

**MD Catholic Conference\_FAV\_HB 877 SENATE CROSS.pdf**

Uploaded by: Garrett O'Day

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**March 24, 2022**

**HB 877  
Juveniles Charged as Adults - Confinement**

**Senate Judicial Proceedings Committee**

**Position: Support**

The Maryland Catholic Conference offers this testimony in SUPPORT of House Bill 877. The Catholic Conference represents the public-policy interests of the three (arch)diocese serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

House Bill 877 closes loopholes in ensuring that youth charged as adults are housed in juvenile facilities, not adult jails. This bill expands upon legislation this body passed seven years ago to ensure the same, but with certain exceptions.

Placing youth in adult jails, rather than the more nurturing, rehabilitative venue of juvenile detention facilities, poses several developmental issues. This is particularly true considering that some seventy percent of youth held in adult jails either have their cases dismissed entirely or remanded to the juvenile system. Additionally, only about twenty percent of youth charged as adults are actually convicted as adults resulting in permanent incarceration in the adult prison system.

Aside from the fact that youth placed in adult jails are more likely to be repeat offenders, they are subject to violence and possibly gang initiation. Youth placed in adult jails are 36 times more likely to commit suicide. Moreover, juveniles housed in adult jail populations spend an average of six months in the adult system, resulting in significant setbacks in their education and other services.

The United States Conference of Catholic Bishops has 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. Placing children in adult jails is a sign of failure, not a solution. In many instances, such terrible behavior points to our own negligence in raising children with a respect for life, providing a nurturing and loving environment, or addressing serious mental or emotional illnesses.” (*Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, USCCB, 2000)

House Bill 877 would shield vulnerable youth from exposure to violence and abuse and provide them access to the health benefits and educational opportunities afforded by the juvenile system. Therefore, we urge your support and favorable report of House Bill 877.

**HB0877 - DJS Testimony - Support as amended - JPR.**

Uploaded by: Andrew Tress

Position: FWA

Boyd K. Rutherford  
Lt. GovernorLarry Hogan  
GovernorSam Abed  
Secretary

**Date:** 3/24/2022  
**Bill # / Title:** HB 877 - Juveniles Charged as Adults - Confinement  
**Committee:** Judicial Proceedings Committee  
**Position:** Support as amended

The Department of Juvenile Services (DJS) supports HB 877 as amended.

HB 877 brings Maryland into compliance with the federal Juvenile Justice Delinquency Prevention Act (JJDP) by requiring all youth under 18 be removed from adult jails and held in juvenile detention facilities except in limited circumstances. This emergency legislation is necessary to avoid the loss of federal funding for local youth public safety initiatives and enhance safeguards for youth pending trial.

**HB 877 is critical to maintain funding for community-based youth initiatives and public safety strategies.**

Congress reauthorized the JJDP in 2018, which was renamed to the Juvenile Justice Reform Act, and added to the core protections a requirement for states to remove all youth who are under the age of 18 and pending trial or sentencing in the criminal justice system from adult jails. The federal law provided states until December 2021 to achieve compliance with the jail removal core protection. Failure to comply will result in Maryland losing 20 - 40% of federal Title II Formula Grant dollars which are utilized for juvenile justice system improvements, juvenile diversion programs, and other community-based programs and services for youth throughout the State. **This expected funding loss would amount to approximately \$185,732 - \$371,465 per year until the state achieves compliance.**

**Currently, DJS safely and securely accommodates the vast majority of youth charged as adults in juvenile detention facilities.**

DJS entered into a partnership with stakeholders in Baltimore City in 2013 to accept youth charged as adults. The success of that effort led to the passage in 2015 of HB 618/SB 852, which presumed all transfer-eligible young people would be accommodated in a DJS juvenile detention facility rather than adult jails. DJS has not encountered any particularized safety or security issues with this transfer-eligible population, which now accounts for nearly 60% of youth in DJS detention facilities.

**Protects youth from harms of adult jails and lock-ups.**

Youth confined in adult jails and lock-ups are more likely to re-offend upon release and while confined, are at pronounced high risks for suffering assault and committing suicide. DJS facilities are more equipped than local jails to manage and provide services to these youth and can do so while maintaining public safety.

**HB 877 retains judicial discretion to utilize adult jails in very limited situations.**

Although HB 877 generally requires all young people under the age of 18 to be detained in juvenile facilities, the bill contains a safeguard allowing courts to order a youth in an adult jail if, after considering prescribed factors, the court finds it "in the interest of justice."

