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POSITION ON PROPOSED LEGISLATION

BILL: HB 0294 (CROSS-FILED WITH SB 0165)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 8, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB 0294.

I am an attorney with the Office of the Public Defender, and I am offering this testimony on behalf of my client Andrew Zaragoza. Andrew is currently in the Division of Corrections' Patuxent Youth Program and has no access to internet in order to be able to submit his own testimony and share his experience as a child who was prosecuted in adult court. But first, let me introduce him and give you a little bit of background information.

Mr. Zaragoza is now 21 years old, but when I first met him he was a 16 year old charged with murdering his mother. He bore scars from where his mother had stabbed his chest, and on his throat where he had tried to kill himself. The social worker supervisor from Child Protective Services who was investigating his case at that time was seeing the dissociative symptoms associated with Post-Traumatic Stress Disorder to such a significant degree that she had to get him PTSD specific therapy in order to complete her investigation. Her investigation was the first time anyone from CPS had talked to him without his abusive mother being present, despite the fact that a CPS worker had been to the house one month before he killed his mother, and 2 years before that in 2015. In fact, a month before her death his mother agreed to a safety plan with CPS, but she refused any services, and CPS allowed that to happen. Mr. Zargoza also sought the help of police over the course of several years. On one occasion police involuntarily hospitalized his mother- she had her own very serious issues with mental illness and drug addiction, but

despite the fact that he was barricaded in a room hiding from his mother and calling the police for help while his father tried to keep her out, police did not report this to CPS. In short, despite mandatory reporting laws, state agencies, and systems designed to protect children the law did nothing to protect Andrew as the child that he was. But when he attempted to protect himself from the onslaught of physical and sexual abuse at the hands of his mother, and inadvertently killed her, the law automatically charged him as an adult without even the possibility of a transfer hearing. Although he was acquitted by a jury of First Degree Murder, but he was convicted of Second Degree Murder. Because he was initially charged with first degree murder he was not eligible for transfer to juvenile court even at sentencing. Instead the most rehabilitative option the judge had was the Patuxent Youth program. Andrew Zaragoza is absolutely someone who can be rehabilitated, but now he's sitting at the division of corrections in a program that purports to be designed to rehabilitate children but doesn't even offer job training or the ability to attend online college programs. So instead of getting help to prepare to be a productive member of society, he is trying very hard not to stagnate, and not to give up hope for a better future. Despite the fact that he has nearly no family, he expresses gratitude for the friends he has and for his CASA- who is still working with him even though his DSS case is now closed. Instead of giving up and getting into trouble, he has had zero rule violations in an environment where it is very difficult to follow all of the rules perfectly. He's in a place where you can get in trouble for wearing a gray shirt instead of a white one- when the only white shirts you have are so old they look gray.

The automatic charging laws which were undoubtedly drafted in the hopes of making our communities safer. Instead it creates situations kids are sentenced to DOC time, with an utter lack of rehabilitative services that would enable to them to become law abiding citizens with the skills necessary to support and take care of themselves. For many kids, the inability to find employment and therefore housing leads them back into the lives of crime we hoped they would leave behind. For someone like Andrew Zaragoza, who never had a life of crime, I'm more optimistic. But that doesn't change the fact that the laws which are supposed to make our communities safe are having the opposite impact.

This is what I wanted you to know about my client, Andrew Zaragoza, and the following is what he would like you to know about how the current state of our laws have affected him.

Andrew Philip Zaragoza

Inmate ID:4544068

Patuxent Institution, Youth Program

7555 Waterloo Road

Jessup, MD 20794

I am asking you to pass HB 0294 and SB 0165 to end the automatic charging of kids as adults. I see some of my fellow inmates slowly sinking down even further. They're not getting what they need, they're getting high every day. They're lost. They're just doing things that rack up more time. Being in DOC isn't making them any better, or making anyone else safer.

