

SB165 HB294 Gault Center testimony Feb 2022.pdf

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Position: FAV



SB 165/HB 294
Juvenile Court - Jurisdiction
Ending Automatic Charging of Youth as Adults
Testimony in Support
Submitted: February 8, 2022

Dear Chairman Clippinger and Honorable Members of the Committee:

The Gault Center (formerly the National Juvenile Defender Center)¹ is a nonpartisan, nonprofit organization dedicated to promoting justice for all children by ensuring excellence in youth defense. The Gault Center supports SB 165/HB 294, which would align Maryland law with established adolescent development science and advance racial justice. This bill is a critical step forward in supporting the success and protecting the futures of Maryland's youth.

Maryland sends more young people per capita to adult court based on offense type than any other state except Alabama.²

A major reason is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses—putting it out of step with other states and international human rights law. Last year, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. A staggering 93% of those were youth of color.³

Ending automatic transfer: 1) safeguards the constitutional rights of Maryland's children, 2) ensures all cases involving children begin in the more developmentally responsive setting of juvenile court, 3) is a racial justice issue, 4) increases public safety, and 5) is widely supported nationally.

I. Ending Automatic Transfer Safeguards the Constitutional Rights of Maryland's Children

Children in Maryland can be prosecuted in adult criminal court because of their age and their charge. Such laws are developmentally inappropriate and harm youth and families. Maryland's current statutory scheme that allows for automatic transfer of youth to adult court ignores United States Supreme Court

¹ On January 1, 2022, the National Juvenile Defender Center became The Gault Center. The organization is now named for the United States Supreme Court case, *In re Gault*, 387 U.S. 1 (1967), that affirmed young people's right to counsel and right to due process in court.

² *National Trends in Charging Children as Adults*, Marcy Mistrett, The Sentencing Project, July 2021, p.6, <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

³ *End Automatic Charging FAQ SB165/HB294*, Maryland Youth Justice Coalition, <https://linktr.ee/mdjuvenilejusticereform>

jurisprudence that youth be treated differently than adults for constitutional and procedural purposes.⁴ Automatic transfer deprives youth of their critically important liberty interest in being free from the harms imposed on youth by the adult criminal system without supporting any state interest in deterring future crime and reducing recidivism.⁵ In *Kent v. United States*,⁶ the Supreme Court held that the transfer of a youth from juvenile court to adult criminal court imposes a significant deprivation of liberty and therefore warrants substantial due process protection.⁷ And since *Kent*, all available data shows the significant racial disparities in the youth who are transferred to adult court.

II. Ending Automatic Transfer Ensures All Cases Involving Children Begin in the More Developmentally Responsive Setting of Juvenile Court

The decision to charge a child in adult criminal court has a disastrous impact on the child, the child's family, and the community. Children in adult criminal court lose all rights to confidentiality. The proceedings in their cases, and often their personal history of trauma and struggle, are laid bare in a public forum.

This proposed law is a crucial step toward treating children as children and affording them the opportunity to move beyond childhood involvement with the court system. It is in alignment with national best practices, developmental science, racial justice, and fundamental decency. The existence of separate juvenile courts in the United States is premised upon an understanding that children are different than adults and more capable of rehabilitation.⁸ The proposed law recognizes that Maryland children should be afforded access to the specialized court system designed for rehabilitation and built to integrate families into the court process.

The adult system is neither designed for nor capable of addressing the myriad needs of youth who become system-involved. Practitioners in juvenile court systems, including judges, prosecutors, and defenders, are expected to have specialized knowledge and training around education, child welfare, school discipline, and other systems that directly impact children.⁹ Children charged as adults in Maryland do not have access to the same specialized, rehabilitative programming available in juvenile courts, which are designed to serve each child's unique needs by taking into account age and adolescent development. The United States Supreme Court has continually affirmed that children are less culpable than adults and more capable of reform.¹⁰

Young people rely far more heavily on the emotional decision-making portion of the brain than fully developed adults. As youth grow, so do their self-management skills, long-term planning, judgment and

⁴ See *J.D.B. v. North Carolina*, 564 U.S. 261, 270-280, (2011). See also *Miller v. Alabama*, 567 U.S. 460, 490-492, (2012).

⁵ See *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976).

⁶ *Kent v. United States*, 383 U.S. 541 (1966)

⁷ *Id.* at 554.