**The amended language does not jeopardize the State's federal compliance.**

The amendments as drafted, ensures that a youth would not be able to be held in an adult detention facility that maintains sight and sound through seclusion or isolation. Additionally, the amendments prioritize moving eligible youth from local jails, and then assume the youth charged as adult population held in the Baltimore City Youth Detention Center.

DJS is committed to coordinating with local detention centers throughout the state to accommodate these provisions. Youth charged as adults in Baltimore City currently are detained, separate and apart from adult inmates, in the Department of Public Safety's Youth Detention Center (YDC). Once DJS operationalizes the process of jail removal for the local detention population, DJS will then collaborate with DPSCS, prior to October 1, 2022, to ensure the youth population at the YDC transfers to a DJS juvenile detention facility.

For these reasons, DJS urges a favorable report on HB 877 as amended.



**HB0877-JPR\_MACo\_SWA.pdf**

Uploaded by: D'Paul Nibber

Position: FWA



## House Bill 877

### *Juveniles Charged as Adults - Confinement*

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

**WITH AMENDMENTS**

Date: March 24, 2022

From: D'Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS HB 877 WITH AMENDMENTS**. This bill, as amended, would require local correctional facilities to maintain sight and sound separation between juvenile and adult inmates, potentially without the use of restrictive housing facilities.

Recent changes to federal law require sight and sound separation between juveniles and adults. With limited budgets and physical space, county correctional facilities have made every effort to comply, fully understanding the need to protect juvenile populations. In smaller facilities spread across the state, juveniles sometimes occupy spaces traditionally used for restricted housing. Nevertheless, they receive all the amenities and time away from the cell afforded to the general population.

HB 877, as amended by the House, would remove the flexibility exercised by county correctional facilities by requiring both sight and sound separation and removing the ability to use "seclusion and isolation" to achieve said separation. Without additional clarity, the newly added "seclusion and isolation" provision would likely result in correctional facilities avoiding the use of restrictive housing to segregate juveniles and achieve sight and sound separation. Unfortunately, without the occasional use of restrictive housing, these facilities simply do not have the space to make sight and sound separation a reality, nor do they have budgets to construct new, more accommodating cells.

Understanding the limitations faced by county correctional facilities, MACo offers the following amendments, which address the source of this conflict, and remove the ability of courts to direct that juveniles be held in county correctional facilities, which are ill equipped to accommodate the needs of this population:

- On page 6, line 8, after "release" insert ";
- On page 6, line 8, strike ";**OR**"
- On page 6, strike lines 9 through 15 in their entirety

Altogether, HB 877 changes county correctional facility practice at great cost, likely resulting in unintentional noncompliance. MACo's amendment language would attack the source of this conflict, and alter sentencing policy to avoid court-mandated commingling of detained populations. Accordingly, MACo **SUPPORTS HB 877 WITH AMENDMENTS** and urges a **FAVORABLE WITH AMENDMENTS** report.



**HB877 MCAA Favorable with Amendments03232022.pdf**

Uploaded by: Mary Ann Thompson

Position: FWA



March 23, 2022

TO: Judiciary Committee

SUBJECT: House Bill 877 – Juveniles Charged as Adults - Confinement

POSITION: **Favorable with Amendments**

The Maryland Correctional Administrators Association (MCAA) Legislative Committee has been closely monitoring House Bill 877. MCAA wholeheartedly agrees, Juveniles Charged as Adults should not be housed in an adult correctional facility. Local jails were never designed to hold juvenile offenders. MCAA is favorable of HB877 with the following amendment:

Page 6 Strike Lines 9 through 15:

~~(II) AFTER A HEARING AND IN WRITING, THE COURT FINDS THAT IT IS THE INTEREST OF JUSTICE TO PERMIT THE CHILD TO BE HELD IN:~~

- ~~1. A CORRECTIONAL FACILITY LOCATED IN THE COURT'S JURISDICTION, OR~~
- ~~2. FOR A CHILD BEFORE THE COURT IN BALTIMORE CITY ONLY, THE YOUTH DETENTION CENTER OPERATED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

MCAA respectfully supports HB877 with the above Amendment.

