

SB 853 DJS - Support - JJRC Omnibus - Final.pdf

Uploaded by: Abed, Sec. Sam

Position: FAV

Boyd K. Rutherford
Lt. GovernorLarry Hogan
GovernorSam Abed
Secretary

DATE: March 3, 2021
BILL NUMBER: SB 853 – Juvenile Law – Juvenile Justice Reform
DJS POSTITION: Support

The Department of Juvenile Services (DJS or department) supports SB 853. This bill implements the recommendations of the Maryland Juvenile Justice Reform Council (JJRC or Council) and represents a comprehensive set of measures to improve and modernize Maryland’s overall approach to juvenile diversion, detention, commitment, supervision, and treatment.

Background

During the 2019 session of the Maryland General Assembly the legislature passed and Governor Hogan signed SB 856 / HB 606, which created the Juvenile Justice Reform Council. The JJRC spent the last year researching best practices regarding the treatment of juveniles who are subject to the criminal and juvenile justice systems and identifying recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems.

Membership

Juvenile Services Secretary Sam Abed chaired the JJRC, which received technical assistance from the Vera Institute for Justice. The Vera Institute gathered and presented data and provided a national perspective to inform the work of the Council. In addition to legislators, the Council included representatives from the judiciary, prosecutors and defense lawyers, state and local child-serving agencies, law enforcement, representatives from national and local organizations with experience in juvenile justice policy reform, and members with lived experience in the juvenile justice system.

Public Input

The Council began its work by conducting 16 separate listening sessions held in every region of the state; more than 530 individuals testified at these events. Informed by these conversations, the Council surveyed its membership before setting priority areas for consideration.

Race Equity

Recognizing the key role of racial equity in juvenile justice and reform, the Council voted to include race equity measures when reviewing specific issue areas and to review recommendations through a race equity lens.

Final Report and Recommendations

The Juvenile Justice Reform Council’s final report, issued in January 2021, made the recommendations to the General Assembly which are outlined in the attached materials.¹

SB 853 brings the consensus-driven reforms considered and decided upon by the Council into law. These changes protect the public through a data-driven and research-based approach to reforms that prioritizes positive outcomes for youth and our communities.

For these reasons, DJS urges a favorable report for SB 853.

¹ <http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>

MD SB 853 testimony 3.1.21.pdf

Uploaded by: Borrer, Amy

Position: FAV

Senate Bill 853
Testimony in Support
National Juvenile Defender Center

Maryland Senate Judicial Proceedings Committee
Submitted: March 1, 2021

The National Juvenile Defender Center (NJDC) is a nonpartisan, nonprofit organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC respectfully encourages the Maryland Senate Judicial Proceedings Committee to vote favorably on Senate Bill 853, an important step forward in supporting the success and protecting the futures of Maryland's youth.

Maryland Should Adopt a Minimum Age of Juvenile Court Jurisdiction

Arrest and the possibility of prosecution subject children to profoundly negative direct and collateral consequences, even when they are not held in custody. Yet, in contravention of international human rights standards and global norms, the United States continues to arrest, detain, and incarcerate children and young adolescents.

Of the 728,280 children under the age of 18 arrested in the United States in 2018, 30 percent—or 217,380 children—were under the age of 15.¹ In 2017 (the most recent year for which national data is publicly available), of the 43,580 children incarcerated in juvenile detention centers or youth prisons, more than 13 percent were 14 or younger.² Maryland is among those states arresting and charging very young children.

Commonsense knowledge of child development³ and international standards⁴ compel removal of younger children from the juvenile legal system. Because younger children are inherently more

¹ Office of Juvenile Justice and Delinquency Prevention, *Statistical Briefing Book 2019*, available at <https://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2018>.

² Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement 2017*, available at <https://www.ojjdp.gov/ojstatbb/ezacjrp/default.asp>.

³ *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (noting that there was no special training required to account for a child's age).

⁴ The UN's Global Study on Children Deprived of Liberty recommends that all UN member states set a minimum age of criminal responsibility no lower than age 14. Gen. Assembly, United Nations, *Global Study on Children Deprived of Liberty 10* (2019), <https://undocs.org/en/A/74/136>. Additionally, the UN Committee on the Rights of the Child encourages countries to consider minimum ages as high as 16, based on collective international standards. Convention on the Rights of the Child, United Nations, General Comment No. 10: Children's Rights in Juvenile Justice 10 (2007), <https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>.

vulnerable,⁵ they should not be subject to the potential harms of juvenile court and the lifelong consequences that stem from such involvement.

NJDC encourages states to strengthen community supports outside the court system and to set a minimum age of prosecution of at least 14.

Maryland has no minimum age of juvenile jurisdiction

Maryland has no minimum age of juvenile court jurisdiction,⁶ and it arrests a significant number of very young children. In FY19, the Maryland Department of Juvenile Services received 1,882 complaints for children under the age of 13.⁷ Compare that to California, with six times Maryland's population, which referred just 687 children under 12 to the juvenile system in 2018.⁸ Children in Maryland are not engaging in behavior that is at odds with the behavior of children in California or anywhere else in the country; the only difference is the juvenile legal system's response.

Black youth are disproportionately impacted

Although Black youth comprised approximately 17 percent of the total child population of the United States in 2018,⁹ Black youth made up approximately 36 percent of youth 12 and under charged with delinquency offenses.¹⁰ Maryland follows a similar trend, as Black children are overrepresented among children arrested in the state.¹¹

The overrepresentation of Black youth in the juvenile legal system is not due to differences in rates of problem behavior,¹² but to the juvenile legal system's disproportionate criminalization of the behavior of Black children. For example, research demonstrates that Black youth are more likely to be perceived as older than their actual age and are seen as more culpable than white youth.¹³ This implicit racial bias

⁵ Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 27 Law & Hum. Behav. 333 (2003) (noting the vulnerability of youth in legal contexts, as study demonstrates that youth 15 and younger are more likely than older adolescents and adults to lack competence-related capacities, and that developmental immaturity may impact youth's legal decision-making in other contexts such as confessing to the police or the decision to take a plea agreement). See also Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 Child Dev. 28 (2009) (indicating the vulnerability of youth through research on mechanisms underlying developmental immaturity in adolescents, with results demonstrating that age is related to future orientation with younger youth less likely to plan ahead and think about the future consequences of their actions).

⁶ Until 1995, Maryland relied on the common-law doctrine of *doli incapax*, which holds that children under seven have no criminal capacity. For children aged 7-13, the law required a presumption that the child did not have criminal capacity, which the prosecution had the burden to overcome beyond a reasonable doubt. As part of the 1994 crime bill, Maryland eliminated the common-law presumption of infancy for children aged 7 to 13.

⁷ DJS Data Resource Guide (DRG) , FY2019, at 26, <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>.

⁸ SB439 Fact Sheet, https://youthlaw.org/wp-content/uploads/2017/04/SB-439-MinAgeFactSheet_June20-1.pdf. California passed SB439 and established a new minimum age of criminal responsibility of 12 years old in 2018.

⁹ https://www.ojjdp.gov/ojstatbb/ezapop/asp/profile_display.asp.

¹⁰ <https://www.ojjdp.gov/ojstatbb/ezajcs/asp/demo.asp>.

¹¹ DJS Data Resource Guide (DRG) , FY2019, note 2, <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>.

¹² Skiba, R. J. (2000). *An analysis of school disciplinary practice*. Policy Research Rep. No. SRS2. Bloomington, Indiana Education Policy Center (noting that overrepresentation of Black students is related to referral bias on the part of school officials).

¹³ Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. Personality & Soc. Psychol. 526 (2014).

can result in prosecutors and police criminalizing the typical adolescent and pre-adolescent behavior of Black and brown youth. Setting a minimum age of prosecution in juvenile court can help counteract the impact of implicit racial bias on charging decisions for younger Black and brown youth.

Prosecuting very young children is contrary to developmental science

A leading developmental study on children's capacity as trial defendants compared a cohort of adolescents (ages 11-17) to one of young adults (age 18-24).¹⁴ The researchers found that youth aged 15 and younger were substantially less able to reason and understand trial-related issues than 16- and 17-year-olds. Similarly, children younger than 14 were less likely to focus on the long-term consequences of legal decisions than older youth.¹⁵ The researchers determined that 33 percent of the 11- to 13-year-olds and 20 percent of the 14- and 15-year-olds were "as impaired in capacities relevant to adjudicative competence as are seriously mentally ill adults who would likely be considered incompetent to stand trial by clinicians who perform evaluations for courts."¹⁶

Researchers similarly have determined that youth aged 15 and younger are less able to understand legal terminology; less likely to have adequate legal knowledge and understanding, including in the *Miranda* context; and more likely to waive their legal rights than adults.¹⁷ Relying on this and similar research, younger children are much more likely to be found incompetent to stand trial and much more likely to misunderstand and exercise their *Miranda* rights.

Juvenile legal system involvement puts youth and public safety at risk

Research shows that contact with the juvenile legal system can have lasting and negative psychological and health impacts on children.¹⁸ When children are thrust into the legal system, their likelihood of re-offending increases and public safety is undermined, as subjecting them to juvenile court processing increases, rather than decreases, the likelihood of future criminal activity.¹⁹ In contrast, numerous studies have determined that the majority of youth who have broken the law will simply outgrow their delinquent behavior without legal intervention.²⁰

¹⁴ Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, STATIC.PRISON.ORG, available at <https://static.prisonpolicy.org/scans/juvenilecompetence.pdf>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Alison D. Redlich and Reveka V. Shteynberg, *To Plead or Not to Plead: An Analysis of Juvenile and Adult True and False Plea Decisions*, 40 LAW & HUMAN BEHAVIOR 611, 612 (2016).

¹⁸ Elizabeth S. Barnert et al., *Setting a Minimum Age for Juvenile Court Jurisdiction in California*, 13 INT'L J. PRISON HEALTH 49, 52 (2018); National Center for Mental Health and Juvenile Justice, *Trauma Among Youth in the Juvenile Justice System*(2016), available at <https://www.ncmhjj.com/wp-content/uploads/2016/09/Trauma-Among-Youth-in-the-Juvenile-Justice-System-for-WEBSITE.pdf>.

¹⁹ See generally, Joy Radice, *The Juvenile Record Myth*, 106 Geo. L. J. 365 (2018); Models for Change, "Innovation Brief: Avoiding and Mitigating the Collateral Consequences of a Juvenile Adjudication" (Chicago, IL: John D. and Catherine T. MacArthur Foundation, December 2013): 1, https://nijn.org/uploads/digital-library/Innovation_Brief_Avoiding_and_Mitigating_the_Collateral_Consequences_of_a_Juvenile_Adjudication-Dec2013.pdf.

²⁰ Anthony Petrosino, et al., *Formal System Processing of Juveniles: Effects on Delinquency*, CAMPBELL SYSTEMATIC REVIEWS (Jan. 2010); Ed Mulvey, et al., *Pathways to Desistance*, NCJRS.GOV (JAN 2014), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/244689.pdf>.

Decisions to incarcerate youth too often fail to take into account the risks associated with incarceration: increased victimization, recidivism, school drop-out, and long-term physical and mental health issues.²¹ Reports of systemic maltreatment persist in juvenile detention centers and secure commitment facilities across the country, with documented reports of widespread physical and sexual abuse, excessive use of force by facility staff, and rampant overreliance on isolation and restraint.²² Rather than being nurtured, our most vulnerable children are at risk for physical and sexual abuse, institutional violence, suicide, and educational disruption while in custody.²³

System involvement often gives rise to disastrous long-term consequences, as well.²⁴ Juvenile legal system records create barriers to enrolling and remaining in school, college admissions, employment, and stable housing.²⁵ Arrest and prosecution of the youngest children thus is directly averse to the juvenile court system's twin goals of rehabilitation and public safety.²⁶

²¹ Andrea J. Sedlak et al., U.S. Dep't of Justice, Office of Juvenile Justice & Delinquency Prevention, *Nature and Risk of Victimization: Findings from the Survey of Youth in Residential Placement* (2013), OJJDP Juv. Just. Bull., <https://www.ojjdp.gov/pubs/240703.pdf>. Allen J. Beck et al., U.S. Dep't of Justice, Office of Justice Programs, *Sexual Victimization in Juvenile Facilities Reported by Youth* (2012), <https://www.bjs.gov/content/pub/pdf/svjfry12.pdf>. Thomas J. Dishion & Jessica M. Tipsord, *Peer Contagion in Child and Adolescent Social and Emotional Development*, 62 *Ann. Rev. Psychol.* 189 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3523739/>. Umberto Gatti et al., *Intergenerational Effect of Juvenile Justice*, 50 *J. Child Psychol. & Psychiatry* 591 (2009). David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 *Soc. Educ.* 36 (2013), <http://www.asanet.org/sites/default/files/savvy/journals/soe/Jan13SOEFeature.pdf/>. Elizabeth S. Barnert et al., *Does Incarcerating Young People Affect Their Adult Health Outcomes?*, 139 *Pediatrics* 1 (2017), <https://pediatrics.aappublications.org/content/pediatrics/139/2/e20162624.full.pdf>.

²² Richard Mendel, *Maltreatment of Youth in U.S. Juvenile Corrections Facilities*, <https://www.aecf.org/resources/maltreatment-of-youth-in-us-juvenile-corrections-facilities/>.

²³ *Key Issues: Why We Need Alternatives to Formal Juvenile Justice System Processing and Incarceration*, Juv. Just. Info. Exchange, <http://jjiie.org/hub/community-based-alternatives/key-issues/>, citing National Juvenile Justice Network, *The Real Costs and Benefits of Change* (2010), available at http://www.njjn.org/uploads/digital-library/resource_1613.pdf; Just. Pol'y Inst., *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (2009), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/09_05_rep_costs_of_confinement_jj_ps.pdf; Barry Holman & Jason Zeidenberg, Just. Pol'y Inst., *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006), available at http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf.

²⁴ See generally, Joy Radice, *The Juvenile Record Myth*, 106 *Geo. L. J.* 365 (2018); Models for Change, "Innovation Brief: Avoiding and Mitigating the Collateral Consequences of a Juvenile Adjudication" (Chicago, IL: John D. and Catherine T. MacArthur Foundation, December 2013): 1, https://njjn.org/uploads/digital-library/Innovation_Brief_Avoiding_and_Mitigating_the_Collateral_Consequences_of_a_Juvenile_Adjudication-Dec2013.pdf.

²⁵ *Id.*

²⁶ Laura Garnette, *Juvenile Court is No Place for Kids—California Must Set a Minimum Age*, SAN FRANCISCO CHRONICLE, April 13, 2018, <https://www.sfchronicle.com/opinion/openforum/article/Juvenile-court-is-no-place-for-kids-13153447.php>.

The international standard is a minimum age of 14

Prosecuting very young children violates international human rights standards.²⁷ Since its introduction in 1989, the International Convention on the Rights of the Child has been ratified by every member nation of the United Nations except the United States.²⁸ Article 40 of the Convention includes a directive that countries establish “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.”²⁹

In 2019, the Committee on the Rights of the Child encouraged nations “to take note of recent scientific findings, and to increase their minimum age . . . to at least 14 years of age.”³⁰

Maryland should join the growing trend to establish or raise the minimum age of jurisdiction

There is an accelerating trend toward more states setting a minimum age of criminal responsibility.³¹ It is time that Maryland treats children like children and institutes a reasonable minimum age of juvenile court jurisdiction.

Prohibiting the arrest or prosecution of younger children would not prevent schools, child welfare agencies, or mental health systems from supporting youth when necessary to address behavior concerns. Indeed, developmentally appropriate, individualized programs and services are more effective, less harmful, and less expensive than formal arrest and juvenile court processing.

SB 853 would set Maryland’s minimum age of juvenile court jurisdiction at 13. While NJDC believes the minimum age should be at least 14 with no statutory exceptions, this bill is an important step toward keeping young people in their communities and out of the juvenile legal system.

Maryland Should Reduce the Size of its Juvenile Delinquency System

By limiting probation terms, increasing opportunities for diversion, and limiting the use of incarceration, Senate Bill 853 takes several other important steps toward reducing the negative impact of the juvenile delinquency system.

²⁷ Juvenile Justice Geography, Policy, Practice and Statistics, Jurisdictional Boundaries, Delinquency Age Boundaries <http://www.jjgps.org/jurisdictional-boundaries#transfer-discretion>. The UN CRC requires members to set the minimum age of criminal responsibility at 12 and to commit to continue to raise the age.

²⁸ See <https://indicators.ohchr.org/>.

²⁹ Convention on the Rights of the Child, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

³⁰ General Comment 24 (2019) on children’s rights in the child justice system, IV.C.22. available at <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqlkirKQZLK2M58RF%2f5F0vEnG3QGKUXfivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCiixFSrDRwow8HeKLLh8cgOw1SN6vJ%2bf0RPR9UMtGkA4>

³¹ According to the National Minimum Age Coalition, 12 states will be considering legislation to establish or raise the minimum age of juvenile court jurisdiction during their 2021 legislative sessions. Three states currently have a minimum age of 12: California (with exceptions), Cal. Welf. & Inst. Code § 602; Massachusetts, Mass. Gen. Laws Ann. ch. 119, § 52; Utah Code Ann. § 78A-6-116 (2020). Nebraska’s minimum age is 11, Neb. Rev. Stat. Ann. § 43-247(1)-(2).

Youth probation should be limited in application, length, and conditions

In 2014, approximately 63 percent of youth found delinquent were sentenced to probation, making probation supervision the most common disposition for youth involved in the juvenile court system.³² Each year, approximately 2,000 Maryland youth are placed on probation.³³ But evidence shows supervision-based probation is often ineffective.

Programs that focus on counseling, skill-building, and restorative justice reduce youth recidivism by an average of ten percent, while supervision-based programs reduce recidivism by just one percent.³⁴ Probation appears to be especially ineffective for low-risk youth, with one study finding that low-risk youth placed on probation were more than 50 percent more likely to reoffend than those not placed on probation.³⁵

In addition to focusing the use of probation on youth most likely to benefit, probation orders themselves should be limited in number and tailored to the needs of each youth, as youth have a greater likelihood of success when they are focused on a few clear and targeted objectives.³⁶ Carefully tailored probation orders that target specific issues leading to court involvement promote greater youth success and community safety.

By reducing the number of probation conditions and ensuring that each condition correlates to the youth's interests and goals of probation, youth will be more likely to understand the expectations and be more able to comply with the conditions of probation. This also enables probation officers to address the unique and individualized characteristics of youth outside the realm of compliance and punishment. Goals identified for youth should be youth-centered, strengths-based, and developed as the probation officer builds a relationship with the youth. Engaging the youth to identify and prioritize these goals will help achieve the youth's buy-in, increasing the likelihood of success and completion.

Probation supervision should be limited in length of time and scope, and should focus on building the skills young people need to succeed. Limiting the amount of time youth spend on probation and using

³² Transforming Juvenile Probation: A Vision for Getting it Right, The Annie E. Casey Foundation, Executive Summary, 1, available at <https://www.aecf.org/resources/transforming-juvenile-probation-executive-summary/>.

³³ Maryland Department of Juvenile Services Data Resource Guide, 207, available at <https://djs.maryland.gov/Documents/DRG/Recidivism.pdf>.

³⁴ Lipsey, M. W. (2009). The primary factors that characterize effective interventions with juvenile offenders: A meta-analytic overview. *Victims and Offenders*, 4, 124–147, www.episcenter.psu.edu/sites/default/files/community/Lipsey_Effective%20interventions%20-%202009.pdf.

³⁵ Latessa, E. J., Lovins, B., & Lux, J. (2014, April 30). Evaluation of Ohio's RECLAIM programs. Cincinnati, OH: University of Cincinnati School of Criminal Justice, [www.uc.edu/content/dam/uc/ccjr/docs/reports/FINAL%20Evaluation%20of%20OHs%20RECLAIM%20Programs%20\(4-30-2014\)%20.pdf](http://www.uc.edu/content/dam/uc/ccjr/docs/reports/FINAL%20Evaluation%20of%20OHs%20RECLAIM%20Programs%20(4-30-2014)%20.pdf).

³⁶ See NAT. JUVENILE DEF. CTR., PROMOTING POSITIVE DEVELOPMENT: THE CRITICAL NEED TO REFORM YOUTH PROBATION ORDERS 4 (2016), <http://njdc.info/wp-content/uploads/2016/12/Promoting-Positive-Development-Issue-Brief.pdf>; RICHARD J. BONNIE ET AL., REFORMING JUVENILE JUSTICE, A DEVELOPMENTAL APPROACH, NAT'L RESEARCH COUNCIL OF THE NAT'L ACADEMIES 4 (2013); WASHINGTON JUDICIAL COLLOQUIES PROJECT, supra note 1, at 9 (finding that youth interviewed minutes after hearings recalled only one third of the ordered conditions).

incentive-based probation practices that reward youth with decreases in the amount of time on probation can “improve outcomes and reduce costs with no harm to public safety.”³⁷

By limiting the length of time young people can be placed on probation, SB 853 takes an important step toward limiting the use and potential harmful impacts of probation supervision. Maryland should also limit or eliminate the use of probation supervision for youth deemed to be low-risk and ensure probation conditions are limited in number and tailored to each individual youth, what brought them into the system, and what they need to be successful.

Increasing opportunities for diversion and decreasing youth incarceration

SB 853 takes two additional steps toward reducing the size of Maryland’s juvenile delinquency system: increasing opportunities to divert youth from the court system entirely and prohibiting the incarceration of youth whose most serious charge is a misdemeanor or technical probation violation. In addition to a general shrinking of the system overall, these two reforms offer important opportunities to decrease racial disparities in Maryland’s delinquency system.

According to the Maryland Department of Juvenile Services, youth of color are nearly twice as likely to have their cases referred to juvenile court, 50 percent more likely to have their cases petitioned, and 30 percent less likely to be referred to diversion than white youth.³⁸ Similarly, while Black youth comprise approximately 35 percent of Maryland’s youth population,³⁹ they accounted for more than 72 percent of youth incarcerated in Maryland’s seven state-run facilities in FY 2020.⁴⁰

By expanding opportunities for pre-court diversion and disallowing incarceration for misdemeanor offenses and technical probation violations, SB 853 will help protect youth from the stigma of juvenile court involvement and the harms associated with incarceration. Maryland should monitor the implementation of these reforms, to ensure that youth of color receive equal access to diversion opportunities, and that charging decisions and plea offers are not changed to pursue unnecessary incarceration.

Maryland Should Enact Senate Bill 853

Senate Bill 853 is an important step toward rightsizing Maryland’s juvenile delinquency system. NJDC encourages the state to adopt the new law; track its implementation, including its impact on racial disparities; and continue to reform its juvenile delinquency system to ensure it reflects research about ensuring positive outcomes for youth and communities, national best practices, and international human rights norms.

³⁷ *Transforming Juvenile Probation: A Vision for Getting it Right*, The Annie E. Casey Foundation, p17, <https://www.aecf.org/resources/transforming-juvenile-probation/>.

³⁸ Department of Juvenile Services, Data Resource Guide 2018, p. 233.

³⁹ https://www.ojjdp.gov/ojstatbb/ezapop/asp/profile_display.asp.

⁴⁰ Maryland Department of Juvenile Services, Data Resource Guide 2020, 172–185, <https://djs.maryland.gov/Documents/DRG/Committed-Programs.pdf>.

MYJC - SB853 - Support.pdf

Uploaded by: Breakstone, Hannah

Position: FAV



To: The Honorable Will Smith
From: Maryland Youth Justice Coalition
Re: Senate Bill 853: Juvenile Law – Juvenile Justice Reform
Date: March 3, 2021
Position: Support

Dear Chairman Smith and Honorable Members of the Committee:

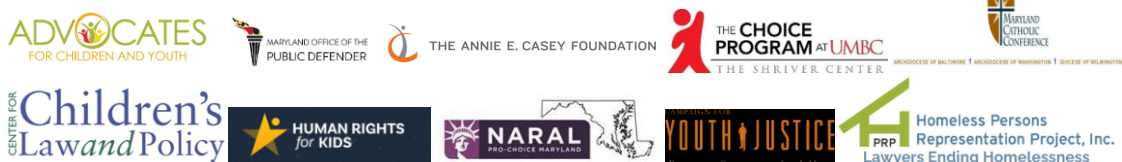
The Maryland Youth Justice Coalition (MYJC) is a group of passionate advocates and policy experts dedicated to creating a more fair and equitable youth criminal legal system where not only are youth given opportunities and options, but public safety is uplifted. MYJC aims to improve the lives of all system-impacted youth through legislative and policy advocacy. MYJC is made up of organizations, including representation from directly impacted and youthful individuals, who share an equitable vision for the future of the youth criminal legal system. We are dedicated to supporting evidence-based, culturally competent, and gender-responsive solutions that are vetted by directly impacted individuals and promote positive youth development and public safety.

Maryland is in the books as one of the worst offenders of system-involved children’s human rights in the nation, accompanied only by conservative southern states like Alabama and Florida.¹ SB 853 provides us an opportunity not only to course correct, but also to leverage system reductions during COVID-19 and transform our youth justice system into one that benefits more young people, families, and communities. These reforms will ensure that as many children as possible are treated with community-based services that lead to better public safety outcomes at a fraction of the cost of deep end interventions. If done intentionally, there is the opportunity to also reduce the pervasive racial disparities that persist in Maryland. MYJC requests that the Committee issue a favorable report on Senate Bill 853, the Juvenile Justice Reform Act.

With a better understanding of cognitive development, there is a growing awareness around the country that juvenile justice systems that adopt a lighter touch can reduce costs and yield better outcomes with fewer racial disparities. Most states – across the country and the political spectrum – are far ahead of Maryland. Arkansas, California, New York, California, Georgia, Kentucky, Hawaii, North Dakota, South Dakota, West Virginia, Kansas and Utah have all passed similar – or larger – juvenile system reforms in recent years.

An effective youth legal system is one that is fair and that measurably improves outcomes for youth who encounter the system as they transition to adulthood. Meeting this goal requires that we lock up fewer youth and lean more on proven, family-focused interventions that create opportunities for positive youth development and are culturally competent. In Maryland, while youth complaints have declined by 60% in the last ten years alone, our incarceration rates have not experienced the same trend.

¹ Human Rights for Kids, *National States Ratings Report*, December 2020. <https://humanrightsforkids.org/publication/2020-national-state-ratings-report/>. See also, Jazz Lewis & Dana Stein, *Op-Ed Maryland among the worst in protecting kids in the justice system*, BALTIMORE SUN, December 21, 2021. <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1221-kids-injustice-20201221-ia4uxm3xc5ddlf6bwattnwvfxm-story.html>





Maryland must take this dire step towards juvenile justice reform, informed by two years of research, discussion, and reporting by the Juvenile Justice Reform Council (JJRC). On topic after topic, the JJRC found sharp racial and ethnic disparities in juvenile justice. By shrinking our massive youth incarceration system and focusing data-driven, evidence-based programming on the youth with highest risk, Maryland will not only see a positive return in the outcomes for specific individuals, but also improve public safety at large and shrink glaring racial disparities.