⁸ See Jeffrey Fagan, *Juvenile Crime and Criminal Justice: Resolving Border Disputes*, 18 *The Future of Child*. 81, 81-83 (2008), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1154670

⁹ *Joint Statement on the Importance of Specialization of Judges, Prosecutors, and Defenders in Juvenile Delinquency Proceedings*, National Council of Juvenile and Family Court Judges (NCJFCJ) et. al., March 2021, <https://www.ncjfcj.org/wp-content/uploads/2021/04/Joint-Statement-on-the-Importance-of-Specialization.pdf>

¹⁰ See *Roper v. Simmons*, 543 U.S. 551, 569-570 (2005); *Graham v. Florida*, 560 U.S. 48, 68 (2010); *Miller v. Alabama*, 567 U.S. 460, 490-492, (2012); *Montgomery v. Louisiana*, 577 U.S. 190 (2016).

decision-making, regulation of emotion, and evaluation of risk and reward.¹¹ Brain imaging techniques show that areas of the brain associated with impulse control, judgment, and the rational integration of cognitive, social, and emotional information do not fully mature until early adulthood.¹²

Juvenile court systems account for adolescent development and are structured to provide positive interventions as children mature. In contrast, adult court systems are centered around findings of guilt or innocence and the imposition of punishment for convicted offenses.

III. Ending Automatic Transfer is a Racial Justice Issue

In *Miller and Montgomery*, the Supreme Court made clear that the harshest punishments for youth should be reserved for the “rare,” “uncommon,” and irreparably corrupt child. In reality, however, the harshest punishments—those mandatorily applied in the adult criminal justice system—are levied disproportionately against youth of color. Nationally, 47.3 percent of youth who are transferred to adult court are Black, despite Black youth comprising only 14 percent of the total youth population.¹³

Youth of color are overrepresented at every stage of the Maryland court system.¹⁴ Rampant racial inequities are evident in the way youth of color are disciplined in school, policed, arrested,¹⁵ detained, sentenced, and incarcerated.¹⁶ These inequities persist even after controlling for variables like offense severity and prior criminal record. Research shows that youth of color receive harsher sentences than white youth charged with similar offenses.¹⁷ Youth of color are more likely to be tried as adults than white youth, even when being charged with similar crimes. Between 2017–2019, 93 percent of Maryland youth tried as adults were youth of color and 80 percent were Black.¹⁸

The over-policing of Black and Brown communities is one of the greatest drivers of racial disparity in this nation’s mass incarceration system. These increased interactions with police result in those community members being subject to harsh punishments without evaluating the impacts of racial profiling. While mandatory sentencing and transfer schemes seemingly eliminate the possibility of individual bias creeping into decision-making by removing discretion and individualized decision-making, racial disparities persist.

¹¹ See Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 Am. Psych. 1009, 1011 (2003).

¹² See Elizabeth S. Scott & Laurence Steinberg, *Rethinking Juvenile Justice* 46-68 (2008).

¹³ See Nat’l Ass’n Of Social Workers, *The Color Of Youth Transferred To The Adult Criminal Justice System: Policy & Practice Recommendations*, 1 (2017), http://www.campaignforyouthjustice.org/images/pdf/Social_Justice_Brief_Youth_Transfers.Revised_copy_09-18-2018.pdf (accessed Sept. 20, 2021).

¹⁴ Hagan J, Shedd C, Payne MR. Race, ethnicity, and youth perceptions of criminal injustice. *American Sociological Review*. 2005;70(3):381-407. See also, DJS Data Resource Guide FY2021, 241. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf.

¹⁵ Monroe CR. Why Are “Bad Boys” always Black?: Causes of Disproportionality in School Discipline and Recommendations for Change. *The Clearing House: A Journal of Educational Strategies, Issues and Ideas*. 2005;79(1):45-50. doi:10.3200/TCHS.79.1.45-50

¹⁶ <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

¹⁷ Soler M., *Health issues for adolescents in the justice system*, *Journal of Adolescent Health*. 2002;31(6):321–333.

¹⁸ Vera Institute, *Preliminary Findings: Youth Charged as Adults in Maryland*, Dec. 10, 2020. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

In practice, the decision to charge a Black youth as an adult is riddled with implicit bias. Studies have repeatedly shown that Black youth are perceived as being older and more culpable than their white counterparts.¹⁹ There is little doubt that if the children who were taken from their families and charged in adult criminal court were white, there would be widespread, outraged calls to at least start their cases in the juvenile system. This is exactly what this bill does.

While structural racism and implicit bias are also embedded in the juvenile court system, children have a greater opportunity to be assessed specifically in a youth context amongst practitioners and service providers who have a deeper understanding of how race, trauma, adolescent development, family dynamics, and environmental factors intertwine and affect children.

This bill is necessary to advance racial equity and combat systemic inequality.

IV. Ending Automatic Transfer Increases Public Safety

Children charged in the adult system have higher recidivism rates compared to those charged with similar offenses in juvenile court.²⁰ The federal government has recognized that higher recidivism rates of youth in the adult system can be attributed in part to the lack of rehabilitative services in the adult system, issues that arise from housing youth with adults, and the collateral consequences of an adult criminal conviction that disadvantage young people's opportunities, which make it harder for those who eventually return to the community to succeed.²¹ Given this reality, systems that allow children to be charged as adults, especially those without judicial review, serve neither the children who are system-involved nor the public's safety.

