

# **SB691\_JJRC\_FAV.pdf**

Uploaded by: Alice Wilkerson

Position: FAV



**Testimony in Support of Senate Bill 691  
Juvenile Law – Juvenile Justice Reform  
March 3, 2022  
Favorable**

Dear Chairman Smith and Honorable Members of the Committee:

On behalf of Strong Future Maryland, we write in strong support of Senate Bill 691. Strong Future Maryland works to advance bold, progressive policy changes to address systemic inequality and promote a sustainable, just and prosperous economic future for all Marylanders. We urge you to support this legislation as part of our efforts to address discriminatory practices leading to the overincarceration of Black youth and in the state of Maryland and to ensure that everyone in our justice system is treated fairly, equitably, and the kids are provided with rehabilitative services that will help them succeed.

This legislation would align Maryland's laws that impact children with established adolescent development science. Maryland is one of the worst offenders of system-involved children's human rights in the nation ranking at the bottom with Alabama and Tennessee.<sup>1</sup> Senate Bill 691 provides us an opportunity not only to course correct, but also to leverage system reductions related to COVID-19 and transform our youth justice system into one that benefits more young people, families, and communities. These reforms will ensure that as many children as possible are treated with community-based services that lead to better public safety outcomes at a fraction of the cost of deep end interventions. If done intentionally, there is the opportunity to also reduce the pervasive racial disparities that persist in Maryland. We urge the Committee issue a favorable report on Senate Bill 691, the Juvenile Justice Reform Act.

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<sup>1</sup> Human Rights for Kids, *National States Ratings Report*, December 2020.

<https://humanrightsforkids.org/publication/2020-national-state-ratings-report/> . See also, Jazz Lewis & Dana Stein, *Op-Ed Maryland among the worst in protecting kids in the justice system*, BALTIMORE SUN, December 21, 2021. <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1221-kids-injustice-20201221-ia4uxm3xc5ddlf6bwattnwvfxm-story.html>

SB691 targets four areas that move Maryland closer to our vision for youth justice:

1. **Raises the Minimum Age of Juvenile Court Jurisdiction:** If we want a truly rehabilitation juvenile justice system in Maryland – we must raise the minimum age of jurisdiction to 13.
2. **Place Developmentally Appropriate Time Limits on Probation:** When youth are placed on indefinite periods of probation, doing well on probation does not bring them closer to a light at the end of the tunnel, yet doing poorly can quickly land a youth in detention. Experts recommend that youth be placed on a period of six to nine months of probation, if they need to be placed on probation at all, and that “even for those who struggle to meet their goals, the period of probation should generally not exceed one year.”<sup>2</sup>
3. **Removes Barriers to Diversion:** There is a need to expand diversion and utilize it equitably by requiring informal adjustment of misdemeanors (excluding handgun possession) and non-violent felonies for all youth who have not previously been adjudicated delinquent. There are also two additional ways in which the bill will expand use of diversion – eliminate the requirement that DJS forward complaints of non-violent felonies to the State’s Attorney for approval of informal adjustment and eliminate the requirement of complaining witness consent. We would maintain the requirement that DJS make reasonable efforts to contact the alleged victim, however, which maintains witness satisfaction while keeping the burden of gaining victim permission off children, as it is for adults.
4. **Bans Youth Incarceration for Low-Level Offenses:** Youth whose most serious alleged offense is a misdemeanor or a technical violation of probation may not be placed in jails or prisons, which ends the harms of juvenile incarceration for low-level offenders and allows DJS to better leverage its resources to provide focused programming for those young people who face the most serious charges and are at the highest risk of re-offense.

Strong Future Maryland urges this committee to issue a favorable report on SB 691.

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<sup>2</sup> Annie E. Casey, *Transforming Probation: A Vision for Getting it Right*, 2018.  
[www.aecf.org/resources/transforming-juvenile-probation/](http://www.aecf.org/resources/transforming-juvenile-probation/)

# **Testimony- SB 691-Juvenile Justice Reform-Support-**

Uploaded by: Ashley Egan

Position: FAV



# Unitarian Universalist Legislative Ministry of Maryland

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## Testimony in Support of SB 691 - Juvenile Justice Reform

TO: Senator William C. Smith, Chair and the Members of the  
Judicial Proceedings Committee

FROM: Karen “Candy” Clark, Lead Advocate, Criminal Justice Reform  
Unitarian Universalist Legislative Ministry of Maryland.

DATE: March 3, 2022

The Unitarian Universalist Legislative Ministry of Maryland supports SB 691 as an important reform of our juvenile justice system that will limit the practice of automatically charging children as adults for many crimes. Other states have changed similar policies, and it is time for Maryland to do the same.

Charging a child with a crime and processing him or her through the adult criminal justice system is a significant decision with potentially devastating consequences for the child, the family, the community, and society as a whole. That decision should be made with great care and should never be automatic when the child does not have a history of delinquency or commits a nonviolent offense or misdemeanor.

SB 691 retains the practice of automatically charging children in adult court for the most serious and violent crimes, but it requires a more considered approach to others and creating opportunities for informal adjustment before a child is charged. Before we expose child offenders to the traumatic, harsh conditions of adult prosecution, we have an obligation to use forms of administrative diversion that could attempt to resolve the harms of the offense itself and deter future unlawful acts.

These changes are especially needed in light of the disproportionate impact of current policies on communities of color: 80% of those automatically charged as adults are Black, yet only about 10% of the juveniles charged as adults are ultimately convicted.<sup>1</sup> Automatic transfer to adult court doesn’t usually result in convictions, it keeps Black children in detention and takes them out of consideration for any services that could provide rehabilitation or treatment and prevent future unlawful conduct.

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<https://www.baltimoresun.com/politics/bs-md-pol-maryland-juvenile-justice-reform-20211222-zxc3wrnn6vef7iwluiyjur5lpy-story.html>

**UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,**

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This bill aligns with many of our Unitarian Universalist principles by honoring the inherent worth and dignity of these young people. It presents various ways to help them better prepare themselves for their future. Our juvenile policies should incorporate compassion, equity and justice, and SB 691 is a major step in that direction. It is designed to collectively consider the age of the juvenile, the current personal circumstances that impact the juvenile's development and behavior, the type of offense, the type of punishment and which kind of treatment is best to help this particular young person grow into fulfilling their full potential on a path that will result in our young people becoming healthy, and accountable young adult citizens.

Such a robust task requires a large variety of programs, specialists, community involvement and other means to make this possible. Alternatives range from home detention, parole, local juvenile detention centers, and/or community-based interventions (e.g. drug treatment, personal management groups, mentoring).

SB 691 calls for the involvement of the Departments of Human and Juvenile Services and when appropriate, health, mental health, and educational services will be a part of the planning for a child's case.

Looking forward towards improved programming, we also applaud the creation of a Commission on Juvenile Justice Reform and Emerging and Best Practices to research and evaluate the cost effectiveness of "culturally competent, evidence-based, and promising practices" relating to child welfare, juvenile rehabilitation, mental health services, and prevention and intervention services. It also requires "giving special attention to organizations located in or serving historically underserved communities, identifying strategies to enable community-based organizations that provide services for juveniles to evaluate and validate services and programming provided by those organizations."

We ask for a favorable report on SB 691 in hopes of offering these deserving young people a better chance of becoming healthy accountable young adults.

Respectfully submitted,

***Karen Clark***

Lead Advocate for Criminal Justice Reform UULM-MD

# **SB0691 - DJS Testimony - Support - FINAL.pdf**

Uploaded by: Betsy Tolentino

Position: FAV

Boyd K. Rutherford  
Lt. Governor

Larry Hogan  
Governor

Sam Abed  
Secretary

**DATE:** 3/3/2022  
**BILL NUMBER:** SB 691 – Juvenile Justice Reform  
**DJS POSTITION:** Support

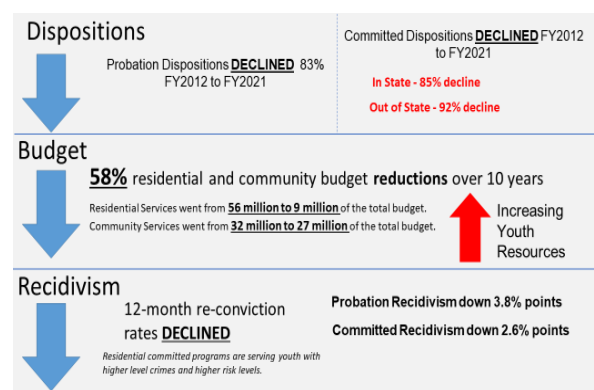
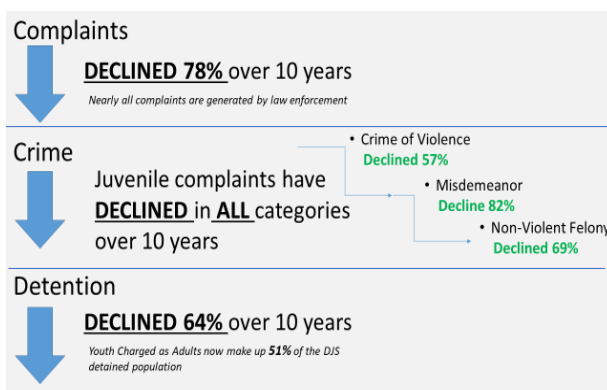
The Department of Juvenile Services (DJS or department) supports SB 691.

## SB 691 brings the consensus-driven reforms recommended by the bipartisan Juvenile Justice Reform Council into law.

The JJRC was formed during the 2019 session of the Maryland General Assembly by SB 856 / HB 606. The JJRC spent two years gathering public input, researching best practices regarding the treatment of juveniles who are subject to the criminal and juvenile justice systems, and identifying recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems. With technical assistance from the Vera Institute for Justice, the Council analyzed national data and decided upon a set of almost-unanimous recommendations for Maryland.

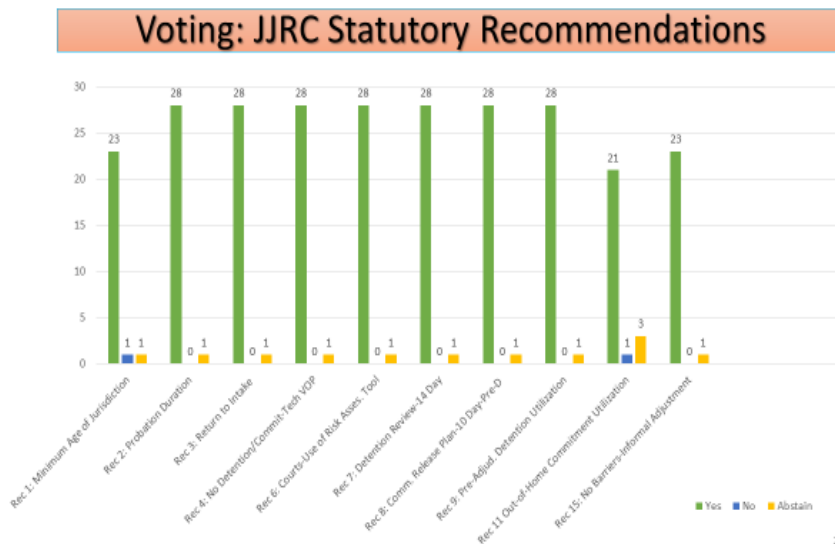
### I. The Department of Juvenile Services is able and ready to implement all of the JJRC's recommendations in SB 691.

Over the last 10 years, Maryland has seen a significant decline in both the number of youth entering the juvenile justice system and a reduced use of juvenile incarceration. The DJS committed population has declined over 85% and the number of youth in detention is down by 64%. Simultaneously, the DJS residential and community budgets have been reduced by 58% over the last 10 years (FY12 – FY21). Money saved by reducing the number of young people in expensive out-of-home settings has allowed the Department to shift our spending and invest more money into an array of over 800 community-based programs. These investments into prevention and early intervention are not only efficient, but have contributed to the 78% decline in complaints.





## II. The JJRC Recommendations are Consensus-Based with Broad Support



*All statutory recommendations coming from the first JJRC received unanimous favorable vote except: the minimum age of jurisdiction recommendation (1 vote in opposition) and limiting out-of-home commitments for misdemeanor offenders (1 vote in opposition). The JJRC member representing the judiciary abstained from all votes on statutory recommendations.*

JJRC members included members of the legislature, the judiciary, prosecutors, defense lawyers, legal experts, state and local child-serving agencies, educators, law enforcement officials, formerly justice-involved youth, and national experts. Nearly all of the recommendations analyzed and discussed by the JJRC received a unanimous favorable vote.

## III. SB 691 would codify the JJRC's recommendations to improve and modernize Maryland's overall approach to juvenile diversion, detention, commitment, supervision, and treatment by:

- Allowing for developmentally appropriate interventions for youth under 13;
- Creating a results-oriented probation model to help young people meet rehabilitative goals;
- Maintaining public safety while minimizing use of detention and out-of-home commitments for low-risk youth;
- Expanding opportunities for diversion services for low-risk youth;
- Embedding principles of racial equity into all levels of Maryland's juvenile justice system; and
- Maintaining monitoring and legislative oversight of proposed changes.

The Department of Juvenile Services has considered each of the statutory changes proposed in SB 691 and can implement each reform using existing resources while maintaining public safety.

**For these reasons, DJS urges a favorable report for SB 691.**



# **SB0691.pdf**

Uploaded by: David LeGrande

Position: FAV

### **Juvenile Justice Reform-**

#### **SB0691 Juvenile Justice Reform - Senator Carter - Hearing Date March 3rd**

This bill makes changes to the intake process for juveniles, the risk scoring process used to determine eligibility for release before a hearing, the length of time that a juvenile will remain in detention before a hearing, the process of placing a juvenile on probation, and even creates a Juvenile Justice Reform and Best Practices Commission.

Our Revolution Howard County, Maryland encourages support for and passage of this SB0691.

Submitted by David LeGrande, Vice Chair

Our Revolution Howard County, Maryland

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Position: FAV

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Our Revolution Howard County, Maryland

# **SB0691 Juvenile Justice Reform.pdf**

Uploaded by: derrell frazier

Position: FAV

**Senate Bill 691 Juvenile Justice Reform**

Judiciary Committee

March 3, 2022

**Position: SUPPORT**

The Mental Health Association of Maryland is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates, and concerned citizens for unified action in all aspects of mental health, mental illness, and substance use. We appreciate this opportunity to present testimony in support of Senate Bill 691.

SB 691 implements a range of reforms aimed at diverting young Marylanders from the youth justice system. Mental health disorders are prevalent among children in the juvenile justice system. A recent meta-analysis suggested that at some juvenile justice contact points, as many as 70 percent of youths have a diagnosable mental illness.<sup>1</sup> While there appears to be a prevalence of unmet mental health need in the juvenile justice system, the relationship between mental health and the system's involvement is complicated.