It is time for Maryland to align our laws that impact children with established adolescent development science. Children will be held accountable for wrongdoing in developmentally appropriate, fair ways that promotes health and well-being. Our shared goal to reduce the use of outdated confinement practices while ensuring public safety, and reinvesting funds into other developmentally appropriate programming designed to improve fairness and outcomes for children, families, and communities. SB 853 targets four areas that move Maryland closer to our vision for youth justice:

1. **Removes Barriers to Diversion:** There is a need to expand diversion and utilize it equitably by requiring informal adjustment of misdemeanors (excluding handgun possession) and non-violent felonies for all youth who have not previously been adjudicated delinquent. There are also two additional ways in which the passage of SB 853 will expand use of diversion – eliminate the requirement that DJS forward complaints of non-violent felonies to the State’s Attorney for approval of informal adjustment and eliminate the requirement of complaining witness consent. We would maintain the requirement that DJS make reasonable efforts to contact the alleged victim, however, which maintains witness satisfaction while keeping the burden of gaining victim permission off children, as it is for adults.
2. **Raises the Minimum Age of Juvenile Court Jurisdiction:** If we want a truly rehabilitation juvenile justice system in Maryland – we must raise the minimum age of jurisdiction to 13.
3. **Bans Youth Incarceration for Low-Level Offenses:** Youth whose most serious alleged offense is a misdemeanor or a technical violation of probation may not be placed in jails or prisons, which ends the harms of juvenile incarceration for low-level offenders and allows DJS to better leverage its resources to provide focused programming for those young people who face the most serious charges and are at the highest risk of re-offense.
4. **Place Developmentally Appropriate Time Limits on Probation:** When youth are placed on indefinite periods of probation, doing well on probation does not bring them closer to a light at the end of the tunnel, yet doing poorly can quickly land a youth in detention. Experts recommend that youth be placed on a period of six to nine months of probation, if they need to be placed on probation at all, and that “even for those who struggle to meet their goals, the period of probation should generally not exceed one year.”²

MYJC urges this committee to issue a favorable report on SB 853. Should you have any questions about this testimony, please contact Hannah Breakstone, MYJC Coalition Manager and Policy Associate at Advocates for Children and Youth (ACY), at hbreakstone@acy.org.

² Annie E. Casey, *Transforming Probation: A Vision for Getting it Right*, 2018. www.aecf.org/resources/transforming-juvenile-probation/



SB 853 - Juvenile Justice Reform Council.pdf

Uploaded by: Caroom, Philip

Position: FAV

Support SB 853 – Juvenile Justice Reform Council

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: March 3, 2021

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports SB 853 which effectively will use the Justice Reinvestment model to transform our State's juvenile justice system, to reduce its overuse of confinement, and to make better use of restorative techniques.

I offer these remarks as a recently retired Juvenile administrative judge and based on more than 30 years in the system also as a prosecutor, defense attorney, and Juvenile Court master.

The age of children brought into the juvenile courts, occasionally, has been very inappropriate. On a few occasions, I had children as young as 6 years-old brought into my courtroom on juvenile charges. Such cases clearly represented failures of parenting, not children in need of State sanctions. More appropriate response involve referral of such parents to behavioral management.

The overrepresentation of children became much worse when special police officers were introduced into schools. The result: children who disrupted classes in commonplace ways, stole an item of property, possessed an improper contraband, and occasionally committed minor assaults would end up in my courtroom, rather than having these classic school misbehaviors dealt with by the principal and the parents. This system could better revert to its traditional mode, or could be improved with "restorative circles" now adopted in many Maryland schools.

Can juvenile personnel tell the difference between children whose parents are overly dramatic and stressed that "turn their children in" and other children with severe behavioral problems? The careful use of needs and "risk scoring instruments" could eliminate bias and still offer (non-delinquency) support to parents who need this. The bill also draws a bright line between minor offenses and serious, life-threatening offenses by juveniles.

When detention or commitments, as a last resort, are found necessary, the bill provides for quicker reviews to limit the continuation or extension of such periods. This also is appropriate to avoid the occasional phenomenon of children just passing time in custody until the next deadline arrives when DJS returns to its placement / reentry efforts.

The greater use of citations also should not pose a problem for Juvenile Courts. Currently, citations already are used for many juvenile matters.

The cost to implement the Juvenile Justice Reform Act, initially, may be higher than current costs. But, ultimately, there are reasons to believe that, in the long run, Maryland taxpayers will save with reduced detentions, reduced commitments, and reductions in the school-to-prison pipeline as more restorative practices lessen the number of young offenders entering the adult corrections system.

MAJR, again, strongly urges support for HB 1187 / SB 853 – the Juvenile Justice Reform Act to implement these long overdue public policy changes.

--

PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.

Testimony_JPC_SB0853.pdf

Uploaded by: Carter, Jill

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0853 - Juvenile Justice Reform Council -
Recommendations
Before the Judicial Proceedings Committee
on March 3, 2021**

Mr. Chairman, Vice chair, and Members of the Committee:

SB 853 seeks to establish best practices regarding the treatment of children subject to Maryland's criminal and juvenile justice systems. This bill is the result of two years of the Juvenile Justice Reform Council's study, discussion, and debate on a wide array of issues facing Maryland's Juvenile Justice system. All of the recommendations included in this legislation were approved with overwhelming bipartisan support - all but one passed unanimously.

To highlight some of the particulars, SB 853 would prohibit the use of detention for technical violations of probation and for certain misdemeanor offenses, in favor of community supervision and/or GPS monitoring devices. It would also require courts to review the detention status of

juveniles every 14 days pre-trial. The legislation also provides for informal adjustment as a matter of course in most minor cases, which research has shown can be extremely effective in preventing recidivism. Lastly, the bill outlines reporting requirements for the Governor's Office of Crime Prevention, Youth, and Victim Services and the Department of Juvenile services, and supports the creation of a workgroup to inventory and report on evidence based programming. These recommendations serve to create more conscious consideration of a child's age and development before, during, and after sentencing.

To reach effective solutions, we require targeted, robust data from communities where children are most at-risk to ensure their needs are prioritized. The answer to these issues cannot continue to be putting a disproportionate amount of black and brown children from low income neighborhoods into an already overcrowded system. A system, which is ill-equipped to address children's needs, cannot adequately protect them. If we cannot offer support, protection, and meaningful rehabilitation programs to our youths, we are not only setting them up for failure, we are putting their very lives at risk.

It takes a supportive community to raise a child. In the effort to reduce crime and protect juveniles, every step along the way requires access to comprehensive, concrete data;

open lines of communication across agencies and with the public; and a solid commitment to assessing and rehabilitating juveniles before their day in court. To establish and maintain healthy and nurturing communities for all, it is crucial we provide at-risk children (and their families) with meaningful resources and support programs to ensure their growth on the front end, rather than letting the juvenile and criminal justice systems sort it out when things go wrong.

For these reasons, I ask for a favorable report on SB 853 from this committee.

Respectfully,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive style with a large, looping initial "J".

Jill P. Carter

2020.03.01 MOPD JJR SB853 Testimony.pdf

Uploaded by: Egan, Jenny

Position: FAV



BILL: Senate Bill 853 Juvenile Justice Reform

POSITION: Favorable

DATE: March 3, 2021

Maryland is one of the worst states in the nation when it comes to protecting the human rights of kids in our justice system.¹ SB853 gives Maryland an opportunity to reverse course, leverage the system reductions accomplished due to COVID-19, and to transform our juvenile justice system into one that works for young people, families, and the community. The Maryland Office of the Public Defender respectfully and enthusiastically requests that the Committee issue a favorable report on Senate Bill 853, the Juvenile Justice Reform Act.

An effective youth legal system is one that is fair and one that improves – rather than decreases – the odds that young people who come into contact with the system will make a successful transition to adulthood. That requires a system that locks up fewer youth and relies more on proven, family-focused interventions that create opportunities for positive youth development. In Maryland, juvenile complaints have declined by 60% in the last ten years alone. But our juvenile incarceration rates have not declined at the same rate. That is in part because:

- Maryland has no minimum age of juvenile court jurisdiction, which leads to children as young as six being arrested for low-level, developmentally appropriate childish misbehavior. The vast majority of these young children are Black (72% in FY20).
- Maryland incarcerates an inordinate amount of low-level offenders. 2/3 of children who are removed from their homes for non-felony offenses.²
- 1/3 of children incarcerated in Maryland are there for violations of probation.³
- Current law creates a number of barriers to informal supervision and diversion that do not exist in the adult criminal statute. This leads to situations where school police officers are allowed to appeal diversion decisions and funnel children directly into the school to prison pipeline.

The fix is simple. Maryland must take the first step of juvenile justice reform to shrink the massive incarceration system and shift our resources to focus data-driven, evidence-based programming for the youth at the highest risk of violence and re-offense. With a better understanding of cognitive development, there is a growing awareness around the country that juvenile justice systems that adopt a lighter touch can reduce costs and yield better outcomes

¹ Human Rights for Kids, [National States Ratings Report](#), December 2020. See also, Jazz Lewis & Dana Stein, *Op-Ed Maryland among the worst in protecting kids in the justice system*, BALTIMORE SUN, December 21, 2021.

² Maryland Department of Juvenile Services, [Doors to Commitment](#) (2015.)

³ *Id.*



with fewer racial disparities. Most states – across the country and the political spectrum – are already far ahead of Maryland. Arkansas, California, New York, California, Georgia, Kentucky, Hawaii, North Dakota, South Dakota, West Virginia, Kansas and Utah have all passed similar – or larger – juvenile system reforms in recent years.

It is time for Maryland to align the laws that impact children with the established science of adolescent development. Children need to be held accountable for wrongdoing in a developmentally appropriate, fair process that promotes healthy moral development. A system that penalizes children, particularly if they penalizing children with severe sanctions like removing them from their home and family, can lead to children to perceive the legal system as unjust. Distrust in the system reinforces delinquent behavior and does not foster prosocial development and increases recidivism.⁴ SB853 does four major things to accomplish that goal:

1. **Removes Barriers to Diversion** – Keeps kids out of the court system that do not need to be there.
2. **Raises the Age of Juvenile Court Jurisdiction** – Brings Maryland in line with international human rights standards.
3. **Bans Incarceration for Low-Level Youthful Offenses** – Ends the practice of using incarceration to treat low-level misbehavior and focuses on proven, community-based interventions.
4. **Limits Indefinite Probation** – Gives children a realistic goal to work toward and acknowledges that children are works in progress and should not be expected to reach perfection in order for them to be allowed to move forward.

These changes would significantly reduce the use of outdated confinement practices while ensuring public safety, and reinvesting cost savings into other programming including community-based options designed to improve fairness and outcomes for children, families and communities.

Removing Barriers to Diversion

Diversion of youth from the juvenile legal system is an essential aspect of case processing that should be utilized more comprehensively and equitably in Maryland. Diversion is defined by the Department of Juvenile Services (“DJS”) as “a program or practice where the primary goal is to reduce the occurrence of juvenile crime by diverting a youth from the traditional juvenile justice system and providing an alternative to formal processing.”⁵ Examples of diversion are mental health services including evidence-based Multi-Systemic Therapy and Functional Family

⁴ National Research Council 2014. *Implementing Juvenile Justice Reform: The Federal Role*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18753> at 17.

⁵ Department of Juvenile Services, *Data Resource Guide 2019*, p. viii.



Therapy, mentoring, teen courts, and restorative justice practices such as family conferences, victim/youth conferences and mediations. DJS effectuates diversion through what is called an informal adjustment under Maryland law.⁶

The benefits of juvenile diversion include: Preventing association with delinquent peers; holding youth accountable for their actions; providing proportionate responses to delinquent behavior; providing youth with opportunities to connect with services in the community; reducing court caseloads, detentions, and out-of-home placements; reducing justice system costs and preserving resources for youth who pose a greater public safety risk or have greater needs for services; and improved relations between youth and community.⁷ One of the most important benefits of diversion is reducing recidivism by keeping low-risk youth away from the stigma of the juvenile justice system.⁸ National research has shown that low-risk youth placed in diversion programs re-offend less often – up to 45% less often – than similar youth who were formally processed and are more likely to succeed in and complete school.⁹

Maryland’s own data shows that diversion works. Approximately 80% of young people who participate in diversion through DJS successfully complete it and 90% of young people who complete diversion do not recidivate within one year.¹⁰

Maryland data, however, also suggests significant room for expansion of diversion and a reduction in racial disparities in the use of diversion. Despite the research which calls for avoiding formal system involvement for youth charged with misdemeanors and non-violent felonies, in FY19 DJS forwarded over 30% of all misdemeanors and 85% of all felonies for formal charging.¹¹ Further, DJS reported disturbing racial disparities in the use of diversion. Youth of color were well over twice as likely to have their cases referred to DJS, 50% more likely to have their cases petitioned with formal charges, and over 30% less likely to have their cases referred to diversion.¹² Youth of color were offered diversion less often than white youth in both misdemeanor and felony cases.¹³ Black youth were the least likely to receive diversion for low-level offenses.¹⁴

Senate Bill 853/ House Bill 1187 addresses the need to expand diversion and utilize it equitably by requiring informal adjustment of misdemeanors (excluding handgun possession) and non-violent felonies for all youth who have not previously been adjudicated delinquent. This measure

⁶ Md. Code Ann., Cts. & Jud. Proc. 3-8A-10.

⁷ Farrel, Betsinger, & Hammond, *Best Practices in Youth Diversion: Literature Review for the Baltimore City Youth Diversion Committee*, Univ of Md. School of Social Work (Aug 2018).

⁸ Models for Change Juvenile Diversion Work Group, *Juvenile Diversion Guidebook* at 11 (2011.)

⁹ Wilson, H.A., & Hoge, R.D. (2013). *The effect of youth diversion programs on recidivism: A meta-analytic review*, CRIMINAL JUSTICE AND BEHAVIOR at 8; Josh Weber et al., *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes* at 4 (2018).

¹⁰ [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

¹¹ [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 35-36.

¹² Department of Juvenile Services, Data Resource Guide 2019, p. 230.

¹³ [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

¹⁴ [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 35.



will expand the use of diversion and reduce any racial disparities caused by the discretionary decisions of DJS and the State's Attorney.

SB853 would also eliminate the requirement that DJS forward complaints of non-violent felonies to the State's Attorney for approval of informal adjustment. This measure will expand the use of diversion while preserving the State's Attorney's opportunity to petition formal charges if the informal adjustment is unsuccessful. It will also increase the number of youth who receive interventions. In FY19, 46% of all juvenile cases forwarded to the State's Attorney for petitioning of formal charges did not result in court ordered probationary or commitment services, mostly due to dismissal, nolle pros, or stet of the cases.¹⁵

Finally, this bill would eliminate the requirement of complaining witness consent, but maintaining requirement that DJS make reasonable efforts to contact the alleged victim in order for informal adjustment to proceed. Currently, many cases where the complaining witness does not wish to go forward cannot be diverted due to lack of contact with the alleged victim. In other cases, while complaining witness satisfaction is desirable, alleged victims should not be in control of whether diversion is utilized for a young person. Complaining witness consent is not required for the diversion of adult criminal court¹⁶ and should not be required for the diversion of a young person's case, particularly when research demonstrates that diversion is healthier for young people and achieves very good public safety outcomes in Maryland.

Eliminating complaining witness consent will also increase victim satisfaction. Ninety percent of youth who successfully complete diversion do not recidivate within one year, making victims' communities safer.¹⁷ Additionally, DJS will continue to offer alleged victims the opportunity to participate in a restorative justice diversion. National research shows that restorative justice programs provide higher levels of victim satisfaction with the process and outcomes, including a greater likelihood of successful restitution completion than traditional justice programs.¹⁸ Maryland hosts a number of restorative justice programs across the state that are utilized for youth diversion, including Restorative Response Baltimore ("RRB") RRB's results reflect the national research. 85% of victims recover restitution through RRB.¹⁹ In a RRB FY20 survey, 84% of participants were satisfied with the conference and 87% of participants would recommend the conference to others.²⁰

Raise the Age

In violation of widely accepted international human rights standards, Maryland does not have a minimum age of criminal jurisdiction (MACR). Maryland regularly charges elementary school

¹⁵ Department of Juvenile Services, Data Resource Guide 2019, p. 22.

¹⁶ [Maryland Youth Justice Coalition Diversion Recommendations](#) at 4.

¹⁷ [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

¹⁸ [Family Group Conferencing: Implications for Crime Victims \(ncjrs.gov\)](#) at 1.

¹⁹ [Restorative Response Baltimore – Collective Action To Resolve Conflict.](#)

²⁰ [Restorative Response Baltimore – Collective Action To Resolve Conflict.](#)



children – some as young as *six* years old – with delinquent acts.²¹ To put these age limits in context, the average seven (7) year old is in the 2nd grade. Maryland law prohibits a child under the age of 8 years from being left unattended at home, at school, or in a car without adult supervision and children must be at least 13 years old in order to be responsible enough to babysit.²² If a child is not old enough to stay home alone without a babysitter, we contend that child is not old enough to be sent to juvenile court, make decisions about a plea bargain, or to comply with court orders.

Maryland is funneling thousands of very young, mostly Black children into the juvenile justice system despite extensive research that has demonstrated that children under the age of 13 are statistically unlikely to be competent to stand trial.²³ Pre-adolescent children demonstrate poor understanding of trial matters, in addition to poorer reasoning and ability to recognize relevant information for a legal defense. In fact, 1/3 of children under 13 function with impairments at a level comparable with mentally ill adults who have been found incompetent to stand trial.²⁴

Internationally, 174 countries have established a MACR, and establishing a MACR is a requirement for signatories to the Convention on the Rights of the Child (CRC).²⁵ The majority of other U.S. states that set a minimum age for criminal responsibility (MACR) require a child to be at least ten (10) years old before they can be prosecuted.²⁶ But in recent years a number of

²¹ Prior to 1994, Maryland relied on the common-law doctrine of *doli incapax*, which held that from age 7 to 14 children were presumed not to have criminal capacity and required the prosecution to prove criminal capacity beyond a reasonable doubt. The presumption of infancy was removed by the legislature in 1994. *In re Devon T.*, 85 Md. App. 674 (1991); Acts 1994, c. 629, § 1, eff. Oct. 1, 1994.

²² Maryland Code Annotated, Family Law Article §5-801.

²³ Bath, E., & Gerring, J. (2014). National trends in juvenile competency to stand trial. *Journal of the American Academy of Child & Adolescent Psychiatry*, 53, 265-268; Bonnie, R. J., & Grisso, T. (2000). Adjudicative competence and youthful offenders. In T. Grisso & R. G. Schwartz (Eds.), *Youth on trial: A developmental perspective on juvenile justice* (pp. 73-103). Chicago, IL: University of Chicago Press; Costanza, M. B. (2017). *The development of competency to stand trial-related abilities in a sample of juvenile offenders* (Doctoral dissertation). Retrieved from ProQuest; Grisso, T. (2014). Protections for juveniles in self-incriminating legal contexts, developmentally considered. *The Journal of the American Judges Association*, 50(1), 32-36; Grisso, T. (2005). *Evaluating juveniles' adjudicative competence: A guide for clinical practice*. Sarasota, FL: Professional Resource Press; Grisso, T. (2004). *Double jeopardy: Adolescent offenders with mental disorders*. Chicago, IL: University of Chicago Press; Grisso, T., & Kavanaugh, A. (2016). [Prospects for developmental evidence in juvenile sentencing based on Miller v. Alabama](#). *Psychology, Public Policy, and Law*, 22(3), 235-249; Lawrence Steinberg, *Adolescent Development and Juvenile Justice*, Annual Review of Clinical Psychology (2009).

²⁴ Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., Lexcen, F., Reppucci, N. D., & Schwartz, R. (2003). Juveniles' competence to stand trial: A comparison of adolescents' and adults' capacities as trial defendants. *Law and Human Behavior*, 27(4), 333-363. <https://doi.org/10.1023/A:1024065015717>;

²⁵ The United States is not a signatory to the Convention.

²⁶ National Juvenile Defender Center, Minimum Age for Delinquency Adjudication—Multi-Jurisdiction Survey, January 22, 2020, <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey>. Internationally, 174 countries have established a MACR, and establishing a MACR is required by major human rights instruments. Article 40(3)(a) of the [Convention on the Rights of the Child](#) (CRC) requires states to establish a MACR and Article 4.1 of the [United Nations Minimum Rules for the Administration of Juvenile Justice \(Beijing Rules\)](#) states that that MACR “shall not be fixed at too low an age level, bearing in mind the factors of emotional, mental and intellectual maturity”. Both Canada and Mexico set the MACR at 12 while the majority of the European Union (including Spain, Germany, Italy, and Poland) sets



states have raised the floor for juvenile court jurisdiction. In addition to California, Massachusetts²⁷ and Utah²⁸ have set 12 as the minimum age of juvenile jurisdiction and other states are moving forward with efforts to raise the minimum age including Texas (13),²⁹ Illinois (13)³⁰, Washington (13)³¹, Maine (12)³², Oklahoma (12),³³ Connecticut (12)³⁴, and North Carolina (12.)³⁵

Over the past five years, more than 8,600 pre-adolescent children have faced juvenile complaints in Maryland. In FY2020, there were 1,469 delinquent complaints for children under the age of 13. Disturbingly, the vast majority of these children were Black (72%). Only 25% of those cases (374) were forwarded for prosecution in Juvenile Court and only 6 of the 1,469 children under 13 who were charged in Maryland resulted in commitments to the DJS. None of those very young children who were committed was even found guilty of a felony. In fact, four of the children under 13 who were committed to DJS were found facts sustained of property crimes – misdemeanor breaking & entering and malicious destruction of property. The other two children were committed for committing misdemeanor second degree assault.³⁶ More than half of all kids under 13 who were charged were for misdemeanors second degree assault, misdemeanor theft, or destruction of property.³⁷ Despite these facts, 37 children under the age of 13 were incarcerated pending trial. This is not just a problem in population centers. In Somerset County, more than 30% of young people charged in FY20 were under 13 years old. In Dorchester County that number is nearly 25% - 3 times the state average.³⁸ In FY19, 50 children under the age of 13

the MACR at age 14. *See*, Child Rights International Network, The minimum age of criminal responsibility, <https://home.crin.org/issues/deprivation-of-liberty/minimum-age-of-criminal-responsibility>.

²⁷ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section52>

²⁸ <https://www.njcn.org/article/utah-raises-lower-age-of-juvenile-jurisdiction>

²⁹ <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB01783I.pdf#navpanes=0>

³⁰ www.ilga.gov/legislation/BillStatus.asp?GA=102&DocTypeID=SB&DocNum=65&GAID=16&SessionID=110&LegID=128313

³¹ <https://app.leg.wa.gov/billsummary?billnumber=5122&year=2021>

³² http://legislature.maine.gov/legis/bills/display_ps.asp?LD=320&snum=130

³³ <http://www.oklegislature.gov/BillInfo.aspx?Bill=SB%20217&Session=2100>

³⁴ <https://ctmirror.org/2020/02/10/juvenile-justice-advocates-lets-raise-the-age-again/>

³⁵ In the 2020, the *North Carolina Task Force for Racial Equity in Criminal Justice* issued a Report to the Governor from the Attorney General and an Associate Justice of the Supreme Court, the group recommended a number of significant reforms - including raising the MACR to age 12. https://ncdoj.gov/wp-content/uploads/2020/12/TRECReportFinal_12132020.pdf

³⁶ Department of Juvenile Services, 2020 DJS Data Resource Guide, at 26-27. <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>

³⁷ *Id.* At 27.

³⁸ In Baltimore City, DJS started the Under-13 Initiative in 2013. It is a school-based intervention for youth ages 12 years and younger that are brought to Department of Juvenile Services' intake offices. It is a collaborative project between Department of Juvenile Services, local Department of Social Services (DSS) and the local school system. The Under-13 Initiative is based on the premise that if a child is being arrested at such a young age that there are usually problems at home; thus the focus is on both the child and his/her family. The goal is to provide the youth and family the opportunity to receive services and support so the youth can avoid going deeper into the juvenile justice system. The meetings are coordinated by the local school system and are held in a local school. Currently, Baltimore City is the only jurisdiction to have this program in place, although there are plans to start it in Prince George's County as well. *See*, Maryland Department of Juvenile Services, Initiatives, Under-13 <https://djs.maryland.gov/Pages/Initiatives.aspx>.



were held in secure detention in Maryland – a nearly 50% *increase* from FY18 – despite a change in the law that was intended to restrict the use of secure detention for pre-adolescent children.³⁹ In FY20, that number was still 37 children.

The process of charging and processing thousands of pre-adolescent children does damage to those kids, but it is also a huge waste of resources. Executive functioning refers to the cognitive processes that direct, coordinate, and control other cognitive functions and behavior. They include processes of inhibition, attention, and self-directed execution of actions. Much research has been conducted about adolescent’s executive functioning as it relates to youth justice policy; but because so few places prosecute very young kids comparatively little research has been done about *pre*-adolescent children in the youth justice systems.⁴⁰ Most research about the executive functioning in pre-adolescents has been done with a focus on implications for education and occupational therapy. It is clear that the level of executive functioning of an elementary and middle school aged child is vastly different than that of high school students.⁴¹ Studies of working memory of children show that it continues to develop until children reach about 15 years old.

Given the established fact that 1/3 of children under 13 are incompetent to stand trial, failing to raise competency in most cases for very young Respondents would amount to ineffective assistance of counsel. For that reason, defense counsel raise competency in an overwhelming majority of cases involving children under age 13. Evaluating competency is a cost intensive process that can take years to resolve.⁴² The prolonged process of competency attainment for small children means that the youngest children, who are the least culpable, often don’t face court intervention until months or years after their alleged misbehavior. In order for rehabilitation to work, children need to be held accountable for wrongdoing in a fair process that promotes healthy moral development.⁴³ A system that penalizes children at a time far removed from the underlying incident leads children to perceive the legal system as unjust. Distrust in the system reinforces delinquent behavior and does not foster prosocial development and increases recidivism.⁴⁴ If we want a truly rehabilitation juvenile justice system in Maryland – we must raise the minimum age of jurisdiction to 13.

Limit Indefinite Probation

After the Supreme Court’s decisions in the trio of cases *Roper*, *Graham*, and *Miller*, courts have an obligation to take into account the fundamental truths of adolescence, and the differences

³⁹ DJS Data Resource Guide, FY19 at 112. This increase is especially distressing as the law changed in FY19 to limit the detention of children under the age of 12. See, 2019 Maryland Laws Ch. 560 (H.B. 659.)

