

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



To: Chair Will Smith and Senate Judicial Proceedings Committee Members,
From: Bill Carlson, MAJR executive committee

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The Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports HB 0294 / SB 0165, Juvenile Court – Jurisdiction, a bill which will remove the harmful and unnecessary practice of forcing many juvenile cases to be adjudicated in adult court simply because of the charges filed. After eliminating these provisions courts can still decide, based on the individual facts of a case, that it is more appropriate for a particular youthful offender be tried in adult court.

The juvenile justice system is designed to handle the adjudication and treatment of youth. This is especially important as it has been recognized (including by the US Supreme Court) that "children are constitutionally different from adults in levels of their culpability"[Montgomery v. Louisiana, 2016]. In addition, a 2007 DOJ and CDC study found that transferring youth to an adult criminal justice system does not protect the community and substantially increases the likelihood that youth will re-offend.

In many cases, adjudicating a minor's alleged crimes in adult court is appropriate when the juvenile court can see that the individual is not amenable to treatment in the Juvenile Justice systems based on facts and factors presented. What is not appropriate is for the law to prejudge this decision for entire classes of crimes and ages of youth, statutorily requiring their hearing in adult court. Unfortunately, this is exactly what current Maryland law provides.

While it is possible under current law for an offender to seek a "Reverse Waiver" to return a juvenile's adjudication in these cases back to juvenile court, this is not an acceptable approach for two main reasons. First, the standard for "reverse waiver" may be unrelated to the juvenile's amenability for treatment but rather may be decided on the undefined "interest of the child and society" [Section 4-202(b)(3)]. Second, it should be noted that cases which are statutorily forced into the adult system are common, representing about 80% of all cases where a child stands trial in adult court.

HB 0294 / SB 0165 repairs these problems by simply removing the provision of law which cause certain cases to be forced into adult court without an individualized determination by the juvenile court. It also makes several conforming changes in other portions of the code but in no way eliminates the option for a juvenile court to transfer a case to adult court after due consideration of the facts of the case. For the above reasons MAJR strongly supports this bill.

PLEASE NOTE:

- 1) A digital version of this written testimony is available at <https://www.ma4jr.org/juvenile-court-jurisdiction/> with hyperlinks to all factual statements, surveys and studies referenced herein.