Youth involved in the juvenile justice system frequently exhibit elevated rates of substance use and mental health disorders. Many of the studies examining this issue have found that over two-thirds of juvenile justice-involved youth have a mental health diagnosis or need. Over 20% have a mental health disorder that could be diagnosed as severe.<sup>2</sup> Common diagnoses include behavior disorders, conduct disorders, oppositional defiant disorders, antisocial behaviors, mood disorders, substance use disorders, anxiety disorders, and attention-deficit/hyperactivity disorder.

In addition to youth with mental health needs, we also find that youth of color are overrepresented in the juvenile justice system. For example, in 2013, while the national arrest rate for white youth was 26.0 arrests per 1,000 persons in the population, the arrest rate for African American youth was 63.6 per 1,000, nearly 2.5 times higher.<sup>3</sup> Several large-scale efforts have synthesized and analyzed individual research studies' body on racial disparities in the juvenile justice system. Most of these studies examine whether disparities still exist after legal and extralegal factors are taken into account.

While the rate at which mental health and behavioral health resources are used in juvenile justice settings is low in general, it is even more deficient for African American and other minority youth.

**For these reasons, MHAMD supports SB 691 and urges a favorable report.**

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<sup>1</sup> Young, D., Yancey, C., Betsinger, S., & Farrell, J. (2011, January). Disproportionate Minority Contact in the Maryland Juvenile Justice System. Retrieved February 23, 2021, from <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> Robles-Ramamurthy, B., & Watson, C. (2019, February 13). Examining racial disparities in juvenile justice. Retrieved February 23, 2021, from <http://jaapl.org/content/early/2019/02/13/JAAPL.003828-19>

# **MD Catholic Conference\_FAV\_SB 691.pdf**

Uploaded by: Garrett O'Day

Position: FAV





ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**March 3, 2022**

**SB 691  
Juvenile Justice Reform**

**Senate Judicial Proceedings Committee**

**Position: Support**

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 691. The Catholic Conference represents the public policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 691 is the fruit of the comprehensive work of the Juvenile Justice Reform Council, formed through 2019 House Bill 606, which was supported by the Conference. Senate Bill 691 makes sweeping changes to several aspects of Maryland's juvenile justice system, including the following: 1.) raising the minimum age for criminal charging to thirteen, 2.) providing limitations on probation for juvenile offenders, including a limitation on technical violations, 3.) limitations on out-of-home placements, 4.) promoting the use of alternative remedies and rehabilitations through informal adjustment, 5.) establishing a Commission on Juvenile Justice Reform, and 6.) requiring the development of model policies for youth diversion.

In 2016, the General Assembly undertook a monumental bipartisan effort in adult criminal justice reform through the "Justice Reinvestment Act", supported by the Conference. It is now time for Maryland, through the reforms proposed by a bipartisan, multidisciplinary group of stakeholders, to do the same in the area of juvenile justice through Senate Bill 691.

In the pastoral statement *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (2000), the United States Conference of Catholic Bishops stated, "We call upon government to redirect the vast amount of public resources away from building more and more prisons and toward better and more effective programs aimed at crime prevention, rehabilitation, education efforts, substance abuse treatment, and programs of probation, parole and reintegration." Additionally, the United States Conference of Catholic Bishops has further 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." Moreover, it is well-settled, in many secular, judicial and faith-based circles, that holding youth to the same standards of accountability as a fully-formed adult is plainly unjust. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically

noted that youthful offenders possessed “diminished capacity” and the inability to fully appreciate the risks and consequences of their actions.

In recent years, the MCC has supported various juvenile justice reform proposals. Whether it was increased educational services for incarcerated youths, limitations automatically charging youth as adults, eradicating without parole for juvenile offenders, or ensuring that youth are not housed with adult inmates, all of these efforts were grounded in Church teaching. The Church thus remains a strong advocate for restorative justice, particularly within the juvenile system. We therefore urge a favorable report on Senate Bill 691.

# **HRFK Testimony - SB 691 - Maryland Senate Judicial**

Uploaded by: James Dold

Position: FAV



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**TESTIMONY IN SUPPORT OF SB 691 BEFORE  
THE MARYLAND SENATE JUDICIAL PROCEEDINGS  
COMMITTEE**

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*March 3, 2022*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 691. We are grateful to Senator Carter for her leadership in introducing this bill and appreciate the Maryland Legislature's willingness to address these important human rights issues concerning Maryland's children.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

Human Rights for Kids supports SB 691 because, among other things, it will increase the minimum age for children to be adjudicated delinquent in Maryland. The continuing practice of criminalizing young children in Maryland is a human rights abuse. Specifically, Article 40 of the UN Convention on the Rights of the Child states that lawmakers must create “a minimum age below which children shall be presumed not to

have the capacity to infringe the penal law.” Setting a minimum age under 10 when young children lack the capacity to develop criminal intent is a human rights abuse.

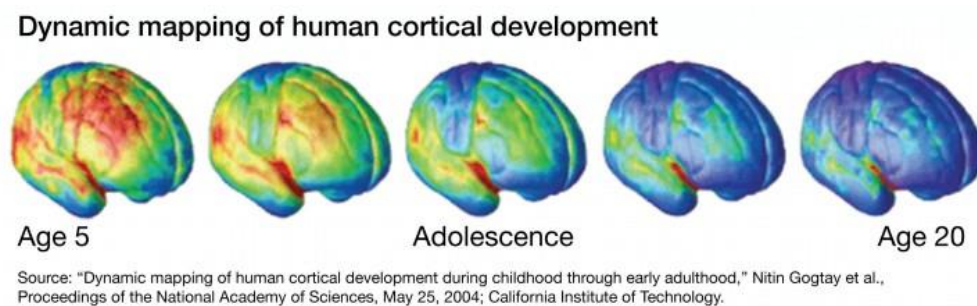
## **Adverse Childhood Experiences**

In the vast majority of cases, children who come into conflict with the law are contending with early childhood trauma and unmitigated adverse childhood experiences (ACEs), including psychological, physical, or sexual abuse; witnessing domestic violence; living with family members who are substance abusers, suffer from mental illness or are suicidal, or are formerly incarcerated. Studies have shown that approximately 90% of children in the juvenile justice system have experienced at least 2 ACEs, and 48% have experienced at least 4 ACEs.

## Juvenile Brain & Behavioral Development Science

Studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and being heavily influenced by their surrounding environment.

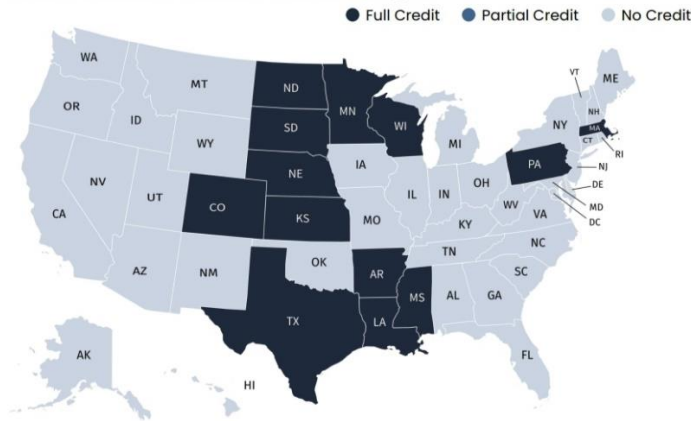
Children's underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities. This is especially true for young children under the age of 12.



## Human Rights Violations

Because of the way children are treated in the criminal justice system, we designated Maryland one of the “Worst Human Rights Offenders” in the nation in our 2020 National State Ratings Report. Maryland was penalized in our assessment for not having laws in place that prohibit children under the age of 10 from being adjudicated delinquent in the juvenile justice system. For national context, conservative states including Texas, Arkansas, Louisiana, and Mississippi have enacted legislation prohibiting children under 10 from being adjudicated delinquent.

## 10+ Minimum Court Age



We would ask this Committee and the General Assembly to treat children like children and begin the process of ending the school-to-prison pipeline.

### **Redemption for Maryland**

Nelson Mandela once said, *“There is no keener revelation of a society’s soul than the way in which it treats its children.”* What does it say about our soul then if we allow very young children to be arrested and adjudicated in the juvenile justice system when they are too young to even develop criminal culpability?

Historically, Maryland’s policies established the state as one of the worst human rights abusers in the nation when it comes to children in the justice system. But with the passage of SB 691, Maryland can find redemption by recognizing that kids are different and should be treated differently in the justice system.

For these reasons, we strongly urge this committee to vote favorably upon SB 691 and end the human rights abuse of adjudicating young children in the juvenile justice system. Thank you for your consideration.

James. L. Dold  
CEO & Founder  
Human Rights for Kids

## **2022.03.01 OPD Favor SB691 Juvenile Justice Reform**

Uploaded by: Jenny Egan

Position: FAV



**BILL:** Senate Bill 691 Juvenile Justice Reform

**POSITION:** Favorable

**DATE:** March 1, 2022

Maryland is one of the worst states in the nation when it comes to protecting the human rights of kids in our justice system.<sup>1</sup> SB691 gives Maryland an opportunity to reverse course, to leverage the system reductions accomplished due to COVID-19, and to transform our juvenile justice system into one that works for young people, families, and the community. The Maryland Office of the Public Defender respectfully and enthusiastically requests that the Committee issue a favorable report on Senate Bill 691, the Juvenile Justice Reform Act.

An effective youth legal system is one that is fair and one that improves – rather than decreases – the odds that young people who come into contact with the system will make a successful transition to adulthood. That requires a system that locks up fewer youth and relies more on proven, family-focused interventions that create opportunities for positive youth development. In Maryland, juvenile complaints have declined by 60% in the last ten years alone. But our juvenile incarceration rates have not declined at the same rate. That is in part because:

- Maryland has no minimum age of juvenile court jurisdiction, which leads to children as young as six being arrested for low-level, developmentally appropriate childish misbehavior. The vast majority of these young children are Black (72% in FY20).
- Maryland incarcerates an inordinate amount of low-level offenders. 2/3 of children who are removed from their homes are removed for non-felony offenses.<sup>2</sup>
- 1/3 of children incarcerated in Maryland are there for violations of probation.<sup>3</sup>
- Current law creates a number of barriers to informal supervision and diversion that do not exist in the adult criminal statute. This leads to situations where school police officers are allowed to appeal diversion decisions and funnel children directly into the school to prison pipeline.

The fix is simple. Maryland must take the first step of juvenile justice reform to shrink the massive incarceration system and shift our resources to focus on data-driven, evidence-based programming for the youth at the highest risk of violence and re-offense. With a better understanding of cognitive development, there is a growing awareness around the country that

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<sup>1</sup> Human Rights for Kids, [National States Ratings Report](#), December 2020. See also, Jazz Lewis & Dana Stein, *Op-Ed Maryland among the worst in protecting kids in the justice system*, BALTIMORE SUN, December 21, 2021.

<sup>2</sup> Maryland Department of Juvenile Services, [Doors to Commitment](#) (2015.)

<sup>3</sup> *Id.*





juvenile justice systems that adopt a lighter touch can reduce costs and yield better outcomes with fewer racial disparities. Most states – across the country and the political spectrum – are already far ahead of Maryland. Arkansas, California, New York, California, Georgia, Kentucky, Hawaii, North Dakota, South Dakota, West Virginia, Kansas and Utah have all passed similar – or larger – juvenile system reforms in recent years.

It is time for Maryland to align the laws that impact children with the established science of adolescent development. Children need to be held accountable for wrongdoing in a developmentally appropriate, fair process that promotes healthy moral development. A system that penalizes children, particularly if they penalize children with severe sanctions like removing them from their home and family, can lead children to perceive the legal system as unjust. Distrust in the system reinforces delinquent behavior, does not foster prosocial development, and increases recidivism.<sup>4</sup> SB691 does four major things to accomplish that goal:

1. **Removes Barriers to Diversion** – Keeps kids out of the court system that do not need to be there.
2. **Raises the Age of Juvenile Court Jurisdiction** – Brings Maryland in line with international human rights standards.
3. **Bans Incarceration for Low-Level Youthful Offenses** – Ends the practice of using incarceration to treat low-level misbehavior and focuses on proven, community-based interventions.
4. **Limits Indefinite Probation** – Gives children a realistic goal to work toward and acknowledges that children are works in progress and should not be expected to reach perfection in order for them to be allowed to move forward.

These changes would significantly reduce the use of outdated confinement practices, while ensuring public safety and reinvesting cost savings into other programming including community-based options designed to improve fairness and outcomes for children, families and communities.

## **Removing Barriers to Diversion**

Diversion of youth from the juvenile legal system is an essential aspect of case processing that should be utilized more comprehensively and equitably in Maryland. Diversion is defined by the Department of Juvenile Services (“DJS”) as “a program or practice where the primary goal is to reduce the occurrence of juvenile crime by diverting a youth from the traditional juvenile justice

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<sup>4</sup> National Research Council 2014. Implementing Juvenile Justice Reform: The Federal Role. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18753> at 17.



system and providing an alternative to formal processing.”<sup>5</sup> Examples of diversion are mental health services, including evidence-based Multi-Systemic Therapy and Functional Family Therapy, mentoring, teen courts, and restorative justice practices such as family conferences, victim/youth conferences and mediations. DJS effectuates diversion through what is called an informal adjustment under Maryland law.<sup>6</sup>

The benefits of juvenile diversion include: Preventing association with delinquent peers; holding youth accountable for their actions; providing proportionate responses to delinquent behavior; providing youth with opportunities to connect with services in the community; reducing court caseloads, detentions, and out-of-home placements; reducing justice system costs and preserving resources for youth who pose a greater public safety risk or have greater needs for services; and improved relations between youth and community.<sup>7</sup> One of the most important benefits of diversion is reducing recidivism by keeping low-risk youth away from the stigma of the juvenile justice system.<sup>8</sup> National research has shown that low-risk youth placed in diversion programs re-offend less often – up to 45% less often – than similar youth who were formally processed and are more likely to succeed in and complete school.<sup>9</sup>

Maryland’s own data shows that diversion works. Approximately 80% of young people who participate in diversion through DJS successfully complete it and 90% of young people who complete diversion do not recidivate within one year.<sup>10</sup>

Maryland data, however, also suggests significant room for expansion of diversion and a reduction in racial disparities in the use of diversion. Despite the research which calls for avoiding formal system involvement for youth charged with misdemeanors and non-violent felonies, in FY19 DJS forwarded over 30% of all misdemeanors and 85% of all felonies for formal charging.<sup>11</sup> Further, DJS reported disturbing racial disparities in the use of diversion. Youth of color were well over twice as likely to have their cases referred to DJS, 50% more likely to have their cases petitioned with formal charges, and over 30% less likely to have their cases referred to diversion.<sup>12</sup> Youth of color were offered diversion less often than white youth in both misdemeanor and felony cases.<sup>13</sup> Black youth were the least likely to receive diversion for low-level offenses.<sup>14</sup>

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<sup>5</sup> Department of Juvenile Services, *Data Resource Guide 2019*, p. viii.

<sup>6</sup> Md. Code Ann., Cts. & Jud. Proc. 3-8A-10.