⁴⁰ *Supra*, note 21.

⁴¹ *Id.*

⁴² Md. CJ 3-8A-17-17.8

⁴³ National Academies of Science, *Reforming Juvenile Justice: A Developmental Approach* (2013) pg 183-210.

⁴⁴ National Research Council 2014. *Implementing Juvenile Justice Reform: The Federal Role*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18753> at 17.



between children and adults.⁴⁵ We know that during adolescence, youth are more impulsive, susceptible to peer pressure, and have a diminished capacity to make thoughtful choices because their decisions are driven by short term rewards instead of long term consequences. It is for this reason that juvenile courts, including ours here in Maryland, are focused on “rehabilitation consistent with the child’s best interests and the protection of the public interest,” instead of punishment.⁴⁶

And yet, even given the vast amount of scientific research, philosophical and legal literature, as well as the increasing body of case law that justifies treating kids as kids, juvenile courts still wholly import systems and practices from the adult criminal court context, without interrogating how or ensuring that these systems and practices actually fulfill the rehabilitative mandate of juvenile justice. As noted in Professor Chaz Arnett’s recently published article *Virtual Shackles: Electronic Surveillance and the Adultification of Juvenile Court*, “[o]ne of the most cited critiques of early juvenile institutions and courts is that they used the illusory promise of rehabilitation to mask their adult-like treatment of youth, in a warped logic that promoted the institutions’ goals over interrogation of the means and outcomes used to achieve those goals.”

One of the first ways juvenile justice was “adultified” was the creation of juvenile probation. Probation is the most likely disposition for all adjudicated youth. It is overly relied upon by courts, and poorly designed to actually function as a rehabilitative mechanism for youth who have been adjudged delinquent. “The fundamental flaw with probation is that it is not rooted in a theory of change and lacks a commonly articulated vision.” There is a disagreement about whether the purpose of probation is to promote long-term behavioral change and how to achieve that, or merely ensure compliance with a court order and probation officers.

Moreover, we know that youth and adults on probation respond more to positive incentives rather than sanctions for negative behavior. However, particularly when youth are placed on indefinite periods of probation, doing well on probation does not bring a youth closer to the light at the end of the tunnel, yet doing poorly can quickly land a youth in a form of detention. Experts recommend that youth be placed on a period of six to nine months of probation, if they need to be placed on probation at all, and that “even for those who struggle to meet their goals, the period of probation should generally not exceed one year.”⁴⁷

Perhaps most importantly, consistent with research on youth desistance from “delinquent” behavior, the majority of youth should be diverted and not placed on probation, instead reserving legal sanctions and court oversight for young people who have a history of serious or chronic delinquency and pose a significant risk to public safety.

SB853 is an essential reform to Maryland’s current juvenile probation structure. Under the

⁴⁵ *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 28 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

⁴⁶ Md. Code. Cts. & Jud. Proc. § 3-8A-02(4); *In re Victor B.*, 336 Md. 85, 91–2 (1994).

⁴⁷ Annie E. Casey, *Transforming Probation: A Vision for Getting it Right*, 2018.

www.aecf.org/resources/transforming-juvenile-probation/.



current structure, juvenile probation can be indefinite. The average length of probation statewide is 458.5 days, or fifteen months, nearly double the recommended length of juvenile probation. Many counties have an even longer average length of probation, including: Baltimore City (514 days); Montgomery County (516 days); Prince George’s County (529 days) ; and Kent County (567.7 days). By limiting the length of probation to six months for misdemeanors and two years for felonies, with limited opportunities to extend probation, this bill comports with our understanding of adolescent development. It gives children a realistic goal to work towards, and acknowledges that children are works in progress and should not be expected to reach perfection in order for their probation case to be closed.

Ban Youth Incarceration for Misdemeanors & Technical Violations of Probation

The dangers of youth incarceration are well-documented but rarely acknowledged: placing children in cages for “rehabilitation” not only fails to promote positive behavioral change, it places youth at risk of physical harm, causes psychological harm, disrupts education, physically and emotionally separates youth from their families, negatively impacts future employment outcomes, and *increases* recidivism.⁴⁸

Maryland incarcerates young people accused of low-level crimes at an alarmingly high rate⁴⁹ and then provides them minimal programming, based on superficial group interventions that do not work and especially ill-suited for young kids.⁵⁰ In Maryland, 2/3 of children sent to youth prisons (“out of home placements”) are there for non-felony offense.⁵¹ One in three children are removed from their homes for technical violations of probation.⁵²

⁴⁸ The research on the harms of juvenile detention is extensive and demonstrates that detention increases recidivism and hurts public safety, detention affects dropping out and educational attainment, detention may exacerbate or cause mental illness and trauma, detention exposes youth to increased abuse, and interferes with what is required for healthy adolescent development. Anna Aizer and Joseph J. Doyle, Jr., [Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges](#), National Bureau of Economic Research, NBER Working Paper No. 19102 (2013), at pp. 3-6, 9, 25, [h](#); Justice Policy Institute, Barry Holman and Jason Ziedenberg, [The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities](#) (2006), p. 8; Richard A. Mendel, [No Place for Kids: The Case for Reducing Juvenile Incarceration](#) (2011), The Annie E. Casey Foundation, p. 12, National Academies of Science, [Reforming Juvenile Justice: A Developmental Approach](#) (2013), ; Richard A. Mendel, [Maltreatment of Youth in U.S. Juvenile Corrections Facilities: An Update](#), The Annie E. Casey Foundation (2015), pp. 6-29;; Thomas J. Dishion and Jessica M. Tipsord, [Peer Contagion in Child and Adolescent Social and Emotional Development](#), 62 Annual Review of Psychology 189 (2011),. Karen Abram, et al., [Suicidal Thoughts and Behaviors Among Detained Youth](#), [OJJDP Juvenile Justice Bulletin](#) (July 2014), pp. 1-8;; Sue Burrell, [Trauma and the Environment of Care in Juvenile Institutions](#), National Child Traumatic Stress Network (2013), pp. 2-5;; Edward Cohen and Jane Pfeifer, [Costs of Incarcerating Youth with Mental Illness, for the Chief Probation Officers of California and California Mental Health Directors](#) Association (2007).

⁴⁹ Maryland Department of Juvenile Services, [Doors to Commitment](#) (2015.)

⁵⁰ Maryland Attorney General’s Juvenile Justice Monitoring Unit (JJMU), First Quarter 2020 Report, https://www.marylandattorneygeneral.gov/JJM%20Documents/20_Quarter1.pdf.

⁵¹ *Id.*

⁵² *Id.*



Sending low-level offenders to out of home placements often increases recidivism compared to similarly situated youth who are not removed from the home.⁵³ Thus, in Maryland the state is taking hundreds of young people out of their homes and communities, warehousing them in youth prisons that are all located in Western Maryland and then returns those young people to their homes worse off than they departed. The current system of youth incarceration in Maryland putting those kids – and our communities – at risk.

The devastating impact of these policies does not fall on all Maryland residents equally. Black youth make up 35% of the population of 10-17 year olds in Maryland,⁵⁴ but Black youth account for 77.4% of the population in juvenile jails.⁵⁵ Black youth who are accused of misdemeanors are arrested, charged, and committed at higher rates than their white peers.

Maryland operates 7 detention centers - one in every region of the state and two in the Metro region, but all of its youth prisons are located in Western Maryland. Maryland securely detains thousands of youth pending trial and pending placement throughout the state in large hardware secure juvenile jail facilities that resemble adult jails in structure, design, and operation. For 42% of the youth securely detained pending trial and 54.7% of youth detained pending placement after trial, the child's charge for which they were detained was a misdemeanor.⁵⁶

The Attorney General's Juvenile Justice Monitoring Unit has documented for years DJS' juvenile facilities challenges, including: deteriorating facilities, understaffing, lack of staff training, lack of quality mental health services, continued use of outdated physical and mechanical restraints, continued use of solitary confinement, lack of programming for youth (including poor education continuity), and lack of family engagement efforts.⁵⁷ SB853/SB853 addresses these challenges by banning the use of juvenile jail and youth prison for kids whose most serious alleged offense is a misdemeanor or a technical violation of probation. This change will end the harms of juvenile incarceration for low-level offenders and allow DJS to better leverage its resources to provide small, high-quality programming for those young people who face the most serious charges and are at the highest risk of re-offense.

⁵³ *Id.* See also, Supra note 48.

⁵⁴ OJJDP, Easy Access to Juvenile Populations, <https://www.ojjdp.gov/ojstatbb/ezapop/>.

⁵⁵ *Supra*, DJS Data Resource Guide FY19, Note 49.

⁵⁶ Department of Juvenile Services, *Data Resource Guide FY19* (2020) at 109.

⁵⁷ *Supra*, JJMU Report, Note 50.

SB 853 Juvenile Justice Reform.pdf

Uploaded by: frazier, derrell

Position: FAV

Senate Bill 853 Juvenile Law- Juvenile Justice Reform

Judiciary Proceedings Committee

March 3, 2021

Position: SUPPORT

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates, and concerned citizens for unified action in all aspects of mental health, mental illness, and substance use. We appreciate this opportunity to present testimony in support of Senate Bill 853.

SB 853 implements a range of reforms aimed at diverting young Marylanders from the youth justice system. Mental health disorders are prevalent among children in the juvenile justice system. A meta-analysis by Vincent and colleagues suggested that at some juvenile justice contact points, as many as 70 percent of youths have a diagnosable mental illness. While there appears to be a prevalence of unmet mental health need in the juvenile justice system, the relationship between mental health and the system's involvement is complicated.

Youth involved in the juvenile justice system frequently exhibit elevated rates of substance use and mental health disorders. Many of the studies examining this issue have found that over two-thirds of juvenile justice-involved youth have a mental health diagnosis or need. Over 20% have a mental health disorder that could be diagnosed as severe. Common diagnoses include behavior disorders, conduct disorders, oppositional defiant disorders, antisocial behaviors, mood disorders, substance use disorders, anxiety disorders, and attention-deficit/hyperactivity disorder.

In addition to youth with mental health needs, we also find that youth of color are overrepresented in the juvenile justice system. For example, in 2013, while the national arrest rate for white youth was 26.0 arrests per 1,000 persons in the population, the arrest rate for African American youth was 63.6 per 1,000, nearly 2.5 times higher. Several large-scale efforts have synthesized and analyzed individual research studies' body on racial disparities in the juvenile justice system. Most of these studies examine whether disparities still exist after legal and extralegal factors are taken into account.

While the rate at which mental health and behavioral health resources are used in juvenile justice settings is low in general, it is even more deficient for African American and other minority youth. For these reasons, MHAMD supports SB 853 and urges a favorable report.

Young, D., Yancey, C., Betsinger, S., & Farrell, J. (2011, January). Disproportionate Minority Contact in the Maryland Juvenile Justice System. Retrieved February 23, 2021, from <https://gocep.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

Robles-Ramamurthy, B., & Watson, C. (2019, February 13). Examining racial disparities in juvenile justice. Retrieved February 23, 2021, from <http://jaapl.org/content/early/2019/02/13/JAAPL.003828-19>

Balt Testimony_2021_SB853.pdf

Uploaded by: Freeman, Iman

Position: FAV

TESTIMONY in favor of SB 853
Juvenile Law - Juvenile Justice Reform

TO: Chair Smith, Vice Chair Waldstreicher, members of the Judicial Proceedings Committee
FROM: Iman Freeman on behalf of Baltimore Action Legal Team

My name is Iman Freeman and I am the Executive Director of Baltimore Action Legal Team (BALT). I submit this testimony in favor of Senate Bill 853.

Baltimore Action Legal Team works from a community lawyering model, meaning that instead of using the law for an individual client, we work on behalf of the needs and requests of our community. Over the course of our work operating a bail fund, private home detention fund, education campaigns for the Baltimore Consent Decree, and executing litigation to protect community members from the harms of pretrial injustice, we have seen how the juvenile legal system truly operates. The juvenile legal system, and the legal system that allows juveniles to be charged as adults, is a major contributing factor to Maryland having the most disproportionately Black prison population in the country.

Our children; our students, church members, neighbors, employees, and customers, all serve vital functions in our society. These children are entitled to human dignity and we can't give that to them until we limit the amount of youth in prison, raise the age for youth to be charged, limit probation, and most importantly, increase diversion programming. Treating children like human beings makes them safer, makes our communities safer, and builds a real future for all of us.

I urge a favorable report on SB 853.

YEJ Testimony in Support of Senate Bill 0853.pdf

Uploaded by: Habash, Maya

Position: FAV

Testimony in Support of Senate Bill 0853
Juvenile Law – Juvenile Justice Reform

To: Senator William J. Smith, Jr., and Members of the Judicial Proceedings Committee

From: Jayne Touati, Maya Habash, and Tonecia Brothers-Sutton, Student Attorneys, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201 (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: March 1, 2021

We are student attorneys in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children (“juvenile lifers”) and who are now eligible to be considered for parole. We write in support of Senate Bill 0853, which seeks to implement sorely needed reforms to Maryland’s juvenile justice system.

If passed, SB 0853 would set the minimum age of criminal responsibility in Maryland at 13 years of age. Except in narrow circumstances, children under 13 years-old would not be subject to the juvenile court’s jurisdiction and could not be charged with a crime. Setting a minimum age of criminal responsibility would be a positive step towards aligning Maryland with the science of adolescent brain development, which has proved that the part of the brain that allows us to make rational, deliberative decisions is not fully developed until we reach 25 years of age.¹ Therefore, children lack the ability to contemplate and understand the long-term consequences of their actions. As a result, children are less culpable than adults, and children under 13 years-old lack the capacity to be criminally culpable.

Additionally, SB 0853 makes clear that schoolchildren should not be criminalized for acts that traditionally have been subject to the schools’ disciplinary administrative process. It has often been said—because it is sadly true—that schoolchildren in Maryland are criminalized today for behaviors that in previous generations would have resulted in administrative discipline. Divorcing children who engage in behaviors that are part of normal adolescent development from the juvenile and criminal justice systems is necessary to disrupt and hopefully end the school-to-prison pipeline. The pipeline has criminalized students and impacted families in Maryland, particularly Black students and families. In the 2018-2019 school year, Black students represented 56% of

¹ UNIV. ROCHESTER MED. CTR., UNDERSTANDING THE TEEN BRAIN, <https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=1&ContentID=3051>.

school-based arrests in Maryland’s public schools,² even though they only comprised 33% of the student population.³ Approximately 94% of these arrests were for incidents, situations, and circumstances that did not involve weapons.⁴ It is clear that the behaviors and issues resulting in these arrests would be better addressed through alternative, non-criminal responses as well as racial bias trainings.

While racial bias trainings are necessary for several reasons, one factor that contributes to the racialized impact of the school-to-prison pipeline is authority figures and other decision-makers who see, perceive, and interpret Black children differently than White children. One influential study found that beginning at 10 years of age, Black male children are viewed as “less innocent” than non-Black male children in every other age group.⁵ They are seen and interpreted as older than their actual ages, as well as their peers of the same ages. The same is true of Black girls, who are also disproportionately criminalized in schools, in large measure because of the adultification bias that attaches to their race and gender. As with Black boys, adultification bias sees Black girls as more “adult” than their same age non-Black peers. One recent study by the Center on Poverty and Inequality at Georgetown Law Center found that beginning at 5 years-old, Black girls are viewed as “more adult than their white peers *at almost all stages of childhood . . .*”⁶ Put simply, Black children do not enjoy the same “privilege of innocence” as their non-Black classmates. As a result, they and their behaviors are seen differently. They are criminalized for the same conduct that for their White peers is not noticed or not criminalized.

In sum, Maryland’s children deserved to be treated as children. Criminal culpability should align with child brain development, and children in our schools should not be criminalized for matters that are best addressed through school administrative processes. For these reasons, we ask for a favorable report on this bill.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

² MD. STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA 7-8 (2018-19), <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

³ MD. STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOL ENROLLMENT BY RACE/ ETHNICITY AND GENDER AND NUMBER OF SCHOOLS 4 (2019), <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

⁴ MARYLAND PUBLIC SCHOOLS ARREST DATA, *supra* note 2, at 8 & 129. <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

⁵ Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY AND SOCIAL PSYCH., 526, 529 (2014).

⁶ REBECCA EPSTEIN ET AL., GEORGETOWN LAW CTR. ON POVERTY AND INEQUALITY GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS’ CHILDHOOD, CTR. ON POVERTY AND INEQUALITY 8 (2017) (emphasis in original), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>.

SB0853 CRSD Juvenile Justice Reform Omnibus Bill F

Uploaded by: Hall, Michele

Position: FAV

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

SENATE JUDICIAL PROCEEDINGS COMMITTEE SENATE BILL 853: JUVENILE LAW—JUVENILE JUSTICE REFORM

MARCH 3, 2021

POSITION: Favorable

The Maryland Coalition to Reform School Discipline (CRSD) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. **CRSD strongly supports Senate Bill 853, a historic bill which will fundamentally reshape the juvenile legal system in Maryland.**

[Maryland was recently ranked among the worst states in the nation when it comes to protecting the human rights of kids in our justice system.](#) The way we treat young people in the criminal legal system is a large contributing factor for why [Maryland leads the nation in incarcerating young black men.](#) The Juvenile Justice Reform Bill is an important first step to right these wrongs. The JJR bill will institute major reform to four main areas: (1) raising the minimum age of juvenile court jurisdiction to 13; (2) banning the use of juvenile jails and youth prisons for low level offenses; (3) limiting the length of juvenile probation; (4) making it easier to divert kids out of the system. Not only will the JJR bill ensure that Maryland has an effective youth legal system that is fair and improves the odds that young people who come into contact with the system will make a successful transition to adulthood, but it will break a critical link in the school-to-prison pipeline.

Currently, Most Violations of Student Codes of Conduct Could Also Be Characterized as Violations of Criminal Law; Thus, Students—Oftentimes Young Children—are Routinely Arrested and Prosecuted for Routine Childhood and Adolescent Misbehavior. For example:

- A run-of-the-mill schoolyard fight or a physical tantrum can be charged for assault, a crime under Md. Crim. 3-201;
- If a student takes another’s backpack, headphones, homework, phone, bike, or any property – no matter its value – he or she could be charged for theft, a crime under Md. Crim. 7-104. If a student pushes another student first, he or she could be charged for robbery, a crime *and* a felony under Md. Crim. 3-402;
- Horseplay or any other disruptive activity could be charged as disorderly conduct, a crime under Md. Crim. 10-201, or willful disturbance of school activities, a crime under Md. Educ. 26-101(a);
- Purposefully coloring on or tearing up another student’s papers or any property belonging to another person could be charged as malicious destruction of property, a crime under Md. Crim. 6-301;
- A student who enters campus when he or she is serving a suspension or a student who enters a school building after hours when school is closed could be charged for trespass, a crime under Md. Crim. 6-409;

- A student who buys cigarettes or vaping products for another student who is under 21 could be charged with distribution of tobacco to a minor, a crime under Md. Crim. 10-107;
- Underage drinking could be charged as a crime under Md. Crim. 10-114;
- A student who possesses under 10 grams of marijuana cannot be charged with a crime but they can be arrested and referred to court for legal proceedings under Md. Crim. 5-601.

Indeed, nearly [70% of the 3,141 school-based arrests in Maryland in 2018-19](#) were for physical altercations without weapons, disruption, theft, property destruction, trespass, and similar conduct, while the remainder were primarily for drug offenses, including simple possession. The data is even more disturbing for elementary and middle school students: of the 1,098 elementary and middle school students arrested in Maryland public schools, nearly 84% were arrested for the minor, adolescent behaviors listed above. The JJR bill makes two important changes to the current law to remedy this issue. First, the bill limits juvenile court jurisdiction to “delinquent acts” that are *not* traditionally subject to school discipline or committed in school. Second, the bill raises the minimum age of juvenile court to 13, with exceptions for kids age 10-12 who are alleged to have committed the most serious crimes. **This means that kids will not be prosecuted for behavior that is in line with normal adolescent development, and instead will be treated as kids.**

Today, One-in-Three Children Removed from their Communities are Sent to Youth Jails and Prisons for Technical Violations of Probation. “[T]ime spent moving through criminal case processing (i.e., arrest, detention, prosecution, and probation) is time lost from the educational process.”¹ When children bounce between their community and confinement, there is often a lack of “up-to-date or complete academic documentation, and personal histories, leading to delays in educational placement, misinformation, misinterpretation of youth needs, obstructing reintegration efforts. In some cases credits earned within the institutional setting are not transferable to the original school setting, ...causing educationally at-risk youth to fall even further behind, further increasing the likelihood of dropping out.”² While these risks are always present, sending children to youth prisons and jails is particularly problematic when it is only based on a technical violation of probation such as a suspension or expulsion from school, which disproportionately impacts students of color and students with disabilities. Research has proven that nonresidential, community-based services are more likely to improve outcomes for low and medium-risk youth. By banning out of home placements for low level offenses, kids will experience the continuity of care and support that is essential for their educational and rehabilitative growth.

While this written testimony only touches on a few components of the Juvenile Justice Reform bill, we wholeheartedly support all of the recommendations from the Maryland Juvenile Justice Reform Council.

For these reasons, CRSD strongly supports Senate Bill 853.

¹ David S. Kirk & Robert J. Sampson. “Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood.” *SOCIOL. EDUC.* 2013 January 1; 88(1): 42. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192649/pdf/nihms611904.pdf>.

² Gregory J. Benner, et.al. *Strengthening Education in Short-Term Juvenile Detention Centers: Final Technical Report.* Office of Justice Programs, September 2017. Available at <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/251118.pdf>.

For more information contact:

Michele Hall
Attorney, Office of the Public Defender
410-929-6616
Michele.hall@maryland.gov

CRSD Members

ACLU Maryland
The Arc Maryland
Attendance Works
Disability Rights Maryland
Bmore Awesome, Inc.
The Choice Program at UMBC
Community Law in Action
End Racism FCPS
Family League of Baltimore
NARAL Pro-Choice Maryland
Office of the Public Defender
Open Society Institute
Project HEAL at Kennedy Krieger Institute
Public Justice Center
Restorative Counseling Services
Schools Not Jails
Youth, Education and Justice Clinic at University of Maryland Francis King Carey School of Law
Lindsay Gavin
Shannon McFadden
Kelsie Reed
Janna Parker
Aarti Sidhu
Gail Sunderman

MD SB 0853 Testimony of Kristin Henning 03.01.21.p

Uploaded by: Henning, Kristin

Position: FAV

Testimony of Kristin Henning
Director, Georgetown Juvenile Justice Clinic & Initiative*
Blume Professor of Law, Georgetown Law*
Director, Mid-Atlantic Juvenile Defender Center*
600 New Jersey Ave NW
Washington, DC 20001

***Titles and organizational affiliation for identification purposes only.**

Offered in support of
Senate Bill 0853—Juvenile Law – Juvenile Justice Reform

March 1, 2021

My name is Kristin Henning. I am a resident of Takoma Park, Maryland, a Professor of Law and the Director of the Juvenile Justice Clinic & Initiative at Georgetown Law, and the Director of the Mid-Atlantic Juvenile Defender Center. The views expressed are based on my research and experience and not given on behalf of Georgetown University or the Mid-Atlantic Juvenile Defender Center. Thank you for the opportunity to testify today in support of Senate Bill 0853, which would be a critical step forward in ending the criminalization of Black and brown youth in the state of Maryland.

The Harms of Racial Disparities in Maryland’s Juvenile Legal System

Youth of color are formally processed, detained in juvenile jails, and incarcerated in youth prisons at disproportionately high rates in Maryland.¹ In 2018, youth of color were nearly twice as likely to have their cases referred to juvenile court intake, 50% more likely to have their cases petitioned, and 30% less likely to be referred to diversion.² Although Black youth make up only 35% of the population of 10-17 year-olds in Maryland, they accounted for approximately 75% of the population of juvenile jails.³ These disparities are even greater for younger children. In 2020, 71% of the children under 13 who were referred to Maryland juvenile courts were Black,⁴ and 83.8% of children under age 13 who were held in Maryland detention centers were Black.⁵

¹ Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2020* (December 2020)

https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

² Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2018*, 233 (December 2019)

https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2018_full_book.pdf.

³ C. Puzzanchera, A. Sladky, and W. Kang, "Easy Access to Juvenile Populations: 1990-2019." Online (2020).

Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>; Maryland Department of Juvenile Services, *supra* note 1 at 118.

⁴ Maryland Department of Juvenile Services, *supra* note 1 at 30.

⁵ *Id.* at 122.

This disparate treatment causes Maryland's Black youth great harm. The dangers of youth incarceration are well-known. Not only do juvenile jails and prisons not promote rehabilitation, but they place youth at risk of physical and psychological harm, interrupt their education, impact future employment outcomes, and impede healthy development by separating youth from their families and communities.⁶ In addition to these well-documented harms, research now shows that police contact even less intrusive than arrest and incarceration damages the mental health of youth of color.

A 2019 study of Black and Latino boys in the ninth and tenth grades found that police stops negatively affected their psychological well-being six, twelve, and eighteen months after the stops occurred.⁷ Youth who experienced more frequent police stops reported greater psychological distress, which they described as finding it hard to wind down, feeling downhearted and blue, and close to panic.⁸ A 2020 study found that youth who were exposed to police stops exhibited significantly greater odds of sleep deprivation and low sleep quality.⁹ This is consistent with other studies that list nightmares, flashbacks, and insomnia as symptoms commonly associated with the traumatic impact of police contact for people of color.¹⁰

There is no acceptable justification for the disproportionate harm caused to Black youth through arrest and incarceration. Their overrepresentation in juvenile court or jail cannot be explained by differences in the rates youth of color engage in delinquent behavior. In fact, forty years of data collected by researchers at the University of Michigan and the Centers for Disease Control show that youth of all races engage in risky, irresponsible, and dangerous behaviors at

⁶ Extensive research on the harms of juvenile detention demonstrates that detention increases recidivism and hurts public safety, affects dropping out and educational attainment, exacerbates or causes mental illness and trauma, exposes youth to increased abuse, and interferes with what is required for healthy adolescent development. Anna Aizer and Joseph J. Doyle, Jr., *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*, National Bureau of Economic Research, NBER Working Paper No. 19102, 3-6, 9, 25 (2013); Justice Policy Institute, Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, 8 (2006); Richard A. Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation, 12 (2011); National Academies of Science, *Reforming Juvenile Justice: A Developmental Approach* (2013); Richard A. Mendel, *Maltreatment of Youth in U.S. Juvenile Corrections Facilities: An Update*, The Annie E. Casey Foundation, 6-29 (2015); Thomas J. Dishion and Jessica M. Tipsord, *Peer Contagion in Child and Adolescent Social and Emotional Development*, 62 *Annual Review of Psychology* 189 (2011); Karen Abram, et al., *Suicidal Thoughts and Behaviors Among Detained Youth*, *OJJDP Juvenile Justice Bulletin*, 1-8 (July 2014); Sue Burrell, *Trauma and the Environment of Care in Juvenile Institutions*, National Child Traumatic Stress Network, 2-5 (2013); Edward Cohen and Jane Pfeifer, *Costs of Incarcerating Youth with Mental Illness*, for the Chief Probation Officers of California and California Mental Health Directors Association (2007).

