



BILL: House Bill 294
POSITION: Favorable
DATE: February 8, 2022

In Maryland, 15- and 16-year-olds can't go to an R-rated movie, vote in an election, buy alcohol or a lottery ticket, join the military, or enter into a legal contract.

But they can be charged and tried as an adult in court.

Children can automatically be charged in adult court for 33 separate offenses, based on charges levied by police, without taking into account their youth, development, or vulnerability.

Maryland is at a crossroads: the laws that shrunk the jurisdiction of juvenile court and expanded the automatic charging of children in adult court were passed as part of a “tough on crime” period in the late 80s and early 90s.¹ The years leading up to these changes involved race-based fear-mongering and false predictions of increased crime and the rise of “super-predator” youth. But trying children in the adult system has proven to do more harm than good. Research has in fact demonstrated that trying children in adult court does not decrease recidivism and in fact increases rates of criminality among youth.^{2,3} Furthermore, Black youth tried in adult courts receive significantly more punitive sentences than White youth.⁴

As a result of the harms these laws have caused, half of the states across the country have passed reforms narrowing or eliminating automatic pathways through which children are transferred to the adult court, granting increased judicial review and discretion in the transfer decisions.⁵ Kansas, Nebraska, North Dakota, Washington, Nevada, Colorado, Virginia, Connecticut, Rhode Island, and South Carolina have all narrowed automatic transfer provisions while Oregon, California, Illinois, Kentucky, Georgia, Florida, New Hampshire, and New Jersey have all ended an automatic transfer mechanism altogether. In 2018, the Maryland General Assembly convened a Juvenile Justice Reform Council (JJRC) and tasked it with using a data-driven approach to develop a statewide framework of policies to invest in strategies to increase public safety and reduce recidivism of youth offenders.⁶ That body met for more than two years, heard from a

¹1986 Md. Laws, Ch. 790, excluding from the original jurisdiction of the Juvenile Court a child charged with certain handgun offenses and 1994 Md. Laws, Ch. 641, excluding from Juvenile Court original jurisdiction 17 other offenses.

² Redding RE. Juvenile Transfer Laws: An Effective Deterrent to Delinquency? US Department of Justice, Office of Juvenile Justice and Delinquency Prevention; 2010. <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>

³ Mason C, Chang S. Re-Arrest Rates among Youth Sentenced in Adult Court. Juvenile Sentencing Advocacy Project; 2001. <http://ncfy.acf.hhs.gov/library/2001/re-arrest-rates-among-youth-sentenced-adult-court>.

⁴ Jordan KL, Freiburger TL (2010) Examining the impact of race and ethnicity on the sentencing of juveniles in adult court. Criminal Justice Policy Review 21: 185–201.

⁵ Evans, Brian (2020). “Winning the Campaign: State Trends in Fighting the Treatment of Children as Adults in the Criminal Justice System,” The Campaign for Youth Justice: Washington, D.C. p. 8. Note: In 2021, Kentucky also ended mandatory waiver, bringing the number of states to 25.

<http://cfyj.org/images/reportthumbnails/CFYJ%20Annual%20Report.pdf>.

⁶ Maryland HB606: 2019: Regular Session



myriad of local and national experts, studied the statutes and the data available. After conducting an exhaustive review, the JJRC overwhelmingly voted (13-3) to recommend an end to the automatic charging of children in adult court. SB165/HB294 is the result of those recommendations.

This bill does prevent children from being tried in adult court. SB165/HB294 only requires that children have their case *start* in juvenile court so that a Judge can take an informed look at the circumstances of the case and the child, weigh the constitutionally required factors⁷, and decide if the case belongs in adult or juvenile court.

The Current System is Broken & Causing Irreparable Harm to Youth of Color

Maryland sends more young people, per capita, to adult court based on offense type than any other state except for Alabama.⁸ Only nine states send more than 200 youth per year to adult court, Maryland routinely sends four times that amount.

Most of the children we charge in adult court are Black or Brown. As a technical assistance provider for the JJRC, the Vera Institute of Justice examined data related to youth charged in adult court between 2017 and 2019. Vera found that in MDEC counties youth of color made up 79% of youth charged in adult court, but only 51% of youth transferred to juvenile court.⁹ White youth made up only 21% of kids charged in adult court in MDEC counties, but 49% of youth who are transferred down. Black children made up 72% of kids charged in adult court in MDEC counties but only 39% of kids who are transferred down. Which means, white youth had their cases transferred down 94% of the time compared to only 26% for youth of color. Black youth had the lowest rates of transfer - at only 22%.

