

**Testimony in *Support* of House Bill 459 (Favorable)
Juvenile Law – Juvenile Justice Reform**

To: Luke Clippinger, Chair, and Members of the House Judiciary Committee

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I am a student attorney in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children (“juvenile lifers”) and who are now eligible to be considered for parole as well as sentence reduction pursuant to the Juvenile Restoration Act. The Clinic writes in support of House Bill 459 (“HB 459”), which seeks to implement sorely needed reforms to Maryland’s juvenile justice system.

If passed, HB 459 would set the minimum age of criminal responsibility in Maryland at 13 years of age. Except in narrow circumstances, children under 13 years-old would not be subject to the juvenile court’s jurisdiction and could not be charged with a crime. Setting a minimum age of criminal responsibility would be a positive step towards aligning Maryland with the science of adolescent brain development, which has proved that the part of the brain that allows us to make rational, deliberative decisions is not fully developed until we reach 25 years of age.¹ Therefore, children lack the ability to contemplate and understand the long-term consequences of their actions. As a result, children are less culpable than adults, and children under 13 years old lack the capacity to be criminally culpable.

The Clinic frequently represents schoolchildren in school disciplinary proceedings who have also entered the juvenile legal system for the same incident. Many of our clients are otherwise at risk of introduction to the juvenile legal system because of the school-to-prison pipeline and the over-criminalization of students in school. Sadly, we have represented several clients under 13 years of age, including one who was only seven years old.

The school to prison pipeline has criminalized students and impacted families in Maryland, particularly Black students and families. In the 2018-2019 school year, Black students represented

¹ *Understanding the Teen Brain*, UNIV. ROCHESTER MED. CTR., <https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=1&ContentID=3051>.

56% of school-based arrests in Maryland’s public schools,² even though they only comprised 33% of the student population.³ Over 1,000 of these arrests involved middle school students and approximately 70 involved elementary school students.⁴ Thus, the passage of HB 459 would be a critical component of narrowing the school-to-prison pipeline.

HB 459 is also necessary to combat the over-criminalization of Black children more generally. Authority figures, including police officers, and other decision-makers see, perceive, and interpret Black children differently than White children. One influential study found that beginning at 10 years of age, Black male children are viewed as “less innocent” than non-Black male children in every other age group.⁵ They are seen and interpreted as older than their actual ages, as well as their peers of the same ages. The same is true of Black girls, who are also disproportionately criminalized in schools, in large measure because of the adultification bias that attaches to their race and gender. As with Black boys, adultification bias sees Black girls as more “adult” than their same age non-Black peers. One recent study by the Center on Poverty and Inequality at Georgetown Law Center found that beginning at five years old, Black girls are viewed as “more adult than their white peers *at almost all stages of childhood . . .*”⁶ Put simply, Black children do not enjoy the same “privilege of innocence” as their non-Black classmates. As a result, they and their behaviors are seen differently. They are criminalized for the same conduct that for their White peers is not noticed or not criminalized.

In sum, Maryland’s children deserve to be treated as children. Criminal culpability should align with child brain development and criminalization should not be racialized. HB 459 is an important step on both fronts. For these reasons, we ask for a favorable report on this bill.

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

² MD. STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA SCHOOL YEAR 2018-2019 7-8, <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>. (Hereafter MARYLAND PUBLIC SCHOOLS ARREST DATA).

³ MD. STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOL ENROLLMENT BY RACE/ ETHNICITY AND GENDER AND NUMBER OF SCHOOLS 4 (2019), <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

⁴ MARYLAND PUBLIC SCHOOLS ARREST DATA, *supra* note 2, at 129-30. <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

⁵ Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY AND SOCIAL PSYCH., 526, 529 (2014).

⁶ Rebecca Epstein et al., GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS’ CHILDHOOD, CTR. ON POVERTY AND INEQUALITY, GEORGETOWN LAW CTR. ON POVERTY AND INEQUALITY 8 (2017) (emphasis in original), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>.