⁷ Juan Del Toro, et al., "The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys," *Proceedings of the National Academy of Sciences of the United States of America* 116(7), 8261-8268 (April 23, 2019).

⁸ *Id.* at 8263.

⁹ Dylan B. Jackson et al., "Police Stops and Sleep Behaviors Among At-Risk Youth," *Journal of the National Sleep Foundation* 6(4), 1-7 (April 16, 2020).

¹⁰ Thema Bryant-Davis et. al., "The Trauma Lens of Police Violence against Racial and Ethnic Minorities," *Journal of Social Issues* 73, 852-871 (December 2017).

roughly the same rates.¹¹ Black youth are not inherently more dangerous, reckless, or impulsive than their white peers. White youth engage in risky behaviors at similar rates as Black and Hispanic youth, and they outpace youth of other races in certain dangerous behaviors, including carrying weapons.¹²

Implicit Racial Bias Leads to Racial Disparities

What accounts for the differences in the way youth of color are treated? Implicit racial bias offers one explanation. Powerful social stereotypes cause police officers and other decisionmakers to subconsciously associate Black people with crime and dangerousness.¹³ Implicit racial bias also causes decisionmakers to perceive Black children as older and more culpable, more dangerous and thus less deserving of diversion, and more deserving of incarceration.¹⁴ In one study, police officers overestimated the age of Black youth accused of a felony by 4.53 years, but underestimated the age of white felony suspects by one year.¹⁵ The older an officer thought the child was, the more likely the officer was to believe the child was culpable of the suspected crime.¹⁶ Researchers also found that civilian study participants perceived the “innocence” of Black children aged 10–13 to be equivalent to that of non-Black children aged 14–17 and the innocence of Black children aged 14–17 to be equivalent to that of non-Black adults aged 18–21.¹⁷ Implicit racial bias impacts the perceptions of judges, probation officers, and attorneys, as well as police officers.

Implicit racial bias leads to racially-disparate outcomes when decision-makers are given ambiguous decision-making criteria, broad discretion, and little oversight.¹⁸ Leading psychologists studying implicit racial bias and policing emphasized this point: “Where decisions

¹¹ Lloyd Johnston et al., *Monitoring the Future National Survey Results on Drug Use, 1975 - 2018*, University of Michigan, Institute for Social Research (January 2019); Centers for Disease Control and Prevention, “Trends in the Prevalence of Sexual Behaviors and HIV Testing National YRBS: 1991—2017,” National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention, (2017); Laura Kann et al., “Youth Risk Behavior Surveillance — United States, 2017,” *Surveillance Summaries* 67 (June 2018).

¹² Kann, *supra* note 11 at 13 (The prevalence of having carried a weapon was higher among white (18.1%) than black (10.8%) and Hispanic (12.7%) students and higher among white male (29.0%) than black male (15.3%) and Hispanic male (18.4%) students), at 34 (In 2017, more white youth than black youth reported carrying some type of weapon within the 30 days leading up to the survey.).

¹³ Marie Pryor, Kim Shayo Buchanan, and Phillip Atiba Goff, *Risky Situations: Sources of Racial Disparity in Police Behavior*, 6(3) *Annu. Rev. Law and Soc. Sci.*, 43-60 (2020); Luca Guido Valla et al., *Not Only Whites: Racial Priming Effect for Black Faces in Black People*, 40(4) *Basic & Applied Social Psychology* 195-200 (2018); Andrew R. Todd, Kelsey C. Thiem, and Rebecca Neal, *Does Seeing Faces of Young Black Boys Facilitate the Identification of Threatening Stimuli?*, 27 *Psychological Sci.* 384 (2016).

¹⁴ Phillip Atiba Goff et al., “The Essence of Innocence: Consequences of Dehumanizing Black Children,” 106(4), 526-545 *Interpersonal Relations and Processes* (2014); Aneeta Rattan et al., “Race and the Fragility of the Legal Distinction Between Juveniles and Adults,” *PLoS One* 7, 1-5 (May 2012): 1-5; Sandra Graham and Brian S. Lowery, “Priming Unconscious Racial Stereotypes About Adolescent Offenders,” *Law and Human Behavior* 28 (October 2004).

¹⁵ Goff, *supra* note 14.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Pryor, Shayo Buchanan and Goff, *supra* note 13.

or behaviors are governed by clear-cut, binding norms, a decisionmaker is more likely to apply them fairly, without racial favoritism. But where rules or norms are vague, nonexistent, or not clearly applicable, people, including police officers, are more likely to act in ways that favor White persons and disfavor non-Whites.”¹⁹

SB 0853: A Step Forward

By reducing opportunities for implicit racial bias to impact decision-making and emphasizing the importance of treating all children like children, the measures proposed in SB 0853 take an important step forward in reducing the racial disparities in Maryland’s juvenile legal system.

- **Raise the Minimum Age**

The majority of children under age 13 who are processed in Maryland juvenile courts are Black.²⁰ Of the children under age 13 who were put through the trauma of juvenile court involvement in Maryland in 2019, approximately 5% were found guilty and placed on probation.²¹ Prosecuting pre-adolescent children violates international human rights standards,²² and Black youth, who are perceived as older and more culpable, are most vulnerable in legal systems that do not set an appropriate minimum age of juvenile court jurisdiction. The proposed law would protect these vulnerable children from harmful arrest and incarceration.

- **Reduce Youth Incarceration**

Black youth account for approximately 75% of the population of juvenile jails, even though they only make up 35% of youth ages 10-17 in the state.²³ Maryland incarcerates low risk young people at an alarmingly high rate. Two-thirds of Maryland children sent to youth prisons (“out of home placements”) are there for non-felony offenses.²⁴ One in three children are removed from their homes for technical violations of probation.²⁵ Research shows that sending youth with low risk of re-offense to youth prisons creates worse outcomes than if they had simply been left alone.²⁶ SB 0853 would decrease the

¹⁹ *Id.* (citing Dovidio JF, Gaertner SL. 2000. Aversive racism and selection decisions: 1989 and 1999. *Psychol. Sci.* 11(4):315–19).

²⁰ Maryland Department of Juvenile Services, *supra* note 1 at 30.

²¹ Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2019* (December 2019) https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf.

²² The UN’s Global Study on Children Deprived of Liberty recommends that all UN member states set a minimum age of criminal responsibility no lower than age 14. United Nations, General Assembly, *Global Study on Children Deprived of Liberty, Report of the Independent Expert Leading the United Nations Global Study of Children Deprived by Liberty, Manfred Nowak, A/74/50, 20* (July 2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/213/15/PDF/N1921315.pdf?OpenElement>.

²³ Puzanchera, Sladky, and Kang, *supra* note 3; Maryland Department of Juvenile Services, *supra* note 1 at 118.

²⁴ Juvenile Justice Strategy Group, The Annie E. Casey Foundation, *Doors to DJS Commitment: What Drives Juvenile Confinement in Maryland*, 13 (2015)

<https://djs.maryland.gov/Documents/publications/AECF%20Assessment%20of%20MD%20Dispositions%20-%20Updated%20March%2016%20-%20Final%20PDF.pdf>.

²⁵ *Id.* at 4.

²⁶ *Id.* at 3.

number of Black youth needlessly incarcerated in Maryland by prohibiting the use of juvenile jail and youth prisons for children whose most serious alleged offense is a misdemeanor or technical violation of probation.

- **Limit Probation Terms**

Providing clear term limits for probation protects Black youth from being subjected to lengthy and unnecessary sentences based on biased perceptions that they are more culpable or more dangerous. Indeterminate probation terms are harmful to adolescent development.²⁷ Juvenile probation that is stretched over long periods of time and structured like adult probation (i.e. focused on technical compliance rather than tangible, holistic goals) places youth at greater risk of being violated, detained and committed, thereby deepening their involvement with the legal system and continuing racial inequity inside the system. SB 0853 would protect Black youth from these harms by providing clear limits on probation terms.

- **Increase Diversion**

Disturbing racial disparities in the use of diversion exist for Maryland youth. Youth of color were nearly twice as likely to have their cases referred to juvenile court intake, 50% more likely to have their cases petitioned, and 30% less likely to be referred for diversion.²⁸ Diversion keeps low-risk youth away from the stigma of the juvenile legal system and protects them from juvenile jail or prison. Increasing opportunities for diversion for Maryland youth will help ensure that children of color are treated like children.

Conclusion: Treat All Children Like Children

Maryland must treat *all* children like children. Childhood, including adolescence, must be protected as a critical time for development. Instead, youth of color are disproportionately subjected to the harms of arrest, jail, and prison, while being denied access to diversion and kept on probation for unnecessarily lengthy terms. We must end the criminalization of Black and brown youth, and begin to invest in their future by protecting their childhoods as a vital developmental stage. SB 0853 is an important step forward for Maryland.

²⁷ See The Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting It Right*, 17 (2018) <https://www.aecf.org/resources/transforming-juvenile-probation/>.

²⁸ Maryland Department of Juvenile Services, *supra* note 2 at 233.

Testimony SB853.pdf

Uploaded by: Ichile-Mckenzie, Ongisa

Position: FAV

To: Maryland General Assembly, Senate Judicial Proceedings Committee
From: Ongisa Ichile-Mckenzie- Director, Southern Marylanders for Racial Equality
Re: SB 853- Juvenile Justice Reform
Hearing Date: March 3, 2021

I'm a former teacher and advocate via my organization, Southern Marylanders for Racial Equality. I'm writing to ask that you vote favorable on this comprehensive Juvenile Justice Reform Bills SB853. We must heal our children and ensure they become healthy adults, instead of tossing them into the criminal justice bin like so much waste. I've observed the harm that family separation, social stigma, and educational neglect has on our youth, a disproportionate number of whom are Black. I'm not writing to give the stats, which alone are staggering. I want you to understand the individual toll it takes. I don't have express permission to share this story so I won't give any identifying details.

I taught a young lady out here in Southern Maryland. She was in a group home after being separated from her family- arrested and charged with assault. Long story short, she had been arrested and expelled for chasing a boy with a sharp classroom object after she said he grabbed her private body part. So she was in the system. She had been bounced around to multiple group homes, in multiple counties. But she had a family- couldn't see them. She suffered depression from the isolation. She wanted to be in the WNBA or a sports journalist, but wasn't in school long enough to play ball. She had fallen so far behind academically by the time we worked together, that I had to take her back through some middle school concepts to get her to freshman level. But she caught on quickly. I had to bring my daughter to work on a couple occasions, and they met and bonded instantly over crayons and unicorns. Maybe she was missing the younger sibling she hadn't seen in a year. And on the last day before she had to move on to her next residential placement surrounded by strangers far, far away, she gave my daughter a stuffed smiley face toy. And wrote on the back telling MY CHILD to keep her head up!

Now understand I'm not saying this kid was perfect. She was truant, sometimes defiant, "at risk," what we call kids who need more help. But she had value, natural intelligence, and deserved better than to be shuffled around the state without the ability to ever gain her footing in any capacity- no permanent friends, no permanent mentors, not even a permanent doctor. She got a probation officer and weekly mandated therapy to sign off on her meds. Now that she's an adult, I wonder how she's doing. I wonder about all my former students who get locked up. I see them as kids, minds still developing, making mistakes, but after years in the system who are they becoming? These kids, mostly Black and Brown, are being formed in a crucible of detention, low expectations, court

dates, and ultimately abandonment. This system has to do better. We can produce better outcomes by passing better laws. HB1187/SB853 are a good start. Thank you.

Sincerely,

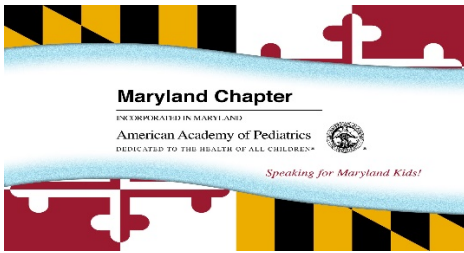
A handwritten signature in black ink, appearing to read 'Ongisa', with a long horizontal flourish extending to the right.

Ongisa Ichile-Mckenzie
Director, Southern Marylanders for Racial Equality

SB0853_FAV_MDAAP_Juvenile Law - Juvenile Justice R

Uploaded by: Kasemeyer, Pam

Position: FAV



TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: March 3, 2021

RE: **SUPPORT** – Senate Bill 853 – *Juvenile Law – Juvenile Justice Reform*

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 853.

Senate Bill 853 reflects several of the recommendations from the Juvenile Justice Reform Commission's Final Report. The Commission was charged with researching best practices regarding the treatment of juveniles who are subject to the criminal and juvenile justice systems and identifying recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems. Senate Bill 853 makes four significant changes to Maryland's current judicial framework for juveniles. It raises the minimum age of juvenile court jurisdiction to age 13 with limited exceptions for children aged 10-12; bans the use of juvenile jail for low level offenses; limits the length of probation to be developmentally appropriate; and makes it easier for the Department of Juveniles Services to divert youth out of the legal system.

Punitive policies and programs, particularly if they penalize children with severe sanctions in a process that is misunderstood due to developmental immaturity and thus perceived to be unfair, reinforces delinquent behavior, fails to foster prosocial development, and increases recidivism. Children need to be held accountable for wrongdoing in a fair process that promotes healthy development, reduces recidivism, and improves the potential for positive life outcomes. Adoption of the reforms to the juvenile justice system reflected in Senate Bill 853 will significantly advance the State's commitment to provide a more responsive and effective system for preventing, responding to, and managing juvenile interface with the justice system. A favorable report is requested.

For more information call:

Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

Testimony in support of sb 853.pdf

Uploaded by: MALONGA-NTINOU, JADE

Position: FAV

TESTIMONY IN SUPPORT OF SB 853 JUVENILE LAW- JUVENILE JUSTICE REFORM

Submitted by Baltimore City Youth, Community Law in Action (CLIA)

Community Law in Action (CLIA) strongly supports SB 853. This bill passing will ensure that youth who are in the justice system will have the opportunity to enjoy adulthood without the fear of enduring repercussions from their childhood. HB 1187 in effect will work to promote the wellness of mental health in regards to black and brown children in relation to the justice system by giving second chances, allowing youth to grow and recognize their mistakes as opposed to guiding them down the school to prison pipeline.

CLIA is a youth centered not-for-profit organization that values young people. We believe that youth are valued leaders of community transformation, informed stakeholders at the forefront of decision makers, and inspiring voices for social justice.

We The Students of Community Law in Action (CLIA) are in support of the Omnibus Bill (SB 853) because:

Minimum Age

“Being able to arrest someone at the minimum age of six years old can be a very traumatic experience for a child that young. At that age, they barely have an actual understanding of the things that are going on in the world.”

“Putting a kid who made a really simple mistake and holding them to the same accord of a criminal is already steering them up and putting them on the wrong pathway.”

“Kids make mistakes and most kids in the juvenile system have been a product of their environment although it’s not an excuse it’s a reality.. Kids are kids so when they're treated like criminals at such a young age they will grow up and really believe themselves to be that.”

“There’s already so much trauma within the juvenile justice system between black and brown people and that trauma lives on and reincarnates itself throughout generations.”

Probation

“Youth who are on probation and have criminal records are often haunted from their past when they reach adulthood in regards to jobs and other responsibilities that come with being an adult.”

“It's scary sometimes, thinking that one day my little brother and/or little cousins could end up in a juvenile system for a very small mistake and that mistake following them for the rest of their lives not being allowed to grow because of a mistake they made when they were barely teenagers. When you're that young you don't know so much, you're unable to fully comprehend right from wrong.”

For these reasons CLIA supports HB 1187 and respectfully urges the committee to give this bill a favorable report.

SB0853-JPR-FAV.pdf

Uploaded by: Mehu, Natasha

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 853

March 3, 2021

TO: Members of the Judicial Proceedings Committee
FROM: Natasha Mehu, Director of Government Relations
RE: Senate Bill 853 – Juvenile Law – Juvenile Justice Reform
POSITION: Support

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 853.

SB 853 alters provisions of law relating to the jurisdiction of the juvenile court. This bill focuses on four large changes that will improve the juvenile justice system in Maryland: 1. Raises the minimum age of juvenile court jurisdiction to 13 with limited exceptions; 2. Bans the use of juvenile jail and youth prison for low level offenses; 3. Limits terms of probation; and 4. Makes it easier to divert children and youth out of the system.

The Mayor's Office of Children & Family Success supports the work of the Baltimore Children's Cabinet, including its dedication to youth diversion and expanding opportunities for success for boys and young men of color.

The Mayor's Office of Neighborhood Safety and Engagement works directly with youth who have been charged with low-level misdemeanors to provide them with alternatives rooted in restorative justice and self-determination. Since 2015, the agency has diverted more than 800 youth to community-based organizations, creating increased opportunities for self-actualization.

Maryland was recently ranked among the worst states in the nation by Human Rights for Kids when it comes to protecting children's rights in our justice system. The way we treat young people in the criminal legal systems is a large contributing factor for why Maryland leads the nation in incarcerating young Black men. An effective youth legal system must be fair for all children and improve the odds that young people who come in contact with the system can make a successful transition to adulthood. Maryland's system will be strengthened by the reforms set forth in HB 1187.

*Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
<https://mogr.baltimorecity.gov/>*

1. Raise the minimum age of juvenile court to 13.

This change to Maryland's system would put our state in line with international norms and with the recommendations of the American Academy of Pediatrics and Society for Adolescent Health & Medicine. Currently there is no minimum age for charging children in Maryland, and an inordinate number of children are arrested and referred to court, including 8,600 pre-adolescent children over the last five years. As with all points of contact with the juvenile justice system, Black children are disproportionately impacted – 70% of the pre-intake complaints involving children under 13 years old involved Black children, despite representing only 30% of the overall child population in Maryland. Once children are engaged in juvenile court, even if the outcome is probation, their likelihood of continued justice involvement and more serious penalties increases.

2. Ban use of juvenile jail and youth prisons for low level offenses.

A study in 2015 showed that two-thirds of young people sent to out of home placements are there for non-felony offenses. One-third are sent for technical violations of probation. These youth are detained despite research proving that nonresidential, community-based services are more likely to improve outcomes for low- and medium-risk youth. Again, the impact on Black children is overwhelming – nearly 80% of youth in detention are Black. Incarcerating low- and moderate-risk children costs nearly half of Maryland DJS's \$271 million budget. And the harm to children who are in detention is well documented. Not only do juvenile jails and prisons not promote rehabilitation, but they place youth at risk of physical and psychological harm, interrupt their education, impact future employment outcomes, and impede healthy development by separating youth from their families and communities.

3. Limit terms of probation.

Research has shown that in order to hold young people accountable, measures must be fair, firm, developmentally appropriate, and finite. Youth require a probation system that is more aligned with developmental goals, and less reflective of the technical probation system used for adults. Limiting terms of probation for low-level offenses will increase the effectiveness of probation as a tool focused on helping youth who pose the most significant risks for serious offending to achieve personal growth, behavior change, and long-term success.

4. Make it easier to divert youth out of the juvenile justice system.

Youth of color were nearly twice as likely to have their cases referred to juvenile court intake, 50% more likely to have their cases petitioned, and 30% less likely to be referred for diversion. Diversion keeps low-risk youth away from the stigma of the juvenile legal system and protects them from juvenile jail or prison. Increasing opportunities for both pre- and post-arrest diversion for Maryland youth will help ensure that children of color are treated like children.

We respectfully request a **favorable** report on Senate Bill 853.

Final-No.-221-MD-diversion-programs.pdf

Uploaded by: Mooney, Emily

Position: FAV



Free markets. Real solutions.

R STREET POLICY STUDY NO. 221
February 2021

THE FRONT LINE: A SCAN OF LAW ENFORCEMENT-DRIVEN YOUTH DIVERSION PROGRAMS IN MARYLAND

By Casey Witte and Emily Mooney

INTRODUCTION

Law enforcement agencies are the gatekeepers of the criminal justice system. Charged with responding to calls for service and investigating crimes, they also exercise a great deal of authority and discretion when it comes to how individuals are held accountable for misbehavior. Depending on the alleged act, state and agency, police officers can correct wrongdoing without an arrest or any court involvement. In some cases, police officers may be authorized to give an individual a warning or citation or to refer someone to community-based programming or services.

Colloquially termed “diversion” opportunities due to their movement away from the formal court process, these decisions can be life-changing, particularly when a child is accused of committing a crime. Adolescents are especially prone to partake in risky behaviors, be affected by negative peer influences and struggle to adequately account for

CONTENTS

Introduction	1
The Why Behind Law Enforcement-Driven Youth Diversion	2
The State of Law Enforcement-Driven Youth Diversion in Maryland	3
Geographic Coverage	4
Program Components	5
Origin of Programming Model	5
Eligibility Criteria	6
Source and Type of Referrals	6
Level of Police Involvement	6
Program Outcomes	7
Program Challenges	8
Policy Recommendations	8
Conclusion	9
About the Authors	10
Figure 1: Presence of County-wide Law Enforcement-Driven Youth Diversion Programs	5
Appendix A: Surveyed Agencies	11
Appendix B: Overview of Collected Data	12

the consequences of their actions—all of which put them at greater risk of coming into contact with the justice system. Youth misbehavior can also be a reflection of trauma or a mislabeling of typical child actions due to overbroad criminal laws, such as those that punish youth for “disorderly conduct.” Fortunately, what we know about child development suggests children naturally age-out of crime as their cognitive functions develop, and trauma can be treated outside of the justice process.¹ Police officers can likewise work collaboratively with other community actors to ensure overbroad laws do not result in criminal justice responses to actions better dealt with by schools and parents.

After all, when people are arrested, processed and marked with a criminal record all before the age of 18, the long-term consequences can be devastating.² Simply being stopped by police can have detrimental effects on a young person’s future, with some research suggesting it can amplify the young person’s likelihood of future criminal activity.³ After

1. See, e.g., Richard Bonnie et al., “Reforming Juvenile Justice: A Developmental Approach,” National Research Council, 2013, pp. 5, 91-95. https://www.njin.org/uploads/digital-library/Reforming_JuvJustice_NationalAcademySciences.pdf

2. David Kirk and Robert Sampson, “Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood,” *Social Education* 88:1 (January 2013), pp. 36-62. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192649>; see, e.g., Amanda Petteruti et al., “Sticker Shock: Calculating the Full Price Tag for Youth Incarceration,” Justice Policy Institute, December 2014. <https://hudsonservicenet.org/main.asp?uri=1003&di=114>.

3. See, e.g., Stephanie Ann Wiley et al., “The Unintended Consequences of Being Stopped or Arrested: An Exploration of the Labeling Mechanisms Through Which Police Contact Leads to Subsequent Delinquency,” *Criminology* 51:4 (2013), pp. 927-966. <https://onlinelibrary.wiley.com/doi/10.1111/1745-9125.12024>; Lee Ann Slocum et al., “The Importance of Being Satisfied: A Longitudinal Exploration of Police Contact, Procedural Injustice, and Subsequent Delinquency,” *Criminal Justice and Behavior* 43:1 (2016), pp. 7-26. https://www.researchgate.net/profile/Stephanie_Wiley2/publication/283038414_The_Importance_Of_Being_Satisfied_A_Longitudinal_Exploration_of_Police_Contact_Procedural_Injustice_and_Subsequent_Delinquency/links/5696917008aec79ee32a0250.pdf.

an arrest, a youth is on track to earn less income over their lifetime and be substantially less-educated than their peers.⁴ And when a youth arrest is followed by a stint of detention or incarceration, research suggests young people are even more likely to return to crime, particularly when they have had few prior interactions with the justice system.⁵ This means that when we introduce our youngest to the justice system, without full consideration of effective alternatives to hold them accountable, we are at risk of crippling their future and accelerating further societal harm.

In response to this problem, states and individual law enforcement agencies have begun to establish formal youth diversion programs with set eligibility criteria. These programs allow youth to avoid being formally processed further in the justice system if they complete certain requirements, such as community service. Often, they provide resources—such as referrals to counseling or job services—aimed at meeting the needs of the youth that enter these programs and addressing the factors that led to law enforcement contact. However, there is no uniform design for diversion programs nor is there a uniform understanding of which youth should be diverted. As a result, program components and utility can vary wildly from state to state or even town to town.

Such is the case in the state of Maryland. From Allegany to Worcester, law enforcement-driven diversion programs—which for the purposes of this paper are defined as programs managed by law enforcement agencies to which youth can be referred rather than having their case sent to the Department of Juvenile Services (DJS)—have started to take hold, though successful iterations with proven efficacy are still few and far between.⁶ In recent years, many law enforcement agencies have taken a step in the right direction by creating or forming relationships with existing youth diversion programs in their communities. In some cases, diversion programs driven by State’s Attorney’s Offices have worked to divert young people prior to a DJS referral as well. However, there are still a substantial number of jurisdictions that have no law enforcement-driven diversion programs whatsoever.

Accordingly, this policy study will address the importance of police diversion, the state of law enforcement-driven diversion programs in Maryland, and ultimately recommend policies aimed at creating a statewide environment in which all

Maryland youth have opportunities to be diverted by law enforcement earlier and with more efficacy.

THE WHY BEHIND LAW ENFORCEMENT-DRIVEN DIVERSION

In Maryland, the vast majority of youth who enter the juvenile justice system are referred by law enforcement to the Department of Juvenile Services (DJS) for minor infractions. In fiscal year 2020, 77 percent of the juvenile complaints referred to the DJS were done so for citations, ordinance violations and misdemeanors.⁷ Black youth made up the clear majority (about 63 percent) of cases referred to the DJS, disproportionately bearing the weight of the system’s impact.⁸ Yet Black youth only compose approximately 31 percent of the statewide youth population aged 11 to 17.⁹

These non-serious DJS referrals can consume time and resources that could be better focused toward youth with more serious needs if police diversion was more common. Ultimately, almost half (47 percent) of juvenile complaints to the DJS in 2020 were found to be outside of the court’s jurisdiction or resolved at intake, meaning that an intake officer determined that furthering the case “would be disadvantageous to the interests of the youth and to public safety.”¹⁰ Another 13 percent resulted in an informal adjustment—a term for pre-court supervision offered by the DJS—and just under 40 percent of complaints resulted in a formal petition to the State’s Attorney.¹¹

When youth are adjudicated by the State’s Attorney for a misdemeanor, many wind up in detention, on probation or committed to an out-of-home placement, a move that can mark the start of months, if not years, of additional care and up to hundreds of taxpayer dollars spent each day on one youth’s care.¹² It also means quick accountability and access to needed services and supports for many young people is delayed: the average time from an offense to an intake referral in Maryland is just over 31 days, and the intake decision-making process can take an additional 19 days.¹³ Adjudicating a youth case following an intake decision can take upwards of two months alone.¹⁴ Finally, a young person is at increased risk of their education being derailed. Studies suggest that

4. Ibid <https://hudsonservicenet.org/main.asp?uri=1003&di=114>.

5. Sarah Cusworth Walker and Jerald Herting, “The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study,” *Crime and Delinquency* 66:13 (June 2020), pp. 1876-1882. <https://journals.sagepub.com/doi/full/10.1177/001128720926115>; see, e.g., Anna Aizer and Joseph Doyle, “Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges,” *Quarterly Journal of Economic* 130:2 (April 2015), pp. 759-803. https://www.researchgate.net/publication/272413343_Juvenile_Incarceration_Human_Capital_and_Future_Crime_Evidence_from_Randomly-Assigned_Judges.

