

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 754
Minors Convicted as Adults – Sentencing – Transfer to Juvenile
Court
DATE: February 9, 2022
(2/17)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 754. This bill would amend Criminal Procedure § 6–235, addressing the sentencing of a minor who is convicted as an adult.

The Judiciary recognizes both the appropriateness of transferring certain criminal cases involving a minor to the juvenile court for sentencing and the appropriateness of considering a range of factors in determining the sentencing of an individual. The Judiciary also agrees that for some juveniles, especially those who are older and for whom there often are less available treatment and service options, making available some service/treatment options not generally available to the juvenile court may be of use. But the Judiciary also notes several concerns about this bill.

The bill would permit the juvenile court to impose an adult sentence. Imposition of an adult sentence on a minor is outside of the jurisdiction of the juvenile court under Courts and Judicial Proceedings Title 3, Subtitle 8A. An adult sentence also is outside of the purposes of the juvenile court as set out in § 3-8A-02. Issues raised by the imposition of an adult sentence include issues around confidentiality. Juvenile records are confidential under Courts and Judicial Proceedings § 3-8A-27; this bill does not address confidentiality and may be read to make public the adult sentencing portions of a juvenile case.

The bill also would require the court to consider certain factors. The bill does not address whether that consideration must be on the record. Regarding specific factors, factor (xi), requiring the court to consider the minor’s “faith . . . involvement” may raise constitutional issues. Factor (xii), addressing a “comprehensive mental health evaluation of the minor . . . by a mental health professional licensed in the state to treat adolescents” may raise implementation issues as there do not appear to be state “mental health professional” licenses issued specifically to treat adolescents.

Further, Criminal Procedure § 4-202.2 addresses the transfer of a case of a juvenile tried as an adult to the juvenile court for sentencing. It is unclear how that statute and this bill would be read and applied together.

In addition, Criminal Procedure § 6-235(b)(2) of the bill prohibits courts from requiring comprehensive mental health evaluations for minors. While such evaluations are ordered relatively rarely, the Judiciary believes that courts should have the discretion to order such evaluations when appropriate. Next, § 6-235(c)(3)(ii) of the bill states that courts “shall” vacate adult sentences when a minor successfully completes the terms of a juvenile disposition. The Judiciary believes courts should have discretion to decide whether adult sentences should be vacated in such instances.

cc. Hon. Lesley Lopez
Judicial Council
Legislative Committee
Kelley O’Connor