<sup>7</sup> Farrel, Betsinger, & Hammond, [\*Best Practices in Youth Diversion: Literature Review for the Baltimore City Youth Diversion Committee\*](#), Univ of Md. School of Social Work (Aug 2018).

<sup>8</sup> Models for Change Juvenile Diversion Work Group, [\*Juvenile Diversion Guidebook\*](#) at 11 (2011.)

<sup>9</sup> Wilson, H.A., & Hoge, R.D. (2013). *The effect of youth diversion programs on recidivism: A meta-analytic review*, CRIMINAL JUSTICE AND BEHAVIOR at 8; Josh Weber et al., *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes* at 4 (2018).

<sup>10</sup> [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

<sup>11</sup> [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 35-36.

<sup>12</sup> Department of Juvenile Services, *Data Resource Guide 2019*, p. 230.

<sup>13</sup> [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

<sup>14</sup> [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 35.



Senate Bill 691/Senate Bill 853 addresses the need to expand diversion and utilize it equitably by requiring informal adjustment of misdemeanors (excluding handgun possession) and non-violent felonies for all youth who have not previously been adjudicated delinquent. This measure will expand the use of diversion and reduce any racial disparities caused by the discretionary decisions of DJS and the State's Attorney.

SB691 would also eliminate the requirement that DJS forward complaints of non-violent felonies to the State's Attorney for approval of informal adjustment. This measure will expand the use of diversion while preserving the State's Attorney's opportunity to petition formal charges if the informal adjustment is unsuccessful. It will also increase the number of youth who receive interventions. In FY19, 46% of all juvenile cases forwarded to the State's Attorney for petitioning of formal charges did not result in court ordered probationary or commitment services, mostly due to dismissal, nolle pros, or stet of the cases.<sup>15</sup>

Finally, this bill would eliminate the requirement of complaining witness consent, but maintain the requirement that DJS make reasonable efforts to contact the alleged victim in order for informal adjustment to proceed. Currently, many cases where the complaining witness does not wish to go forward cannot be diverted due to lack of contact with the alleged victim. In other cases, while complaining witness satisfaction is desirable, alleged victims should not be in control of whether diversion is utilized for a young person. Complaining witness consent is not required for the diversion of an adult criminal case<sup>16</sup> and should not be required for the diversion of a young person's case, particularly when research demonstrates that diversion is healthier for young people and achieves very good public safety outcomes in Maryland.

Eliminating complaining witness consent will also increase victim satisfaction. Ninety percent of youth who successfully complete diversion do not recidivate within one year, making victims' communities safer.<sup>17</sup> Additionally, DJS will continue to offer alleged victims the opportunity to participate in a restorative justice diversion. National research shows that restorative justice programs provide higher levels of victim satisfaction with the process and outcomes, including a greater likelihood of successful restitution completion than traditional justice programs.<sup>18</sup> Maryland hosts a number of restorative justice programs across the state that are utilized for youth diversion, including Restorative Response Baltimore ("RRB"). RRB's results reflect the national research. 85% of victims recover restitution through RRB.<sup>19</sup> In a RRB FY20 survey, 84% of participants were satisfied with RRB and 87% of participants would recommend the program to others.<sup>20</sup>

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<sup>15</sup> Department of Juvenile Services, Data Resource Guide 2019, p. 22.

<sup>16</sup> [Maryland Youth Justice Coalition Diversion Recommendations](#) at 4.

<sup>17</sup> [Juvenile Justice Reform Council Final Report January 2021 \(maryland.gov\)](#) at 36.

<sup>18</sup> [Family Group Conferencing: Implications for Crime Victims \(ncjrs.gov\)](#) at 1.

<sup>19</sup> [Restorative Response Baltimore – Collective Action To Resolve Conflict.](#)

<sup>20</sup> [Restorative Response Baltimore – Collective Action To Resolve Conflict.](#)

## Raise the Age

In violation of widely accepted international human rights standards, Maryland does not have a minimum age of criminal responsibility (MACR). Maryland regularly charges elementary school children – some as young as *six* years old – with delinquent acts.<sup>21</sup> To put these age limits in context, the average seven (7) year old is in the 2<sup>nd</sup> grade. Maryland law prohibits parents from leaving children 7 year olds without adult supervision and children must be at least 13 years old in order be responsible enough to babysit.<sup>22</sup> If a child is not old enough to stay home alone without a babysitter, we contend that child is not old enough to be sent to juvenile court, make decisions about a plea bargain, or comply with court orders.

Maryland is funneling thousands of very young, mostly Black children into the juvenile justice system despite extensive research that has demonstrated that children under the age of 13 are statistically unlikely to be competent to stand trial.<sup>23</sup> Pre-adolescent children demonstrate poor understanding of trial matters, in addition to poorer reasoning and ability to recognize relevant information for a legal defense. In fact, 1/3 of children under 13 function with impairments at a level comparable with mentally ill adults who have been found incompetent to stand trial.<sup>24</sup>

Internationally, 174 countries have established a MACR, and establishing a MACR is a requirement for signatories to the Convention on the Rights of the Child (CRC).<sup>25</sup> The majority of other U.S. states that set a minimum age for criminal responsibility (MACR) require a child to

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<sup>21</sup> Prior to 1994, Maryland relied on the common-law doctrine of *doli incapax*, which held that from age 7 to 14 children were presumed not to have criminal capacity and required the prosecution to prove criminal capacity beyond a reasonable doubt. The presumption of infancy was removed by the legislator in 1994. *In re Devon T.*, 85 Md. App. 674 (1991); Acts 1994, c. 629, § 1, eff. Oct. 1, 1994.

<sup>22</sup> Maryland Code Annotated, Family Law Article §8-501.

<sup>23</sup> Bath, E., & Gerring, J. (2014). National trends in juvenile competency to stand trial. *Journal of the American Academy of Child & Adolescent Psychiatry*, 53, 265-268, Bonnie, R. J., & Grisso, T. (2000). Adjudicative competence and youthful offenders. In T. Grisso & R. G. Schwartz (Eds.), *Youth on trial: A developmental perspective on juvenile justice* (pp. 73-103). Chicago, IL: University of Chicago Press; Costanza, M. B. (2017). *The development of competency to stand trial-related abilities in a sample of juvenile offenders* (Doctoral dissertation). Retrieved from ProQuest; Grisso, T. (2014). Protections for juveniles in self-incriminating legal contexts, developmentally considered. *The Journal of the American Judges Association*, 50(1), 32-36; Grisso, T. (2005). *Evaluating juveniles' adjudicative competence: A guide for clinical practice*. Sarasota, FL: Professional Resource Press; Grisso, T. (2004). *Double jeopardy: Adolescent offenders with mental disorders*. Chicago, IL: University of Chicago Press; Grisso, T., & Kavanaugh, A. (2016). [Prospects for developmental evidence in juvenile sentencing based on Miller v. Alabama](#). *Psychology, Public Policy, and Law*, 22(3), 235-249; Lawrence Steinberg, *Adolescent Development and Juvenile Justice*, Annual Review of Clinical Psychology (2009).

<sup>24</sup> Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., Lexcen, F., Reppucci, N. D., & Schwartz, R. (2003). Juveniles' competence to stand trial: A comparison of adolescents' and adults' capacities as trial defendants. *Law and Human Behavior*, 27(4), 333-363. <https://doi.org/10.1023/A:1024065015717>;

<sup>25</sup> The United States is not a signatory to the Convention.

be at least ten (10) years old before they can be prosecuted.<sup>26</sup> But in recent years a number of states have raised the floor for juvenile court jurisdiction. In addition to California, Massachusetts<sup>27</sup> and Utah<sup>28</sup> have set 12 as the minimum age of juvenile jurisdiction and other states are moving forward with efforts to raise the minimum age including Texas (13),<sup>29</sup> Illinois (13)<sup>30</sup>, Washington (13)<sup>31</sup>, Maine (12)<sup>32</sup>, Oklahoma (12),<sup>33</sup> Connecticut (12)<sup>34</sup>, and North Carolina (12.)<sup>35</sup>

Over the past five years, more than 8,600 pre-adolescent children have faced juvenile complaints in Maryland. In FY2020, there were 1,469 delinquent complaints for children under the age of 13. Disturbingly, the vast majority of these children were Black (72%). Only 25% of those cases (374) were forwarded for prosecution in juvenile court and only 6 of the 1,469 children under 13 who were charged in Maryland resulted in commitments to the DJS. None of those very young children who were committed was even found guilty of a felony. In fact, four of the children under 13 who were committed to DJS were found facts sustained of property crimes – misdemeanor breaking & entering and malicious destruction of property. The other two children were committed for misdemeanor second degree assault.<sup>36</sup> More than half of all kids under 13 who were charged were charged for misdemeanors second degree assault, misdemeanor theft, or destruction of property.<sup>37</sup> Despite these facts, 37 children under the age of 13 were incarcerated pending trial. This is not just a problem in population centers. In Somerset County, more than

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<sup>26</sup> National Juvenile Defender Center, Minimum Age for Delinquency Adjudication—Multi-Jurisdiction Survey, January 22, 2020, <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey>. Internationally, 174 countries have established a MACR, and establishing a MACR is required by major human rights instruments. Article 40(3)(a) of the Convention on the Rights of the Child (CRC) requires states to establish an MACR and Article 4.1 of the United Nations Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) states that that MACR “shall not be fixed at too low an age level, bearing in mind the factors of emotional, mental and intellectual maturity”. Both Canada and Mexico set the MACR at 12 while the majority of the European Union (including Spain, Germany, Italy, and Poland) sets the MACR at age 14. See, Child Rights International Network, The minimum age of criminal responsibility, <https://home.crin.org/issues/deprivation-of-liberty/minimum-age-of-criminal-responsibility>.

<sup>27</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section52>

<sup>28</sup> <https://www.njcn.org/article/utah-raises-lower-age-of-juvenile-jurisdiction>

<sup>29</sup> <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB01783L.pdf#navpanes=0>

<sup>30</sup> [www.ilga.gov/legislation/BillStatus.asp?GA=102&DocTypeID=SB&DocNum=65&GAID=16&SessionID=110&LegID=128313](http://www.ilga.gov/legislation/BillStatus.asp?GA=102&DocTypeID=SB&DocNum=65&GAID=16&SessionID=110&LegID=128313)

<sup>31</sup> <https://app.leg.wa.gov/billsummary?billnumber=5122&year=2021>

<sup>32</sup> [http://legislature.maine.gov/legis/bills/display\\_ps.asp?LD=320&snum=130](http://legislature.maine.gov/legis/bills/display_ps.asp?LD=320&snum=130)

<sup>33</sup> <http://www.oklegislature.gov/BillInfo.aspx?Bill=SB%20217&Session=2100>

<sup>34</sup> <https://ctmirror.org/2020/02/10/juvenile-justice-advocates-lets-raise-the-age-again/>

<sup>35</sup> In the 2020, the *North Carolina Task Force for Racial Equity in Criminal Justice* issued a Report to the Governor from the Attorney General and an Associate Justice of the Supreme Court, the group recommended a number of significant reforms - including raising the MACR to age 12.

[https://ncdoj.gov/wp-content/uploads/2020/12/TRECRReportFinal\\_12132020.pdf](https://ncdoj.gov/wp-content/uploads/2020/12/TRECRReportFinal_12132020.pdf)

<sup>36</sup> Department of Juvenile Services, 2020 DJS Data Resource Guide, at 26-27.

<https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>

<sup>37</sup> *Id.* At 27.

30% of young people charged in FY20 were under 13 years old. In Dorchester County that number is nearly 25%—3 times the state average.<sup>38</sup> In FY19, 50 children under the age of 13 were held in secure detention in Maryland – a nearly 50% *increase* from FY18 – despite a change in the law that was intended to restrict the use of secure detention for pre-adolescent children.<sup>39</sup> In FY20, that number was still 37 children.

The process of charging and processing thousands of pre-adolescent children does damage to those kids, but it is also a huge waste of resources. Executive functioning refers to the cognitive processes that direct, coordinate, and control other cognitive functions and behavior. They include processes of inhibition, attention, and self-directed execution of actions. Much research has been conducted about adolescent executive functioning as it relates to youth justice policy; but because so few places prosecute very young kids, comparatively little research has been done about *pre*-adolescent children in the youth justice systems.<sup>40</sup> Most research about the executive functioning in pre-adolescents has been done with a focus on implications for education and occupational therapy. It is clear that the level of executive functioning of an elementary and middle school-aged child is vastly different than that of high school students.<sup>41</sup> Studies of working memory of children show that it continues to develop until children reach about 15 years old.

Given the established fact that 1/3 of children under 13 are incompetent to stand trial, failing to raise competency in most cases for very young Respondents would amount to ineffective assistance of counsel. For that reason, defense counsel raises competency in an overwhelming majority of cases involving children under age 13. Evaluating competency is a cost intensive process that can take years to resolve.<sup>42</sup> The prolonged process of competency attainment for small children means that the youngest children, who are the least culpable, often do not face court intervention until months or years after their alleged misbehavior. In order for rehabilitation to work, children need to be held accountable for wrongdoing in a fair process that promotes healthy moral development.<sup>43</sup> A system that penalizes children at a time far removed from the

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<sup>38</sup> In Baltimore City, DJS started the Under-13 Initiative in 2013. It is a school-based intervention for youth ages 12 years and younger that are brought to Department of Juvenile Services' intake offices. It is a collaborative project between Department of Juvenile Services, local Department of Social Services (DSS) and the local school system. The Under-13 Initiative is based on the premise that if a child is being arrested at such a young age that there are usually problems at home; thus the focus is on both the child and his/her family. The goal is to provide the youth and family the opportunity to receive services and support so the youth can avoid going deeper into the juvenile justice system. The meetings are coordinated by the local school system and are held in a local school. Currently, Baltimore City is the only jurisdiction to have this program in place, although there are plans to start it in Prince George's County as well. See, Maryland Department of Juvenile Services, Initiatives, Under-13 <https://djs.maryland.gov/Pages/Initiatives.aspx>.

<sup>39</sup> DJS Data Resource Guide, FY19 at 112. This increase is especially distressing as the law changed in FY19 to limit the detention of children under the age of 12. See, 2019 Maryland Laws Ch. 560 (H.B. 659.)

<sup>40</sup> *Supra*, note 21.

<sup>41</sup> *Id.*

<sup>42</sup> Md. CJ 3-8A-17-17.8

<sup>43</sup> National Academies of Science, [Reforming Juvenile Justice: A Developmental Approach](#) (2013) pg 183-210.





underlying incident leads children to perceive the legal system as unjust. Distrust in the system reinforces delinquent behavior, does not foster prosocial development, and increases recidivism.

<sup>44</sup> If we want a truly rehabilitation juvenile justice system in Maryland – we must raise the minimum age of jurisdiction to 13.