6. See, Appendix B, section “Outcomes.”

7. “Data Resource Guide: Fiscal Year 2020,” Maryland Department of Juvenile Services, December 2020, p. 27. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

8. Ibid., p. 26.

9. Ibid., p. 246.

10. Ibid., p. Xiii.

11. Ibid., p. 26.

12. Ibid., pp. 26, 119, 155, 214.

13. Ibid., p. 26.

14. Ibid., p. 26.

youth formally processed in court and youth who are incarcerated are at an increased risk of failing to complete high school compared to youth who are only arrested or similar youth who are not incarcerated.¹⁵

Even if a young person who comes into contact with police is diverted later in the court process and is not on probation or incarcerated, they may still be saddled with an arrest record. It should also be noted that before these records can be expunged in Maryland, an individual must first age into adulthood, repay all monetary restitution and then file a petition in court that a judge may still reject.¹⁶

These resilient juvenile records are capable of immense damage for the young people that carry them. Under the National Affordable Housing Act, entire families can be evicted or denied access to public housing if a child carries a record.¹⁷ That same child could also be denied admission to college or the U.S. military on the basis that they have any record at all.¹⁸ Even without a formal charge or prosecution, records of youth court involvement can bar adults from government employment and serve as grounds for termination from private employers.¹⁹

Instead of imparting long-lasting institutional scars, law enforcement-driven diversion programs recognize the findings of developmental science and provide a rehabilitative alternative for youth who have made minor mistakes early on in life. When a young person completes a police diversion program, they avoid a formal referral and intake by DJS and, depending on the program, may even be able to avoid an arrest. Youths are still held accountable for what they have done, and these diversion programs are able to provide needed rehabilitative resources and meaningful ways for youth to give back to their communities without causing collateral harm. Measures like these shift juvenile justice from a punitive to rehabilitative focus. They may also help to improve relationships between law enforcement and the young person, as well as law enforcement and the broader community, by giving police a way to respond to crime and help youth outside of traditional enforcement.

15. Gary Sweeten, "Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement," *Justice Quarterly* 3:4 (2006), pp. 462-479. https://www.masslegalservices.org/system/files/library/H.S.ed_and_arrest_-_ct_involvement_study_by_Sweeten.pdf; Aizer and Doyle, pp. 759-803. https://www.researchgate.net/publication/272413343_Juvenile_Incarceration_Human_Capital_and_Future_Crime_Evidence_from_Randomly-Assigned_Judges.

16. The People's Law Library of Maryland, "Juvenile Record Expungement Checklist," Thurgood Marshall State Law Library, August 2018. <https://www.peoples-law.org/juvenile-record-expungement-checklist>.

17. *Department of Housing and Urban Development v. Rucker*, 535 U.S. 125 (2002).

18. Riya Saha Shah and Jean Strout, "Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records," *Juvenile Law Center*, February 2016. https://jlc.org/sites/default/files/publication_pdfs/Future%20Interrupted%20-%20final%20for%20web_0.pdf.

19. *Ibid.*

Diversion programs, including law enforcement-driven diversion programs, can also play a role in better reducing risks to public safety than formal interventions like probation and detention.²⁰ A meta-analysis of over 70 youth diversion programs found them to be more effective in reducing recidivism than more conventional approaches such as probation and detention.²¹ And an academic study published in 2020 found that youth placed in pretrial detention saw a substantive increase in felony recidivism (33 percent) and misdemeanor recidivism (11 percent) when compared to similar peers who were not detained.²² Young people who had fewer than four previous offenses—the very people most likely to be candidates for police diversion—were the ones most negatively affected by a stint in detention.²³ Indeed, data from Florida around the rate of recidivism among youth whose cases were disposed of at different points in the criminal justice process illustrates the importance of early diversion interventions. Youth given a civil citation or enrolled in an alternative-to-arrest program boast an average recidivism rate of 4 percent statewide whereas youth referred to a prevention program, post-arrest diversion program, probation or residential placement have 6 percent, 11 percent, 18 percent and 45 percent recidivism rates respectively.²⁴ Similar trends are seen in recidivism rates among youth who move further in Maryland's criminal justice process.²⁵

The sooner that diversion programs can effectively engage youth, the better the potential gain for public safety in the future. By investing in more police diversion programs now, communities are making the active choice of crime prevention and second chances today over increased enforcement and foreclosed opportunities tomorrow.

THE STATE OF LAW ENFORCEMENT-DRIVEN YOUTH DIVERSION IN MARYLAND

Given the potential opportunity presented by law enforcement-driven youth diversion, this section provides a high-

20. See, e.g., Elizabeth Seigle et al., "Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System," CSG Justice Center, 2014, p. 9. <https://csjusticecenter.org/wp-content/uploads/2020/01/Juvenile-Justice-White-Paper-with-Appendices-.pdf>.

21. Holly A. Wilson and Robert D. Hoge. "The effect of youth diversion programs on recidivism: A meta-analytic review," *Criminal justice and behavior* 40:5 (October 2012), pp. 497-518. <https://journals.sagepub.com/doi/abs/10.1177/0093854812451089>.

22. Walker and Herting, pp. 1876-1882. <https://journals.sagepub.com/doi/full/10.1177/0011128720926115>.

23. *Ibid.*

24. "Civil Citation and Similar Diversion Program Best Practices Guide," Florida Department of Juvenile Justice, 2020, p. 2. <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-and-similar-diversion-program-best-practices-guide-2020.pdf?sfvrsn=2>.

25. Maryland Department of Juvenile Services, pp. 195, 206. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf. Maryland Department of Juvenile Services, "Alternatives to Detention & Informal Case Processing Performance Report," Dec. 30, 2019, p. 21. https://djs.maryland.gov/Documents/publications/2019_p220-DJS-Juvenile-Services-ATD-Report.pdf.

level overview of the geographic coverage, components, outcomes and challenges faced by existing programs in Maryland. More detail on all of the departments contacted, including a plethora of municipal law enforcement agencies, can be found in Appendix B. For a full list of agencies and community partners, please see Appendix A. Ideally, this overview will serve as a roadmap to improve law enforcement-driven diversion opportunities across the state.

Geographic Coverage

Geographic coverage of law enforcement-driven youth diversion programs is best described as a loose patchwork which often neglects rural counties, as shown in Figure 1 below. Urban centers like Baltimore City and Anne Arundel County possess several law enforcement-driven diversion programs while many counties along the Eastern Shore have none whatsoever. Prince George's County presents perhaps the most surprising exception to this rule: neither the Prince George's County Sheriff's Office nor the Prince George's County Police Department (PGPD) are directly involved in running any formal youth diversion programs. However, one PGPD officer reported that the department is currently in the process of setting up such a program, and the Prince George's County State's Attorney's Office does divert some young people who come into contact with law enforcement to their diversion program prior to any DJS involvement.²⁶ A few northern counties, including Allegany and Carroll Counties, also did not report any diversion programs used by law enforcement. While Frederick County does have a diversion program to which law enforcement actively refer youth, compliance monitoring and general program management rests with the Frederick County State's Attorney's Office.²⁷ Finally, while the Talbot County Sheriff's Office does normally refer young people to a county Teen Court program, their teen court program provider folded during the pandemic and they are in search of other funding to continue the program.²⁸ Since Prince George's and Frederick County's programs rely on the State's Attorney's Office and Talbot County's program was in flux at the time of the interview, those jurisdictions have been labeled as "other" in Figure 1.

It is important to note that while police partnerships with State's Attorney-run diversion programs can positively prevent formal court involvement, the legality of referring young people to these programs prior to the forwarding of a petition by the DJS, particularly when programs feature little active management from law enforcement, is less clear.

26. Author interview with Detective Ayers, Prince George's County Sheriff's Office (telephone), Nov. 24, 2020; Author interview with Daniel Bradley, Prince George's County State's Attorney's Office (telephone), Jan. 28, 2021.

27. Author interview with Patrick Grossman, Acting Chief of Police, Frederick County Police Department (email), Aug. 12, 2020.

28. Author interview with Sheriff Joe Gamble, Talbot County Sheriff's Office (email), Sept. 1, 2020.

Maryland state statute specifically provides for law-enforcement diversion prior to DJS involvement.²⁹ Meanwhile, State's Attorneys' Offices have the discretion to divert youth complaints once the case is forwarded to them by the DJS.³⁰ Additionally, it is important that a youth's diversion experience not bias future prosecution and charging decisions in separate cases. Ensuring early diversion opportunities are driven by law enforcement and separate from prosecutorial offices helps to ensure this happens.

To the extent a county had both a police department and a sheriff's office, the sheriff's offices generally reported that they did not have any juvenile diversion programs. We gather from our responses that they rely instead on their associated police department to respond to such matters. This is explicitly the case for the Montgomery County Police Department (MCPD) and Montgomery County Sheriff's Office. MCPD officers screen all juvenile arrests within the larger county area for police diversion opportunities—including those from the Sheriff's Office, Transit and State Police, and the Rockville, Gaithersburg and Takoma Park Police Departments.³¹ None of the Montgomery County municipal agencies reported any diversion programs of their own.

In a similar vein, smaller municipal agencies in other jurisdictions often followed the lead of the county-wide agency. None of the municipal agencies in Prince George's, Carroll or Allegany Counties who responded reported being directly involved in the operation of a law enforcement diversion program, although three municipal agencies in PG County expressed interest in establishing such a program. On the other end of the spectrum, the Elkton City Police Department works alongside the Cecil County Sheriff's Office to refer young people to the Neighborhood Youth Panel, a pre-physical arrest diversion program offered to youth alleged to have committed less serious first-time misdemeanor offenses.³² Two Frederick County municipal agencies also opted in to referring youth to the State's Attorney's "Juvenile Early Diversion Initiative" (JEDI) alongside the Frederick County Sheriff's Office. Finally, municipal agencies surveyed in Washington and Charles Counties also partnered with their respective county agency to refer youth to police diversion opportunities.

That is not to say there are not a few exceptions to this rule. The Chestertown City Police Department reported that they were currently developing a restorative justice diver-

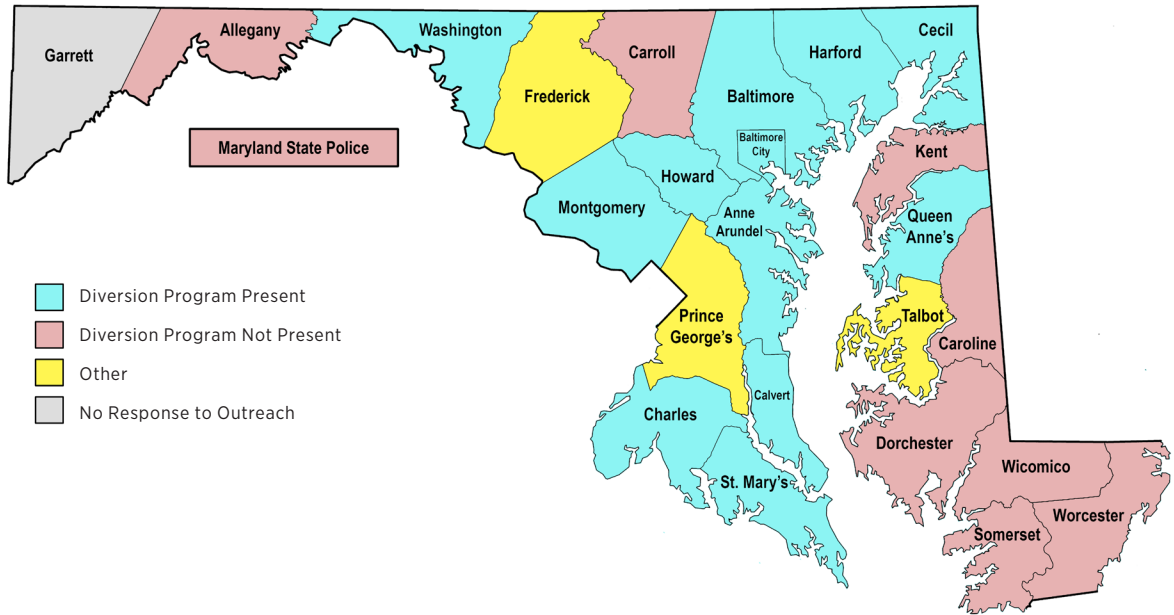
29. Md. Cts. & Jud. Proc. 3-8A-10(m). <https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gcj§ion=3-8A-10&enactments=false>.

30. Md. Cts. & Jud. Proc. 3-8A-10(c)(4)(ii). <https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gcj§ion=3-8A-10&enactments=false>.

31. Author interview with Trudy Richardson, Montgomery County Police Department (email), Aug. 18, 2020.

32. Author interview with Special Operations Lieutenant Holly Ayers, Elkton Police Department (email correspondence), Aug. 12, 2020.

FIGURE I: PRESENCE OF COUNTY-WIDE LAW ENFORCEMENT-DRIVEN YOUTH DIVERSION PROGRAMS



sion program, but the Kent Sheriff’s Office did not indicate their participation in this plan.³³ And although the Annapolis Police Department, located within the larger Anne Arundel area, previously did have a Juveniles-in-Need-of-Supervision (JOINS) program—a service that emphasizes meeting the unaddressed needs that instigated a youth’s malignant behavior—it was discontinued a few years ago.³⁴ That said, an officer there also indicated excitement at the opportunity to re-establish their work in this area.³⁵

Using the latest population estimates prepared by the DJS, at least 145,000 young people in the state aged 11 to 17 currently live in jurisdictions without an active county-wide law enforcement-driven diversion program.³⁶ Approximately 102,000 of these youth live in areas where they could possibly be diverted prior to a DJS referral through a program run by the State’s Attorney, depending on the circumstances.³⁷ This means well over 43,000 young people in Maryland aged 11 to 17 reside in counties without either a law enforcement-driven or other diversion program that offers them an opportunity to be held accountable without DJS involve-

ment.³⁸ Figure 1 above shows the breakdown of county-wide law enforcement-driven youth diversion programs available in Maryland, as of August to December 2020.

PROGRAM COMPONENTS

Ignoring incomplete coverage, the diversion programs used by law enforcement agencies are rarely uniform and can materially change from jurisdiction to jurisdiction. Services offered, eligibility criteria and referral patterns all vary, though overarching trends exist in some categories.³⁹

Origin of Programming Model

Calvert and Anne Arundel Counties generally represent the two pathways by which agencies can establish police diversion: create an original program or adapt pre-existing models. Many county-wide jurisdictions choose the latter, providing police diversion through a modified form of Teen Court, Community Conferencing, JOINS or substance abuse screening. Of these, Teen Court is the most popular with several counties currently operating a local variant. On the other hand, law enforcement agencies in Calvert, Washington, Howard and Frederick counties have chosen to develop their own approach to administering diversion programs.

In Calvert County, the Sheriff’s Office has partnered with

33. Author interview with Acting Chief John Dolgos, Chestertown City Police Department (email), Nov. 19, 2020.

34. Author interview with Juvenile-Victim Assistance Program Director Timmeka Perkins, Anne Arundel County Police Department (email), Nov. 10, 2020; Author Interview with Officer Dannette Smikle, Annapolis Police Department (telephone), Sept. 2, 2020.

35. Ibid.

36. Maryland Department of Juvenile Services, “Data Resource Guide FY 2020 Appendix O,” The State of Maryland, December 2020, pp. 245. <https://djs.maryland.gov/Documents/DRG/Appendices.pdf>.

37. Ibid.

38. Ibid.

39. For a review of best practices in youth diversion see Jill Farrell et al., “Best Practices in Youth Diversion: Literature Review for the Baltimore City Youth Diversion Committee,” University of Maryland School of Social Work, Aug. 16, 2018. <https://theinstitute.umaryland.edu/media/ssw/institute/md-center-documents/Youth-Diversion-Literature-Review.pdf>.

multiple community organizations to create a multi-process diversion program focused on keeping youth out of the formal justice system.⁴⁰ A pre-arrest diversion program with no strict exclusions, the Calvert County program is a model of flexible problem solving that tailors diversion responses to the actions and needs of each youth. Beginning with an attempt at informal resolution through a Sheriff School Resource Officer, youths are upscaled through each phase of the diversion program until they are successfully diverted, or as a last resort, referred to the DJS.

The Anne Arundel County diversion program is composed of several pre-existing programs adapted to address the individual needs of local youth.⁴¹ Before an arrest is made, youth can be referred to community conferencing, a diversion strategy that places various stakeholders of a youth's delinquent actions in a meeting to discuss possible informal remedies other than formal processing.⁴² Following an arrest, youth can still be referred to community conferencing, JOINS) or Teen Court.⁴³ Teen Court is a service that gives young people a non-scarring look into what the justice system can be by placing them and their peers in the roles of defendant, attorney and prosecutor; arguing for or against minor sanctions like community service.⁴⁴ All of these programs feature heavy interactions with the Anne Arundel County Police Department, which operates a universal screening and mandatory diversion policy for eligible youth.⁴⁵

Eligibility Criteria

Eligibility criteria for police-diversion also shift depending on the agency, although common criteria include: first-time and low-level misdemeanor offenses; victim and youth consent has been acquired; and a willingness from the young person to admit wrongdoing. Several agencies report diverting youth given an alcohol or marijuana citation away from the DJS.⁴⁶ A program run jointly by the Hampstead City Police Department and Washington County Sheriff's Office is unique in that it allows an option for police diversion for felonies or weapon possession charges in some rare circumstances; it also does not strictly limit diversion opportunities to youth who have never before been charged with an

offense.⁴⁷ Similarly, the Baltimore City Police Department's diversion assessor also reports that youth can be referred to their post-arrest diversion option up to three times.⁴⁸ Generally, youth that do not successfully complete diversion have their case forwarded to the DJS for intake.

Source and Type of Referrals

Referrals for police diversion can come through three main avenues, depending on how programs are set up, which then channel into several versions of a diversion process. First, a police officer may be able to offer a referral for diversion services without an allegation of criminal misbehavior. Second, a police officer can fill out a criminal investigative report and forward the case to the diversion assessor provider where it can be closed by diversion assuming the person is successful. Finally, police diversion can result after a physical arrest and booking. Given that a criminal investigative report still represents a form of criminal processing and can be later forwarded to the DJS if the youth is unsuccessful, it is hard to determine which programs truly reflect the principles of pre-arrest diversion. Nonetheless, several law enforcement agencies explicitly consider their programs as a pre-arrest option: the Washington County, Cecil County and Calvert County Sheriff's Offices explicitly termed their programs as including or being limited to the "pre-arrest" option. Some jurisdictions utilize both options: Although the Baltimore City Police Department's diversion assessor focuses on diverting youth following a report or physical arrest, Baltimore City School Police have historically worked with the school system to divert cases pre-arrest as appropriate.⁴⁹

Level of Police Involvement

Law enforcement agencies also vary in their level of intentional involvement and oversight of police diversion efforts. In Frederick County, youth referrals for police diversion are first approved by police and then undergo a final screening by the State's Attorney's office before being officially sent for restorative practice programming as part of Lead4Life's JEDI program.⁵⁰ Oversight of the program is led by State's Attorney staff, but features heavy collaboration from police departments: Officers can attend and participate in weekly team meetings about JEDI cases, and multiple Frederick county agencies reported knowledge of the program.⁵¹

40. Author interview with Corporal Glenn Libby, Calvert County Sheriff's Office (telephone), Nov. 6, 2020.

41. Perkins interview.

42. Ibid.

43. Ibid.

44. Ibid.

45. Ibid.

46. Author interview with Sarah Vaughan, Charles County (email), Nov. 5, 2020; Author interview with Eastern Region DJS Intake Director Joe Grabis (telephone), Nov. 23, 2020; Author interview with Morgan Maze, Pressley Ridge (telephone), Oct. 14, 2020.

47. Maze interview.

48. Author interview with Karlice Moss-Teams, Baltimore City Police Department (telephone), Sept. 10, 2020.

49. "Baltimore Youth Diversion Assessment," Center for Children's Law and Policy, April 2019, pp. 10-12. <https://www.baltimorepolice.org/sites/default/files/General%20Website%20PDFs/Baltimore%20Youth%20Diversion%20Assessment%20-%20Final.pdf>.

50. Grossman interview.

51. Ibid; See Appendix B.

Likewise, the Baltimore City Police Department, Howard County Police Department, Anne Arundel County Police Department, Washington County Sheriff's Office, Montgomery County Police Department (MCPD) and Calvert County Sheriff's Office have a designated process and/or person for internally assessing diversion eligibility. In Howard County PD's and the Baltimore City PD's case, their diversion coordinator or assessor can be directly involved in formulating individual diversion plans rather than handing off that responsibility to a program provider. In Montgomery County, municipal agencies depend on the MCPD to assess juvenile reports and arrests for diversion eligibility, with no direct involvement on their part.

Program Outcomes

While gathering information on the presence and use of police diversion programs is difficult, assessing their efficacy and outcomes is all the more challenging. No statewide agency collects information on youth diversion prior to DJS involvement. And law enforcement personnel and program providers use varying metrics to track recidivism and program impact, with no standardized reporting format. Different eligibility criteria and selection processes, as well as inconsistency in referral processes further complicate the matter. Finally, the only easily identifiable outside evaluation of a diversion program used by police includes a multijurisdictional teen court evaluation published in 2013.⁵² Ultimately, this evaluation found significant differences in program outcomes depending on the jurisdiction, with young people who completed Charles County's Teen Court the least likely to be referred to the DJS within six or twelve months compared to those who were referred to an assessed program but did not complete it.⁵³ This section presents a few examples of individual program impacts collected below; more context for these programs is reported in Appendix B. Direct program-to-program or program-to-DJS comparisons should be avoided for reasons discussed above.

- **Calvert County Sheriff's Office's Diversion:** According to law enforcement personnel, this innovative program has helped to drive down the number of youths in Calvert County on probation under the DJS from 70 each year to less than ten over the last decade.⁵⁴
- **Anne Arundel County Sheriff's Office:** While the sheriff's office was unable to report recidivism rates

among those diverted to community conferencing, they did report 119 youth were diverted to this option in 2019, with just under 74 percent of referrals for minority youth.⁵⁵ An additional 459 youth were referred to Teen Court or JOINS, with 58 percent of referrals involving youth of color.⁵⁶ More than eight out of every 10 young people referred to JOINS/Teen Court had no further law enforcement involvement within a year.⁵⁷ And astoundingly, 98 percent of young people who complete JOINS and are also connected to mental health or addiction services offered by the Crisis Intervention team do not reoffend in a year's time.⁵⁸

- **Baltimore City Police Department:** According to the Baltimore City Police Department's Diversion Assessor located within the Mayor's Office, the one-year re-arrest rate following a young person's entrance into their diversion program has fluctuated between 12 to 14 percent over the last few years.⁵⁹
- **Cecil County's Neighborhood Youth Panel:** Historically, almost 90 percent of referred youth successfully complete the program.⁶⁰ And among those who successfully completed the program from July 2018 to December 2019, an estimated 10 percent of youth reoffended.⁶¹
- **Howard County Police Department's Diversion Program:** Between 2015-2019, the program received approximately 911 diversion referrals from law enforcement according to the Howard County Police Department's diversion coordinator.⁶² The coordinator met directly with these young people to develop an individualized case plan for them to complete in 30 days. During this time period, the recidivism rate, defined as the rate of young people who reoffended, averaged to be 12 percent.⁶³ The department recently started a Teen Court variant in 2018, which provides youth aged 14 to 17 the opportunity to complete requirements within 60 days and have their record expunged.⁶⁴

55. Perkins interview.

56. Ibid.

57. Ibid.

58. Ibid.

59. Moss-Teams interview.

60. Author interview with Dawn Rodenbaugh, Neighborhood Youth Panel (email), Aug. 13, 2020.

61. Ibid.

62. Author interview with Katie Turner, Howard County Police Department (email), Aug. 28, 2020.

63. Ibid.

64. Ibid.

52. The University of Maryland School of Social Work and the Administrative Office of the Courts, "Multijurisdictional Teen Court Evaluation: A Comparative Evaluation of Three Teen Court Models," The State Justice Institute and the Administrative Office of the Courts, 2013, pp. 87-88. <http://www.mdtca.org/wp-content/uploads/2014/08/2013-06-27-Comparative-Study-of-Three-Teen-Courts-Final-Report.pdf#page=92>.

53. Ibid.

54. Libby interview.

- **Talbot County’s Teen Court program:** Now in flux, Talbot County’s Teen Court system reportedly had a historic one-year recidivism rate around 14 percent.⁶⁵ The Talbot County Sheriff’s Office historically referred around 50 young people to the program each year.⁶⁶
- **Charles County Teen Court:** In 2019, the Charles County Teen Court heard 118 cases, of which only 9 were remanded due to a child’s failure to complete the program.⁶⁷

Program Challenges

In many jurisdictions where police diversion opportunities exist, youth participation remains limited due to changes in law enforcement referral patterns during the pandemic, difficulty in securing stable program funding, or weaker participation from agency and community partners.

With the adjustment to remote learning due to the COVID-19 pandemic, many law enforcement agencies and schools are not coming into frequent contact with youth, which has in turn cut referral rates.⁶⁸ While reduced youth contact is generally positive, this situation has resulted in added financial stress on the organizations that operate diversion programs and could potentially narrow future opportunities for early police diversion. In August 2020, the nonprofit that operated the single youth diversion program used by police in Talbot County was forced to close after six years of operation, sending its law enforcement partners on a desperate search for funding.⁶⁹

Lapses of funding or changes in leadership were commonly reported as impetuses for paused or forsaken programs, even amidst general agency support. For example, a change in state grant funding forced the Washington County’s Sheriff’s Office to temporarily put its diversion program with community provider Pressley Ridge on pause three months after the program started in March 2019; the program only started up again in February 2020.⁷⁰ The office is now trying to find several different funding sources to ensure continuous support.⁷¹ The Annapolis Department’s JOINS program was suspended following the departure of key staff.⁷² And the Caroline County Teen Court program, which used to receive

referrals from the Caroline County’s Sheriff’s Office, is no longer in operation as of July 1, 2014.⁷³ Fewer resources and staff, fewer juvenile referrals overall and an existing reliance on county-wide agencies to handle diversion of youth also prevented some smaller municipal agencies from investing in starting their own programs.