Yet nearly 9 out of 10 of those children (87%) initially charged as adults do not end up with an adult criminal conviction.¹⁰ Nearly half (43%) have their cases transferred and another third (35%) are dismissed outright. Under the current law, Maryland is charging an inordinate amount of Black and Brown children in adult court. In FY20, Maryland sent more children to adult court than Arizona, Massachusetts, California, and Pennsylvania combined. Those states have nearly

⁷ *Kent v. United States*, 383 U.S. 541 (1966) established the Constitution requires the court to conduct a “full investigation” and “set forth the basis for the order” to waive a child to adult court. The statutory factors a court considers in both waiver and transfer hearings are (1) the age of the child; (2) the mental and physical condition of the child; (3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children; (4) the nature of the alleged crime; and (5) the public safety.

⁸ The Sentencing Project, National Trends in Charging Children, *Presentation to the JJRC* (July 20, 2021). <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

⁹ *Id.* The Committee should note that this data only includes 21 Counties and Baltimore City. Due to lack of data collection, the analysis did not include Prince George’s or Montgomery County – two of the largest jurisdictions in the state.

¹⁰ Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>



10 times Maryland’s population. This practice, and the damage done primarily to Black and Brown young people, who are ultimately not convicted in adult court may be a major contributing factor to why Maryland’s imprisons a higher percentage of Black people (70%) than any other state in the nation.¹¹

More than 95% of children automatically charged in adult court¹² are eligible for a transfer hearing.¹³ A “transfer” involves moving a case from adult down to juvenile court, while a “waiver” involves moving a case from juvenile up to adult court. A court must consider five statutory factors in any waiver¹⁴ or transfer¹⁵ decision: (1) the age of the child; (2) the child’s physical and mental condition; (3) the child’s amenability to treatment in any institution, facility, or programs available to delinquents; (4) the nature of the offense(s); and (5) public safety. To assist in the consideration of these factors, the transfer statute provides for a court-ordered study, usually conducted by the Department of Juvenile Services (DJS.)¹⁶

When a child is automatically charged in adult court, the five factors are not considered until the transfer hearing. In FY20, detained youth charged in adult court waited an average of 154 days in from the time they were charged until their transfer hearing.¹⁷ Federal law now prohibits transfer-eligible youth from being housed in adult jails until a judge determines they are eligible to be tried in adult court.¹⁸ However, Maryland is out of compliance with federal law and many children are housed in adult jails throughout the state. Studies show that youth held in adult facilities are 36 times more likely to commit suicide and are at the greatest risk of sexual victimization.¹⁹

While most children charged in adult court will not end up in adult prison, while they wait for transfer hearings they are not receiving treatment, rehabilitation, or therapy. Juvenile incarceration is shown to erode mental health, lead to social and economic disadvantages related to stigma, disrupted social networks, expose children to more criminogenic peers, and contribute to the higher rates of fatal drug overdose, suicide, and posttraumatic stress. Finally, incarceration may compound existing socioeconomic and psychosocial health risks in vulnerable populations. “Any incarceration during adolescence or young adulthood is associated with worse general

¹¹ Justice Policy Institute, Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland, 2019. <https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-young-adults-in-maryland/>

¹² Maryland Courts and Judicial Proceedings Section 3-8A-03.

¹³ Children over 16 charged with first degree murder are currently not transfer eligible. MD Crim. Pro Code § 4-202 (2013).

¹⁴ Courts and Judicial Proceedings Article § 3-8A-06(e)

¹⁵ Criminal Proceedings Article § 4-202(d)

¹⁶ Criminal Proceedings Article § 4-202(e)

¹⁷ Dept. of Juv. Services, Data Resource Guide FY2021, Youth Charged as Adults Pending Transfer, 130. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf

¹⁸ Juvenile Justice and Delinquency Prevention Act Reauthorization 2018

¹⁹ Campaign for Youth Justice. Key Facts: Youth in the Justice System. June 2010, <http://www.campaignforyouthjustice.org/images/factsheets/KeyYouthCrimeFactsFeb222018Revised.pdf>



health, severe functional limitations, stress-related illnesses, such as hypertension, and higher rates of overweight and obesity during adulthood.”²⁰