## **Limit Indefinite Probation**

After the Supreme Court’s decisions in the trio of cases *Roper*, *Graham*, and *Miller*, courts have an obligation to take into account the fundamental truths of adolescence and the differences between children and adults.<sup>45</sup> We know that during adolescence, youth are more impulsive and susceptible to peer pressure, and have a diminished capacity to make thoughtful choices because their decisions are driven by short term rewards instead of long term consequences. It is for this reason that juvenile courts, including ours here in Maryland, are focused on “rehabilitation consistent with the child’s best interests and the protection of the public interest,” instead of punishment.<sup>46</sup>

And yet, even given the vast amount of scientific research, philosophical and legal literature, as well as the increasing body of case law that justifies treating kids as kids, juvenile courts still wholly import systems and practices from the adult criminal court context, without interrogating how or ensuring that these systems and practices actually fulfill the rehabilitative mandate of juvenile justice. As noted in Professor Chaz Arnett’s recently published article *Virtual Shackles: Electronic Surveillance and the Adultification of Juvenile Court*, “[o]ne of the most cited critiques of early juvenile institutions and courts is that they used the illusory promise of rehabilitation to mask their adult-like treatment of youth, in a warped logic that promoted the institutions’ goals over interrogation of the means and outcomes used to achieve those goals.”

One of the first ways juvenile justice was “adultified” was the creation of juvenile probation. Probation is the most likely disposition for all adjudicated youth. It is overly relied upon by courts, and poorly designed to actually function as a rehabilitative mechanism for youth who have been adjudged delinquent. “The fundamental flaw with probation is that it is not rooted in a theory of change and lacks a commonly articulated vision.”<sup>47</sup> There is a disagreement about whether the purpose of probation is to promote long-term behavioral change and how to achieve that, or merely ensure compliance with a court order and probation officers.

Moreover, we know that youth and adults on probation respond more to positive incentives rather than sanctions for negative behavior. However, particularly when youth are placed on

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<sup>44</sup> National Research Council 2014. Implementing Juvenile Justice Reform: The Federal Role. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18753> at 17.

<sup>45</sup> *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 28 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>46</sup> Md. Code. Cts. & Jud. Proc. § 3-8A-02(4); *In re Victor B.*, 336 Md. 85, 91–2 (1994).

<sup>47</sup> Annie E. Casey, *Transforming Probation: A Vision for Getting it Right*, 2018. [www.aecf.org/resources/transforming-juvenile-probation/](http://www.aecf.org/resources/transforming-juvenile-probation/).

indefinite periods of probation, doing well on probation does not bring a youth closer to the light at the end of the tunnel, yet doing poorly can quickly land a youth in a form of detention. Experts recommend that youth be placed on a period of six to nine months of probation, if they need to be placed on probation at all, and that “even for those who struggle to meet their goals, the period of probation should generally not exceed one year.”<sup>48</sup>

Perhaps most importantly, consistent with research on youth desistance from “delinquent” behavior, the majority of youth should be diverted and not placed on probation, instead reserving legal sanctions and court oversight for young people who have a history of serious or chronic delinquency and pose a significant risk to public safety.

SB691 is an essential reform to Maryland’s current juvenile probation structure. Under the current structure, juvenile probation can be indefinite. The average length of probation statewide is 458.5 days, or fifteen months, nearly double the recommended length of juvenile probation. Many counties have an even longer average length of probation, including: Baltimore City (514 days); Montgomery County (516 days); Prince George’s County (529 days); and Kent County (567.7 days). By limiting the length of probation to six months for misdemeanors and two years for felonies, with limited opportunities to extend probation, this bill comports with our understanding of adolescent development. It gives children a realistic goal to work towards, and acknowledges that children are works in progress and should not be expected to reach perfection in order for their probation case to be closed.

## **Ban Youth Incarceration for Misdemeanors & Technical Violations of Probation**

The dangers of youth incarceration are well-documented but rarely acknowledged: placing children in cages for “rehabilitation” not only fails to promote positive behavioral change, it places youth at risk of physical harm, causes psychological harm, disrupts education, physically and emotionally separates youth from their families, negatively impacts future employment outcomes, and *increases* recidivism.<sup>49</sup>

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<sup>48</sup> Id.

<sup>49</sup> The research on the harms of juvenile detention is extensive and demonstrates that detention increases recidivism and hurts public safety, detention affects dropping out and educational attainment, detention may exacerbate or cause mental illness and trauma, detention exposes youth to increased abuse, and interferes with what is required for healthy adolescent development. Anna Aizer and Joseph J. Doyle, Jr., [Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges](#), National Bureau of Economic Research, NBER Working Paper No. 19102 (2013), at pp. 3-6, 9, 25, [h](#); Justice Policy Institute, Barry Holman and Jason Zidenberg, [The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities](#) (2006), p. 8; Richard A. Mendel, [No Place for Kids: The Case for Reducing Juvenile Incarceration](#) (2011), The Annie E. Casey Foundation, p. 12, National Academies of Science, [Reforming Juvenile Justice: A Developmental Approach](#) (2013), ; Richard A. Mendel, [Maltreatment of Youth in U.S. Juvenile Corrections Facilities: An Update](#), The Annie E. Casey Foundation (2015), pp. 6-29; Thomas J. Dishion and Jessica M. Tipsord, [Peer Contagion in Child and Adolescent Social and Emotional Development](#), 62 Annual Review of Psychology 189 (2011),. Karen Abram, et al., [Suicidal](#)



Maryland incarcerates young people accused of low-level crimes at an alarmingly high rate<sup>50</sup> and then provides them minimal programming, based on superficial group interventions that do not work and especially ill-suited for young kids.<sup>51</sup> In Maryland, 2/3 of children sent to youth prisons (“out of home placements”) are there for non-felony offense.<sup>52</sup> One in three children are removed from their homes for technical violations of probation.<sup>53</sup>

Sending low-level offenders to out of home placements often increases recidivism compared to similarly situated youth who are not removed from the home.<sup>54</sup> Thus, in Maryland the state is taking hundreds of young people out of their homes and communities, warehousing them in youth prisons that are all located in Western Maryland, and then returns those young people to their homes worse off than they departed. The current system of youth incarceration in Maryland puts those kids – and our communities – at risk.

The devastating impact of these policies does not fall on all Maryland residents equally. Black youth make up 35% of the population of 10-17 year olds in Maryland,<sup>55</sup> but Black youth account for 77.4% of the population in juvenile jails.<sup>56</sup> Black youth who are accused of misdemeanors are arrested, charged, and committed at higher rates than their white peers.

Maryland operates seven detention centers - one in every region of the state and two in the Metro region, but all of its youth prisons are located in Western Maryland. Maryland securely detains thousands of youth pending trial and pending placement throughout the state in large hardware secure juvenile jail facilities that resemble adult jails in structure, design, and operation. For 42% of the youth securely detained pending trial and 54.7% of youth detained pending placement after trial, the child’s charge for which they were detained was a misdemeanor.<sup>57</sup>

The Attorney General’s Juvenile Justice Monitoring Unit has documented for years DJS’ juvenile facilities’ challenges, including: deteriorating facilities, understaffing, lack of staff training, lack of quality mental health services, continued use of outdated physical and mechanical restraints, continued use of solitary confinement, lack of programming for youth

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[Thoughts and Behaviors Among Detained Youth](#), *OJJDP Juvenile Justice Bulletin* (July 2014), pp. 1-8; Sue Burrell, [Trauma and the Environment of Care in Juvenile Institutions](#), National Child Traumatic Stress Network (2013), pp. 2-5; Edward Cohen and Jane Pfeifer, [Costs of Incarcerating Youth with Mental Illness](#), for the Chief Probation Officers of California and California Mental Health Directors Association (2007).

<sup>50</sup> Maryland Department of Juvenile Services, [Doors to Commitment](#) (2015.)

<sup>51</sup> Maryland Attorney General’s Juvenile Justice Monitoring Unit (JJMU), First Quarter 2020 Report, [https://www.marylandattorneygeneral.gov/JJM%20Documents/20\\_Quarter1.pdf](https://www.marylandattorneygeneral.gov/JJM%20Documents/20_Quarter1.pdf).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* See also, Supra note 48.

<sup>55</sup> OJJDP, Easy Access to Juvenile Populations, <https://www.ojjdp.gov/ojstatbb/ezapop/>.

<sup>56</sup> *Supra*, DJS Data Resource Guide FY19, Note 49.

<sup>57</sup> Department of Juvenile Services, *Data Resource Guide FY19* (2020) at 109.



(including poor education continuity), and lack of family engagement efforts.<sup>58</sup> SB691 addresses these challenges by banning the use of juvenile jail and youth prison for kids whose most serious alleged offense is a misdemeanor or a technical violation of probation. This change will end the harms of juvenile incarceration for low-level offenders and allow DJS to better leverage its resources to provide small, high-quality programming for those young people who face the most serious charges and are at the highest risk of re-offense.

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<sup>58</sup> *Supra*, JJMU Report, Note 50.

# **Testimony\_JPC\_SB0691\_LR1518.pdf**

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Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter  
In Favor of Senate Bill 691  
– Juvenile Justice Reform–  
Before the Judicial Proceedings Committee  
On March 3 , 2022**

**Chairman Smith, Vice Chair Waldstreicher, and Esteemed Members of the Committee:**

**Senate Bill 691 derives from recommendations made by the bipartisan Juvenile Justice Reform Council (JJRC) in its [January 2021 report](#). The bill does four main things: (1) bans the incarceration of youth for first time misdemeanor offenses; (2) establishes a minimum age of juvenile court jurisdiction; (3) sets developmentally appropriate time frames for probation; and (4) eliminates barriers to diversion.**

**In 2020, Human Rights for Kids ranked Maryland among the worst states in the country for its treatment of children in the criminal legal system. Prior to the pandemic, [two-thirds of children incarcerated in Maryland's juvenile facilities were there for committing a misdemeanor offense or a technical violation](#). What is worse, Maryland law still criminalizes elementary and middle school children. In fiscal year 2020, approximately 1,500 delinquency complaints were filed against children under the age of 13. Of them, 71.5 percent were Black.**

**Young people need swift and certain responses to bad behavior, but the response must be calibrated to be the right dosage and intensity**

for the individual child. The JJRC learned that providing more intervention than needed, or providing services too late, can backfire. For example, removing a child from their home for a low-level offense can cause new trauma and can increase, rather than decrease, the probability of criminality in that child. To address this, Senate Bill 691 bans incarceration for first-time misdemeanors that do not involve a gun, which would allow the state to focus on those who commit more serious offenses.

Senate Bill 691 would also limit the circumstances under which a child younger than age 13 is subject to the jurisdiction of the juvenile court. Children are different from adults. Despite this obvious truth, in our juvenile justice system, they are treated as if they are small adults. [Research shows that children are significantly less likely to comprehend legal proceedings and the charges against them.](#) How can we place children behind bars who are not yet allowed to be at home by themselves? By establishing a minimum age of incarceration, we can work toward rehabilitating children and preventing the physical and emotional trauma that incarceration may cause.

Currently, juvenile probation in Maryland is indefinite. Senate Bill 691 would set developmentally appropriate time frames for probation. The evidence suggests that prolonging supervision for children has little efficacy. In order for a child to be successful, they need goals and timelines to work toward. With our current system, the risk for children to reoffend is higher. This bill will allow young people to be held accountable in developmentally appropriate ways and keep those kids who have low-level, first-time offenses from being pulled deeper into the system.

Senate Bill 691 also aims to eliminate barriers to diversion. While children need help, there are ways to help them that are developmentally appropriate. Systems like the Department of Mental

Health services, or schools can address young children's misbehavior. The bill would create a model for diversion policy and fund diversion programs across the state. In doing so, we will reduce recidivism and truly ensure that children are rehabilitated. Juvenile court was never intended to mediate schoolyard squabbles or mete out punishment for childish mistakes.

Passing these common sense measures will shrink the juvenile justice system and allow the Department of Juvenile Services to focus its attention on providing evidence-based treatment to the most serious offenders and older youth who are at the greatest risk of committing violence instead of warehousing low-level offenders. It is time for Maryland's juvenile justice system to focus more on care, not cages.

For these reasons, I urge the committee to give a favorable report on Senate Bill 691.

Respectfully,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

Jill P. Carter

# **The Sentencing Project . Rovner. SB 691\_jpr\_fav.pdf**

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Position: FAV



## **Testimony of Josh Rovner**

Senior Advocacy Associate

The Sentencing Project

## **In support of SB691**

Before the Maryland Senate  
Committee on Judicial Proceedings



Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing unjust racial disparities and practices. We are grateful for this opportunity to submit testimony generally supporting SB691.

This legislation was derived from JJRC's excellent work, started under SB856/HB606 in the 2019 legislative session. Such a task force might have met a few times and put forward tepid recommendations that more study or more data are needed to address the needs of our youth. Instead, the JJRC addressed the minimum age of jurisdiction, diversion, probation and detention reform, the utilization of out-of-home commitment, and youth charged as if they were adults. In each case -- except the last of these issues, where it did not initially look for the data nor use available proxies -- the JJRC found that the juvenile justice system is pervaded by racial and ethnic inequities and that it can be made smaller for the betterment of youth and the state of Maryland. (A year later, the JJRC reviewed transfer data and also put forward a strong recommendation to reform Maryland law.)

As a member of the Maryland Youth Justice Coalition, The Sentencing Project supports the bill. As with our testimony last year for SB853, this testimony is limited to two issues:

1. Support for raising the minimum age of juvenile court jurisdiction.
2. Support for limiting the use of detention and commitment.

## **Maryland Should Remove Children Under 13 years old from its Juvenile Courts**

SB691 removes almost all cases of children under 13 years old from the jurisdiction of the juvenile justice system. Dismissal and informal handling of youth cases is a common outcome for all youth, but even more so for the youngest children. Just one in four complaints involving a child under 13-year old has authorized formal petitions in FY2020, a rate consistent with prior years. Removing children under 13-years old from the courts' jurisdiction would have removed 374 children from formal processing in FY2020; just three percent of them were charged with felonies.<sup>1</sup>

These arrests open the pipeline for young children to spend their lives enmeshed in the justice system. Probation is a common sentence, offered in roughly one quarter of formally processed cases, meaning about 100 children under 13 years old are issued juvenile probation every year. The decision to keep these children in the system at all is likely to lead to deeper involvement subsequently. A child who shoplifts while on probation may be incarcerated for it; a child who is not on probation will not.

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<sup>1</sup> Data in this testimony relies on the pre-pandemic numbers available in Maryland Department of Juvenile Services's Data Resource Guide for FY2020.

Removing these children from the juvenile courts is a modest reform, which is not to say it is unnecessary. Roughly 30 percent of Maryland's children are non-Hispanic Black,<sup>2</sup> yet in FY2020, more than 70 percent of intake complaints involving children under 13-years old involved Black children.