At least one case in which a clearly identifiable, police diversion program existed, law enforcement referrals appeared to be under-utilized. Cecil County’s Neighborhood Youth Panel saw a dramatic drop in total referrals following a change in policy in April 2019 that had law enforcement, schools and other agencies directly refer young people to the program rather than relying on the DJS.⁷⁴ Prior to the change, almost 100 percent of the program’s referrals came from the DJS, with the program handling around a quarter of the DJS’s caseload, according to Program Administrator Dawn Rodenbaugh.⁷⁵ Estimates shared by Rodenbaugh reflect that approximately 57 cases were diverted to the Neighborhood Youth Panel in 2019, but 143 cases were diverted the year before.⁷⁶ Clear articulation of diversion decision-making criteria and training on youth diversion opportunities and processes may help to solve low levels of agency participation in current programs.

POLICY RECOMMENDATIONS

To improve upon the current state of police-driven youth diversion in Maryland, the following reforms are suggested:

Promote Standardized Data Collection and Rigorous Evaluation. The current dearth and individualized nature of program data around this topic necessitates the assignment of one state agency to annually collect, analyze and make publicly available disaggregated data on law enforcement-driven diversion prior to DJS involvement. This data should be collected in a way that allows for integration with and comparison to data already collected on post-police diversion by the DJS. This statewide data should be disaggregated by agency or county; offense level and type; and the diverted youth’s race, ethnicity, gender and age. To the extent that the criteria for police diversion are codified in statute, the utilization rate of local police diversion options should also be reported. The Florida Department of Juvenile Justice’s “Civil Citation and Alternatives to Arrest” dashboard presents one such model

65. Gamble interview.

66. Ibid.

67. Vaughan interview.

68. Ibid; Maze interview.

69. Gamble interview.

70. Author interview with Lieutenant Joshua McCauley, Washington County Sheriff’s Office (email), Sept. 2, 2020.

71. Ibid.

72. Smikle interview.

73. “Caroline County Teen Court,” Maryland Teen Court Association, last accessed Feb. 4, 2021. <http://www.mdtca.org/mdtca-members/caroline-county-teen-court>; Author interview with Lieutenant Donald Baker, Caroline County Sheriff’s Office (telephone), Nov. 10, 2020.

74. Rodenbaugh interview.

75. Ibid.

76. Ibid.

of these features.⁷⁷ To the extent possible, the state agency should also report out standardized recidivism rates and other metrics associated with successful youth engagement including referrals to services, youth employment estimates or school completion. Programs should also be independently evaluated for their effectiveness by external academic partners. Fortunately, this recommendation is closely tied to one made by the Juvenile Justice Reform Council (JJRC), a body tasked by the legislature with improving Maryland's justice system in a data-driven manner, which suggests the Governor's Office of Crime Prevention, Youth and Victim Services collect and evaluate data to determine the effectiveness of individual diversion programs.⁷⁸

Cut Red Tape Preventing Greater Police Diversion. There are ample ways to remove red tape and expand current law enforcement-driven diversion. First, lawmakers should remove the requirement that certain citations must be forwarded to the State's Attorney and instead allow those cases to be diverted by police, something which appears to already be happening in practice. Maryland should also build on its success with juvenile citations and expand them to cover low-level misdemeanor offenses, further protecting youth from a criminal record and again allowing them to have their cases diverted by police to alternative means of accountability. The JJRC has also expressed support for each of these policy actions.⁷⁹

Expand Pre-Arrest Diversion Coverage. To ensure geographic equity and quality of coverage, each county-wide agency should be tasked with establishing or partaking in at least one pre-arrest diversion program. As possible, these programs should be developed in conjunction with smaller municipal agencies with all developed programs adopting the practices laid out in an interjurisdictional memorandum of understanding (MOU). Cecil, Calvert and Washington Counties already employ independently developed pre-physical arrest diversion programs with municipal buy-in. And states like Florida and California have already encouraged counties to develop coordinated pre-arrest diversion alternatives.⁸⁰ To aid this development, the Governor's Office of Crime Prevention, Youth and Victim Services should work in concert with the Maryland Department of Health and the Department of Juvenile Services to publish a report articulating best practices for establishing law enforcement-driven youth pre-arrest diversion programs.

77. Juvenile Justice Information System, "Civil Citation and Other Alternatives to Arrest Dashboard," Florida Department of Juvenile Justice, last accessed Feb. 5, 2021. <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/civil-citation-and-other-alternatives-to-arrest/cc-dashboard>.

78. Maryland Juvenile Reform Council, *Final Report January 2021*, Maryland Department of Juvenile Services, January 2021, pp. 8-11. <http://dis.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

79. *Ibid.*, pp. 8-11.

80. *Ibid.*, pp. 33-34.

Ensure Sustainable Funding. Depending on local circumstances, law enforcement agencies may want to partner with local non-profits, find contractors or hire in-house staff to facilitate youth diversion. To allow for such flexibility, expand the coverage of youth diversion and allow for program experimentation, both state and local governments should expand existing grant earmarks, or ideally, include law enforcement-driven diversion programs directly in the budgeting process. For example, California has taken an NGO-based approach which provides grants to non-profits that provide diversion services in conjunction with law enforcement if they meet certain criteria.⁸¹ Utah's H.B. 239 selected several evidence-based diversion measures and provided a million dollar line item to expand them state-wide.⁸² Alternatively, South Dakota enacted S.B. 73 which provided a fiscal incentive to counties for each youth who successfully completed a diversion program.⁸³ Regardless of the funding vehicle, to ensure accountability and transparency, financial support should require data collection and reporting requirements.

CONCLUSION

As the front line of the criminal justice system, members of law enforcement play a crucial role in deciding its future. At present, many jurisdictions across Maryland are doing their best to shape a better Maryland by instituting opportunities for police diversion away from the formal court system. Yet the presence, scope and efficacy of these opportunities remains understudied and thus potentially undervalued.

This report attempts to take a first step to correct this by detailing a high-level scan of diversion programs used by county-wide and municipal law enforcement agencies across the state as of August to December 2020. From these efforts, it is clear that further data collection, standardization and expansion of law enforcement-driven diversion authorization may create a firm footing for positive results. However, to truly change the future of youth justice for the better, more law enforcement agencies must be willing to adopt pre-arrest diversion programs following best practices, and governments must be ready to support them financially when they show interest.

By leading the way on youth diversion, law enforcement professionals are not only promoting safety for their com-

81. "Youth Reinvestment Grant Program," Board of State and Community Corrections, (2021). http://www.bscc.ca.gov/s_youthreinvestmentgrant.

82. Public Safety Performance Project, "Utah's 2017 Juvenile Justice Reform Shows Early Promise," Pew Charitable Trust, May 20, 2019. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/05/utahs-2017-juvenile-justice-reform-shows-early-promise>.

83. Public Safety Performance Project, "South Dakota's 2015 Juvenile Justice Reform," Pew Charitable Trust, Jan. 29, 2016. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/south-dakotas-2015-juvenile-justice-reform>.

munities, but also helping to restore the promises of American opportunity for those that may stumble on their way to adulthood.

ABOUT THE AUTHORS

Casey Witte is a policy and research associate on the Criminal Justice and Civil Liberties team at the R Street Institute. He conducts research on a wide variety of criminal justice topics with a focus on their legal elements and societal impact. Before joining R Street, Casey was a Research Assistant at the University of Florida where he worked on topics related to government regulation and United States Constitutional history.

Emily Mooney is a policy fellow and manager for the R Street Institute's Criminal Justice and Civil Liberties team. As a fellow, she conducts policy research and educational outreach on topics regarding juvenile justice, reentry, jail reform and policing. Prior to joining R Street in 2018, as part of her graduate program, she conducted policy research on the impact of maternal incarceration for the National Criminal Justice Association and the Louisiana Commission on Law Enforcement.

APPENDIX A: SURVEYED AGENCIES

We would like to thank the following law enforcement and government agencies for responding to our requests for information and providing insightful feedback and context for this scan. We would also like to thank several program providers, including the Pressley Ridge Washington County Diversion Program Mentoring Initiative, Cecil County Neighborhood Youth Panel and Charles County Teen Court for talking with our staff.

Aberdeen Police Department
Allegany County Sheriff's Office
Annapolis Police Department
Anne Arundel County Police Department
Anne Arundel County Sheriff's Office
Baltimore City Police Department
Baltimore City Sheriff's Office
Baltimore County Sheriff's Office
Bel Air Police Department
Bowie Police Department
Brunswick Police Department
Carroll County Sheriff's Office
Caroline County Sheriff's Office
Calvert County Sheriff's Office
Charles County Sheriff's Office
Cecil County Sheriff's Office
Cheverly Police Department
Chestertown Police Department
Chevy Chase Village Police Department
College Park Police Department
Cumberland Police Department
Dorchester County Sheriff's Office
Elkton Police Department
Frederick County Sheriff's Office
Frederick City Police Department
Frostburg Police Department
Gaithersburg Police Department
Greenbelt Police Department
Hagerstown Police Department
Hampstead Police Department
Harford County Sheriff's Office
Howard County Police Department
Howard County Sheriff's Office
Hyattsville Police Department
Kent County Sheriff's Office
La Plata Police Department
Laurel Police Department
Maryland Administrative Office of the Courts
Maryland Department of Juvenile Services
Maryland State Police

Montgomery County Police Department
Montgomery County Sheriff's Office
Mt. Airy Police Department
Mt. Rainier Police Department
New Carrollton Police Department
Ocean City Police Department
Prince George's County Police Department
Prince George's County Sheriff's Office
Prince George's County State's Attorney Office
Queen Anne's County Sheriff's Office
Riverdale Park Police Department
Rockville Police Department
St. Mary's County Sheriff's Office
Sykesville Police Department
Takoma Park Police Department
Talbot County Sheriff's Office
University of Maryland Police Department
Washington County Sheriff's Office
Worcester County Sheriff's Office

APPENDIX B: OVERVIEW OF COLLECTED DATA

This section provides an overview of the data collected from each law enforcement agency listed above from August 2020 to December 2020. R Street staff attempted to contact each county-wide or municipal law enforcement agency serving a population of at least 5,000 people as of the 2010 census a

minimum of three times via phone and email before marking them as nonresponsive. While this report includes our best attempt to retrieve accurate information, this report should not be considered conclusive and mistakes are possible. Please reach out to the authors if you have any comments or questions.

County	Law Enforcement Agency	Diversion Program	Additional Information
Allegany	Allegany County Sheriff's Office	No	Staff report no formal diversion programs; however, Standard Operating Procedures note substance abuse programs and mental health counseling available through the Allegany County Health Department, services organizations, and departmental mediation are all possible resources for law enforcement diversion.
	Frostburg Police Department	No	Department relies on officer discretion when diverting young people.
	Cumberland Police Department	No	Department relies on officer discretion and school administrators to divert youth cases, but they indicated that a law enforcement diversion program would be helpful.
Anne Arundel	Anne Arundel County Sheriff's Office	No	N/A
	Anne Arundel County Police Department	Yes	The police department universally screens all youth complaints for diversion eligibility. The Juvenile and Victim Assistance Unit within the police department is responsible for administering the Community Conferencing, Teen Court, and Juveniles in Need of Supervision (JOINS) programs. In addition, the unit began piloting their fourth program, "START" in December 2020. Teen Court and JOINS are both post-arrest programs, START is modeled as a pre-arrest counterpart to JOINS, and community conferencing referrals can be made before or after an arrest. If need is determined while a youth is in JOINS, then addiction and/or mental health services can be provided through a partnership with the Crisis Intervention Team.
	Annapolis Police Department	No	The Annapolis Police Department used to participate in a JOINS program; however, a change in staffing led to the program being discontinued. An officer expressed initial interest in restarting a law enforcement-driven diversion program.
Baltimore	Baltimore County Sheriff's Office	No	N/A
	Baltimore County Police Department	Yes	Baltimore County Police created the original JOINS program in 1996. Their particular JOINS program requires referred youths to be first-time nonviolent offenders and individually screened by DJS case managers or members of the Department's counseling team. Community service plays a large role in this JOINS program with over 10,300 hours of community service being contributed by youth in 2011 alone.
Baltimore City	Baltimore City Sheriff's Office	No	N/A
	Baltimore City Police Department	Yes	The Baltimore City Police Department's diversion program is housed within the Mayor's Office of Criminal Justice. Post-arrest diversion occurs within a 90-day framework and may consist of referrals to one or several services/programs such as Teen Court, mental health treatment, substance abuse treatment, and conflict resolution services provided via an affiliated nonprofit (Restorative Response Baltimore). The focus for screening youths for diversion is based on a holistic review rather than inflexible eligibility criteria. To be eligible, youth generally need to have an arrest or referral for a low-level misdemeanor, not had a sustained felony within the last three years; youth can be referred to police diversion up to three times. The city is currently working on piloting a pre-arrest diversion program as well.
Calvert	Calvert County Sheriff's Office	Yes	The Calvert County program is a series of informal diversion steps coordinated through schools, community organizations, and county agencies. Starting with an informal intervention by a School Resource Officer, a youth can then be moved up through the system until a resolution is reached, or as a last resort, is referred to DJS. The key innovation of the system is the Multiple Divisions (Multi-D) stage where relevant county officials, members of law enforcement, and nonprofit stakeholders gather to consider how each group can help to solve the underlying problems a youth might have that has led to their maligned conduct.
Caroline	Caroline County Sheriff's Office	In Development	The Caroline County Sheriff's Office is currently considering the creation of a diversion program akin to that used by the Baltimore City School Police Department wherein school resource officers, school administration and a child's family work toward an informal resolution following an incident. As of November 2020, the plan was to roll out the program when in-person education was back in motion.

Carroll	Carroll County Sheriff's Office	No	N/A
	Taneytown Police Department	No Response	N/A
	Westminster Police Department	No Response	N/A
	Hampstead Police Department	No	While the police department does not have a formalized, stand-alone program, they occasionally work with the Carroll Community Mediation Center to divert kids.
Carroll / Frederick	Mount Airy Police Department	No	N/A
Cecil	Cecil County Sheriff's Office	Yes	The Sheriff's Office refers youth to Cecil County's Neighborhood Youth Panel (NYP), a pre-arrest diversion program that will be entering its 20th year of operation in 2021. NYP allows for youth cases to be heard before a panel and informally handled rather than sending them to DJS intake. Eligible youth must be 8-17 years of age, alleged to have committed a misdemeanor offense, admit involvement, and be referred for a first time offense. When a victim is involved, their consent is also required.
	Elkton Police Department	Yes	The Police Department, like the Cecil County Sheriff's Office, refers youths to the NYP. From April 2019 to August 13, 2020, the Elkton Police Department referred 21 out of 155 youth crime referrals to the NYP.
Charles	Charles County Sheriff's Office	Yes	The Charles County Sheriff's Office refers youths to Charles County Teen Court, a teen court variant that will be entering its 20th year of operation in 2021. Charles County Teen Court is notable in that it has continued operation throughout the COVID-19 pandemic, albeit closed to the public for some of this time, while several other diversion programs have been shut down. Along with the Sheriff's office, parents and teachers can also refer youths to the program. Another point of note is that Charles County Teen Court is almost entirely volunteer operated by members of the community.
	La Plata Police Department	Yes	Like the Charles County Sheriff's Office, the La Plata Police Department also refers youths to Charles County Teen Court.
Dorchester	Dorchester County Sheriff's Office	No	The Sheriff's Office doesn't have a juvenile diversion policy or any formal programs. However, a captain mentioned that other programs in the community, like Teen Court, represent diversion options.
	Cambridge Police Department	No Response	N/A
Frederick	Frederick County Sheriff's Office	Other	The Sheriff's Office refers eligible youth to the Juvenile Early Diversion Initiative (JEDI) run by the Frederick County State's Attorney Office. To be eligible, a youth must be charged with a first-time misdemeanor, admit guilt, and be willing to be held accountable. If a victim is involved then their consent is also required. Once screened into the JEDI program by police and the State's Attorney, a nonprofit (Lead4Life) creates an individualized diversion plan comprised of program elements such as substance abuse services, mental health counseling, anger management courses, therapy, family counseling, community service, and job counseling.
	Thurmont Police Department	No Response	N/A
	Frederick City Police Department	Other	Like the Sheriff's Office, the Frederick City Police Department also refers youth to the JEDI program.
	Brunswick Police Department	Other	Like the Sheriff's Office, the Brunswick Police Department also refers youth to the JEDI program.
Garrett	Garrett County Sheriff's Office	No Response	N/A
Harford	Harford County Sheriff's Office	Yes	Administered by both the Sheriff's Office Youth Services Division and Harford County Office of Drug Control Policy, the Harford County Teen Court program has been in operation since 2010. Youths can be referred by law enforcement agencies, school systems, or DJS. To qualify for the program, youths must be between 11-17 years of age, be referred for a first time misdemeanor offense, charged in Harford County, and admit their guilt. Examples of remedies imposed by this teen court program include required attendance at anger management programs, community service, essay writing, mandated counseling attendance, and teen court jury duty.
	Aberdeen Police Department	No	N/A
	Havre de Grace Police Department	No Response	N/A
	Bel Air Police Department	No	N/A
Howard	Howard County Sheriff's Office	No	N/A
	Howard County Police Department	Yes	The Howard County Police administer two diversion programs, their Youth Section's diversion program and a recently created teen court program. The Youth Section program considers youths aged 7-17 who are residents of Howard County. To be eligible for the program, a youth must recognize their involvement in the alleged act, accept responsibility, show remorse, and receive the consent of a parent or guardian along with any victims. Once admitted into the program, the program coordinator creates a set of tasks individualized to the youth to be completed within 30 days. Required attendance at substance abuse education, education seminars, mediation, and completion of community service may be parts of any given assigned tasks.

Kent	Kent County Sheriff's Office	No	Kent County used to have a teen court operated by the State's Attorney's Office; however, this was discontinued when that State's Attorney didn't run for reelection. He is interested in establishing a law-enforcement driven diversion program.
	Chestertown Police Department	In Development	The Chestertown Police Department Chief reported that they are In the process of setting up a diversion program centered around restorative justice. The rollout for this program was planned to begin in January 2021.
Montgomery	Montgomery County Sheriff's Office	Indirectly - refer through MCPD	Juvenile referrals and arrests made by the Montgomery County Sheriff's Office are screened by the Montgomery County Police Department for diversion eligibility. However, the Sheriff's Office does not run their own diversion program.
	Montgomery County Police Department	Yes	The Police Department screens juvenile referrals in the county for diversion options. They then refer eligible youth to either Screening and Assessment Services for Children and Adolescence (SASCA) or their Teen Court program. SASCA is a program administered by the Montgomery County Department of Health and Human Services specifically for first time youth drug and alcohol offenders, and consists of drug testing, substance abuse education, and further referrals to treatment services. The Montgomery Teen Court program is the diversion option for second time substance related offenses, second time trespassing violations, second degree assault, and theft under \$1,500. Failure to complete either programs results in an immediate DJS referral.
	Takoma Park Police Department	Indirectly - refer through MCPD	Juvenile referrals and arrests by the Takoma Park Police Department, Rockville Police Department and Gaithersburg Police Department are screened for diversion eligibility by the Montgomery County Police Department. Departments did not indicate that they had their own diversion programs.
	Rockville Police Department		
	Gaithersburg Police Department		
Prince George's	Prince George's County Sheriff's Office	No	N/A
	Prince George's County Police Department	In Development	Staff with the Prince George's County Police Department reported that a diversion program was in the early stages of development. However, further details were not able to be ascertained after several attempts.
	Bowie Police Department	No	N/A
	College Park Police Department	No	N/A
	Hyattsville Police Department	No	Department staff expressed interested in founding a juvenile diversion program.
	New Carrollton Police Department	No	N/A
	Riverdale Park Police Department	No	Department staff expressed interested in founding a juvenile diversion program.
	Glenarden Police Department	No Response	N/A
	Laurel Police Department	No	N/A
	Greenbelt Police Department	No	Department staff expressed interest in founding a juvenile diversion program.
	Bladensburg Police Department	No Response	N/A
	Mount Rainier Police Department	No	N/A
	Cheverly Police Department	No	N/A
District Heights Police Department	No Response	N/A	
Queen Anne's	Queen Anne's County Sheriff's Office	Yes	The Sheriff's Office refers youths to substance abuse counselors under certain circumstances. When an issued youth citation could lead to the creation of a criminal record, officers can divert youths to substance abuse services.

St. Mary's	St. Mary's County Sheriff's Office	Yes	The Sheriff's Office refers youths to the St. Mary's County Teen Court, a diversion program that has been in operation since 2003. Youth aged 11-17 are eligible for the program if they are accused of committing a first time misdemeanor offense. Youth aged 18 and under are also eligible for diversion if the offense is traffic related.
Somerset	Somerset County Sheriff's Office	No	Regional Department of Juvenile Services staff noted no law enforcement diversion programs.
Talbot	Talbot County Sheriff's Office	Other	The Sheriff's Office referred youths to the Talbot County Teen Court as recently as August 2020. However, after over 20 years of operation, the nonprofit that administered the teen court program was forced to close due to a lack of funding. Formerly supported by community donations, the program is now being championed by the Sheriff's Office who is currently seeking external sources of funding.
	Easton Police Department	No Response	N/A
Washington	Washington County Sheriff's Office	Yes	The Sheriff's Office along with a nonprofit partner (Pressley Ridge) and the Hampton City Police Department created the Washington County Diversion Program in March 2019. After an intermittent loss of funding in June 2019, the program resumed operation in February 2020. Eligibility for diversion is determined on a case-by-case basis. If there are any victims of an alleged offense then they must also consent to the youth being diverted. The potential offenses diverted are largely misdemeanors, but in rare circumstances a felony offense may also be diverted. Whenever a weapon or suspected gang activity is involved there is increased scrutiny on diversion eligibility. The services offered via the nonprofit partner are largely rehabilitative and consist of meeting underlying needs that may have spurred the instigating behavior of a given youth.
	Hagerstown Police Department	Yes	The Police Department works with the Sheriff's Office to refer youth to the Washington County Diversion Program. Each quarter, a joint management team composed of members of the Police Department, Sheriff's Office, and Pressley Ridge meet to discuss the program and make any needed adjustments.
Wicimico	Wicimico County Sheriff's Office	No	Regional Department of Juvenile Services staff noted no law enforcement diversion programs.
	Salisbury Police Department	No Response	N/A
Worcester	Worcester County Sheriff's Office	No	N/A
	Ocean City Police Department	No	N/A

MD SB 853 Testimony JJ 2021.pdf

Uploaded by: Mooney, Emily

Position: FAV



1212 New York Ave. N.W.
Suite 900
Washington, D.C. 20005
202-525-5717

Free Markets. Real Solutions.
www.rstreet.org

Testimony from:

Emily Mooney, Policy Fellow, Criminal Justice & Civil Liberties, R Street Institute

In support of Senate Bill No. 853, “AN ACT concerning Juvenile Law-Juvenile Justice Reform”

March 3, 2021

Senate Judicial Proceedings Committee

My name is Emily Mooney, and I am a resident criminal justice policy fellow at the R Street Institute, which is a nonprofit, center-right public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. Given SB 853’s focus on rethinking and scaling back unproductive juvenile justice interventions in young people’s lives with an eye toward promoting youth wellbeing, public safety and fiscal responsibility, it is of special interest to us.

I want to begin by acknowledging that this bill is the result of a deliberative learning process orchestrated by the Juvenile Justice Reform Council established by lawmakers in 2019. Following their charge, Council members relied on state data, community listening sessions, research and best practices from the field when crafting their recommendations. Improving public safety, the treatment of youth within the system, and limiting or mitigating the factors that promote youth criminal involvement were top of mind.

Ultimately, this bill attempts to do this by: 1) establishing a minimum age of juvenile court jurisdiction at 13 years, except in very serious circumstances in which jurisdiction begins at 10 years; 2) removing traditional school misbehavior from the definition of a delinquent act; 3) expanding opportunities for informal adjustment (i.e. diversion by the Department of Juvenile Services (DJS) and mandating DJS diversion for certain first-time offenses) and knowledge around diversion programming; 4) instituting limits on the length of youth probation; and 5) preventing youth charged with a misdemeanor or technical violation of probation as their most serious offenses from being placed in a juvenile detention or correctional facility, among other things.

Many of these steps have already been successfully taken by other states. As of 2020, states like Arkansas, Pennsylvania, Kansas, Louisiana, Mississippi, Nebraska, Massachusetts, have, at a minimum, set their age of juvenile court jurisdiction at 10 years old, recognizing that holding pre-adolescent

children accountable through the justice system is actively harmful to their development and rarely productive.¹ In fiscal year 2019, nine out of every 10 cases involving Maryland youth under the age of 13 were ultimately dropped or dismissed during processing.²

Likewise, a juvenile justice reform package passed in 2017 by Utah legislators removed misbehavior like truancy, disorderly conduct and some low-level misdemeanors occurring on school grounds during school operating hours from juvenile court jurisdiction, instead mandating that behavior be addressed outside of the courts.³ The package required pre-court diversion for youth referred for infractions, status offenses or misdemeanors with some exceptions. And it limited the ability for youth to be placed in custody or secure confinement and placed a four-to-six-month time limit on terms of formal probation, among other things.⁴

Since these reforms have been passed, court referrals and admissions to detention have continued to drop: from fiscal year 2017 to fiscal year 2019, the rate of juvenile referrals and admissions to detention dropped by about 15 percent and 44 percent, respectively.⁵ Meanwhile, the use of nonjudicial diversion increased, with 56 percent of youth referred to the justice system benefiting in fiscal year 2019.⁶ The state has been able to close a few facilities and is reinvesting millions of dollars in cost savings in front-end services like family functional therapy.⁷

Kentucky also embraced similar reforms in legislation passed in 2014. Among other things, this legislation required the courts to offer all youth referred to intake with a first-time misdemeanor the opportunity to be diverted. It also allowed diversion at intake for youth referred up to their third misdemeanor and some first-time felonies.⁸ A subsequent evaluation of the reforms by the Urban Institute found that they dramatically increased the state's use of diversion but that this expansion did

¹ "Minimum Age for Delinquency Adjudication-Multi-Jurisdiction Survey," National Juvenile Defender Center, updated Jan. 22, 2020. <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/>.

