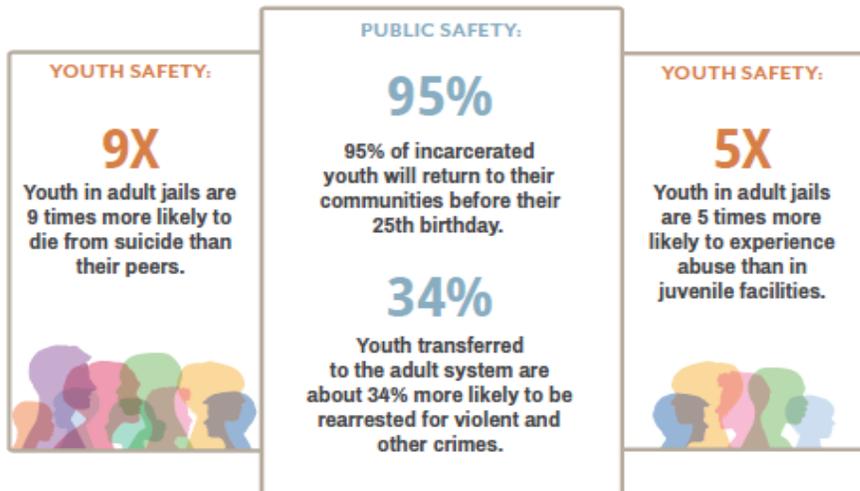
Chairman Smith and members of the Committee:

My name is Brian Evans, and I have been a Maryland resident for over a dozen years, and am in my seventh year as a resident of Silver Spring in District 20. I am also the State Campaigns Director for the Campaign for Youth Justice, a national organization that works to end the incarceration and sentencing of children in the adult criminal justice system.

I represent myself and my organization in opposing SB 248, a bill which would statutorily exclude 16 and 17-year-old children from the juvenile court if they are charged with attempted carjacking or attempted armed carjacking. SB 248 is out of step with the national trend towards reducing the number of children charged as adults. This trend exists because a bi-partisan, trans-ideological consensus has emerged that prosecuting children as adults is both harmful to them and counter-productive to public safety.

The research is clear: children incarcerated with adults are five times more likely to be assaulted, and nine times more likely to commit suicide, than those who remain in the juvenile system. A comprehensive study published in the *American Journal of Preventive Medicine* demonstrated that children transferred to the adult system have a 34% higher recidivism rate.¹

Figure A: Safety Statistics for Youth in Adult Jails and Prisons



Source: Thomas, J.M. (2018). *Youth Transfer: The Importance of Individualize Factor Review*. Washington, DC: Campaign for Youth Justice. http://cfyj.org/images/20180314_CFYJ_Youth_Transfer_Brief.pdf

¹ McGowan, A., Hahn, R., Liberman, A., Crosby, A., Fullilove, M., Johnson, R., Stone, G. (2007). Effects on violence of laws and 9 policies facilitating the transfer of juveniles from the juvenile justice system to the adult justice system. *American Journal of Preventive Medicine*, 32(4), 7-28. doi:10.1016/j.amepre.2006.12.003

CAMPAIGN FOR
YOUTH JUSTICE
BECAUSE THE CONSEQUENCES AREN'T MINOR

There are 26 states that statutorily exclude certain offenses from the juvenile court. Maryland's list of excluded offenses is already longer than most, and Maryland ranks as one of the states with the highest number of children charged as adults, behind only Alabama and Florida. Florida's numbers are likely to drop significantly as their legislature repealed their statutory exclusion law last year. Also last year, the Oregon legislature abolished that state's statutory exclusion law, by a two-thirds vote.

Maryland should be looking to narrow its list of statutorily excluded offenses, or ending the practice of statutory exclusion entirely, as Florida and Oregon have done. A 2016 study of available data authored by Steven Zane² concluded that allowing a judge to first decide whether a child should be transferred to the adult court is the most efficient mechanism for ensuring that only the most appropriate cases are sent to the adult system. Statutorily excluding children and then having large numbers of them transferred back to the juvenile system – as is already the case in Maryland and would surely be the case for many children charged with attempted carjacking – is a waste of valuable and finite court resources.

There is no evidence and nothing from other states' experiences that suggests this is anything other than a bad idea. It will harm children, waste resources, and do nothing to reduce or prevent crime – in fact, it may have the opposite effect. As a Marylander I am fully aware that the juvenile justice system in our state is far from perfect, but it is still better than the adult system, both for children and for public safety. Sending more children to the adult system, or expanding a convoluted system that first treats them as adults and then transfers many of them back down, will not solve any problems or benefit Marylanders in any way.

On behalf of the Campaign for Youth Justice, and as a citizen of Maryland, I urge an unfavorable report on SB 248.

² Steven N. Zane (2016) Do Criminal Court Outcomes Vary by Juvenile Transfer Mechanism? A Multi-Jurisdictional, Multilevel Analysis, *Justice Quarterly*, 34:3, 542-569, DOI:10.1080/07418825.2016.1190395