I was 16 years old when I was arrested for killing my mother. I loved my mother, but she was mentally ill and addicted to drugs. I could always tell when she was high because she would make this horrible growling noise, take off her clothes, and walk around naked. When she was like this she often climbed naked on top of me if I was asleep in bed. Once, before my dad died, he and I had to barricade ourselves in a bedroom while she was high and she completely wrecked the house. I called the police for help, they sent her to the emergency room for a couple of days and then came back home. When she was on probation my parents made sure I never told her probation officer what was going on at home. My dad died of an overdose when I was 15, things got worse after that. My grand mom had lived in our basement and my mom kicked her out, and brought in a cousin and his boyfriend into the basement. They would all get drunk or high together. A couple of weeks before I killed her I called the police because the cousin's boyfriend hit me. A social worker from protective services came to the house, but she never talked to me alone, so I couldn't tell her about my mom. They put a safety plan in place, but my mom refused any other DSS services. When I was testifying at my trial, the prosecutor asked me why didn't I report the abuse. I told him reported the physical abuse- I had told my grandmom, I had told a close family friend, and because the abuse happened mostly when she was high they tried to get her to stop abusing her prescription medication. I called the police on more than one occasion, but nobody did anything. I tried to spend as much time as possible away from home, either at school, the gym, or friends' houses. I was in 11th grade, and in honors and AP classes. I wanted to move out of my parents house and go to college. I had never been in trouble with the law before.

On the night I killed my mother she came home late at night, clearly high. She started molesting me and I told her I had had it and was calling CPS. She stabbed me in the chest. It was at that point that I fought back and killed her. I hadn't wanted to kill her, I just wanted her to stop and I was afraid she was going to kill me. When I realized I killed her, I tried to kill myself. I texted goodbye to a few of my friends, one of whom called the police.

I was taken to the hospital and had surgery. At first I kept coming in and out of consciousness. I was handcuffed to the bed by one arm and had an IV in the other. I also had shackles on my ankles, and a catheter. I was not allowed to shower because I was in jail custody & was deemed a security risk. I was only unshackled for a CAT scan, and the security guard complained about that. I was in the hospital for roughly 3 or 4 days.

Once I got to the detention center, they put me in a padded isolation room for 14 days because it was their protocol for someone who was suicidal. I was very mentally shut down. They put me on medication which wasn't particularly helpful, and took the staples out. The depression was so bad it was killing me, I just felt sadness, grief, and anger. I had to find a way to stop the running thoughts and do something productive. Even after I was off of isolation I was still in a cell alone for 23 hours per day until I turned 18 because they can't house adults and kids together. Being on 23 and 1 was mental agony. It's more than being bored. All you can do is write, read, sleep, and do pushups and sit ups. The cell was small- it was a double bunk with a toilet and sink. The door was metal with a small window at about eye level and a slot in the middle for guards to slide food to him. I spent about 18 months on 23 and 1, and for most of the time I was alone and didn't have a cell mate.

My lawyer asked me what it was like to be found guilty of second degree murder. As soon as the jury said it, I felt like I'd been punched in the sternum and the wind had been knocked. The county jail asked if I was suicidal, and even though I said no, they stripped me naked and put me in isolation. At some point they gave me a smock- but it didn't provide much warmth and it was January, and the room didn't really have heating. It was very demeaning, and made him feel vulnerable.

At the Patuxent Youth Program we're supposed to have therapy and modules to do to rehabilitate us. Therapy has been suspended temporarily because of omicron. I've been here two

years, and even though I have no rule violations I still haven't started any of the modules. I've repeatedly asked for the anger management module- which I think would help me. With these therapists I've been trying to figure out how to build a future once I get out, but whenever I tell them what I think I need to work through, they wind up talking about institutional policies or the weather. When I was first locked up I was lost, but I was able to find myself and figure out how to move forward. After I was locked up, DSS got involved and I was found a Child in Need of Assistance. My DSS worker got the jail to let a therapist come see me, and she helped me put the past to rest, I don't struggle with it like I used to. Right now, my problem is getting angry too fast, but no one here is helping me find a solution.

I can't really say how things would have been different if I had been in juvenile court, because I've never been to juvenile court before. I wasn't even allowed to have a hearing to transfer to juvenile court. It felt unfair that I never got to have a hearing, and that I never had a day in court to prove that I was a juvenile and that I could be rehabilitated.

I was finally able to finish taking the GED in August- I passed all the parts on my first try. I was ready to take the GED before my trial but the county jail couldn't set it up. I've been at the Patuxent Youth Program since October 2019, it took until August 2021 for me to be able to take the GED. I'm hoping I can start college courses soon, but since we don't have access to computers it has to be through correspondence courses. I have a Court Appointed Special Advocate because of my DSS case, and she helped me find a college that still does correspondence courses, apply, and fill out the FAFSA forms. Hopefully I'll be able to start soon.

I think I can still have a bright future, but being charged as adult has made it a lot harder. I'm blessed that I have support. I see other people here who don't. They're not getting what they need, they're getting lost. We're young and can still change, but we need help and support. Automatically charging us as adults isn't getting us help or support, it's just making things worse.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 0165

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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