² Maryland Juvenile Justice Reform Council, *Final Report*, Department of Legislative Services, January 2021, p. 18. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

³ "Utah's 2017 Juvenile Justice Reforms Shows Early Promise," Pew Charitable Trusts, May 20, 2019. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/05/utahs-2017-juvenile-justice-reform-shows-early-promise>.

⁴ *Ibid.*

⁵ Juvenile Justice Oversight Committee, *System Trends*, Utah Commission on Criminal and Juvenile Justice, 2020. https://justice.utah.gov/wp-content/uploads/FY_2019_Update_Van2.html#system-trends.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Samantha Harvell et al., "Assessing Juvenile Justice Reforms in Kentucky," The Urban Institute, Sept. 17, 2020, pp. 3-4. https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full_report.

not negatively impact their high successful completion or recidivism rates. By mandating and expanding diversion, the reform also began to narrow the racial and ethnic disparities slowly at this point.⁹

South Dakota also passed diversion legislation in 2015. This legislation created fiscal incentives to promote county use of diversion, made pre-court diversion the default response to nonviolent misdemeanors or status offenses within certain circumstances, and instituted a civil citation system for some low-level offenses.¹⁰ Finally, Florida's statewide civil citation and alternatives to arrest framework has been long-heralded as a success. In fiscal year 2016-2017, only five percent of youth provided a civil citation or other alternative to arrest recidivated statewide.¹¹

SB 853 simply follows in the footsteps of what other states have done with bipartisan support, after seeking out data and research to determine what is best for their kids and communities. Moreover, it seeks to address the geographic inequities currently at play within Maryland's juvenile justice system (see the attached brief on law enforcement-driven youth diversion programs in Maryland). For these reasons, the R Street Institute urges the committee submit a favorable report.

Thank you for your time,

Emily Mooney
Resident Criminal Justice Policy Fellow
R Street Institute
emooney@rstreet.org

⁹ *Ibid.* p. 2. https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full_report.

¹⁰ "South Dakota's 2015 Juvenile Justice Reform," Pew Charitable Trusts, Jan. 29, 2016. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/south-dakotas-2015-juvenile-justice-reform>.

¹¹ "Civil Citation and Other Alternatives to Arrest Dashboard," Florida Department of Juvenile Justice, Retrieved Jan. 16, 2021. <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/civil-citation-and-other-alternatives-to-arrest/cc-dashboard>.

JJMU-OAG Testimony in support of SB 853 (2021).pdf

Uploaded by: Moroney, Nick

Position: FAV



MARYLAND JUVENILE JUSTICE MONITORING UNIT

TESTIMONY IN SUPPORT OF SB 853: JUVENILE LAW – JUVENILE JUSTICE REFORM

Senate Judicial Proceedings Committee

March 3, 2021

Submitted by Nick Moroney, director, Juvenile Justice Monitoring Unit (JJMU)

The Juvenile Justice Monitoring Unit (JJMU) strongly supports SB 853, which will bring much needed substantial change to many of the outdated and ineffective practices and procedures in the Maryland juvenile justice system that have caused young people to suffer from unnecessary incarceration.

The JJMU is an independent state agency housed in the Office of the Maryland Attorney General. Monitors from the Unit perform unannounced visits to Maryland Department of Juvenile Services' (DJS') operated facilities in order to fulfil our mission of guarding against abuse of incarcerated young people and ensuring that they receive appropriate treatment and services, including education-related services. Our public reports can be accessed via the following link:
<https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>

Over the past decade, the Maryland Department of Juvenile Services has made tremendous strides in reducing unnecessary incarceration of youth. However, we still have many young people in Maryland who are stuck in maximum security detention facilities or sent out-of-home to remote environments far from their homes, families and communities. As African American/Black and Hispanic/Latinx young people form the vast majority of the incarcerated Maryland youth population, this severing of home, family and community ties and transportation to an alien environment has grossly disproportionate effects on young men and young women of color. Many (if not most) incarcerated youth already suffer from financially vulnerable situations and a paucity of appropriate education resources and career opportunities – these negative conditions are exacerbated through incarceration. Incarceration stymies progress and growth and fails to address or mitigate the challenges faced by disadvantaged youth and their families.

SB 853 would end the use of state-run youth jails and youth prisons for children and young people who are accused of committing a misdemeanor offense or who have allegedly committed a technical violation of probation. In place of incarceration, young people will be able to avail of non-carceral based local programming through DJS. The bill also mandates that DJS study and report on how to move away from remote facility based housing of young people and toward the bolstering and utilization of local community resources (non-residential and residential) to ensure constructive, specialized and individualized supports are available to young people in contact with the legal system. In sum, SB 853 offers a viable alternative to Maryland's current failed approach to juvenile justice.

For these reasons, the JJMU supports SB 853 and respectfully urges the committee to give the bill a favorable report.

testimony.SB853.pdf

Uploaded by: Muhammad, Huzzaifa

Position: FAV



March 3, 2021

Honorable Senator William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

Re: Testimony in SUPPORT of SB853 – Juvenile Law- Juvenile Justice Reform

Dear Chair William C. Smith, Jr. and Senate Judicial Proceedings Committee Members:

On behalf of the Council on American-Islamic Relations, I thank you for this opportunity to testify in strong support of Senate Bill 853. CAIR is America's largest Muslim civil rights and advocacy organization.

According to Human Rights for Kids' report published in 2020, Maryland is tied with five states for being our country's worst offenders of juvenile justice.¹ We need meaningful reforms now. We strongly believe that protecting the rights and well-being of children – especially young Black children who stand to be most impacted by this legislation - in our state needs to be a priority. Black youth make up about 35 percent of the population of 10-17 year olds in Maryland, yet account for nearly two-thirds of the age group arrested and charged in our state.²

According to the Juvenile Justice Reform council, our state currently has no minimum age of juvenile court jurisdiction; children as young as 6 have faced arrest, and Maryland excessively arrests pre-adolescent children. In fact, in the past five years, more than 8,600 pre-adolescent children have faced juvenile complaints.

Our state's policies and laws regarding youth incarceration are unethical, costly, ineffective, and harmful. They stunt rehabilitation; compromise youth safety; risk, cause and compound both immediate and long-term physical, mental and emotional trauma; impede academic progress; increase recidivism; and affect future employment prospects.

We must explore non-carceral solutions especially for our children's sake. Making this a priority will ensure better outcomes not just for them but for our society collectively. This bill will ban the use of jail time for minor offenses, and allow our young people to return to their normal lives for personal growth and responsibility by accessing constructive, compassionate and restorative processes.

We support this bill because it places necessary limits between children and the law. And, we respectfully urge your vote in favor of it. We thank Senator Jill Carter for her leadership on this issue and the committee for its consideration.

Sincerely,

Huzzaifa Muhammad
Government Affairs Intern, CAIR Office in Maryland
Council on American-Islamic Relations
Email: mdintern@cair.com

References:

1. Human Rights for Kids 2020 <https://humanrightsforkids.org/publication/2020-national-state-ratings-report/>. Accessed February 12, 2021.
2. OJJDP, Easy Access to Juvenile Populations, <https://www.ojjdp.gov/ojstatbb/ezapop/>.

MD Catholic Conference_SB 853_FAV.pdf

Uploaded by: O'Day, Garrett

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 3, 2021

**SB 853
Juvenile Law - Juvenile Justice Reform**

House Judiciary Committee

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 853. The Catholic Conference represents the public policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 853 is the fruit of the comprehensive work of the Juvenile Justice Reform Council, formed through 2019 House Bill 606, which was supported by the Conference. Senate Bill 853 makes sweeping changes to several aspects of Maryland's juvenile justice system, including the following: 1.) raising the minimum age for criminal charging to thirteen, 2.) providing limitations on probation for juvenile offenders, including a limitation on technical violations, 3.) limitations on out-of-home placements, 4.) promoting the use of alternative remedies and rehabilitations through informal adjustment, 5.) establishing a Commission on Juvenile Justice Reform, and 6.) requiring the development of model policies for youth diversion.

In 2016, the General Assembly undertook a monumental bipartisan effort in adult criminal justice reform through the "Justice Reinvestment Act", supported by the Conference. It is now time for Maryland, through the reforms proposed by a bipartisan, multidisciplinary group of stakeholders, to do the same in the area of juvenile justice through Senate Bill 853.

In the pastoral statement *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (2000), the United States Conference of Catholic Bishops stated, "We call upon government to redirect the vast amount of public resources away from building more and more prisons and toward better and more effective programs aimed at crime prevention, rehabilitation, education efforts, substance abuse treatment, and programs of probation, parole and reintegration." Additionally, the United States Conference of Catholic Bishops has further stated that "society must never respond to children who have committed crimes as though they are somehow equal to adults fully formed in conscience and fully aware of their actions." Moreover, it is well-settled, in many secular, judicial and faith-based circles, that holding youth to the same standards of accountability as a fully-formed adult is plainly unjust. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically noted that youthful offenders possessed "diminished capacity" and the inability to fully appreciate the risks and consequences of their actions.

In recent years, the MCC has supported various juvenile justice reform proposals. Whether it was increased educational services for incarcerated youths, limitations automatically charging youth as adults, eradicating without parole for juvenile offenders, or ensuring that youth are not housed with adult inmates, all of these efforts were grounded in Church teaching. The Church thus remains a strong advocate for restorative justice, particularly within the juvenile system. We therefore urge a favorable report on Senate Bill 853.

MAYSB - SB 853 FAV - Juvenile Justice Reform.pdf

Uploaded by: Park, Liz

Position: FAV



"Being here for Maryland's Children, Youth, and Families"

**Testimony submitted to Senate Judicial Proceedings Committee
March 3, 2021**

**Senate Bill 853 – Juvenile Law- Juvenile Justice Reform
Support**

The Maryland Association of Youth Service Bureaus (MAYSB), which represents a network of Bureaus throughout the State of Maryland, supports *Senate Bill 853 - Juvenile Law- Juvenile Justice Reform*. Youth Service Bureaus (YSBs) are community-based programs that work with youth and their families to decrease the likelihood of youth involvement or re-involvement with the Department of Juvenile Services (DJS).

SB 853 proposes many changes to how youth enter and move through the juvenile justice system. This testimony will focus on one key aspect of this bill that MAYSB believes is important in diverting youth from involvement with the justice system.

SB 853 will alter provisions of law to establish a minimum age of jurisdiction in Maryland and provide that a child under the age of 13 not be subject to the juvenile court's jurisdiction, nor charged with a crime, except under certain circumstances as outlined in the bill. MAYSB fully supports the research that espouses the use of interventions that are more effective in rehabilitating the offending youth and preventing penetration into the DJS system.

Research shows that effective community programs, like Youth Service Bureaus, are more likely than arrest or institutional confinement to facilitate the healthy development of the involved youth. Evidence-based or best practice services have proven successful in reducing recidivism in the youth who come to the juvenile justice system's attention and diverting youth, including those under age 13, from going deeper into the system. MAYSB believes that the child welfare system or mental health system is a more appropriate service for many young people who have committed a low-level offense.

We request that you give SB 853 a favorable report to establish a minimum age of jurisdiction, acknowledging appropriate developmental guidelines for justice-related youth concerns.

Respectfully Submitted:

Liz Park, PhD
MAYSB Chair
lpark@greenbeltmd.gov

The Sentencing Project . Maryland SB853 . 2021 .pd

Uploaded by: Rovner, Josh

Position: FAV



**THE
SENTENCING
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM

Testimony of Josh Rovner

Senior Advocacy Associate

The Sentencing Project

In support of SB853

**Before the Senate Judicial
Proceedings Committee**

March 3, 2021

Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing racial disparities and other unjust policies and practices. We are grateful for this opportunity to submit testimony generally supporting SB853. We thank Senator Carter for her leadership in sponsoring this legislation and the Juvenile Justice Reform Council (JJRC) for its efforts crafting it.

This legislation was derived from JJRC's excellent work, started under SB856/HB606 in the 2019 legislative session. Such a task force might have met a few times and put forward tepid recommendations that more study or more data are needed to address the needs of our youth. Instead, the JJRC addressed the minimum age of jurisdiction, diversion, probation and detention reform, the utilization of out-of-home commitment, and youth charged as if they were adults. In each case -- except the last of these issues, where it did not look for the data nor use available proxies -- the JJRC found that the juvenile justice system is pervaded by racial and ethnic inequities and that it can be made smaller for the betterment of youth and the state of Maryland.

As a member of the Maryland Youth Justice Coalition, The Sentencing Project supports the bill, but our support is limited by the JJRC's refusal to state the obvious about youth charged as if they were adults or to put forward any recommendations to eliminate (or even merely restrict) automatic transfer that would have found a home in this bill. This testimony is limited to three issues:

1. Support for raising the minimum age of juvenile court jurisdiction.
2. Support for limiting the use of detention and commitment.
3. Urging the Committee to reform transfer laws without delay.

Maryland Should Remove Children Under 13 years old from its Juvenile Courts

SB853 removes almost all cases of children under 13 year old from the jurisdiction of the juvenile justice system. Dismissal and informal handling of youth cases is a common outcome for all youth, but even more so for the youngest children. Just one in four complaints involving a child under 13 years old has authorized formal petitions in FY2020, a rate consistent with prior years. Removing children under 13 years old from the courts' jurisdiction would have removed 374 children from formal processing in FY2020; just three percent of them were charged with felonies.¹

These arrests open the pipeline for young children to spend their lives enmeshed in the justice system. Probation is a common sentence, offered in roughly one quarter of formally processed cases, meaning about 100 children under 13 years old are issued juvenile probation every year. The decision to keep these children in the system at all is likely to lead to deeper involvement subsequently. A child who shoplifts while on probation may be incarcerated for it; a child who is not on probation will not.

Removing these children from the juvenile courts is a modest reform, which is not to say it is unnecessary. Roughly 30 percent of Maryland's children are non-Hispanic Black,² yet in FY2020, more than 70 percent of intake complaints involving children under 13 years old involved Black children.

¹ Data in this testimony relies on the Maryland Department of Juvenile Services's Data Resource Guide for FY2020.

² Puzzanchera, C., Sladky, A. and Kang, W. (2020). "Easy Access to Juvenile Populations: 1990-2019." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Maryland's experience disproportionately arresting its Black youth aligns with research showing Black youth in this country are not allowed a childhood. **Psychologist Phillip Atiba Goff and his colleagues found Black youth -- especially boys -- are viewed as less innocent than their white peers and, moreover, are estimated by law enforcement and the general public to be much older than their actual age.**³

The correct response is to remove children from the jurisdiction of the courts entirely without carveouts for a set of exceptionally rare circumstances. The American Academy of Pediatrics⁴ and Society for Adolescent Health and Medicine⁵ both recommend passage of legislation to exclude children under 13 years old from juvenile courts entirely, as does The Sentencing Project.

Maryland Should Limit the Use of Detention and Commitment

The second piece of the bill, like the first, addresses the common-sense need to keep youth charged with low-level offenses out of detention and commitment. Youth charged with misdemeanors comprise about 40 percent of youth in detention. As with all points of contact with the juvenile justice system, Black youth are disproportionately detained: nearly 80 percent of youth in detention are Black.

Consistent with other states, Maryland is detaining and committing significantly fewer youth than in prior years, a change we can all welcome. The juvenile detention population fell from 275 in FY2014 to 145 in FY2020. Maryland has seven youth detention centers with a capacity for 411 youth. Thankfully, those facilities have many empty beds, with an average daily population of 253 youth in FY2020, 145 of whom are held on juvenile delinquency charges, alongside 108 youths held on criminal charges as if they were adults. Given the importance of peer interactions, placing youths who are at a low risk of reoffending or have been charged with low-level offenses in detention is a pathway toward more serious offending.

Following the closure of J. DeWeese Carter Center and Meadow Mountain Youth Center, Maryland has five DJS-operated commitment programs. Their closures were correctly predicated on the fact that they are unnecessary, given excess capacity elsewhere. The average daily population of committed youth fell from 901 in FY2014 to 314 in FY2020.

Nevertheless, **DJS's \$271 million budget is heavily weighted toward operating these facilities. Essentially half (49 percent) of DJS's FY2020 budget is directed toward state-operated facilities.** Surely, this committee can find a better use of \$131 million. Limiting detention and commitment for low-level offenses is another step toward closing more facilities and directing the savings toward all our youth, away from these facilities, giving them and their families the support they need to thrive.

³ Goff, P. A., Jackson, M. C., Di Leone, B. A., Culotta, C. M., & DiTomasso, N. A. (2014). The essence of innocence: consequences of dehumanizing Black children. *Journal of personality and social psychology*, 106(4), 526–545.

<https://doi.org/10.1037/a0035663>

⁴ Owen MC, Wallace SB, AAP Committee on Adolescence. Advocacy and Collaborative Health Care for Justice-Involved Youth. *Pediatrics*. 2020;146(1):e20201755

⁵ Society for Adolescent Health and Medicine (2016). International Youth Justice Systems: Promoting Youth Development and Alternative Approaches: A Position Paper of the Society for Adolescent Health and Medicine. *The Journal of adolescent health : official publication of the Society for Adolescent Medicine*, 59(4), 482–486.

<https://doi.org/10.1016/j.jadohealth.2016.08.003>

Maryland Must Address Its Transfer Laws

The need to address Maryland’s transfer laws is clear, and our youth cannot wait for these reforms.

- Maryland’s automatic transfer law is unusually harsh.
- Charging youth as if they were adults harms public safety.
- Eliminating automatic transfer would still allow youth to be charged as if they were adults.

Maryland’s Automatic Transfer Law is Unusually Harsh

In the 1960s, Maryland was one of just three states (Mississippi and Pennsylvania were the other two) to automatically charge youth (14 and older) as if they were adults on murder charges.⁶ By 1986, Maryland was one of just 14 states that automatically charged youth as if they were adults based on the offense, typically murder. Maryland, on the other hand, added armed robbery as a so-called adult charge in 1973; as of 1986, only six other states did the same.⁷

Throughout the 1980s and 1990s, this legislature repeatedly added offenses to that list. As of today, Maryland automatically transfers youth charged with 33 separate offenses into adult criminal courts.

It is important for this committee to understand after decades of tough-on-crime rhetoric and policies, Maryland law remains an outlier. In Virginia, the legislature restricted direct filing to youth age 16 and older only for the most serious offenses: capital murder, first or second degree murder, murder by lynching, or aggravated malicious wounding. To take another example: Maryland is one of only nine states to make certain weapons charges adult offenses for 16-year olds.

Charging Youth as If They Were Adults Harms Public Safety

Sending youth to the adult criminal justice system, for any offense, harms public safety. Youth in the adult system are more likely to commit future offenses, and particularly more likely to commit the most violent offenses when compared with peers in the juvenile system for equivalent offenses. Howell, et al., note that “research consistently shows lower recidivism rates in the juvenile justice system than in the criminal justice system.”⁸

The CDC’s Task Force on Community Preventive Services reviewed decades of literature, concluding that sending a youth to the adult system generally increases, not decreases, rates of violence among youth.⁹ Automatically transferring 16- and 17-year olds accused of specific offenses in the name of deterrence or public safety also contradicts findings from the National Research Council, which supports

⁶ Feld, B. (1987). The Juvenile Court Meets the Principle of the Offense: Legislative Changes to Juvenile Waiver Statutes, *Journal of Criminal Law and Criminology* 78(3): 471-533 at 512-513.

⁷ Feld (1987) at 512-513.

⁸ Howell, J. C., Feld, B. C., Mears, D. P., Petechuk, D., Farrington, D. P. and Loeber, R. (2013) Young Offenders and an Effective Response in the Juvenile and Adult Justice Systems: What Happens, What Should Happen, and What We Need to Know. Washington, D.C.: U.S. National Institute of Justice (NCJ 242935), p. 4, 10-11.

⁹ The Community Preventative Services Task Force (2003, April). Violence Prevention: Policies Facilitating the Transfer of Juveniles to Adult Justice Systems. Online: <https://www.thecommunityguide.org/findings/violence-prevention-policies-facilitating-transfer-juveniles-adult-justice-systems>.

“a policy of retaining youth in the juvenile justice system” both to keep punishments proportional with the age of offenders and to prevent additional offending.¹⁰

Despite its flaws, the juvenile justice system is designed to be youth-serving. Adult courts are generally tasked with determining guilt or innocence and then assigning a punishment to fit the crime. Juvenile courts have the added responsibility of understanding the young person accused. All courts are concerned with recidivism; juvenile courts are built to prevent it. Post-conviction, programs and professional staff in the adult system are not designed or trained for working with young people. This is especially important because youth convicted as if they were adults are likely to receive probation, and ought to be served by juvenile probation officers.

Charging teenagers as if they were adults has collateral consequences. Youth tried in the adult criminal justice system generally leave with an adult criminal record and, possibly, news coverage that the Internet does not forget. Such a formal -- and informal -- record is a significant obstacle to a youth’s successful reentry into the community, limiting access to the employment and student loans that provide the path to self-sufficiency outside of the world of crime. The Council of State Governments has found 359 collateral consequences for a felony conviction in Maryland, 307 of them limiting employment in some form. A 16-year old should not be saddled with such lifelong consequences based on a poor, though impulsive, decision.

Eliminating Automatic Transfer Would Still Allow Youth to Be Charged As Adults

Automatic transfer is just one method by which youth can be charged in criminal courts. **Maryland law currently allows for discretionary waivers**, under which any 15-, 16- and 17-year old can be transferred to criminal court. Juvenile courts can and do use discretionary waivers.

The National Research Council opposes transfer based solely on specific offenses, arguing instead for individualize decisions that consider other factors:

But even for youth charged with serious violent crimes (e.g., felonious assault, robbery, kidnapping, rape, carrying a firearm in the commission of a felony), an individualized decision by a judge in a transfer hearing should be the basis for the jurisdictional decision. The committee counsels against allowing the prosecutor to make the jurisdictional decision, as is allowed under direct-file statutes. **The committee also opposes automatic transfer based solely on the offense with which the youth is charged because it fails to consider the maturity, needs, and circumstances of the individual offender or even his or her role in the offense or past criminal record**—all of which should be considered in a transfer hearing (emphasis added).¹¹

Youth Charged as If They Were Adults Are Not Typically Sentenced as Adults

Maryland law, sensibly, allows for reverse waivers as one safety valve for the state’s aggressive and unusual list of charges that must be filed in adult courts. Criminal court judges are then tasked with determining whether their courtrooms, or those of family court judges, are the appropriate venue to proceed.

¹⁰ National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/14685>, p. 134

¹¹ National Research Council (2013), p. 135.

Youth are transferred into adult court are often not sentenced there. In fact, most youth automatically sent to the adult justice system either have their case dismissed or sent back to the juvenile system. Clearly, too many young people begin their cases in adult courts under current law. A reasonable compromise allows the state to begin serious cases in the juvenile courts without eliminating transfer.

Maryland Youth Cannot Wait for Comprehensive Reforms

On topic after topic, the JJRC found sharp racial and ethnic disparities in juvenile justice. Moreover, the research cited above clearly demonstrates that transfer does not benefit public safety; transferred youth are more likely to reoffend than those who remain in the juvenile system. Other states have come to this conclusion, and others will soon join them. Maryland stalls.

The decision to exclude transfer from SB853 is based on purportedly inadequate data from a few jurisdictions on its prevalence.¹² There can be little doubt that the data, if it is ever presented, will again find that Black youth are disproportionately tried as if they were adults. And no study will find its use helps the state or its youth.

SB853 makes important first steps to ensure that Maryland adopts best practices that have been established over the past 15 years. These reforms will ensure that as many children as possible are treated with community based services that lead to better public safety outcomes at a fraction of the cost of deep end interventions. If done intentionally, there is the opportunity to also reduce the pervasive racial disparities that persist in Maryland. Finally, it will ready the system to expand what services they are also offering to the young people that Maryland has discarded in the adult criminal justice system. Now is the time to address these reforms.

¹² Vera Institute of Justice (2020, Dec. 10). Preliminary Findings: Youth Charged as Adults in Maryland. Online: <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>

SB 853 - Support - ACY.pdf

Uploaded by: Tompsett, Thomas

Position: FAV



To: The Honorable William C. Smith, Jr.
From: Advocates for Children and Youth
Re: Senate Bill 853: Juvenile Law - Juvenile Justice Reform
Date: February 28, 2021
Position: Support

Dear Chairman Smith and Honorable Members of the Committee.

Advocates for Children and Youth (ACY) was founded in 1987 by a group of prominent child advocates in Maryland who saw the need for an independent organization to advocate for the needs of the state's children and families in the community, the media, and the public policy arena. Today, ACY builds a stronger Maryland by advancing policies and programs to ensure children and families of every race, ethnicity, and place of birth achieve their full potential.

ACY supports Senate Bill 853: Juvenile Law - Juvenile Justice Reform as it is the partial work product of the Juvenile Justice Reform Council (JJRC).¹ This bill focuses on four (4) sweeping policy changes to Maryland's Annotated Code that undoubtedly will improve Maryland's juvenile justice system. The areas of policy change include:

1. Minimum Age of Jurisdiction;
2. Juvenile Detention Utilization;
3. Juvenile Community Supervision/Probation; and
4. Juvenile Diversion

1. Minimum Age of Jurisdiction

Maryland currently does not have a minimum age of prosecution for kids charged with crimes. Unfortunately, children as young as six (6) years of age have faced arrest and the prospect of entering the juvenile justice system despite not having the capacity to formulate the requisite mens rea with respect to a crime. In the fiscal year 2020, 9.8% of the Department of Juvenile Services (DJS) intake complaint decisions involved children twelve (12) years of age and under.² Sadly, the charging of young children impacts communities of color more disproportionately, with Black children comprising more than two-thirds of the complaints.

Fifteen states or territories have a statutory minimum age of ten (10) years of age.³ Four (4) states have set

¹ [The JJRC's Final Report](#) describes the JJRC as follows, "The JJRC is a diverse, inter-branch, bipartisan group of juvenile justice stakeholders from across the state. In addition to legislators, the Council consists of representatives from the judiciary, prosecutorial and defense bars, state child-serving agencies, law enforcement, and various representatives from national and local organizations with experience in juvenile justice policy reform."

² [DJS Data Resource Guide Fiscal Year 2020](#). In 2020, DJS 14,913 formal complaints. As stated above, 9.8% of the complaints involved children thirteen (13) years of age, which translate to 1,461 children.