V. Ending Automatic Transfer is Widely Supported Nationally

Over the past 15 years, four major legislative trends have emerged: 1) removing youth from adult facilities, 2) raising the age of juvenile court jurisdiction, 3) returning discretion to juvenile judges, and 4) eliminating automatic transfer to adult court.²² Many states have changed their mandatory or automatic transfer provisions—raising the requisite age, eliminating their “once an adult, always an adult” provision, or narrowing the offenses eligible for mandatory transfer—in some cases repealing automatic transfer provisions, despite the fact that these provisions generally involve the most serious offenses.²³

¹⁹ Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. Personality & Soc. Psychol. 526 (2014); Rebecca Epstein, et. al., *Girlhood Interrupted: The Erasure of Black Girls' Childhood*, Center on Poverty Law & Inequality, Georgetown Law (2017).

²⁰ Human Impact Partners, *Juvenile InJustice: Charging Youth as Adults is Ineffective, Biased, and Harmful* (2017), https://humanimpact.org/wp-content/uploads/2018/10/HIP_JuvenileInJusticeReport_2017.02.pdf

²¹ See U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, (2011).

²² Brian Evans, Campaign for Youth Justice, *Winning the Campaign: State Trends in Fighting the Treatment of Children As Adults in the Criminal Justice System 2005-2020* 9 (2020), campaignforyouthjustice.org/cfyj-reports/item/winning-the-campaign-state-trends-in-fighting-the-treatment-of-children-as-adults-in-the-criminal (

²³ *Id.* at 25-30.

By 2020, 80 percent of states changed their laws to make treating children as adults more difficult.²⁴ Twenty-six states have passed reforms to reduce or eliminate automatic transfer to adult court.²⁵

Prosecutors and other law enforcement are also speaking out against automatically charging youth as adults.²⁶ The National District Attorneys Association's National Juvenile Prosecution Standards state:

The transfer of cases to criminal court should be reserved for the most serious, violent, and chronic offenders. Prosecutors should make transfer decisions on a case-by-case basis and consider the individual factors of each case including, among other factors, the gravity and violent nature of the current alleged offense, the record of previous delinquent behavior of the juvenile charged, and the availability of adequate treatment, services and dispositional alternatives in juvenile court.²⁷

Maryland should **treat kids like kids and end automatic charging**. The Gault Center urges this committee to issue a favorable report on this bill.

²⁴ *Id.* at 6.

²⁵ *National Trends in Charging Children as Adults*, Marcy Mistrett, The Sentencing Project, July 2021, <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

²⁶ See, e.g. <https://www.sfchronicle.com/opinion/openforum/article/Science-and-the-law-says-don-t-try-13611841.php#photo-16915495>; <https://fairandjustprosecution.org/wp-content/uploads/2019/02/1391-Constitutionality-Sign-on-Letter-FINAL.pdf>

²⁷ National District Attorneys Association, *Juvenile Prosecution Standards*, Standard 4-11.7 (2016).

HB 294-testimony-UULM-MD-Support-CandyClark. - Goo

Uploaded by: Ashley Egan

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of HB 294: Juvenile Court - Jurisdiction

TO: Chairman Clippinger and Members of the House Judiciary Committee

FROM: Karen "Candy" Clark, Lead Advocate, Criminal Justice Reform
Unitarian Universalist Legislative Ministry of Maryland

DATE: February 10, 2022

The Unitarian Universalist Legislative Ministry of Maryland asks for a favorable vote on HB 294. HB 294 replaces how juveniles pass through the court and sentencing system with a process that many other states have found to be more effective and safer for the juvenile and the general public.

Maryland has the distinction of placing more of its juveniles directly into the adult court system than most other states. Court data shows that 81% of children sent to adult prison are Black. These black youth are more likely to be sent to adult prison and receive longer sentences than white youth. This pattern needs to end!

Evidence-Based studies have shown that placing juveniles in confinement with adults has a very negative impact on their development. At their age, the juveniles are trying to form their identities and "fit in" with others. *Unfortunately, there aren't enough positive role models in prison.* In fact, some seasoned prisoners have a powerful negative influence on the younger generation who look up to and want to identify with them.

Research shows that juveniles who are placed with adults tend to become more violent and have a higher recidivism rate than juveniles who begin their treatment through the jurisdiction of the juvenile court. This process makes our communities safer. Based on recent research findings, many other states now consider the juvenile's treatment in conjunction with their developmental ages. Juvenile courts can provide intervention programs and alternative placements like community-based residential housing, or treatment centers with counseling and other needed services through the juvenile court system.