Best Regards,

*MaryAnn Thompson*

Mary Ann Thompson  
Deputy Warden  
St. Mary's County Detention &  
Rehabilitation Center  
President/MCAA

# **HB877 - Senate Written Testimony.pdf**

Uploaded by: Michal Gross

Position: FWA



**PAUL DeWOLFE**

PUBLIC DEFENDER

**KEITH LOTRIDGE**

DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**

DIRECTOR OF POLICY AND DEVELOPMENT

**KRYSTAL WILLIAMS**

DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**

ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

## POSITION ON PROPOSED LEGISLATION

**BILL:** HB877 - Juveniles Charged as Adults - Confinement

**POSITION:** FAVORABLE WITH AMENDMENT

**DATE:** March 24, 2022

The Office of Public Defender is supportive of the general aim and intent of HB877, and we are grateful to the Department of Juvenile Services for working to bring Maryland into compliance with federal directive. We do, however, offer this statement to express several concerns that remain with the current language in this bill and the unintended consequences presented with its passage without any further revisions. In particular, and most importantly, the Office of the Public Defender is concerned that HB877, in its current proposed construction, does not in its entirety address the issue of housing children and youth under the age of 18 in adult jails and prisons.

Children under 18 should never be housed in adult jails or prisons. For years, Maryland has failed to ensure the separation of juveniles and adults in correctional facilities. Human rights groups have been documenting the horrible conditions children face in adult facilities in Maryland for decades.<sup>1</sup> Adult jails and prisons in Maryland regularly violate federal laws prohibiting sight and sound separation for youth. Adult facilities cannot provide the mandatory education services all children are entitled to under the law. Children housed in adult jails and prisons are at high risk of violence – especially sexual assault.

For that reason, the U.S. Congress renewed the Juvenile Justice Delinquency Prevention Act<sup>2</sup> (JJDP) in 2018. The JJDP has four core requirements: deinstitutionalization of status offenders, separation of juveniles from adults in secure facilities, sight and sound separation between juveniles and adults in jails and lockups, and the reduction of racial and ethnic disparities within the juvenile justice system. Maryland continues to be out of compliance with this important federal legislation. HB877 is necessary to bring Maryland into compliance with federal law, a prerequisite for receiving critical federal juvenile justice funding.

The Office of the Public Defender strongly supports mandating children be housed in juvenile facilities and establishing clear prohibitions on having sight or sound contact with adult inmates while a child is awaiting trial or other legal process. However, the current proposed construction

---

<sup>1</sup> Vincent Schralid & Marc Schindler, Op-Ed Maryland must overhaul its juvenile justice system, BALTIMORE SUN, Dec. 17, 1999. [www.baltimoresun.com/news/bs-xpm-1999-12-17-9912170111-story.html](http://www.baltimoresun.com/news/bs-xpm-1999-12-17-9912170111-story.html).

<sup>2</sup> 34 U.S.C.A. § Subt. I, Ch. 111.



**PAUL DeWOLFE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
DIRECTOR OF POLICY AND DEVELOPMENT

**KRYSTAL WILLIAMS**  
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**  
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

of HB877, while protecting youth who are not eligible for transfer, would reduce the protections for youth who are eligible for transfer.

In 2014, this body passed SB515 to ensure sight and sound separation between children and adult in adult jails and prisons.<sup>3</sup> Criminal Procedure § 4-202 was revised to make transfer to a juvenile facility mandatory for youth charged as adults while pending a transfer hearing unless the child was released, there were no beds available at any juvenile facility, or there was a specific danger to the child or others if housed at a juvenile facility. The proposed legislation would eliminate a number of the protections Maryland put in place by SB515 in 2014.

While this bill would expand the universe of youth eligible to be held in a juvenile facility, it would also expand the exceptions to the general rule that youth should not be held at adult facilities. The current iteration of the bill provides vague guidance to judges and allows for exceptions that could be used to fit every circumstance where a child would be held in an adult facility. For example, the third factor in the proposed exceptions is the nature and circumstances of the alleged offense. For a child to be charged as an adult the allegations will always be serious and anyone could make the argument that that factor weighs in favor of holding every youth charged as an adult in an adult facility.

**The Office of the Public Defender believes that this bill should outright bar children from being held in adult detention centers.**

If the committee is unwilling to commit to protecting children from the harms of pretrial detention in adult jails, we suggest instead that the current standard, mandating transfer to a juvenile facility for youth who are transfer-eligible, remain, and the committee apply the suggested language in the bill to children who are not currently eligible for transfer with a higher standard for any exception to the default of juvenile detention.

As such, we are offering the following amendments that could address this issue:

- a. On page 3, line 21: strike the proposed amendments to 4-202, leaving 4-202(H) intact.
- b. On page 6, line 29, add the following language to 4-202.3(A)(2)

(2) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS **WHO IS NOT ELIGIBLE FOR TRANSFER TO JUVENILE COURT PURSUANT TO 4-202(C)(2).**

We therefore urge a favorable report by the Committee on HB877, with amendments.

---

<sup>3</sup> 2014 Maryland Laws Ch. 178 (S.B. 515).