Maryland's experience disproportionately arresting its Black youth aligns with research showing Black youth in this country are not allowed a childhood. Psychologist Phillip Atiba Goff and his colleagues found Black youth -- especially boys -- are viewed as less innocent than their white peers and, moreover, are estimated by law enforcement and the general public to be much older than their actual age.<sup>3</sup>

The correct response is to remove children from the jurisdiction of the courts entirely without carveouts for a set of exceptionally rare circumstances. The American Academy of Pediatrics<sup>4</sup> and Society for Adolescent Health and Medicine<sup>5</sup> both recommend passage of legislation to exclude children under 13-years old from juvenile courts entirely, as does The Sentencing Project.

## Maryland Should Limit the Use of Detention and Commitment

The second piece of the bill, like the first, addresses the common-sense need to keep youth charged with low-level offenses out of detention and commitment. Youth charged with misdemeanors comprise about 40 percent of youth in detention. As with all points of contact with the juvenile justice system, Black youth are disproportionately detained: nearly 80 percent of youth in detention are Black.

Consistent with other states, Maryland is detaining and committing significantly fewer youth than in prior years, a change we can all welcome. The juvenile detention population fell from 275 in FY2014 to 145 in FY2020. Maryland has seven youth detention centers with a capacity for 411 youth. Thankfully, those facilities have many empty beds, with an average daily population of 253 youth in FY2020, 145 of whom are held on juvenile delinquency charges, alongside 108 youths held on criminal charges as if they were adults. Given the importance of peer interactions, placing youths

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<sup>2</sup> Puzzanchera, C., Sladky, A. and Kang, W. (2020). "Easy Access to Juvenile Populations: 1990-2019." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

<sup>3</sup> Goff, P. A., Jackson, M. C., Di Leone, B. A., Culotta, C. M., & DiTomasso, N. A. (2014). The essence of innocence: consequences of dehumanizing Black children. *Journal of personality and social psychology*, 106(4), 526–545. <https://doi.org/10.1037/a0035663>

<sup>4</sup> Owen MC, Wallace SB, AAP Committee on Adolescence. Advocacy and Collaborative Health Care for Justice-Involved Youth. *Pediatrics*. 2020;146(1):e20201755

<sup>5</sup> Society for Adolescent Health and Medicine (2016). International Youth Justice Systems: Promoting Youth Development and Alternative Approaches: A Position Paper of the Society for Adolescent Health and Medicine. *The Journal of adolescent health : official publication of the Society for Adolescent Medicine*, 59(4), 482–486. <https://doi.org/10.1016/j.jadohealth.2016.08.003>

who are at a low risk of reoffending or have been charged with low-level offenses in detention is a pathway toward more serious offending.

Following the closure of J. DeWeese Carter Center and Meadow Mountain Youth Center, Maryland has five DJS-operated commitment programs. Their closures were correctly predicated on the fact that they are unnecessary, given excess capacity elsewhere. The average daily population of committed youth fell from 901 in FY2014 to 314 in FY2020.

Nevertheless, DJS's \$255 million budget is heavily weighted toward operating these facilities. Essentially half of DJS's budget is directed toward state-operated facilities. Surely, this legislature can find a better use of \$136 million. Limiting detention and commitment for low-level offenses is another step toward closing more facilities and directing the savings toward all our youth, away from these facilities, giving them and their families the support they need to thrive.

## **Maryland Youth Cannot Wait for Comprehensive Reforms**

SB691 makes important first steps to ensure that Maryland adopts best practices that have been established over the past 15 years. These reforms will ensure that as many children as possible are treated with community based services that lead to better public safety outcomes at a fraction of the cost of deep end interventions. If done intentionally, there is the opportunity to also reduce the pervasive racial disparities that persist in Maryland. Finally, it will ready the system to expand what services they are also offering to the young people that Maryland has discarded in the adult criminal justice system. Now is the time to address these reforms.

# **SB 691\_FAV\_ACLUMD\_Nalley.pdf**

Uploaded by: Justin Nalley

Position: FAV



## Testimony for the Senate Judicial Proceedings Committee

March 3, 2022

### SB 691 – Juvenile Law – Juvenile Justice Reform

#### FAVORABLE

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The ACLU of Maryland supports SB 691, which seeks to improve the juvenile justice system in Maryland by raising the minimum age of juvenile court jurisdiction, banning the use of juvenile jail and youth prison for low-level offenses, limiting terms of probation, and removing barriers to the diversion of children out of the system.

An effective youth legal system is one that is fair and improves – rather than decreases – the odds that young people who come into contact with the system will make a successful transition to adulthood. That requires a system that locks up fewer children and relies more upon proven, family-focused interventions that create opportunities for positive youth development. Although juvenile complaints have decreased, incarceration rates have not followed suit as two-thirds of children removed from their families are put in a youth facility for non-felony offenses.<sup>1</sup>

Research has proven that children must be granted restoration for wrongdoing that contributes to their development rather than burden them with long-lasting punitive action. The harm that is done to families and children cannot be understated, as well as the harm to the state. Maryland spends more than 48 other states, per child, to incarcerate youth in secure correctional facilities.<sup>2</sup> By banning the use of youth prisons for low-level offenses, the Department of Juvenile Services can tailor their resources to the most serious offenses and those that are at the highest risk of re-offense.

The bill also creates a standard by which children can be prosecuted. By eliminating the prosecution of pre-adolescents of children under 13, Maryland will align with national standards that set a minimum age requirement that a

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<sup>1</sup> *Juvenile Justice Strategy Group*. (2015). Annie E. Casey Foundation.

<https://djs.maryland.gov/Documents/publications/AECF%20Assessment%20of%20MD%20Dispositions%20-%20Updated%20March%2016%20-%20Final%20PDF.pdf>

<sup>2</sup> [http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker\\_shock\\_final\\_v2.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf)

child can be prosecuted.<sup>3</sup> The bill also reforms the juvenile probation system. A juvenile probation system cannot be structured like adult probation, which is focused on technical compliance rather than tangible and holistic goals. Without these goals in place, youth are at greater risk of being violated, detained, and committed, thereby deepening their involvement with the criminal justice system. Lowering the length of time a child is on probation allows these holistic approaches to take form.

Lastly, juvenile diversion is key to reducing recidivism by keeping low-risk youth away from the juvenile justice system.<sup>4</sup> The benefits of juvenile diversion include preventing association with delinquent peers; holding youth accountable for their actions; providing proportionate responses to delinquent behavior; providing youth with opportunities to connect with services in the community; reducing court caseloads, detentions, and out-of-home placements; reducing justice system costs and preserving resources for youth who pose a greater public safety risk or have greater needs for services; and improved relations between youth and community.<sup>5</sup>

The recommendations set forth by the Juvenile Justice Reform Council involved input from all levels of the justice system and community stakeholders and are tangible next steps to improving the youth justice system in Maryland. These recommendations have translated into a comprehensive legislative reform package that will center Maryland's children's developmental and socioemotional needs for generations to come.

For the foregoing reasons, the ACLU of Maryland urges a favorable report for SB 691.

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<sup>3</sup> *Juvenile Justice Geography, Policy, Practice and Statistics*, Jurisdictional Boundaries, Delinquency Age Boundaries. <http://www.jjgps.org/jurisdictional-boundaries#transfer-discretion>.

<sup>4</sup> Models for Change Juvenile Diversion Workgroup, *Juvenile Diversion Guidebook* at 11 (2011), <http://www.modelsforchange.net/publications/301>

<sup>5</sup> Farrel, Betsinger, & Hammond. *Best Practices in Youth Diversion: Literature Review for the Baltimore City Youth Diversion Committee*. Univ of Md. School of Social Work (Aug 2018), <https://theinstitute.umaryland.edu/media/ssw/institute/md-center-documents/Youth-Diversion-Literature-Review.pdf>



**Good afternoon and thank you for having me my name**

Uploaded by: Keisha Hogan

Position: FAV



Good afternoon and thank you for having me my name is Keisha Hogan, I am a mother of four children 2 boys 2 girls. In the year 2013 my first-born child a son, at the tender age of 13 was committed by judge Herman C Dawson to 891 days for a misdemeanor assault charge. This was my son's first involvement ever with the judicial system. He had never even been brought home by the police. Throughout the entire court proceedings, I was never allowed to speak on my son's behalf the judge simply would not allow me to speak. Judge Dawson repeatedly ignored recommendations from every entity interviewing my son to send him home. As a result of that decision my family was decimated, I lost my mind I had just had my fourth child, so I was going through postpartum depression trying to balance this new normal of having four kids topped with my first-born child being arrested for the first time never having had any other police activity of any kind and being taken away from me for 891 days. I honestly couldn't cope for the first two years I was in therapy twice a week I became a raging alcoholic I could barely care for my children I had periods where I just couldn't get out of bed, I literally mourned my child my son. My son was sent all over the state of Maryland to places many times created hardships to maintain visitation. I witnessed my son being chemically restrained, I witnessed my son not being malnourished, he lost a tremendous amount of weight being away. As a mother I can't even explain how it felt to have to go visit your son and hear him tell you that he's not being fed enough and he's always hungry and you have to drive away from this facility and leave your child there after numerous attempts of getting trying to get him home and everyone saying send him home except the judge. I know now that in that first two years I had a nervous breakdown because I didn't know what to do I didn't know how to help my baby I didn't know how to cope with the fact that my son was being mistreated by a judge. I felt completely defeated and all I could do was pray I prayed my son home it was divine intervention that brought my son home and when he came home however, because I was not able and the services were not available. I could not set up services for my son before he came home. When he came home it was like letting a caged animal out of its cage he had been gone so long and the structure and lifestyle were so different it was extremely hard for him to adjust he ultimately reoffended a year later and now sits in a prison cell in Cumberland MD. I am the voice of mothers who don't know how to fight but want to I implore you to pass this bill, so much damage has been created by the fact that my son spent 891 days of his juvenile life in Maryland juvenile detention centers for a first offense.

# **MAYSB - SB 691 FAV - Juvenile Justice Reform.pdf**

Uploaded by: Liz Park

Position: FAV



*"Being here for Maryland's Children, Youth, and Families"*

**Testimony on Senate Bill 691**

Juvenile Justice Reform

Judiciary Committee

March 3, 2022

**POSITON: SUPPORT**

The Maryland Association of Youth Service Bureaus, which represents a statewide network of bureaus throughout the State of Maryland, **Supports** Senate Bill 691–Juvenile Justice Reform. SB691 will allow altering provisions of law relating to the jurisdiction of the juvenile court, the juvenile intake process, the placement of a child in detention or community detention and specifying the authority of the court to place a child on probation, and the length of probation, under certain circumstances.

Youth Service Bureaus work with youth involved in the juvenile justice system and know that lessening a youth's contact with courts is in line with the Developmental Model of Juvenile Justice, a model Maryland has been following for many years. In the Developmental Model, fairness is considered and, thus, sanctions should be proportionate in severity to the harm caused by the offense and the culpability of the offender.

This bill would provide for what is in the best interest of the public and the child. Youthful offenders are sometimes moved forward to the courts before all information about a case, including the youth's degree of involvement, and other circumstances are understood. Additionally, this bill would give discretion to a court to waive a child back to DJS for an informal adjustment. This ensures that the level of court involvement is in line with the severity of the offense and the culpability of the youth.

We respectfully ask you to **Support** this bill.

Respectfully Submitted:

Liz Park, PhD  
MAYSB Chair  
[lpark@greenbeltmd.gov](mailto:lpark@greenbeltmd.gov)

# **MSchindler\_JPI\_SB0691\_jj\_omnibus\_3\_3\_22.pdf**

Uploaded by: Marc Schindler

Position: FAV

**Testimony to the Senate Judicial Proceeding  
Committee  
SB 0691 Juvenile Justice Reform  
Marc Schindler, Executive Director  
Justice Policy Institute  
202-558-7974, [mschindler@justicepolicy.org](mailto:mschindler@justicepolicy.org)  
March 3, 2022**

My name is Marc Schindler. I serve as the Executive Director of the Justice Policy Institute (JPI), a national research and policy organization with expertise on criminal and juvenile justice issues. Over the last decade, JPI has released over a dozen policy and research reports on the Maryland justice system.

I am testifying today to offer my strong support of SB 0691, which will codify important recommendations by the Juvenile Justice Reform Council (JJRC).

By way of background, I have had the opportunity in my career to view the justice system from several different angles. I come to this issue today with perspective drawn from experiences both inside and outside the criminal justice system. After graduating from the University of Maryland School of Law, I began my legal career over 20 years ago with the Maryland Office of the Public Defender, representing children in Baltimore's juvenile court. At that time I also chaired the Baltimore City Bar Association Juvenile Justice Committee. I then spent eight years as a staff attorney with the Youth Law Center, a national civil rights law firm. Then, I held several leadership roles within the Washington, DC Department of Youth Rehabilitation Services, Washington, DC's juvenile corrections agency, including serving as General Counsel, Chief of Staff, and Interim Director between 2005 and 2010. Prior to joining JPI, I was a partner with Venture Philanthropy Partners (VPP), a Washington-based philanthropic organization.

I want to start by commending the legislature for creating the JJRC, and the JJRC for its outstanding work. Supported by technical assistance from the Vera Institute of Justice, the JJRC devoted considerable time researching best practices regarding the treatment of youth who are subject to the criminal and juvenile justice systems and identifying recommendations to create a fairer and more effective system in Maryland. This is exactly the type of approach to policy-making that Maryland should be pursuing consistently. The recommendations being offered are research-based and will allow Maryland to much more effectively "right-size" its system, ensuring that precious taxpayer dollars are focused on youth who most need resources and attention to get them on the right track. This is in contrast to spending considerable time and resources on youth who can best be served outside the system or will likely age out of delinquent behavior without further involvement in the justice system.

While Maryland had made progress in recent years in how it responds to youth in the juvenile justice system, the system and the approach is still not aligned with best practices in the field. Moreover, decades of dysfunction has led to Maryland having amongst the worst racial disparities in the country for justice system involved youth and young adults. We all should be compelled to make swift, thorough, and permanent reforms to our state's juvenile justice system. SB 0691 Youth Justice: Omnibus Reform package encompasses many of the recommendations of the JJRC authorized by the legislature in 2019 to examine best practices regarding the treatment of youth to limit or otherwise mitigate risk factors that contribute to young people coming into contact with the criminal and juvenile justice

systems. Based on my experience helping to lead DC's juvenile justice system, where we shifted to a developmentally appropriate approach in which low level youth were diverted out of the system, secure confinement was reserved for the most high risk youth and for the shortest amount of time consistent with treatment needs and public safety, and emphasis was on investing in community based supports, services and opportunities for youth and their families, it is critical for states to implement policies and practices that will focus on the highest risk youth. We recently published a report, Smart, Safe & Fair II, which described DC's work in this area as well as that of three other jurisdictions that have made substantial progress in implementing such an approach. In my view, passage of SB 0691 would be a very good step in that direction for Maryland.