As the *Special Committee on Juvenile Courts* declared over 50 years ago in 1966, “[N]othing positive is accomplished by subjecting a child who will ultimately be treated as a juvenile to all the pre-trial aspects of the adult criminal procedure.” Indeed, “nothing is lost by giving the Juvenile Court original and exclusive jurisdiction over children through age 17 with the power to waive to the Criminal Court.”²¹

This bill will correct a backwards process. The current law requires large numbers of children to be charged in adult court, wait for long periods of time in detention, only to have their cases dismissed or transferred to the juvenile system. Opponents of ending the automatic charging of youth in adult court argue public safety and the serious nature of some cases involving youth demand maintaining the status quo. Ending automatic charging may not lead to any fewer children convicted in adult court. Of 871 cases of children charged in Maryland adult court, only 110 of them resulted in adult criminal conviction.²² Almost all of the remaining 761 cases, however, went through the lengthy, expensive, and resource intensive transfer hearing process. In some of those cases, the SAO agreed to transfer, in others there was lengthy litigation before a Judge ultimately granted the transfer motion. By ending automatic charging, this bill would allow prosecutors to choose the cases where they want to dedicate their resources, time, and effort to argue a waiver motion. With fewer first-time offenders and other youth appropriate for the rehabilitative practices of juvenile court being processed through the criminal court system, the State could very well focus their energies more effectively and end up convicting more children in adult court.

Maryland’s current system of automatic charging encourages police and prosecutors to overcharge children. For example, of 314 cases where a child was charged with Assault in the 1st degree only 17 resulted in an adult criminal conviction.²³ Ninety-five (95%) of 1st degree assault cases where children are charged in adult court did not result in an adult criminal conviction. The current law allows the charging police officer to determine which children are subject to adult jurisdiction, thereby incentivizing overcharging as a way to coerce a plea.

This bill will streamline the system. The amount of time that passes between an initial appearance in juvenile court to a waiver up hearing is much shorter (30-60 days) than the process of charging a child in adult court and transferring them down (120-150 days). Ending automatic

²⁰ Elizabeth S. Barnert, et. al. *How Does Incarcerating Young People Affect Their Adult Health Outcomes?* Pediatrics. (2017). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5260153/#>

²¹ Report of the Legislative Council Special Committee on Juvenile Courts, January 1966 (occasionally referred to as the “Rasin Report”)

²² Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>

²³ Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>



transfer limits the time young people who will ultimately have their cases adjudicated in juvenile court or dismissed spend in pre-trial detention and ensure that those young people deemed appropriate for rehabilitation start those services as quickly as possible.

Automatic Charging Is a Risk to Public Safety

Supporters of the punitive reforms of the status quo argue automatic charging of children is necessary to protect the public, but we know definitively that

“[T]ransfer to the adult criminal justice system is associated with subsequent violence among juvenile participants when compared with violence among juveniles retained in the juvenile justice system...little evidence supports the idea that transfer laws deter juveniles in the general population from violent crime. These policies might be favored by policymakers or the public for other reasons (e.g., societal retribution in response to serious crime or incapacitation of serious offenders). However, the review indicates that use of transfer laws and strengthened transfer policies is counterproductive to reducing juvenile violence and enhancing public safety.”²⁴

In other words, charging kids in adult court is likely to increase recidivism and “increase the social cost of juvenile crime.”²⁵

The weight of evidence shows that youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be rearrested for violent or other crime.²⁶ In Maryland, people leaving the adult prison system have a 40% re-incarceration rate compared to a 17% re-incarceration rate for youth transferred from adult court to juvenile court who ended up under DJS supervision.

Neurodevelopmental immaturity leads young people to commit more crimes than their elders, because the prefrontal cortex (aka the seat of reasoning) is the last region of the brain to reach structural maturity. As such, a person under 18 have not developed the same control over their moral reasoning, judgment, impulse control, planning, character, and behavior that adults have. But that same neurodevelopmental immaturity is also an asset – the young brain’s plasticity means that young people are more susceptible, and successful, when offered comprehensive, evidence-based services geared at rehabilitation. Programs that focus on counseling, skill-building, and restorative justice (like those provided in the juvenile system) have been shown to

²⁴ <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

²⁵ Reforming Juvenile Justice, 134. <https://www.nap.edu/read/14685/chapter/1>

²⁶ *Effects on Violence of Laws and Policy Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System*, American Journal of Preventative Medicine, April 2007
<https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>.



reduce youth recidivism by an average of ten (10) percent, while primarily supervision-based programs (like probation in the adult system) reduce recidivism by just one (1) percent.²⁷

Ending Automatic Charging is Common-Sense, Happening Across the U.S.

