



POSITION ON PROPOSED LEGISLATION

BILL: HB93 - Local Youth Violence Review Committees
POSITION: UNFAVORABLE
DATE: January 28, 2021

The Maryland Office of the Public Defender (MOPD) respectfully requests that the Committee issue an unfavorable report on House Bill 93, Local Violence Review Committees.

This committee is well aware that the Office of the Public Defender represents criminal defendants and juvenile respondents accused of committing acts of violence. But it is also our clients and their families that are most likely to also be victims of violence and homicide. The MOPD has a vested interest in proactive violence prevention and believes that finding non-carceral, public health solutions to address violence in our communities is an important public policy goal. However, this bill fails to take an evidence-based, public health focus which could lead to successful violence intervention and has fatal flaws that make it unworkable even with amendments.

First and foremost, this bill is unnecessary, unfunded, and duplicative of work already being done. The Department of Juvenile Services (DJS) is overseen by a statutorily created State Advisory Board (SAB).¹ The SAB maintains a fatality review subcommittee which assists stakeholders with examining the circumstances of fatal events involving youth under supervision of DJS. While the fatality review subcommittee does not review every incidence of violence that involves a young person, it represents a significant portion of those cases. The Fatality Review subcommittee has developed strict protocols for protecting and maintaining the confidentiality of records that this bill fails to properly consider.

Maryland Courts & Judicial 3–8A–27.3 requires all police records concerning a child are confidential and shall be maintained separate from those of adults. “Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided 6 in § 7–303 of the Education Article.” Most of the proposed members of the Violence Review Committees are not legally allowed to review the records necessary to conduct a thorough analysis and § 1-605 of the bill does nothing to reconcile the conflicts this bill would create with multiple statutes across various systems.

¹ Md. Human Services Art., § 9-211.

Second, this bill creates real and significant conflicts of interest. In assembling a group who are tasked with both investigating violence and providing services to young people, this bill creates an inherent conflict that are not resolved by stating the review will wait until the resolution of any “criminal” matters. 1-604(C)(2). The majority of juvenile cases are not criminal matters but civil ones and this section (c)(2) does not clearly apply to those cases. Second, the work of investigating and prosecuting crime (law enforcement, prosecutors) are maintained separately from the work of providing services to young people accused of committing offenses (DJS) for good public policy reasons. Conflating these two functions will most assuredly lead to conflicts of interest for members of the review committee, jeopardize young people’s confidentiality rights, compromise young people’s Fifth amendment rights against self-incrimination, and raises serious potential for the misuse of confidential information.

Third, this bill does not require standardized collection of data related to youth-related violence, which will lead to divergent and incongruent data collection and analysis across jurisdictions. Uneven and inconsistent data gathering and reporting across jurisdictions will exacerbate the already extreme racial inequity built into our legal system.²

² The state of Maryland has the highest incarceration rate in the nation of Black men aged 18 to 24. More than 70% of all people in Maryland’s prisons are Black, this is more than double the national average and 25% higher than the next nearest state – Mississippi. Justice Policy Institute, *Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland*, November 2019. Available at: <http://www.justicepolicy.org/news/12780>.