

Testimony in Support of Senate Bill 165 (Favorable)
Juvenile Court Jurisdiction

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

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I am a student attorney 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. I write in support of Senate Bill 165, which, if passed, would end the unjust and scientifically unsound practice of automatically charging Maryland’s children in adult court.

In our state, children who commit specified offenses, including some misdemeanors, are automatically charged in the adult criminal legal system. The number of children who have been charged as adults has significantly increased since 2017.¹ Nationally, “only Alabama sends more of its kids (on a per capita basis) into adult courts than does Maryland”² In 2019, nearly as many of Maryland’s children were charged in adult court than children in Arizona, California, Pennsylvania, and Massachusetts combined, even though Maryland’s population is substantially lower than *each* of these states.³

¹ In 2017, 683 children were charged as adults, and jumped to 919 and 949 in 2018 and 2019, respectively. MARYLAND GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, JUVENILES CHARGED AS ADULTS IN MARYLAND (7/1/2019 - 12/31/2019) at 8, (Jun. 30, 2020). <http://goccp.maryland.gov/wp-content/uploads/juveniles-charged-as-adults-201907-201912.pdf>. In the first half of 2020 – part of which covered the first months of the COVID-19 pandemic – 396 children were charged as adults. MARYLAND GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, JUVENILES CHARGED AS ADULTS IN MARYLAND (1/1/2020 – 6/30/2020 at 4 (Jan 8, 2021), [http://dlslibrary.state.md.us/publications/Exec/GOCPYVS/CP10-219\(b\)\(6\)_2020\(12\).pdf](http://dlslibrary.state.md.us/publications/Exec/GOCPYVS/CP10-219(b)(6)_2020(12).pdf).

² Sen. William C. Smith, Jr., *Sen. Smith: Maryland’s Youth are Ready for Reform*, MARYLAND MATTERS, Sept. 2, 2021, <https://www.marylandmatters.org/2021/09/02/sen-smith-marylands-youth-are-ready-for-reform/>.

³ GEN. ASSEMBLY OF MARYLAND, DEPT OF LEG. SERV., <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Kids-Sent-to-Adult-Court.pdf> (last visited Nov. 14, 2021).

Maryland's practice of charging children in adult court is a direct contributor to a criminal legal system that is plagued with racial disparities. Maryland has the most racially disproportionate prison population in the United States. While only 31% of the state's population is Black, over 70% of Maryland's prison population is Black.⁴

These same shocking disparities are found in the population of Maryland's children who are charged as adults. Between 2013 and 2020, 80% of Maryland's children so charged were Black.⁵ Thus, ending the automatic charging of children in adult court is a matter of racial justice in Maryland. Indeed, it would be a significant step towards addressing these racial disparities.

Unlike Maryland's adult criminal legal system, the overarching purpose and goal of Maryland's juvenile justice system is to rehabilitate children. The juvenile court process, as well as the punishment that follows, is supposed to address the child's unique needs, hold them accountable for their behaviors, and help implement the necessary supports to allow the child the opportunity to learn, grow, and thrive. In stark contrast, the adult criminal legal system provides very little, if any, opportunity for rehabilitation and, indeed, often harms children irreparably.

Children should not be automatically charged as adults. One reason is that the adolescent brain is different from the adult brain. The prefrontal cortex – which is the part of the brain that allows a person to make rational, deliberative decisions – does not fully develop until they reach 25 years of age.⁶ A fully developed prefrontal cortex allows *adults* to fully understand the long-term consequences of their actions. Specifically, it allows *adults* to: 1) delay and reflect; 2) consider all available options; 3) contemplate risks and consequences; and 4) have situational awareness.⁷ In stark contrast, children are more susceptible to impulsivity, sensation seeking, peer pressure, and risky behavior. The brain science has proved that children lack the ability to contemplate and understand the long-term consequences of their actions.

Senate Bill 165 is an important step towards aligning Maryland's criminal legal system with the brain science, addressing the over-criminalization of children, and reducing the racial disparities that plague the criminal legal system. For these reasons, the Youth, Education, and Justice Clinic asks for a favorable report on this bill.

⁴ JUSTICE POLICY INSTITUTE, RETHINKING APPROACHES OF BLACK YOUNG ADULTS IN MARYLAND 3 (Nov. 2019), https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf

⁵ Hannah Gaskill, *Amid Juvenile Justice Reform Push, Commission Examines Maryland's High Rate of Trying Young People as Adults*, MARYLAND MATTERS, (July 21, 2021), <https://www.marylandmatters.org/2021/07/21/amid-juvenile-justice-reform-push-commission-examines-marylands-high-rate-of-trying-young-people-as-adults/>.

⁶ Mariam Arain et al., *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE AND TREATMENT 449, 453 (2013), [NDT-39776-maturation-of-the-adolescent-brain \(dovepress.com\)](https://doi.org/10.1007/s12287-013-0276-1).

⁷ Morgan Tyler, *Understanding the Adolescent Brain and Legal Culpability*, AMERICAN BAR ASS'N (Aug. 1, 2015), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonlinepr/child_law_practice/vol-34/august-2015/understanding-the-adolescent-brain-and-legal-culpability/

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