The youth and adult criminal justice systems are fundamentally different. The purpose of establishing the juvenile court 120 years ago was to develop age-appropriate rehabilitative responses in recognition of the developmental differences between children and adults. Since the founding of the juvenile court system, crimes committed by children below the legal age of majority were mostly handled in those courts. The juvenile court's role has evolved as an expanding portfolio of research reinforces the principle that children do not have fully-developed decision making skills, lack requisite impulse control, and are more amenable to rehabilitation than adults. Thus, their culpability for crimes is different than adults, and there is recognition that they should be subject to different laws, different courts, and a distinct set of correctional responses.

However, during the "tough on crime" era of the 1980s and 1990s, lawmakers eroded many of the barriers between the adult and juvenile justice systems and pushed for more punishment at the expense of rehabilitation. This included both more punitive responses within the juvenile justice system as well as enacting laws that allowed for transfer of youth into adult criminal court for certain serious offenses. Further, many states even lowered their age of adult jurisdiction to include all 16 or 17-year old's in the adult criminal justice system, regardless of the committing offense. That meant that a young person would be subject to the dangers of being housed with adults in jails and prisons, face adult punishment for their crimes, carrying the stigma of that crime for the rest of their lives, hampering their ability for future education, stable housing, and a steady career.

Senate Bill 0691 does not remove accountability. Youth will still face accountability for the crimes they commit; yet this step will ensure that Maryland aligns itself with the latest research in youth justice as well as with other states that have successfully implemented reforms proven to have increased public safety while placing youth on the road to rehabilitation.

Resourcing and developing age-appropriate approaches for youth can offer Maryland a path forward, focused on investing in youth rather than simply giving up on and warehousing them for much of their life. It is a tragic loss of potential for the individual, their families, and their communities. Early interventions that work and are targeted to youth include rolling back costly and cruel practices like extreme sentences, incarceration for low-level offenses, and indefinite probation. All of which are incongruous with Supreme Court jurisprudence and areas that are addressed in SB 0691.

This legislation would move Maryland closer to other jurisdictions that use developmentally appropriate and research-based approaches, and improving outcomes for justice system involved youth in Maryland by:

### ***Raising the minimum age for children to be subject to court jurisdiction***

According to a report from the MacArthur Foundation, the largest study of young people's competency to stand trial found children 12 and under demonstrate significantly poorer understanding of trial matters, poorer reasoning, and less ability to recognize relevant information for a legal defense. Moreover, the vast majority of children 12 and under who are arrested *do not* end up on probation or committed, but the arrest itself can traumatize and stigmatize a child for years to come.

Nationally, Maryland has some of the worst racial disparities throughout the justice system, and juvenile arrests and convictions are not exempt from that trend. [More than 70 percent of all people in Maryland's prisons, double the national average, and almost 80 percent of people serving at least 10 years, are Black.](#) These are the highest rates in the country, outpacing Louisiana, Mississippi, and Georgia. And, according to testimony from the Office of the Public Defender, youth arrests follow this trend with 75% of the children under the age of 13 arrested in Maryland in 2020 being Black or Hispanic. And according to the Maryland Youth Coalition, 81% of children charged in adult court in Maryland are Black. Even when accounting for the type of offense, Black youth are more likely to be sent to adult prison and receive longer sentences than their white counterparts.

Even China, who is currently being scrutinized for violations of human rights, [has a minimum age of juvenile court jurisdiction of 14 years old](#) and offers a layer of protection for youth in their juvenile justice system.

### ***Placing developmentally appropriate time limitations on probation***

A juvenile legal system that allows young people to take accountability for wrongdoing and accept responsibility are crucial for healthy adolescent development. When consequences are far removed, in time, from the underlying offense young people do not connect the consequences to their actions and can perceive the system as unfair. This reinforces social disaffection and negative attitudes toward the law.

It is therefore essential that youth probation be designed to ensure young people have a meaningful opportunity to meet finite goals successfully in a developmentally appropriate time period. There is a clear correlation in the length of probation and increased recidivism. According to the Maryland Department of Juvenile Services 2021 Annual Report, in 2019, the recidivism rate for youth under a six-month probation was 31 percent compared to a 50 percent recidivism rate for those on two year probation.

When youth probation is structured like adult probation, focused on technical compliance rather than tangible, holistic goals, it places youth at greater risk of being violated, detained, and committed. The likely result is more involvement with the criminal justice system and when this occurs disproportionately to youth of color it also increases the existing racial inequity inside that system. Maryland's system of indefinite probation is inconsistent with expert recommendations that children be limited to no more than nine months' probation, if at all.

Instead of simply keeping an eye on youth or making them follow the rules, more developmentally appropriate probation and aftercare focuses on engaging a young person in behavior change, partners with community organizations, works with families, and attempts to

limit the likelihood a young person's supervision will be revoked. [Juvenile justice systems in Connecticut, Washington, DC, Georgia, Illinois, Louisiana, Massachusetts, Mississippi, and New York have implemented changes to make their probation or aftercare approaches more effective.](#)

Connecticut changed its community supervision approach to prohibit young people from being detained or re-committed to a facility based simply on a technical probation violation and instituted a set of graduated incentives for probation officers to use to help young people change their behavior and reduce the number of youths revoked and re-incarcerated. Connecticut's approach to juvenile probation also shifted to rely more on counseling and treatment, allowing more youth to be at home, and in turn reducing the number of individuals confined or placed out of the home. Connecticut developed 58 centers around the state that offer increased individual or group programming for young people on probation—when appropriate—and reduce reliance on a residential setting.

***Removing barriers to diversion so that courts may allow for more restorative measures***

Diversion adjudication measures promote a system of restorative justice, which is likely to result in less recidivism both for the remainder of their youth as well as into adulthood. These measures can include substance abuse rehabilitation, mental health treatment, mentoring programs, job training, mediation and community service and other restitution measures outside of incarceration and fines.

Moreover, diversion can be uniquely tailored to the needs of each child as a true restorative justice measure while saving the state significant cost in the form of reduced court caseloads and the immense expense of future incarceration through reduced recidivism.

More developmentally appropriate juvenile justice approaches seek to ensure that when a young person comes into contact with law enforcement, he or she is not arrested nor formally processed by the justice system. Instead, juvenile justice systems are finding ways to hold youth accountable through cost-effective approaches that help youth move past delinquency. [Juvenile justice systems in Connecticut, Washington, DC, Illinois, Louisiana, Mississippi, North Carolina, Michigan, and Texas have all taken steps to expand the use of pre-arrest or pre-adjudication diversion.](#)

North Carolina took significant steps to expand the use of diversion, reduce the number of youth in pretrial detention and post-adjudication facilities, and focus more of their juvenile justice resources on community-based approaches. As a result of taking these steps towards a more developmentally appropriate juvenile justice approach, one stakeholder body tasked with evaluating North Carolina's judicial system offered that the state has already built the capacity and generated the resources to raise the age. [The \\$44 million in cost savings that North Carolina's Division of Juvenile Justice generated over the past decade by closing and reducing reliance on facilities and using more effective practices to manage justice-involved youth built the capacity for the system to serve 16- and 17-year-old youth.](#)

By removing barriers to diversion, courts will allow for more restorative measures. [When lowrisk youth are diverted, they're 45 percent less likely to reoffend. Counseling, skill-building, and](#)



[restorative justice diversion programs reduce chances of reoffending by ten percent where probation supervision only reduces that chance by one percent.](#)

***Banning child incarceration for low-level offenses***

This legislation would prohibit incarceration for children who have been charged with only a misdemeanor or technical violation of probation, thus mitigating the risk for physical and emotional harm and separation from their families.

Limiting incarceration of youth alleged to have committed a misdemeanor or technical violation of probation, would allow DJS to better leverage its resources to provide focused programming for those young people who face the most serious charges and are at the highest risk of reoffense. Youth incarceration solves very little when compared to community-based programming tailored to the child, providing them the assistance they often need to thrive. From a fiscal standpoint, incarceration comes with immense cost to taxpayers. On a per child basis, Maryland spends more than 48 other states on incarcerating youth. It can [cost \\$414,000 a year, to incarcerate one youth in Maryland.](#)

Young people offer tremendous opportunities for change and redemption, given a chance to learn and participate in supportive programming. A failure to invest in our young people involved in the justice system has been catastrophic for the Black community, and it is long past time that we chart a new course. For this, JPI strongly urges favorable consideration of SB 0691.

Thank you for your consideration and I would be happy to answer questions.

# **2022\_SB691 Omibus\_Written Testimony\_MBT\_March3.pdf**

Uploaded by: Marlon Tilghman

Position: FAV

Submitted by: Rev. Dr. Marlon B. Tilghman (a Harford County, MD Pastor, U.S. Marine Corps SSgt, retired commission '92), 1118 Marksworth Road, Gwynn Oak, Maryland 21207.

**Senate Bill 691**  
**Juvenile Law – Juvenile Justice Reform Support**

Chair Will Smith and Honorable Senate Judiciary Proceeding Committee,

BRIDGE Maryland, Inc. is a non-profit faith-based organization that uses intentional relationship building, organizing and intensive leadership development to strengthen congregations and faith leaders to demonstrate and advance justice in the world. One of our primary functions is raising the consciousness of Maryland on the great work you all have done and as your partners will do in the future. That is why BRIDGE Maryland supports Senate Bill 691, which would align Maryland's laws that impact children and youth with established adolescent development science.

Senate Bill 691 provides us an opportunity not only to care for our most vulnerable population, but also to leverage system reductions related to COVID-19 with a youth justice system that benefits more young people, families, and communities. You cannot put a cost on the mental health of children in their development years, but what these reforms offer to children is community-based services that lead to better public safety outcomes at a fraction of the cost of adult system interventions. And if done intentionally, there is the opportunity to also reduce the pervasive racial disparities that persist in Maryland. There are statistically too many black and brown children per capita entering our judicial system that can be cured with legislation listed below. We want SB691 to pass because our membership of over 7 faith traditions feel it is our moral imperative to protect and reduce the risk of emotional, cultural, and situational trauma that could impact them into their adulthood. Child need #carenotcages. We urge the Committee to issue a favorable report on Senate Bill 691, the Juvenile Justice Reform Act.

SB691 targets four areas that move Maryland closer to our vision for youth justice:

1. **Raises the Minimum Age of Juvenile Court Jurisdiction:** If we want a truly rehabilitation juvenile justice system in Maryland – we must raise the minimum age of jurisdiction to 13.
2. **Place Developmentally Appropriate Time Limits on Probation:** When youth are placed on indefinite periods of probation, doing well on probation does not bring them closer to a light at the end of the tunnel, yet doing poorly can quickly land a youth in detention. Experts recommend that youth be placed on a period of six to nine months of probation, if they need to be placed on probation at all, and that “even for those who

struggle to meet their goals, the period of probation should generally not exceed one year.”<sup>1</sup>

3. **Removes Barriers to Diversion:** There is a need to expand diversion and utilize it equitably by requiring informal adjustment of misdemeanors (excluding handgun possession) and non-violent felonies for all youth who have not previously been adjudicated delinquent.
4. **Bans Youth Incarceration for Low-Level Offenses:** Youth whose most serious alleged offense is a misdemeanor, or a technical violation of probation may not be placed in jails or prisons, which ends the harms of juvenile incarceration for low-level offenders and allows DJS to better leverage its resources to provide focused programming for those young people who face the most serious charges and are at the highest risk of re-offense.

Sincerely,

*Marlon Tilghman*

Rev. Dr. Marlon B. Tilghman,  
Co-Chair of BRIDGE Maryland, Inc., Criminal Justice Workgroup

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<sup>1</sup> Annie E. Casey, *Transforming Probation: A Vision for Getting it Right*, 2018.  
[www.aecf.org/resources/transforming-juvenile-probation/](http://www.aecf.org/resources/transforming-juvenile-probation/)

# **SB691\_MS\_fav.pdf**

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Position: FAV



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Testimony from:

Maya Szilak, Resident Fellow, Criminal Justice and Civil Liberties, R Street Institute in SUPPORT of SB 691

March 3, 2022

Senate Judicial Proceedings Committee Hearing

Honorable Members of the Senate Judicial Proceedings Committee:

R Street Institute (RSI) is a nonprofit, non-partisan public policy research organization focused on advancing limited government and effective free-market policy at the state and federal level. As part of this mission, the Criminal Justice and Civil Liberties team at RSI evaluates policies related to the justice system, and proposes changes to law that would improve outcomes for criminal justice stakeholders and the public. Because SB 691 would scale back unproductive juvenile justice interventions in young people's lives with an eye toward promoting youth wellbeing, public safety and fiscal responsibility, RSI encourages its **favorable report**.

Recognizing the need for change, in 2019 the Maryland General Assembly created the Juvenile Justice Reform Council (JJRC), a group of diverse, bipartisan stakeholders who researched best practices and made recommendations to improve public safety and reduce risk factors that contribute to juvenile crime and entrenchment of young people in the criminal and juvenile justice systems<sup>1</sup>. HB 459 encompasses many of JJRC's recommendations. Specifically, SB 691, in line with other states, would adopt best practices that: 1) establish a minimum age of juvenile court jurisdiction at 13 years, except in very serious cases in which jurisdiction begins at 10 years' old; 2) expand opportunities for informal adjustment and diversion from juvenile court involvement; 3) institute limits on the length of youth probation; and 4) prevent youth charged with a misdemeanor or technical violation of probation from being placed in juvenile detention or correctional facilities, among other things.

As it currently stands, there is no minimum age for adjudicating a child delinquent in Maryland. Once a child reaches the age of seven, the legal presumption of infancy; *i.e.*, that the child lacks the capacity to form criminal intent, ceases to apply. On its face, the supposition that 7-year-olds are rational agents with the cognitive maturity to understand the nature and consequences of their actions defies commonsense. Research backs this up, and shows that most juveniles under the age of 13 lack the cognitive capacity even to understand juvenile proceedings.<sup>2</sup> Studies further show that diverting children under 13 from the juvenile courts to community treatment is more effective in reducing recidivism, strengthening families and enhancing public safety.<sup>3</sup>

Research also shows that keeping youth who commit low-level offenses out of detention and correctional facilities, limiting lengths of juvenile probation, and diverting youth from the juvenile justice system to community treatment and services work to enhance youth rehabilitation and reduce the likelihood of recidivism.<sup>4</sup> Many reforms to this effect have already been successfully tried and tested in other states. For instance, as of 2020, states like Arkansas, Pennsylvania, Kansas, Louisiana, Mississippi,



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Nebraska and Massachusetts set their age of juvenile court jurisdiction at 10 years old, recognizing that processing very young children through the justice system is actively harmful.<sup>5</sup>

Likewise, in 2017, Utah passed comprehensive juvenile justice reform legislation that, among other things, removed truancy, disorderly conduct and other low-level misdemeanors occurring on school grounds from juvenile court jurisdiction; required pre-court diversion for youth referred for minor infractions, status offenses and misdemeanors; limited youth confinement; and placed a 4-to-6-month time limit on probation. As a result, between 2017 and 2019, the rate of juvenile referrals dropped by roughly 15 percent, detention admissions dropped by 44 percent and nonjudicial diversion of youth increased by 56 percent. Consequently, Utah was able to close several facilities, save millions of dollars and invest more resources in front-end delinquency prevention services like family functional therapy.<sup>6</sup> Along the same lines, Kentucky enacted reform legislation in 2014, requiring that all youth referred to intake for first-time misdemeanors be given the opportunity for diversion, and allowing some youth referred for first-time felonies or three or less prior misdemeanors to opt for diversion as well. Subsequent evaluation found that rates of juvenile recidivism did not increase, despite dramatic increases in the state's use of diversion.<sup>7</sup>

Following in the footsteps of these states and accordance with best practices proven to enhance youth welfare and public safety, RSI strongly supports passage of SB 691.