As of 2021, there are seven states that require all youth under age 18 to originate in family court for all charges, with the juvenile court judge retaining full discretion over whether the youth is waived to adult court. This includes California, Hawaii, Kansas, Kentucky, Missouri, Rhode Island, and Tennessee. Texas requires a full hearing for every child in juvenile court, though all 17-year-olds are still charged as if they were adults there.

In California, it's been more than 5 years since the 2016 voter initiative known as Prop 57 eliminated all forms of waiver that do not include full judicial discretion. Two years later, the state raised the floor for judicial transfer to age 16; as a result, transfers have dropped from several hundred a year to under 50.²⁸ California has an estimated population of 39.5 million or 6x larger than Maryland.²⁹

In Illinois, bi-partisan legislation in 2015 shifted their process from an “automatic” adult court case based solely on age and charge, to a due process hearing with an individualized review of the probable cause for the charged offense and of the strengths and needs and risks of the child charged with the offense. After Illinois’s reform, which narrowed transfer eligibility to children age 15 and older while also shrinking the number of offenses for which a child had to be charged as an adult, was ruled retroactive, 186 cases of children in Cook County who had been automatically charged as adults were reviewed by prosecutors and the courts. Ultimately only 3 of those cases were transferred to adult court, while 6 others resulted in a suspended adult sentence.³⁰ Illinois demonstrates how many inappropriate cases are swept into the adult system by automatic transfer laws.

Vermont also ended its direct file statute.³¹ Prior to the law change, 16- and 17-year olds could be directly charged into adult court for any charge at the discretion of the prosecutor. In 2018, Vermont became the first state to raise the age of criminal responsibility to 20 years. The

²⁷ Lipsey, M. W. (2009). The primary factors that characterize effective interventions with juvenile offenders: A meta-analytic overview. *Victims and Offenders*, 4, 124–147, www.episcenter.psu.edu/sites/default/files/community/Lipsey_Effective%20interventions%20-%202009.pdf.

²⁸ Ridolfi, Laura, Washburn, Maureen, Guzman, Frankie, (2017). “Youth Prosecuted as Adults in California: Addressing Racial, Ethnic, and Geographic Disparities After the Repeal of Direct File.” Oakland & San Francisco, CA: W. Haywood Burns Institute, Center of Juvenile and Criminal Justice, National Center for Youth Law. http://www.cjcj.org/uploads/cjcj/documents/youth_prosecuted_as_adults_in_california.pdf & *Juvenile Justice in California* (2020). Criminal Justice Statistics Center, Sacramento, CA.

²⁹ <https://www.census.gov/quickfacts/CA>

³⁰ Kooy, Elizabeth, (2020). “When Juvenile Court is the Default Starting Place for Youth: A Review of Outcomes Following 2015 Automatic Transfer Changes in Cook County.” Evanston, IL: Juvenile Justice Initiative. <https://jjustice.org/wp-content/uploads/Transfer-Report-2020.pdf>

³¹ 2016 Legislative Session, H.95 (Act 153) passed and was signed into law. <https://legislature.vermont.gov/bill/status/2016/H.95>



following year, the state allowed most youth up to age 21 who had been statutorily excluded from juvenile court to instead be processed as a youthful offender (including youth up to age 21) in juvenile court.³² In 2019, there were a total of 6 youth (all 18 or 19) prosecuted under the youthful offender statute in Vermont.³³ However, youth up to age 21 who are charged with any of 12 serious offenses remain statutorily excluded from juvenile court in Vermont. More recently, Florida³⁴ & Oregon³⁵ both ended statutory exclusion in their states; while Kentucky³⁶ and Rhode Island³⁷ ended mandatory waivers in juvenile court.

In 2020, both Utah³⁸ and Virginia³⁹ greatly restricted their direct file statutes, joining Washington State⁴⁰ (2018) returning the vast majority of children charged as adults back to juvenile court.

