



## **HB 294 – Juvenile Court - Jurisdiction**

Presented to the Honorable Chair Luke Clippinger, Vice Chair David Moon, and Members of the  
Judiciary Committee  
February 10, 2022, 1pm

**POSITION: SUPPORT**

### **Testimony of Baltimore Action Legal Team Representing the People's Commission to Decriminalize Maryland**

**The People's Commission to Decriminalize Maryland strongly supports HB294/SB165,** and we urge the Committee to issue a favorable report on this bill. The People's Commission was created to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability, or socioeconomic status.

Maryland law currently deprives children and youth their identity as children and youth, purely by operation of law, by requiring children as young as 14 to be automatically prosecuted in adult court. Maryland is an outlier among states in its use of automatic prosecution of youth in adult court. This is not a surprise given that studies find transfer to the adult system is not an effective deterrent to crime. Indeed, those studies have generally found that youth transferred to adult court reoffend at higher rates and for more serious offenses than youth with similar charges and backgrounds whose cases are handled in juvenile court.<sup>1</sup>

A 2010 Task Force established by the U.S. Department of Health and Human Services and conducted a systematic review of studies of the effectiveness of transfer on preventing or reducing violence and found that transfer to adult court was a “**counterproductive strategy for preventing or reducing violence**,” with young people transferred to adult court reoffending at significantly higher rates and for more serious offenses than similarly situated youth who were adjudicated in the juvenile justice system.<sup>2</sup>

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<sup>1</sup> See, e.g., Robert Hahn et al., Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System, Task Force on Community Preventive Services (2010); Richard E. Redding, Juvenile Transfer Laws: An Effective Deterrent to Delinquency?, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010).

<sup>2</sup> See Hahn et al., supra note 1.

The U.S. Department of Justice conducted a similar review in 2010, examining many of the same studies and reaching similar conclusions.<sup>3</sup> The Department of Justice review attributed the poorer public safety outcomes to four factors: (1) the stigmatization and other negative effects of labeling youth as convicted felons, (2) the sense of resentment and injustice youth feel about being tried and punished as adults, (3) the learning of criminal mores and behavior while incarcerated with adult offenders, and (4) the decreased focus on rehabilitation and family support in the adult system.<sup>4</sup> The review ultimately concluded that **“the practice of transferring juveniles for trial and sentencing in adult criminal court has... produced the unintended effect of increasing recidivism, particularly in violent offenders... if it was indeed true that transfer laws had a deterrent effect on juvenile crime, then some of these offenders would have not offended in the first place.”**<sup>5</sup>

For those reasons, many states in recent years have limited or ended automatic transfer to adult court. For example, in July 2019, Oregon passed legislation to roll back its adult transfer and sentencing laws that were implemented in 1995. The legislation, known as Senate Bill 1008,<sup>6</sup> returned jurisdiction for all charges to the juvenile justice system. In order to move a youth’s case to the adult court system, prosecutors must request a waiver hearing before a judge who decides whether the case should be transferred to adult court. Additionally, the legislation creates a “Second Look” process that allows judges to determine if further incarceration is appropriate for youth who are convicted in adult court and sentenced to more than 24 months incarceration, both at the halfway point of their sentence and prior to being transferred to the adult Department of Corrections at the age of 25 (if a youth’s sentence extends beyond that point). The legislation had bipartisan support and had a broad base of supporters in Oregon, including the Oregon Youth Authority, the Department of Corrections, and the Attorney General.

Many youth in Maryland who are initially automatically transferred to adult court end up having their cases sent to juvenile court, but only after the harms and trauma of incarceration and prosecution in the adult criminal legal system. Additionally, the vast majority of youth who experience those harms are Black. SB165/HB294 would take a long overdue step in ending a harmful, counterproductive, and costly practice and would promote a more equitable, evidence-based, and effective approach to justice. **For these reasons, the People’s Commission to Decriminalize Maryland strongly supports HB294/SB165 and urges the Committee to issue a favorable report.**

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<sup>3</sup> Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Oregon Youth Authority, *Governor Signs Senate Bill 1008 into Law* (July 22, 2019), available at <https://insideoya.com/2019/07/22/governor-signs-senate-bill-1008-into-law/>.