Respectfully submitted,

Maya Szilak  
Criminal Justice and Civil Liberties Fellow  
R Street Institute  
(773) 368-2412  
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<sup>1</sup> Department of Juvenile Services, *Final Report*, Maryland Juvenile Justice Reform Council, January 2021. <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/024900/024904/20210048e.pdf>.

<sup>2</sup> "Age Boundaries in the Juvenile Justice System," National Governor's Association, Aug. 12, 2021. <https://www.nga.org/center/publications/age-boundaries-in-juvenile-justice-systems>.

<sup>3</sup> *Raise the Minimum Age for Trying Children in Juvenile Court*, National Juvenile Justice Network, December 2020. [https://www.njjn.org/uploads/digital-library/NJJN%20Policy%20Platform\\_RaiseTheMinimumAge\\_UPDATEDFebruary%202021\\_1.pdf](https://www.njjn.org/uploads/digital-library/NJJN%20Policy%20Platform_RaiseTheMinimumAge_UPDATEDFebruary%202021_1.pdf).

<sup>4</sup> Office of Juvenile Justice and Delinquency Prevention, *Alternatives to Detention and Confinement*, U.S. Department of Justice, August 2014. <https://ojjdp.ojp.gov/mpg/literature-review/alternatives-to-detention-and-confinement.pdf>; Samantha Harvell et al., *Transforming Juvenile Probation*, Urban Institute Justice Policy Center, April 2021. [https://www.urban.org/sites/default/files/publication/104093/transforming-juvenile-probation\\_0.pdf](https://www.urban.org/sites/default/files/publication/104093/transforming-juvenile-probation_0.pdf); Holly A. Wilson and Robert D. Hoge, "The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review," National Institute of Corrections *Criminal Justice and Behavior Series* (2013). <https://nicic.gov/effect-youth-diversion-programs-recidivism-meta-analytic-review>.



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<sup>5</sup> Department of Juvenile Services, *Final Report*, (2021), p. 18.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

<sup>6</sup> Noah Bein et al., “Utah’s 2017 Juvenile Justice Reforms Shows Early Promise,” Pew Charitable Trusts, May 20, 2019. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/05/utahs-2017-juvenile-justice-reform-shows-early-promise>; Juvenile Justice Oversight Committee, *System Trends*, Utah Commission on Criminal and Juvenile Justice, 2020. [https://justice.utah.gov/wp-content/uploads/FY\\_2019\\_Update\\_Van2.html#system-trends](https://justice.utah.gov/wp-content/uploads/FY_2019_Update_Van2.html#system-trends).

<sup>7</sup> Samantha Harvell et al., “Assessing Juvenile Justice Reforms in Kentucky,” Urban Institute Justice Policy Center, Sept. 17, 2020, pp. 2-4. [https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full\\_report](https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full_report).



# **Goemann, Testimony in Support of MD SB 691.pdf**

Uploaded by: Melissa Goemann

Position: FAV

# NATIONAL JUVENILE JUSTICE NETWORK

Melissa Coretz Goemann  
National Juvenile Justice Network  
March 3, 2022  
FAVORABLE

## Senate Bill 691 Juvenile Justice Reform

Dear Chairman Smith and Members of the Senate Judicial Proceedings Committee:

My name is Melissa Coretz Goemann and I am submitting this testimony in support of SB 691 on behalf of the National Juvenile Justice Network (NJJN). I am the Senior Policy Counsel for NJJN and am also a resident of Silver Spring, Maryland. NJJN leads a membership community of 60 state-based organizations and numerous individuals across 42 states and D.C., including Maryland. We all seek to shrink our youth justice systems and transform the remainder into systems that treat youth and families with dignity and humanity.

The lack of a humane and rational minimum age for prosecuting children puts them at risk of experiencing the trauma and collateral consequences associated with arrest and police involvement. Legal experts and social scientists have also voiced significant concerns regarding young children's competency to understand and exercise their legal rights in any meaningful way.<sup>1</sup> A 2003 study found that "juveniles aged 15 and younger are significantly more likely than older adolescents and young adults to be impaired in ways that compromise their ability to serve as competent defendants in a criminal proceeding."<sup>2</sup> They further found that in terms of capacities relevant to competence, approximately one-third of 11 to 13-year-olds and one-fifth of 14 to 15-year-olds were "as impaired . . . as are seriously mentally ill adults who would likely be considered incompetent to stand trial by clinicians who perform evaluations for courts."<sup>3</sup>

Accordingly, young children are very likely to be found incompetent to stand trial. Setting a reasonable minimum age for juvenile court means Maryland can avoid expensive and unnecessary competency proceedings and restoration services that don't provide children with services that address their underlying needs. It would also establish uniformity across the state in handling young children.

Disturbingly, in Maryland, as is the case nationally, young Black children are significantly overrepresented in the justice system. In Fiscal Year 2021, 59.6 percent of Maryland's intake

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<sup>1</sup> Commission on Youth Public Safety and Justice, *Final Report of the Governor's Commission on Youth, Public Safety and Justice*, 37.

<sup>2</sup> Thomas Grisso, Laurence Steinberg, Jennifer Woolard Elizabeth Cauffman, Elizabeth Scott, Sandra Graham, Fran Lexcen, N. Dickon Repucci, and Robert Schwartz, "Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants," *Law and Human Behavior* 27(4) (2003): 333–63, 356, <https://bit.ly/3aTun7A>.

<sup>3</sup> Ibid.

complaints were for Black children under age 13,<sup>4</sup> even though Black children only comprised approximately 35 percent of Maryland's under 13 population in 2020.<sup>5</sup>

Prohibiting the arrest of young children through establishing a reasonable minimum age of prosecution would help to disrupt these justice system disparities and would also prevent large numbers of children from being arrested in school and sent through the school-to-prison pipeline. Rather than prosecuting young children, Maryland would do better to focus efforts on children's academic achievement and attachment to school, both of which are protective factors against problem behaviors, whereas processing children at a young age in the justice system can actually **increase** the chance they will commit a future offense.<sup>6</sup>

The United States is an outlier throughout the world in the practice of trying young children in court. In 2019, the United Nations Committee on the Rights of the Child urged nations to set their minimum age of criminal responsibility to at least 14-years-old without allowing any exceptions to be carved out to this minimum age.<sup>7</sup> The United Nations Global Study on Children Deprived of Liberty also called on countries to set the minimum age of prosecution in juvenile court at 14-years-old.<sup>8</sup> As the United Nations Global Study stated, "depriving children of liberty is depriving them of their childhood."<sup>9</sup>

Momentum has been growing across the country to establish and raise the age of juvenile court jurisdiction. In the past few years, California, Delaware, Massachusetts, New York, and Utah have all raised their minimum age for prosecuting children to 12-years-old and New Hampshire raised their age to 13-years-old last year. In the last year alone, seven states passed bills raising the age of juvenile jurisdiction or confinement and many more are working on it this year.

We encourage Maryland to join this movement and pass SB 691 establishing a humane and rationale minimum age for prosecuting children. We also urge you to remove the carve-out provisions included in the bill for various offenses. A child's competency is not determined by offense but by age and brain development, and prosecuting them at young ages for certain select offenses will still serve to harm them and to increase the possibility of future offenses.

Respectfully submitted,  
Melissa Coretz Goemann

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<sup>4</sup> Of the youth under age 13 in FY21, 59.6 % were Black, 5.6% were Hispanic/other, and 34.8% were white. Maryland Department of Juvenile Services (DJS), *Data Resource Guide Fiscal Year 2021* (DJS, December 2021): 32, [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2021.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf).

<sup>5</sup> Puzzanchera, C., Sladky, A. and Kang, W. (2021), "Easy Access to Juvenile Populations: 1990-2020," Online, accessed January 23, 2022, <https://www.ojjdp.gov/ojstatbb/ezapop/>.

<sup>6</sup> Development Services Group, Inc., "Protective Factors Against Delinquency" (Washington, DC: Office of Juvenile Justice and Delinquency Prevention (OJJDP), December 2015): 7, <https://bit.ly/39qY8eD>; Elizabeth S. Barnert, Laura S. Abrams, Cheryl Maxson, Lauren Gase, Patricia Soung, Paul Carroll, and Eraka Bath, "Setting a minimum age for juvenile justice jurisdiction in California," *International Journal of Prisoner Health*, Vol. 13 Iss 1 (2017): 52, <http://dx.doi.org/10.1108/IJPH-07-2016-0030>.

<sup>7</sup> United Nations Convention on the Rights of the Child (CRC), Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System* (2019): 6, CRC/C/GC/24, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?DocTypeID=11&Lang=en&TreatyID=5](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?DocTypeID=11&Lang=en&TreatyID=5)

<sup>8</sup> United Nations, General Assembly, "Global Study on Children Deprived of Liberty: report of the Independent Expert," A/74/136 (11 July 2019): 20, available at <https://undocs.org/en/A/74/136>.

<sup>9</sup> Ibid., 4.

# **JJMU SUPPORT - SB 691 Juvenile Justice Reform - JP**

Uploaded by: Nick Moroney

Position: FAV



STATE OF MARYLAND  
JUVENILE JUSTICE MONITORING UNIT

**TESTIMONY IN SUPPORT OF SB 691**

**JUVENILE JUSTICE REFORM**

*Judicial Proceedings Committee*

**March 3, 2022**

**Submitted by Nick Moroney, Director, Juvenile Justice Monitoring Unit (JJMU)**

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**The Juvenile Justice Monitoring Unit (JJMU) supports SB 691 – Juvenile Justice Reform.** The JJMU is an independent state agency based in the Attorney General's office and working to prevent abuse and ensure appropriate services within the juvenile justice system. Our reports are at: <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>

Over the past decade, the Department of Juvenile Services and the courts have increased efforts to try and ensure children and young people who do not pose a threat to community safety are kept out of the deep end of the juvenile system – that is, out of the secure detention and placement centers that are the youth equivalent of adult lockups and prisons. But there is only so much those entities can do to protect young people from unnecessary involvement with the deep end of our state's juvenile justice system; legislative action is also necessary to codify positive change in the juvenile justice system.

SB 691 contains the recommendations of the Juvenile Justice Reform Council, a legislatively enabled group that includes a varied cross section of people involved with the Maryland juvenile justice system including prosecutors and public defenders, agency heads and legislators, advocates for victims and for incarcerated youth, as well as state and national experts concentrating on effective juvenile justice systems. This cross section of stakeholders voted overwhelmingly in favor of the recommendations contained in the bill.

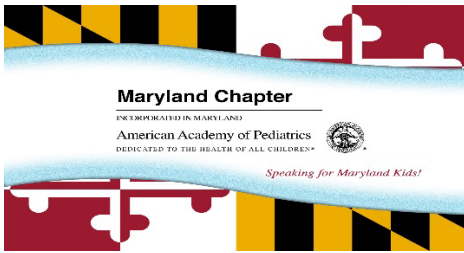
The reforms contained in the legislation are modest fixes which will help ameliorate some problems associated with the juvenile justice system in our state. These problems include open ended probation periods and a permissive approach to incarceration that allows for young children to be detained in maximum security facilities. Such issues must be positively addressed if we seek to move toward a more just and effective system for children and young people in contact with the law in Maryland.

**For all of the reasons stated above, the Juvenile Justice Monitoring Unit fully supports SB 691 and respectfully urges the committee to give this bill a favorable report.**

# **SB0691\_FAV\_MDAAP\_Juvenile Justice Reform.pdf**

Uploaded by: Pam Kasemeyer

Position: FAV



TO: The Honorable William C. Smith, Jr., Chair  
Members, Senate Judicial Proceedings Committee  
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
Christine K. Krone

DATE: March 3, 2022

RE: **SUPPORT** – Senate Bill 691 – *Juvenile Justice Reform*

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The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 691.

Senate Bill 691 reflects a number of the recommendations of the Juvenile Justice Reform Council, which as this Committee is aware, was a bi-partisan Council created by the General Assembly to do a comprehensive review of the Juvenile Justice System in order to identify best practices and recommended actions to limit and/or mitigate the incidence and impact of juvenile involvement within the criminal justice system. The initiatives and system reform reflected in this legislation will move Maryland closer to bringing the juvenile justice system framework in line with the developing and adolescent brain.

Senate Bill 691 raises the minimum age of juvenile court jurisdiction to age 13; places developmentally appropriate time limits on probation; enhances access to diversion programs so that youth may receive more restorative measures; and bans child incarceration for low-level offenses.

Enactment of Senate Bill 691 recognizes the trauma imposed on young children who intersect with the juvenile justice system. It also provides acknowledgement of the stages of brain development that may lead to poor decision making by youth that are best addressed through treatment and intervention, not incarceration. The reforms will also result in decreasing family separation and childhood trauma. MDAAP strongly urges a favorable report.

**For more information call:**

Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
Christine K. Krone  
410-244-7000

# **SB691 Fav BJC JJ Reform.pdf**

Uploaded by: Sarah Miicke

Position: FAV



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Baltimore Jewish Green and Just Alliance  
Baltimore Men's ORT  
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Beth El Congregation  
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Beth Shalom Congregation of  
Howard County  
Beth Tfiloh Congregation  
B'nai B'rith, Chesapeake Bay Region  
B'nai Israel Congregation  
B'nai Jacob Shaarei Zion Congregation  
Bolton Street Synagogue  
Chevra Ahavas Chesed, Inc.  
Chevrei Tzedek Congregation  
Chizuk Amuno Congregation  
Congregation Beit Tikvah  
Congregation Beth Shalom of  
Carroll County  
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Federation of Jewish Women's  
Organizations of Maryland  
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Har Sinai - Oheb Shalom Congregation  
J Street  
Jewish Federation of Howard County  
Jewish Labor Committee  
Jewish War Veterans  
Jewish War Veterans, Ladies Auxiliary  
Jewish Women International  
Jews For Judaism  
Moses Montefiore Anshe Emunah  
Hebrew Congregation  
National Council of Jewish Women  
Ner Tamid Congregation  
Rabbinical Council of America  
Religious Zionists of America  
Shaarei Tfiloh Congregation  
Shomrei Emunah Congregation  
Simon E. Sobeloff Jewish Law Society  
Suburban Orthodox Congregation  
Temple Beth Shalom  
Temple Isaiah  
Zionist Organization of America  
Baltimore District



Written Testimony  
Senate Bill 691 - Juvenile Justice Reform

Judicial Proceedings Committee- March 3, 2022

SUPPORT

**Background:** Senate Bill 691, (SB691), comes from recommendations from the Juvenile Justice Reform Council. If enacted, this bill would raise the minimum age that children can be arrested, establish age/developmentally appropriate limits to probation, allow for more restorative measures, and remove barriers to them, and stop the incarceration of children for low-level offenses.

