



**RAQUIN
MERCER**
LAW OFFICES

Judge Gary E. Bair (Ret.)

Of Counsel

POSITION IN FAVOR OF SENATE BILL 165

I have been involved in juvenile justice issues over the past 46 years as a prosecutor, defense attorney, law school adjunct professor, and as a trial judge on the Circuit Court for Montgomery County. I am now Of Counsel to the Rockville law firm of RaquinMercer LLC. I have seen juvenile justice matters, including the automatic charging of children as adults, from all perspectives. For the reasons stated below, I urge the Committee to issue a favorable report on Senate Bill 165.

Only Alabama sends more of its children (per capita) into adult courts than does Maryland. California, with 39 million people, sent only 45 kids to adult court in 2019, while Maryland, with but a population of six million, sent 903 kids to adult criminal court in that same year. Indeed, in 2019 Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. A major reason for this disturbing disparity is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses – putting us out of step with other states and international human rights law. A staggering 93% of those were youth of color.

Although it may appear counterintuitive from a public safety perspective, when young people are automatically charged in adult court, they are **more** likely, not less likely, to re-offend, sooner, with more violent crime than children who are charged in juvenile court. This is so because youths benefit from the rehabilitative opportunities offered in the juvenile justice system whereas the adult prison system merely teaches them to become hardened criminals. Studies have found higher recidivism rates among juveniles tried and sentenced in adult court than among youth charged with similar offenses in juvenile court.

Current practice undermines the purpose of the juvenile court system, pursues punishment rather than rehabilitation, and conflicts with what we know from developmental science. Furthermore, laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States. However, time has shown that harshly punishing youth by trying them in the adult system has failed as an effective deterrent.

There is a simple way to remedy this problem. As is already the case with less serious charges, the law should be amended so **all** cases involving juveniles are initially charged as delinquency cases in juvenile court. There already exists a mechanism to waive appropriate cases to adult criminal court. Initial charging in juvenile court with discretionary waivers to adult court (where a judge evaluates each juvenile and each charge), is a more equitable and humane mechanism than automatic adult jurisdiction. We can and must treat our children better. Maryland should join the 26 other states who have passed laws to treat kids like kids and end automatic charging. I urge this committee to issue a favorable report on SB 165.

RAQUINMERCER.COM

RaquinMercer LLC - 50 West Montgomery Ave. Ste. 200, Rockville, MD 20850

Office - 301.880.9250

Conference - 301.880.9252

Fax - 833.816.5605