



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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Testimony in SUPPORT of HB 754 - Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court

Summary: HB 754 ensures that Maryland uses a trauma-informed and age-appropriate approach when sentencing minors who are convicted in adult court by requiring the court to consider certain mitigating factors at sentencing. The bill also affords judges additional discretion in cases involving child sex crime victims. If the court determines by clear and convincing evidence that the minor committed their crime against a person who previously committed a sex crime or an act of human trafficking against the minor within one year of the offense, the court may transfer them to juvenile court for sentencing.

Overview: We know from our work in this Committee that children’s brains develop differently than adults and that exposure to Adverse Childhood Experiences (ACEs) are traumas that can further change the way the brain functions.

Despite these facts, however, children who are victims of sexual abuse who retaliate directly against their abuser have been convicted in adult court and given life sentences for trying to get themselves out of an abusive situation.

Many of you may be familiar with the case of [Cyntoia Brown in Tennessee](#), who was just 16 years old when she killed a man over twice her age who picked her up for sex and was subsequently sentenced to life in prison. [In California, Sara Kruzan](#) was sentenced to life in prison for killing the man who victimized her for almost a third of her life when she was 16 years old.

While both of these women were eventually released, they never should have had to endure the adult criminal justice system in the first place—and neither should any child victim of sexual abuse in the state of Maryland.

While these victims can claim self-defense in court, Maryland’s self-defense precedent does not allow for the unique circumstances that these children have gone through. Maryland’s self-defense precedent, established in *State v. Faulkner*, states that:

1. The accused must have had reasonable grounds to believe himself in apparent imminent or immediate danger of death or serious bodily harm from his assailant or potential assailant;
2. The accused must have in fact believed himself in this danger;
3. The accused claiming the right of self defense must not have been the aggressor or provoked the conflict; and
4. The force used must have not been unreasonable and excessive, that is, the force must not have been more force than the exigency demanded.

However, children trapped in abusive situations may not have the luxury of waiting for these conditions to be true when they attempt to free themselves for their abusers; they may plan their actions or wait for their abuser to be asleep or otherwise less dangerous to them before taking action. This means that child victims of sexual abuse or human trafficking could be sentenced to decades in prison for protecting themselves against the adults who exploited them.

In addition, under Maryland law, 16 and 17-year-old children accused of first degree murder are automatically tried as adults and the court has no discretion to waive them back down to juvenile court, despite the fact that the person who they committed the crime against raped and trafficked them.

HB 754 will help ensure that a child victims of sexual abuse in Maryland are not given lengthy sentences in adult court. It requires judges to consider a child's exposure to ACEs and other traumas at sentencing, in addition to their role and involvement in the offense, developmental capacity, and other environmental factors.

If the judge determines that the minor committed their offense against a person who previously committed was the victim of a sex crime or act of human trafficking against them within the preceding year, one year before the offense they are convicted, this bill gives them the discretion to transfer these cases back to juvenile court.

Conclusion: Most minors who are prosecuted as adults are contending with severe trauma that courts should consider when making sentencing determinations. Minors who are victims of sexual abuse and human trafficking are some of Maryland's most vulnerable citizens. Rather than using the criminal justice system to punish them when they retaliate against their abusers, Maryland should work to provide them rehabilitative services so that they are never subject to that abuse again.

Thank you and I ask for a favorable report on HB 754.