The Worst-Case Scenario

Opponents of ending automatic charging present facts of a particularly shocking crime and say “Do you really think this case belong in juvenile court?” This committee should counter by asking those defenders of the status quo, “if it is so obvious that a particularly shocking crime belongs in adult court isn’t it true that a prosecutor will have no problem winning the waiver hearing?”

The worst-case scenario described by opponents of SB165/HB294 would likely be waived to adult court and be adjudicated more quickly under this bill than the current lengthy and time-intensive transfer process. Ending automatic charging limits the time young people who will ultimately have their cases adjudicated in juvenile court or dismissed spend in pre-trial detention and ensure that those young people deemed appropriate for rehabilitation start those services as quickly as possible.

³² 2019 Legislative Session, S133 (Act 45) passed and was signed into law. <https://trackbill.com/bill/vermont-senate-bill-133-an-act-relating-to-juvenile-jurisdiction/1708195/>

³³ Schatz, K, Vastine, K, Chester, L, Sussman, M, et al, (2019). “Report on Act 201 Implementation Plan Report & Recommendations,” Report to the Vermont Legislature. Burlington, VT.

<https://dcf.vermont.gov/sites/dcf/files/DCF/reports/Report-Act201.pdf>

³⁴ 2019 Legislative Session, HB 7125 passed and was signed into law. <https://trackbill.com/bill/florida-house-bill-7125-administration-of-justice/1740423/>

³⁵ 2019 Legislative Session, SB 1008 passed and was signed into law.

<https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB1008>

³⁶ 2021 Legislative Session, SB 36 passed and was signed into law.

<https://apps.legislature.ky.gov/record/21RS/sb36.html>

³⁷ 2018 Legislative Session, H7503 passed and was signed into law.

<http://webserver.rilin.state.ri.us/BillText/BillText18/HouseText18/H7503.pdf>

³⁸ 2020 Legislative Session, HB0384 passed and was signed into law.

<https://le.utah.gov/~2020/bills/static/HB0384.html>

³⁹ 2020 Legislative Session, HB0384 passed and was signed into law.

<https://le.utah.gov/~2020/bills/static/HB0384.html>

⁴⁰ 018 Legislative Session, SB 6550 passed and was signed into law.

<https://app.leg.wa.gov/billsummary?BillNumber=6550&Year=2017&Initiative=false>



Ending automatic charging also guarantees that a juvenile court judge retains full discretion over whether the youth is waived to adult court. Because at the time of arrest, many cases look similar. Take the case of Andrew Zaragoza. Andrew was 16 when he was arrested for killing his mother. Andrew is now 21 years old, but when his public defender Kimberlee Watts first met him he was a terrified 16-year-old child who still bore the scars on his chest where his mother had stabbed him and on scars across his throat when he had tried to kill himself.⁴¹

One day, when he was 16-years-old Andrew's mother came home high and began to molest him – again. When Andrew tried to call for help, his mother stabbed him in the chest. Andrew attempted to protect himself from his mother, struck her with a hammer, and killed her. Andrew was so distraught, he then tried to take his own life.

Despite the mountains of corroborating evidence that Andrew was severely abused by his parents, the law required that he be automatically charged in adult court. Given that he was charged with First Degree murder, Andrew was not transfer eligible. A jury acquitted Andrew of First Degree Murder, but convicted him of Second Degree Murder. Because Andrew was initially charged with first degree murder he was not eligible for transfer to juvenile court even at sentencing.⁴²

Andrew is currently in the Division of Corrections' Patuxent Youth Program and so has no access to internet to be able to directly share his. If Andrew could address the Committee he would tell you that he suffered severe and pervasive physical, emotional, and sexual abuse for years at the hands of his parents. The abuse was not investigated until after Andrew was already charged in adult court. The Child Protection Services (CPS) investigator who visited Andrew in jail after he was automatically charged in adult court was the first time anyone from spoke to him about the abuse without his abusive mother present. A CPS worker had been to the house 2 years prior and again one month before Andrew killed his mother, but no one spoke to him privately. A month before her death Andrew's mother agreed to a safety plan with CPS, but she refused any services. No one did anything to protect him and the abuse continued.

