

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 933
Juvenile Offenders – Dual Sentencing
DATE: February 12, 2020
(2/20)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 933. This bill would amend the Maryland Code, Criminal Procedure Article by adding a new § 4-202.3 permitting dual sentencing of a child under certain circumstances.

This bill is unworkable as presently written. Juveniles waived to adult court have already been found not amenable to treatment in the juvenile system by a circuit court judge. Is this finding expected to be considered, or not considered, by the criminal court judge in deciding whether to impose a dual sentence. Also, youth who are statutorily excluded from juvenile jurisdiction can be transferred back to juvenile court upon motion by counsel or the court.

Further, organizationally, the proposed bill could result in confusion for the Department of Juvenile Services (DJS) which would be supervising youth in both the juvenile justice and adult correctional system. Providing services in an adult setting is outside of DJS' mission, and there are questions about DJS' capacity and staffing to do both.

Also, juvenile court jurisdiction ends at age 21; DJS facility placements tend to end before the child is that age. It is unclear if the bill contemplates that an adult sentence would be imposed after the juvenile placement, or the juvenile court's jurisdiction would end.

In addition, there are jurisdictions which use magistrates to hear some of the juvenile justice cases. This bill does not articulate whether a judge rather than a magistrate would be required to hear a juvenile case in all jurisdictions.

Finally, it is not consistent with the objective of rehabilitation for a juvenile to remain in a juvenile facility until old enough to move into the adult system. The juvenile system is based on a philosophy of treatment and rehabilitation as opposed to the punishment and

retribution characterizing the adult criminal system. It is unclear how those two purposes would be applied under this bill, for example, for a child who violates a condition such as missing curfew.

The issue of dual jurisdiction needs a comprehensive statewide plan in order to effectuate a change of this magnitude. The Judiciary believes this issue needs further study.

cc. Hon. C.T. Wilson
Judicial Council
Legislative Committee
Kelley O'Connor