**Written Comments:** Our community is concerned about failings in Maryland’s juvenile justice system. The Baltimore Jewish Council and its faith partners believe it is critical to make reforms to that system. Our concerns are based on our values of child health, development, and education as well as for the well-being, safety and security of the communities. Maryland currently does not have an arrest age restriction and children as young as six have been arrested. SB691 will raise the minimum arrest age to 13. The state also does not have a restriction on juvenile probation length. This bill would generally limit the initial probation sentence to a maximum of one year, with some exceptions. It would also give more access to diversion programs like substance abuse and mental health treatment and jobs training for most first-time offenders, except in the case of violent crimes. Lastly, SB691 would prohibit the incarceration of children charged with a misdemeanor or technical violation of probation. Before Covid, 2/3 of incarcerated children were there for misdemeanors. When children commit crimes, great care should be taken to ensure that the justice system provides them with opportunity for rehabilitation and growth. Maryland’s juvenile justice system is not meeting these goals today. These measures would help ensure that less children are incarcerated and create better outcomes for all children that touch the juvenile system.

With this in mind, the Baltimore Jewish Council urges a favorable report of SB691.

*The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.*

# **SB0691 - DJS Testimony - Support - FINAL.pdf**

Uploaded by: Sec. Sam Abed

Position: FAV

Boyd K. Rutherford  
Lt. Governor

Larry Hogan  
Governor

Sam Abed  
Secretary

**DATE:** 3/3/2022  
**BILL NUMBER:** SB 691 – Juvenile Justice Reform  
**DJS POSTITION:** Support

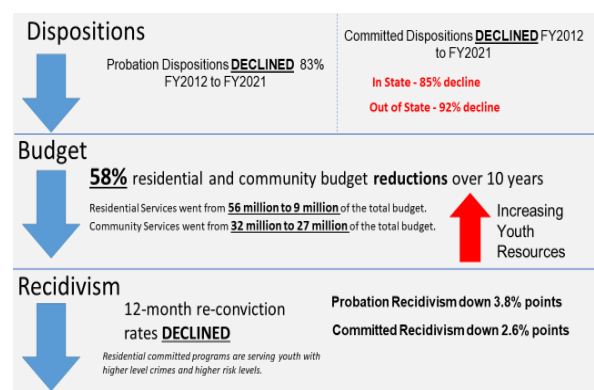
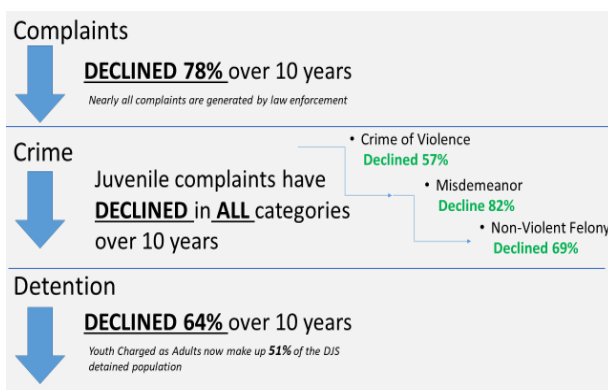
The Department of Juvenile Services (DJS or department) supports SB 691.

## SB 691 brings the consensus-driven reforms recommended by the bipartisan Juvenile Justice Reform Council into law.

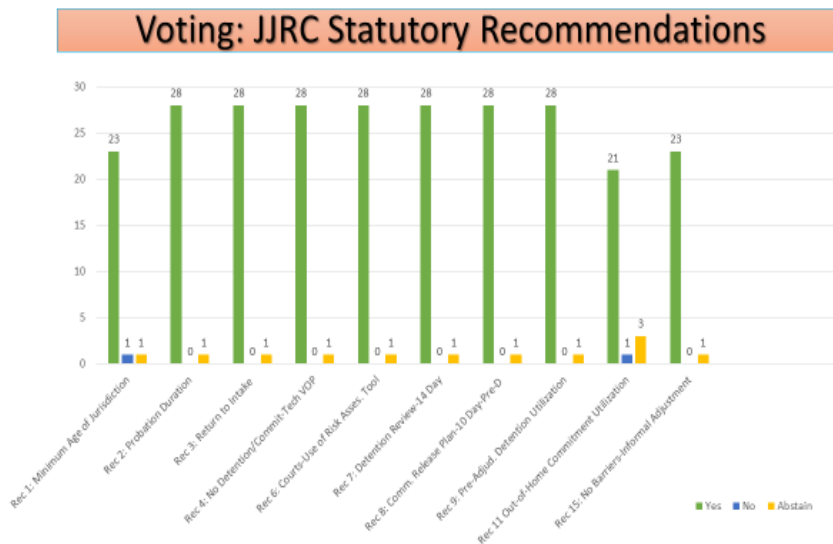
The JJRC was formed during the 2019 session of the Maryland General Assembly by SB 856 / HB 606. The JJRC spent two years gathering public input, researching best practices regarding the treatment of juveniles who are subject to the criminal and juvenile justice systems, and identifying recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems. With technical assistance from the Vera Institute for Justice, the Council analyzed national data and decided upon a set of almost-unanimous recommendations for Maryland.

### I. The Department of Juvenile Services is able and ready to implement all of the JJRC's recommendations in SB 691.

Over the last 10 years, Maryland has seen a significant decline in both the number of youth entering the juvenile justice system and a reduced use of juvenile incarceration. The DJS committed population has declined over 85% and the number of youth in detention is down by 64%. Simultaneously, the DJS residential and community budgets have been reduced by 58% over the last 10 years (FY12 – FY21). Money saved by reducing the number of young people in expensive out-of-home settings has allowed the Department to shift our spending and invest more money into an array of over 800 community-based programs. These investments into prevention and early intervention are not only efficient, but have contributed to the 78% decline in complaints.



## II. The JJRC Recommendations are Consensus-Based with Broad Support



*All statutory recommendations coming from the first JJRC received unanimous favorable vote except: the minimum age of jurisdiction recommendation (1 vote in opposition) and limiting out-of-home commitments for misdemeanor offenders (1 vote in opposition). The JJRC member representing the judiciary abstained from all votes on statutory recommendations.*

JJRC members included members of the legislature, the judiciary, prosecutors, defense lawyers, legal experts, state and local child-serving agencies, educators, law enforcement officials, formerly justice-involved youth, and national experts. Nearly all of the recommendations analyzed and discussed by the JJRC received a unanimous favorable vote.

## III. SB 691 would codify the JJRC's recommendations to improve and modernize Maryland's overall approach to juvenile diversion, detention, commitment, supervision, and treatment by:

- Allowing for developmentally appropriate interventions for youth under 13;
- Creating a results-oriented probation model to help young people meet rehabilitative goals;
- Maintaining public safety while minimizing use of detention and out-of-home commitments for low-risk youth;
- Expanding opportunities for diversion services for low-risk youth;
- Embedding principles of racial equity into all levels of Maryland's juvenile justice system; and
- Maintaining monitoring and legislative oversight of proposed changes.

The Department of Juvenile Services has considered each of the statutory changes proposed in SB 691 and can implement each reform using existing resources while maintaining public safety.

**For these reasons, DJS urges a favorable report for SB 691.**



# **WDC Testimony SB691-2022\_FINAL.pdf**

Uploaded by: Beth Tomasello

Position: FWA



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**Senate Bill 691 - Juvenile Law - Juvenile Justice Reform  
Senate Judicial Proceedings Committee – March 3, 2022  
FAVORABLE WITH AMENDMENTS**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of the largest and most active Democratic Clubs in Maryland, with hundreds of politically active women and men, including many elected officials.

**WDC urges the passage of SB691 with the amendments suggested in this testimony.** WDC commends the Maryland Juvenile Justice Reform Council (JJRC) for its work and the recommendations contained in its January 2021 Report.<sup>1</sup> WDC also commends Senator Jill Carter for her leadership in ensuring that the important reforms recommended by the JJRC become law. WDC respectfully suggests the following amendments to SB691.

First, WDC suggests the amendment of the age at which a child may come under the jurisdiction of the Juvenile Court to 14 regardless of the nature of the alleged offense. Children as young as 10 do not belong in the juvenile court system. As the JJRC's Report states:

A growing body of evidence has found that pre-teens have diminished neurocognitive capacity to be held culpable for their actions; likewise, they have little ability to understand delinquency charges against them, their rights and role in an adversarial system, and the role of adults in this system. Recognizing this developmental science, as well as recognizing the damage inflicted by putting relatively young children into the juvenile justice system, several states have recently moved to create a minimum age of juvenile court jurisdiction. The behavioral issues of children below that age are handled in the

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<sup>1</sup> Department of Juvenile Services. (January 2021). *Maryland Juvenile Justice Reform Council-Final Report*[MSAR#12288]. Maryland Juvenile Justice Reform Council. Retrieved from <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>



## MONTGOMERY COUNTY, MARYLAND WOMEN'S DEMOCRATIC CLUB

child welfare and mental health systems. **However, the recommendation of the Committee on the Rights of the Child of the United Nations, based on “documented evidence in the fields of child development and neuroscience,” is that the minimum age of jurisdiction should be at least 14.<sup>2</sup>** (emphasis added).

WDC urges the Judiciary Committee to put Maryland in the national lead on matters of juvenile justice and adopt the recommendation of the Committee on the Rights of the Child of the United Nations.

Second, the SB691 proposes a new Section 3-530 to the Public Safety Article that would require the Governor’s Office of Crime Prevention, Youth, and Victim Services to collect and report data “relating to juveniles who are charged, convicted, and sentenced as adults in the State.” The statute would require the annual reporting on:

- The number of juveniles charged, convicted, and sentenced as adults
- The outcomes of cases involving juveniles charged as adults
- The number of juveniles housed in each State correctional facility or local jail
- The length of the sentence for each juvenile sentenced as an adult

This is vitally important data for the State to collect, and WDC supports the inclusion of this provision in SB691. However, the collection of this data alone will not inform policymakers, lawmakers, and the public about the disparities and inequities that have historically been an integral part of Maryland’s juvenile criminal system. Accordingly, WDC proposes that the statute be amended to require the collection of demographic data that would allow for evaluation of conviction and sentencing of juveniles across jurisdictions within the State.

As the JJRC report details, the racial disparity between Black and White youth who are tried as adults is shocking. In Baltimore City, 94.1 percent of juveniles tried as adults are Black.<sup>3</sup> In other counties reporting through the MDEC system, 72.8 percent

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<sup>2</sup> Department of Juvenile Services. (January 2021). Page 17.

<sup>3</sup> Department of Juvenile Services (January 2021). Page 43.



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

of juveniles tried as adults are Black.<sup>4</sup> Accordingly, it is vital for the State to **report on the race and ethnicity of each child charged, convicted, and sentenced as adults**. Similarly, the State should be tracking **the gender of the juveniles tried as adults to ensure that there are no gender disparities in charging and sentencing of young people**. It is also important to know **in which jurisdiction the child was tried, convicted, and sentenced**. It is entirely plausible that the number of young people tried, convicted, and sentenced as adults will vary from jurisdiction to jurisdiction depending on the State's Attorney and the judges in their jurisdiction and what perspective they bring to juvenile justice. Finally, **to make valid comparisons, it is necessary to collect information on the crime(s) for which the young person was tried, convicted, and sentenced**. Only with all those pieces of information can we know if the trial and sentencing of Maryland's young people is equitable.

**We ask for your support for SB691 and strongly urge a favorable Committee report with the amendments noted above.**

Respectfully,

Leslie Milano  
President

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<sup>4</sup> Department of Juvenile Services (January 2021). Page 43.



## **SB0691 UNF opposed mcavoy.pdf**

Uploaded by: vince mcavoy

Position: UNF

## **UNFAVORABLE on SB 691**

vince mcavoy baltimore maryland

In testimony in the House Judiciary, upon looking at a House version of this type of bill, the issue of fatherlessness has arisen.

The societal pathologies caused by fatherlessness will not be diminished or ameliorated by letting criminals go unpunished or by letting criminals out of their sentences early.

The crimes in question are the 0.01% which should result in serious and longer-lasting consequences due to the loss by victims, the harm or death that they've precipitated and by the societal discord they have caused.

I urge an unfavorable on these bills and to look more closely at preventing these crimes from happening in the first place.

## **SB 691 - information.pdf**

Uploaded by: Gavin Patashnick

Position: INFO



## Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Rich Gibson  
President

Steven I. Kroll  
Coordinator

**DATE:**                   **March 3, 2022**

**BILL NUMBER:**    **SB 691**

**POSITION:**           **Information**

The Maryland State's Attorney's Association (MSAA) provides the following information concerning SB 691:

The purpose of the Juvenile Causes Act, as directly stated in Courts and Judicial Proceedings Article, §3-8A-02(a)(4), involves "provid[ing] for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest." Such a course of rehabilitation necessarily involves fashioning a modality of treatment that will best fit the individual needs of the child. One of the best vehicles to fit this goal is the utilization of probation.

Among other things, SB 691 seeks to limit juvenile probation to predetermined terms. Misdemeanors are capped at a maximum one (1) year probationary period, while felonies are restricted to two (2) years. Such restrictions are contrary to the purpose of the Juvenile Causes Act in that it thwarts the ability of the Court to fashion a course of rehabilitative treatment that would best fit the individualized need of each child. Some children may require longer terms of probation to accomplish treatment goals. It is also not uncommon for some children to experience waiting periods for programs, including relatively minor interventions such as mentorship. Limiting probation shortens the time frame by which a youth, already on a waiting list, could thrive in a particular program. In short, juvenile rehabilitation only works when the parties, the Courts and the Department of Juvenile Services ("DJS") maximize the umbrella of services available to each youth. Unfortunately, in many rural parts of the State, the universe of juvenile rehabilitative programs is not extensive, and it is likely that the Court may be forced to end a probation, thereby cutting off funding and support by DJS, even if the child wishes to continue in a program.

Further, there is the other very real possibility that should a youth, facing the end of a mandated term of probation, remain uncooperative to the strict compliance of a probation, the Court would have no option but to resort to a commitment, rather than simply re-engage the youth and retain a probationary status. In other words, limiting terms of probation may unintentionally cause more youth to be committed. Clearly, such a result would be contrary to the intent that this provision in SB 691 seeks to accomplish.

The probation component of SB 691 inhibits the ability of the Court to meet the needs of youth under its supervision and devise appropriate modalities of rehabilitative care. SB 691 is stronger without these probation limitations and the MSAA would urge this Committee to either remove these restrictions from this legislation entirely or amend to allow the Court to continue a probation for extended periods of time, even if those time periods are subject to a hearing and a good cause standard.