Andrew cried out for help in other ways. Court records show that as a child, he called the police many times for help. Once, Andrew had to barricade himself in a room hiding from his abusive mother. While his father tried to keep his mother out, Andrew called the police for help. The police involuntarily hospitalized his mother, but did not report the abuse to CPS as required by law. In short, despite mandatory reporting laws, agencies, and systems designed to protect children the law did nothing to protect Andrew.

Despite the mountains of corroborating evidence that Andrew was severely abused by both his parents, the law required that he be automatically charged in adult court. Because he was initially charged with First Degree murder, Andrew was not eligible for transfer to juvenile court even at

⁴¹ The details of Andrew's abuse and his case are being shared with the his explicit permission.

⁴² Criminal Proceedings Article § 4-202(d).



sentencing. The most rehabilitative option the sentencing Judge had available to her was the Patuxent Youth Program (PYP.)

Andrew Zaragoza was a child who the State of Maryland failed to protect from horrific abuse at the hands of his mother. He was raised in a home where every day he had to fight for survival. Andrew absolutely can be rehabilitated, but for the past four years he has been warehoused in DPSCS jails and prisons. Although the Patuxent Youth Program (PYP) purports to be rehabilitative, it has less than 10 clinicians serving over 1000 inmates in multiple programs, lacks any individual therapy, and has no real vocational or educational programming.⁴³ Instead of getting help to prepare to be a productive member of society and undergoing therapy – like he would be doing if he were in a DJS committed program, Andrew is trying very hard not to stagnate, and not to give up hope for a better future.

Andrew is a perfect example of why Maryland must end all automatic charging of children in adult court – even those charged with the most serious offenses.

DJS is already successfully serving many young people like Andrew; more 50% of the youth currently in DJS detention facilities are youth charged as adults pending transfer hearings.⁴⁴ DJS assesses all young people for the particular treatment and rehabilitative services required for the individual child. This assessment is done through an evidence based process and Multidisciplinary Assessment Staffing Team (“MAST”) staffing.⁴⁵ All DJS committed programs provide, at a minimum, (1) comprehensive behavioral health services (integrated mental health and substance abuse treatment, including suicide assessment and prevention, crisis intervention and stabilization, medication evaluation and monitoring, and individual, group, and family therapy); (2) trauma informed care (including specialized individual trauma-focused cognitive behavioral therapy for youth and trauma education for all residential staff, which includes, among other things, specific training in Trauma and Delinquency, Trauma’s Impact on Development, Coping Strategies, and Vicarious Trauma, Organizational Stress, and Self-Care; (3) Substance Abuse Services through a program entitled Seven Challenges; (4) Positive Behavioral Interventions and Supports (“PBIS”), an program for developing pro-social behavior and including a behavior motivation system, utilizing positive reinforcement and modeling, entitled STARR; (5) somatic health services (employing developmentally appropriate routine well care and routine medical monitoring in addition to medical care in times of illness or accident); and (6) educational services (including full time school in accordance with MSDE credit and graduation requirements, remediation where needed, and Special Education services for those students with an IEP.⁴⁶

⁴³ FY20 Patuxent Institutional Annual Report. <https://dpscs.maryland.gov/rehabservs/patx/patx.shtml>.

⁴⁴ DJS Data Resource Guide FY2021.

⁴⁵ <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx> at page 153.

⁴⁶ <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx> at page 154-56.



We know that rehabilitation works.⁴⁷ Children initially charged in adult court, but served in the juvenile system by DJS have only a 17% re-incarceration rate after 36 months (compared to 40% re-incarceration rate for DPSCS⁴⁸) because the juvenile system is designed to address the developmental, somatic, and mental health needs of children and young adults.

This bill will not result in a huge change in the number of children sentenced to adult prison, but it will result in thousands less vulnerable children being warehoused in cells for months on end while their cases wind their way through the courts only to be ultimately transferred or dismissed.

SB165/HB294 is a data-driven policy that will increase public safety and reduce recidivism of youth offenders. It is a public safety bill and we urge this committee to vote favorably.

⁴⁷ See note 27. Overall, Lipsey's meta-analysis indicated that juvenile treatment programs were effective for reducing juvenile recidivism, especially when they provided larger amounts of meaningful contact (treatment integrity) and were longer in duration (more dosage), were designed by a researcher or had research as an influential component of the treatment setting, and offered behavioral, skill-oriented, and multimodal treatment.

⁴⁸ <https://www.dpccs.state.md.us/publicinfo/publications/annuals.shtml>