³ American Samoa; Arkansas; Arizona; Colorado; Kansas; Louisiana; Minnesota; Mississippi; Nevada; North Dakota Pennsylvania; South Dakota; Texas; Vermont (except for murder for which there is no age limit); and Wisconsin.



higher statutory minimum ages for juvenile court jurisdiction. Nebraska statutorily set its minimum age at eleven (11). Massachusetts is at age twelve (12) with no exceptions. California is also at age twelve (12) with exceptions for murder, rape by force, sodomy by force, oral copulation by force, and sexual penetration by force. Utah is also at age twelve (12) with the exception for cases of young children who are accused of murder, felony aggravated assault, aggravated sexual assault, aggravated robbery, aggravated kidnapping, and the felony discharge of a firearm. SB 853 takes a similar and equitable hybrid approach as California and Utah with a higher general minimum age of prosecution at thirteen (13) years of age and a delineated violent crime floor for children ten (10) years of age and older.

2. Juvenile Detention Utilization

SB 853 would prohibit the out-of-home placement of justice-involved youth for misdemeanor offenses or technical violations of probation. In the fiscal year 2020, fifty-five percent (55%) of Maryland young people received out-of-home placements for misdemeanor offenses.⁴ Maryland's cost for secure confinement is a staggering \$414,929 per year per child, more than double the national average of \$214,620.⁵ The return on such investment is bleak as extensive research shows that secure youth incarceration increases the likelihood of recidivism and harms educational attainment, lifetime wages, and future health outcomes for youth. Additionally, out-of-home placement settings have proven to be a primary vector for spreading the COVID-19 virus.

For far too long, this state has utilized traditional punitive correctional approaches that have proven ineffective. Maryland must stop sending youth to out-of-home placements for misdemeanor offenses and violations of probation and instead focus on creating a strength-based, therapeutic milieu with evidence-based community alternatives to placement that have been proven to reduce recidivism rates

3. Juvenile Community Supervision/Probation

SB 853 takes a meaningful step in restructuring the amount of time that a young person can be on juvenile court probation, thus breaking the seemingly endless cycle of justice system involvement for youth offenders. SB 853 would set a maximum initial term of probation at six (6) months for misdemeanors (max extension twelve (12) months), twelve (12) months for most felonies (max extension forty-eight (48) months), and a maximum of twenty-four (24) months for the most serious crimes (max extension to age of twenty-one (21) years old).

Surveillance-oriented probation is the most common response to crime in juvenile court. According to the DJS, 23% of juvenile court actions for formalized cases resulted in probation. Similarly, violations of probations resulted in 27% of justice-involved youth being commitment during that same time period.⁶ Unfortunately, juvenile probation often reflects the same racial disparities all too common throughout the juvenile justice system as a whole.

⁴ [DJS Data Resource Guide - Fiscal Year 2020](#) at page 154.

⁵ [Just Policy Institute - \[POLICY BRIEF 2020\] Sticker Shock: The Cost of Youth Incarceration](#)

⁶ [DJS Data Resource Guide - Fiscal Year 2020](#)



Like adult probation, the punitive, fear-based nature of the juvenile justice system perceives justice-involved youth as public safety risks who need to be closely supervised and confined when they run afoul of that supervision. Experts agree that this structure is developmentally inappropriate and ultimately ineffective for the youth and our State as a whole. It is therefore essential that youth probation be designed to ensure young people have a meaningful opportunity to participate and be successful in a finite, developmentally appropriate period of probation if imposed.

4. Juvenile Diversion

DJS defines diversion as “a program or practice where the primary goal is to reduce the occurrence of juvenile crime by diverting youth from the traditional juvenile justice system and providing an alternative to formal processing.” Diversion of justice-involved youth should be utilized more comprehensively and equitably in Maryland. SB 853 makes it easier for stakeholders to return a case for informal processing, eliminating the requirement that a complaining witness consent to diversion, and allowing more types of offenses to qualify for pre-court diversion. Through layered wrap-around services resources, diversion offers a genuine and more expeditious opportunity at rehabilitation.

For all the reasons stated, ACY urges this committee to issue a favorable report on SB 853. Should you have any questions about this testimony, please contact Mariama Boney, Interim Executive Director for Advocates for Children and Youth (ACY), at mboney@acy.org.

Maryland SB 853 Written Testimony.pdf

Uploaded by: Wang, Tiffany

Position: FAV



**Senate Bill 853
Testimony in Support
Players Coalition**

**Maryland Senate Judicial Proceedings Committee
Submitted: March 1, 2021**

Thank you for the opportunity to provide written testimony in support of Senate Bill 853, on behalf of PC Advocacy Initiative, an Ohio nonprofit corporation doing business as Players Coalition and recognized as a tax-exempt organization pursuant to Section 501(c)(4) of the Internal Revenue Code (“Players Coalition”).

Players Coalition, directly and in connection with its affiliate organization, PC Charitable Foundation, an Ohio nonprofit corporation recognized as a tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code, works with professional athletes, coaches and owners across leagues to improve social justice and racial equality in our country. We work to make an impact at the federal, state, and local levels and have active members here in Maryland.

Senate Bill 853 would take several important steps toward downsizing Maryland’s juvenile delinquency system and has potential to decrease the system’s racial disparities. We respectfully ask the Senate Judicial Proceedings Committee to vote favorably on SB 853.

Numerous studies have found that most young people will simply outgrow their delinquent behavior without intervention by the court system,¹ but the United States continues to incarcerate children at the highest rate in the world. Nearly 2,000 children are arrested each day—more than 750,000 per year—and on any given night, more than 40,000 children are held in jail- or prison-like facilities.²

Black and brown youth bear the outsized burden of this country’s addiction to incarceration. Black youth are 2.5 times more likely to be arrested than white youth, Black children are detained at nearly five times the rate of white children, and two-thirds of the children in the juvenile court system are children of color.³ The overrepresentation of Black youth in the juvenile legal system is not due to differences in youth behavior,⁴ but to the legal system’s disproportionate criminalization of the behavior of Black children.

¹ Anthony Petrosino, et al., *Formal System Processing of Juveniles: Effects on Delinquency*, CAMPBELL SYSTEMATIC REVIEWS (Jan. 2010); Ed Mulvey, et al., *Pathways to Desistance*, NCJRS.GOV (JAN 2014), <https://www.ncjrs.gov/pdffiles1/nij/grants/244689.pdf>.

² Children’s Defense Fund, *The State of America’s Children 2020: Youth Justice*, <https://www.childrensdefense.org/policy/resources/soac-2020-youth-justice/>.

³ *Id.*

⁴ Skiba, R. J. (2000). *An analysis of school disciplinary practice*. Policy Research Rep. No. SRS2. Bloomington, Indiana Education Policy Center (noting that overrepresentation of Black students is related to referral bias on the part of school officials).



Maryland Senate Bill 853 proposes four important reforms that have potential to decrease the size of the state's delinquency system, reduce racial disparities, and relieve the state's young people from the burden of juvenile court involvement. SB 853 would:

1. Set the minimum age of juvenile court jurisdiction at 13;
2. Increase opportunities for diversion from the delinquency court system;
3. Limit the length of probation supervision; and
4. Disallow the use of juvenile jail and prison for low-level offenses.

Each of these proposed reforms would move Maryland's system to be more in line with what both research and common sense tell us about children and adolescents. The youngest children do not belong in the legal system at all, and should receive support they need in the community. Given children's propensity to grow out of delinquent behavior, as well as the negative impacts of juvenile court involvement, every effort should be made to divert youth before they enter the delinquency court system.

Probation supervision should be limited in length of time and scope, and should focus on building the skills young people need to succeed. Limiting the amount of time youth spend on probation and using incentive-based probation practices that reward youth with decreases in the amount of time on probation can "improve outcomes and reduce costs with no harm to public safety."⁵

The arrest, prosecution, supervision, and incarceration of children has profoundly negative direct and indirect impacts on young people, their families, their communities, and public safety. And when we incarcerate young people, we subject them to risks of increased victimization, recidivism, school drop-out, and long-term physical and mental health issues.⁶ SB 853 will help protect youth from the stigma of juvenile court involvement and the harms associated with incarceration.

⁵ *Transforming Juvenile Probation: A Vision for Getting it Right*, The Annie E. Casey Foundation, p17, <https://www.aecf.org/resources/transforming-juvenile-probation/>.

⁶ Andrea J. Sedlak et al., U.S. Dep't of Justice, Office of Juvenile Justice & Delinquency Prevention, *Nature and Risk of Victimization: Findings from the Survey of Youth in Residential Placement* (2013), OJJDP Juv. Just. Bull., <https://www.ojjdp.gov/pubs/240703.pdf>. Allen J. Beck et al., U.S. Dep't of Justice, Office of Justice Programs, *Sexual Victimization in Juvenile Facilities Reported by Youth* (2012), <https://www.bjs.gov/content/pub/pdf/svjfry12.pdf>. Thomas J. Dishion & Jessica M. Tipsord, *Peer Contagion in Child and Adolescent Social and Emotional Development*, 62 Ann. Rev. Psychol. 189 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3523739/>. Umberto Gatti et al., *Iatrogenic Effect of Juvenile Justice*, 50 J. Child Psychol. & Psychiatry 591 (2009). David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 Soc. Educ. 36 (2013), <http://www.asanet.org/sites/default/files/savvy/journals/soe/Jan13SOEFeature.pdf/>. Elizabeth S. Barnert et al., *Does Incarcerating Young People Affect Their Adult Health Outcomes?*, 139 Pediatrics 1 (2017), <https://pediatrics.aappublications.org/content/pediatrics/139/2/e20162624.full.pdf>.



Players Coalition respectfully encourages the Maryland Senate Judicial Proceedings Committee to vote favorably on Senate Bill 853, an important step forward in eliminating the social injustices and racial disparities of the state's delinquency system.

Sincerely,

Aveion Cason (NFL player, retired)

SB853_StrongFutureMaryland_FAV.pdf

Uploaded by: Wilkerson, Alice

Position: FAV



Senate Bill 853 - Juvenile Justice Reform
Judicial Proceedings Committee
FAVORABLE

March 3, 2021

To Chair Clippinger and Members of the Judicial Proceedings Committee:

On behalf of Strong Future Maryland, we write in support of SB853. Strong Future Maryland works to advance bold, progressive policy changes to address systemic inequality and promote a sustainable, just and prosperous economic future for all Marylanders.

For many decades, the United States has utilized mass incarceration as a form of accountability and a means to end crime. Believing that immediate consequences, a sentence in prison through the justice system would achieve results. [Research](#) has shown us that exposing young children to juvenile jail and youth prisons does not reverse behavior, but serves as short-term punitive action that does not prevent future offenses and rather exacerbates detrimental effects on development with the potential for worse offenses.

For too long, instead of investing in education, our country chose to invest in cages to lock children away out of fear and out of retribution. However, with current research, there are effective programs that prioritize accountability through mentorship, education, and family-focused interventions that have the power to proactively prevent re-arrest. Strong Future Maryland supports SB853 because it minimizes the exposure to juvenile detention centers for pre-adolescent children who are convicted of low-level crimes and alternatively gives these children an opportunity for rehabilitation.

What we have learned over the course of this session is that while witnesses have had differing opinions on juvenile justice reform, we can all agree that trauma begets trauma when there is no effective intervention. Strong Future Maryland urgently believes that effective intervention is reform and rehabilitation, not youth imprisonment. With a disproportionate number of Black children in Maryland incarcerated, we have to acknowledge that a significant number of these youth have also experienced intergenerational trauma or violence themselves. Instead of community-based programs too many are pipelined in a cyclical system of

info@strongfuturemd.org

PO Box 164 | Arnold MD 21012

240-643-0024 | strongfuturemd.org

@FutureMaryland @StrongFutureMD

incarceration, with an increased chance of recidivism. The state of Maryland must begin to take steps to divert children out of the criminal legal system and intervene with evidence-based programming to support youth and prosper our communities.

The members of the committee have the choice to divest in carceral methods and invest in children, their development and their future. We believe that criminal justice reform is a necessity, especially for our youth offenders. SB853 is legislation that moves Maryland a step forward towards juvenile justice reform. Ultimately, policies that were ineffective punitive tools to augment systemic racism must be replaced with initiatives that offer a fundamental change to our state prisons.

We respectfully urge a favorable report.

On behalf of Strong Future Maryland,

John B. King

Alice Wilkerson

Ruth Lee

Founder & Board Chair

Executive Director

Policy Fellow

People's Commission Testimony in Support of SB853-

Uploaded by: Zernhelt, Matthew

Position: FAV



Senate Bill 853 – Juvenile Law – Juvenile Justice Reform

Presented to the Honorable Chair William Smith, Vice Chair Jeffrey Waldstreicher, and
Members of the Judicial Proceedings Committee

POSITION: SUPPORT

Testimony of The People's Commission to Decriminalize Maryland

The People's Commission to Decriminalize Maryland strongly supports Senate Bill 853, sponsored by Senator Carter, and we urge the House Judiciary Committee to issue a favorable report on this bill. The People's Commission was created to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability, or socioeconomic status.

Maryland's legal system contains many laws that unnecessarily bring young people, and disproportionately youth of color, to the attention of the justice system.¹ Most often, this is for behaviors that are either typical adolescent behaviors or a reflection of how we have marginalized large segments of Maryland's youth. Most young people's contact with the system results from someone labeling typical adolescent behavior, or behavior stemming from trauma, abuse, neglect, or poverty, as "criminal" conduct – instead of seeing that behavior as an indicator of a need for support to help that young person thrive.

Senate Bill 853 would make many long overdue and common-sense changes to Maryland's youth justice system that are aligned with recommendations released by the People's Commission in November 2020.² These changes include:

- Limiting the definition of delinquent act to exclude criminalizing behaviors that should be handled within schools with student support and appropriate consequences, and expanding the ability of law enforcement to use citations in lieu of arrest and referral to

¹ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pg. 22 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf (showing that youth of color are 2.56 times more likely than white youth to be referred to juvenile court/intake).

² People's Commission to Decriminalize Maryland, *Policy Recommendation Outline* (November 2020), available at <https://www.decrimmaryland.org/post/people-s-commission-releases-policy-recommendation-outline>.

DJS.

- Excluding youth under the age of 13 from the jurisdiction of the juvenile court, except in limited circumstances. In Fiscal Year 2019, 1,882 complaints were referred to DJS intake for youth age 12 and under, with 83% of the most serious charges in those referrals being misdemeanors.³ Black youth represented two-thirds (65.8%) of referrals to DJS for youth age 12 and under.
- Expanding the opportunity to use of informal adjustments in lieu of formal court processing, mandating diversion in certain situations, and establishing standards for diversion throughout the state. In Fiscal Year 2019, 81% of referrals to the Maryland Department of Juvenile Services were for status offenses, citations, ordinance violations, and misdemeanor offenses.⁴ Studies show that formal interventions by the juvenile justice system do more harm than good for a large percentage of youth and are associated with higher rates of future contact with the justice system as compared with the use of diversion.⁵ Importantly, the legislation limits an alleged victim's ability to veto a decision to use an informal adjustment to resolve a referral. This type of veto power does not exist in the adult system, and it has no place in the youth justice system when we know justice system can have lifelong negative consequences for a child and public safety.
- Limiting the use of detention and out-of-home placements for technical violations of community supervision and low-level offenses. In Fiscal Year 2019, judges ordered 767 committed out-of-home placements, 78.9% of which were for youth of color.⁶ Of those placements, almost 60% (58.1%) were for youth who had been adjudicated for a misdemeanor as their most serious charge.

SB 853 would take an important step toward expanding equitable access to diversion and reducing unnecessary incarceration of young people throughout the state. **For these reasons, the People's Commission to Decriminalize Maryland strongly supports SB 853 and urges the Committee to issue a favorable report.**

³ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pgs. 26-27 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.

⁴ *Id.* at 22.

⁵ Wilson, H. A., & Hoge, R. D. (2013). The effect of youth diversion programs on recidivism: A meta-analytic review. *Criminal Justice and Behavior*, 40(5), 497–518. <https://doi.org/10.1177/0093854812451089>

⁶ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pg. 144 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.

WDC Testimony SB0853_FINAL.pdf

Uploaded by: Tomasello, Beth

Position: FWA



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 853 - Juvenile Law - Juvenile Justice Reform
Judicial Proceedings Committee – March 3, 2021
SUPPORT WITH AMENDMENTS**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB0853 with the amendments suggested in this testimony. WDC commends the Maryland Juvenile Justice Reform Council (JJRC) for its work and the recommendations contained in its January 2021 Report.¹ WDC also commends Judiciary Committee Chairman Clippinger for his leadership in ensuring that the important reforms recommended by the JJRC become law. WDC respectfully suggests the following amendments to SB0853.

First, WDC suggests the amendment of the age at which a child may come under the jurisdiction of the juvenile court from 10 to 14. Ten-year old children do not belong in the juvenile court system. As the JJRC's Report states:

A growing body of evidence has found that pre-teens have diminished neurocognitive capacity to be held culpable for their actions; likewise they have little ability to understand delinquency charges against them, their rights and role in an adversarial system, and the role of adults in this system. Recognizing this developmental science, as well as recognizing the damage inflicted by putting relatively young children into the juvenile justice system, several states have recently moved to create a minimum age of juvenile court jurisdiction. The behavioral issues of children below that age are handled in the child welfare and mental health systems. California, Massachusetts, and Utah have recently raised the age of juvenile court jurisdiction to 12. California and Utah have some exceptions for very serious violent behavior, and Massachusetts does not. These states' practices are in line with the median

¹ Department of Juvenile Services. (January 2021). *Maryland Juvenile Justice Reform Council – Final Report* [MSAR#12288]. Maryland Juvenile Justice Reform Council.

Retrieved from <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

age of criminal responsibility internationally which is 12 years old. However, the recommendation of the Committee on the Rights of the Child of the United Nations, based on “documented evidence in the fields of child development and neuroscience,” is that the minimum age of jurisdiction should be at least 14.²

WDC urges the Judiciary Committee to put Maryland in the national lead on matters of juvenile justice and adopt the recommendation of the Committee on the Rights of the Child of the United Nations, rather than fall below the international median age recommendation and established law in several other U.S. states.

Second, the JJRC did not recommend a statutory change to the age at which children under the age of 18 may be charged and tried as adults. The JJRC recommended more study of juveniles at all stages of the adult criminal system. Maryland does not need to wait for this study to do the right thing with regard to the age at which we try children as adults. WDC urges the adoption of an amendment to SB0853 that would prohibit the direct charging or waiver of any child under the age of 18 to the adult criminal system. As the JJRC noted in its discussion of charging children as adults:

Adolescence brings changes in the limbic brain resulting in greater sensitivity to rewards, threats, novelty, and peer influence. In contrast, it takes longer – up to age 25 -- for the cortical region, which implicates cognitive control and self-regulation, to develop. Accordingly, charging youths in adult court does not take into account that they are physiologically disadvantaged to adjust their behavior to the mandate of the law. The juvenile justice system, given its established responsibility to promote the best interests of children while helping them to adjust their behavior, is better suited to adjudicate youth cases than adult criminal courts. Evidence shows that youth and public safety outcomes suffer when children are charged in the adult criminal legal system.³

WDC agrees that children belong in a court system that appropriately evaluates their mental and emotional development, not in a court system that applies adult standards of maturity and culpability. Since children under the age of 18 can also be “waived” into the adult court system at the discretion of the State’s Attorney, WDC also urges the Committee to amend SB0853 to end this practice. As the JJRC report details, the

² Department of Juvenile Services. (January 2021). Page17.

³ Department of Juvenile Services. (January 2021). Page 41.



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

racial disparity between Black and White youth who are tried as adults is shocking. In Baltimore City, 94.1% of juveniles tried as adults are Black.⁴ In other counties reporting through the MDEC system, 72.8% of juveniles tried as adults are Black.⁵ There is an easy way to end this disparity: prohibit trying *any* children under age 18 as adults, either through direct charging or through a waiver. As the JJRC noted, multiple states have prohibited trying children under the age of 18 as adults. Maryland should join them.

We ask for your support for SB0853 and strongly urge a favorable Committee report with the amendments noted above.

Respectfully,

Diana Conway
President

⁴ Department of Juvenile Services (January 2021). Page 43.

⁵ Department of Juvenile Services (January 2021). Page 43.

MD Judiciary - Testimony SB 853.pdf

Uploaded by: Elalamy, Sara

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 853
Juvenile Court – Juvenile Justice Reform
DATE: February 17, 2021
(3/3)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 853. This bill, which implements the recommendations of the Juvenile Justice Reform Council, would amend various provisions of Maryland Code.

While the Judiciary agrees that attention to the juvenile justice system is necessary to ensure that it meets its purpose and goals of rehabilitating the child while providing for the safety of the public, many of the amendments proposed by this bill raise serious questions of interpretation and/or application, and will limit the ability of the juvenile court to fully assess and act in recognition of the specific situation and the child's individual circumstances and needs, in full implementation of the purposes of the juvenile court. Courts and Judicial Proceedings § 3-8A-02.

First there are concerns regarding the delinquent act language. Language excluding from the definition of "delinquent act" an act that is "traditionally subject only to administrative discipline by the school" has no clear meaning and will lend itself to disparate interpretations throughout the State. For example, while the language apparently was intended to remove from the juvenile justice system, *e.g.*, school fights, under a theory that "traditionally" schools handled fights internally, a school or school system that has a recent tradition of calling the police for school fights can continue to do so based on this language.

Further, the Judiciary is concerned with the juvenile court jurisdiction. An unintended consequence of this language may not be a decrease in adult criminal cases involving juveniles but, rather, an increase in cases sent to the adult criminal court through the waiver process instead of through direct file.

The Judiciary supports the use of informal adjustment and believes it can be a valuable tool in the rehabilitation of the juvenile. Methods such as restorative justice conferences

can have a direct benefit to juvenile and victim alike. The Judiciary notes, however, its experiences over time with cases sent for informal adjustment without court involvement that have left far too late the court's involvement. The bill's broad mandate for informal adjustment, combined with the removal of State's Attorney review, may repeat that practice to the detriment of child and victim alike.

The Judiciary supports the reduced use of detention, and notes that during this COVID-19 period, use of detention has indeed decreased. The Judiciary notes, however, that the bill's limits on use of detention remove the juvenile court's discretion to consider fully what the juvenile has been alleged to have done and weigh that, along with all other relevant factors. The Judiciary also notes that weapons other than handguns may present severe risks to child and the community.

As the Judiciary noted in its opposition to House Bill 1028, which also would restrict commitment to the Department of Juvenile Services (DJS) for out-of-home placement, this bill limits the discretion of the juvenile court to fashion a disposition that will best rehabilitate and treat the child, the purposes of the juvenile justice system. Courts and Judicial Proceedings § 3-8A-02. Frequently, the best disposition includes placing the child outside the child's home. This placement may be a DJS facility, but it may equally be a foster home, group home, mental health treatment facility, or residential drug treatment program. This bill generally would preclude those options if the child is found involved in a misdemeanor. Practical responses to the bill may include children not receiving needed placement and cases not being tried as misdemeanors.

Finally, the Judiciary is concerned that these amendments would limit the ability of the juvenile court to structure an individualized and appropriate plan for the child. The Judiciary also notes that an unintended consequence of this language may be that the child is unable to complete the requirements of a community-based program during the limited probation period, resulting in the child having an unsuccessful closure on the child's juvenile court record.

cc. Hon. Jill Carter
Judicial Council
Legislative Committee
Kelley O'Connor

MCPA-MSA_SB 853 Juvenile Justice Reform_Oppose.pdf

Uploaded by: Mansfield, Andrea

Position: UNF



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 3, 2021

RE: **SB 853 Juvenile Law – Juvenile Justice Reform**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 853**. SB 853 would make sweeping changes to the juvenile justice system in Maryland.

Peace officers are expected to enforce the law as the General Assembly declares it. SB 853 contains language that creates great ambiguity and will leave peace officers (and all other actors in the juvenile system) forced to guess about the laws meaning. Currently, a “delinquent act” is an act which would be a crime if committed by an adult. SB 853 creates an exception to that very clear rule: a delinquent act does not include an act that is “committed in a school” and “traditionally subject only to administrative discipline by the school.”

The phrase “traditionally subject only to administrative discipline by the school” will lead to great uncertainty and disparity across the state. How does an officer who has probable cause to believe a child committed an act that would be a crime if done by an adult determine if it is a delinquent act? Does the officer ask the principal how many times the act has occurred in the past 5 years at that particular school? Does the peace officer look to the entire county? What if private schools respond differently than public schools? If the peace officer issued citations for the conduct in the past at the school, does that describe the “tradition”? What standards does a reviewing court use in determining if an act at a school is a delinquent act or not?

Current law provides a clearly defined, bright-line rule that guides a peace officer in the exercise of discretion to refer a child to the juvenile system. The proposed language of SB 853 will remove that certainty, sow confusion, and provide no guidance to those involved in the juvenile justice system.

For these reasons, MCPA and MSA **OPPOSE SB 853** and urge an **UNFAVORABLE** report.

SB 853 - information.pdf

Uploaded by: Patashnick, Gavin

Position: INFO



Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Brian DeLeonardo
President

Steven I. Kroll
Coordinator

DATE: March 3, 2021

BILL NUMBER: SB 853

POSITION: Information

The Maryland State's Attorney's Association (MSAA) provides the following information concerning SB 853:

The purpose of the Juvenile Causes Act, as directly stated in Courts and Judicial Proceedings Article, §3-8A-02(a)(4), involves "provid[ing] for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest." Such a course of rehabilitation necessarily involves fashioning a modality of treatment that will best fit the individual needs of the child. One of the best vehicles to fit this goal is the utilization of probation.

Among other things, SB 853 seeks to limit juvenile probation to predetermined terms. Misdemeanors are capped at a maximum one (1) year probationary period, while felonies are restricted to two (2) years. Such restrictions are contrary to the purpose of the Juvenile Causes Act in that it thwarts the ability of the Court to fashion a course of rehabilitative treatment that would best fit the individualized need of each child. Some children may require longer terms of probation to accomplish treatment goals. It is also not uncommon for some children to experience waiting periods for programs, including relatively minor interventions such as mentorship. Limiting probation shortens the time frame by which a youth, already on a waiting list, could thrive in a particular program. In short, juvenile rehabilitation only works when the parties, the Courts and the Department of Juvenile Services maximize the umbrella of services available to each youth. Unfortunately, in many rural parts of the State, the universe of juvenile rehabilitative programs is not extensive.

Further, there is the very real possibility that should a youth, facing the end of a mandated term of probation, remain uncooperative to the strict compliance of a probation, the Court would have no option but to resort to a commitment, rather than simply re-engage the youth and retain a probationary status. In other words, limiting terms of probation may unintentionally cause more youth to be committed. Clearly, such a result would be contrary to the intent that this provision in SB 853 seeks to accomplish.

The probation component of SB 853 inhibits the ability of the Court to meet the needs of youth under its supervision and devise appropriate modalities of rehabilitative care. SB 853 is stronger without these probation limitations and the MSAA would urge this Committee to either remove these restrictions from this legislation entirely or amend to allow the Court to continue a probation for extended periods of time, even if those time periods are subject to a hearing and a good cause standard.