



POSITION ON PROPOSED LEGISLATION

BILL: SB 706 - Juvenile Law - Informal Adjustment
POSITION: SUPPORT
DATE: March 10, 2020

Over 90% of youth that had cases handled under pre-court supervision by the Department of Juvenile Service's (DJS) had no new offenses one year later.¹ This bill allows a child an opportunity at arraignment, after a motion is made by any party, for a court to exercise its discretion and decide if their case should be sent back to the DJS for informal adjustment and diversion services. Maryland's juvenile justice system is premised on balancing the rehabilitative needs of a child with public safety and holding the child accountable for his/her actions. See CJP § 3-8A-02. This bill assists in accomplishing the objectives of our juvenile system.

Under current practice, if a child proceeds through the entire juvenile court process it will be months before a child is connected to any needed services. In contrast, utilizing informal adjustment allows for a more expeditious process in connecting a child with appropriate services. This would be in keeping with published recommendations of the Council for State Government's Justice Center and the Center for Juvenile Justice Reform at Georgetown University, which states that all youth who commit certain offenses and are screened as low risk be automatically diverted from court involvement.² As stated by CSG and CJJR, "[C]ourts can't hold these young people accountable for their actions in a swift and certain way that is likely to encourage them to make different choices in the future."³ However, by permitting more youth to access informal adjustment, DJS can accomplish this goal.

Pursuant to CJP § 3-8A-10, within 25 days of receiving a complaint an intake officer must decide if it is in the best interest of the child and the public to forward a case to the State's Attorney's office for a formal petition to be filed, pursue an informal

¹ Alternatives to Detention and Informal Case Processing Performance Report, DJS, released December 30, 2019.

² Josh Weber, Michael Umpierre, and Shay Bilchik, *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes* (Washington, DC: Georgetown University Center for Juvenile Justice Reform, 2018).

³ *Id.* at 5.

adjustment of the case, or decide that there is no jurisdiction or no further action is needed. All felony cases must be forwarded to the State's Attorney's office. CJP § 3–8A–10(c)(4). In addition, the victim, child and child's guardian must all consent to an informal adjustment. CJP § 3–8A–10(e). The initial period of an informal adjustment is 90 days, which can be extended upon motion to a court. CJP § 3–8A–10(f).

The DJS decision-making process to assess which cases are appropriate for informal adjustment follows the widely accepted Risk/Need/Responsivity (RNR) model.⁴ This model suggests that 1) the type and intensity of the interventions should match the level of risk, 2) criminogenic needs should be targeted, and 3) programming decisions should account for the child's other strengths and needs, such as academic or emotional needs.⁵

The DJS utilizes an objective screening tool during the intake process to determine how to proceed with a case. The Maryland Comprehensive Assessment and Service Planning (MCASP) Intake Risk Screen⁶ accounts for the three components of the RNR model and helps to identify risk level and service needs. This tool enables DJS to assess a child's level of risk and service needs and efficiently connect them to one of the wide array of diversion services offered. The types of diversion services available during an informal adjustment includes evidence-based services such as Multi-Systemic Therapy, Family Functional Therapy, mentor programs and restorative practices.

Under current law, once a petition is filed there is no legal mechanism to send a case to the DJS for informal adjustment. A child may miss the opportunity to have his/her case considered for informal adjustment for a variety of reasons including; a missed intake appointment due to being in DSS care; lack of transportation to an appointment; a phone number no longer working; a letter regarding the appointment being sent to a relative's home where the child is no longer staying; a guardian's inability to take off time from work. New information may be obtained by the child's attorney at arraignment that would position the child and case for an informal adjustment. If a legal guardian was unable to pick-up a child after arrest and the child is held in a structured shelter care then a petition must be filed.

⁴ Andrews, Donald A., James Bonta, and Robert D. Hoge, 1990. "Classification for Effective Rehabilitation: Rediscovering Psychology." *Criminal Justice and Behavior* 17:19-52.

⁵ Wilson and Hoge 2013.

⁶ DJS Data Resource Guide 2019, Appendix M.

Statewide data shows that nearly half of all juvenile complaints are placed on a track to go to court: in FY19, 39% of all complaints were sent to the State’s Attorney’s office for formal petitioning.⁷ Yet there is a huge variation in those numbers from district to district. In Baltimore City 74% of all cases were authorized for formal petitions, compared to 48% in Prince George’s County, 43% in Baltimore County, and 32% in Anne Arundel County.⁸

This bill creates an opportunity for a child who should have otherwise been provided an informal adjustment to access those services if a court determines that it would best meet both the needs of the child as well as the public.

For these reasons, OPD urges the committee to report favorable on SB 706.

⁷ DJS Data Resource Guide 2019.

⁸ *Id.*