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

www.uulmmd.org info@uulmmd.org www.facebook.com/uulmmd [www.Twitter.com/uulmmd](https://www.twitter.com/uulmmd)

The Juvenile Courts are better equipped to accurately determine what treatments can be used to fit their needs. Which means that juveniles who begin their encounter with the correctional system will be better served and less likely to recidivate. HB 294 is a more humane approach to this issue which aligns with our first principle, to “Honor the inherent worth and dignity of all people.” Our juveniles deserve compassion for the causes which have led to their trouble, and equity and justice in the treatment provided to help with their recovery.

The Unitarian Universalist Legislative Ministry of Maryland asks for a favorable vote on HB 294.

Respectfully submitted,

Karen Clark

UULM-MD Lead Advocate, Criminal Justice Reform

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testimony for hb 294.pdf

Uploaded by: Devonie Doles

Position: FAV

Good afternoon delegates Crutchfield, Bartlett, Davis, Jones, Moon, Williams and members of the judiciary committee My name is Devonie Doles and I am the treasurer of the Maryland Green Party. I am also the older sister to a 15 year old boy named Jerome who is currently being held at Towson Detention Center under charges of first degree murder.

I support HB 294, Juvenile Court - Jurisdiction. My brother has been held in Towson Detention center since early september and in that time he has been placed on suicide watch twice (including currently), kept in what is essentially solitary confinement for 3 months and has been jumped. Because of officers being understaffed at the detention center, they are not always able to keep the juveniles away from the adults. By trying to follow these rules Jerome was kept from showering for weeks at a time, was kept in a cell with no windows and little interaction with others and was unable to wash his clothes for weeks. If he was charged as a juvenile I firmly believe these things wouldn't have happened.

It is a travesty, knowing what we know about the brain and human development, to see our barbaric justice system as it is today treating children as adults. The science is clear: the human brain does not develop entirely until around 25 years of age. This is the same reason alcohol use is restricted to 21 and over in this country. If the human brain has not developed to make the decision to consume alcohol, how can we possibly expect children to both understand the seriousness of these crimes, and punish them for acting impulsively and in-the-moment, as children and adolescents do event day of their lives. Jerome has 10 more years of brain development to go. He can't buy alcohol, he can't sign a contract, he can't even buy a hotel room or rent a car. But yet he is considered old enough to be charged as an adult, old enough to be kept in an adult facility, and old enough to be kept in a cell by himself with no sunlight.

Further, we know that many times, such as in the case of Jerome Doles, that children charged with serious crimes are often the victims of abuse and neglect, be that verbal, physical or even sexual abuse. Jerome Doles lost 20 pounds over the last month he spent living with my father. He told his school the Friday before the incident that he was not in a safe space and that he was in danger of harming himself. I had to come over and take him to my house nearly every day over the summer to keep him away from my father and to make sure he was eating enough.

What kind of trauma does putting an adolescent, high-school aged child in solitary confinement for months on end inflict on a human being? I presume everyone on the Judiciary Committee is over 25; I assume that every single one would have significant mental trauma if they were subject to the same conditions as these children were. It's worse even for some of them. As some are being held in the same conditions as the adults, meaning forced solitary confinement.

When my father was held at Towson Detention Center in 2017 for three weeks, he saw a man hang himself. My father suffered from PTSD and seizures up to his death after being released. He came out of prison a different man. This was a 57 year old man mind you, and he suffered everyday for the rest of his life because of the prison system. 4 years later and his son has spent several times over as long in that same detention center. I am pleading with you to help break the cycle for my brother's sake, and for every juvenile who is currently being tried as an

adult to bring HB 294 to a floor vote. I hope it was as hard for you all to read this, as it was to type this.

Once again i urge you to get this bill out of committee and to a floor vote.

Regards,

Devonie Doles

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Uploaded by: Ericka McDonald

Position: FAV



Testimony to the Judiciary Committee

HB 294 - Juvenile Court - Jurisdiction

Position- Support

By: Nancy Soreng

Date: February 10, 2022

The League of Women Voters is a nonpartisan organization that works to influence public policy through education and advocacy. The League supports social policies that promote the health and safety of all Americans, including children, and advocates against systemic racism in the justice system. We are concerned that Maryland's juvenile justice system does not adequately protect the rights of children and children of color are disproportionately impacted.

Maryland law requires children as young as 14 to be automatically charged in adult court for 33 offenses. The Human Rights for Kids National State Rating Report (2020) ranks Maryland worst in the country for protecting the legal rights of children. Twenty six other states have passed laws to protect children and end automatic charging.

HB 294 mandates that defendants under the age of 18 enter the justice system through the juvenile courts. While it does not preclude the possibility of a minor being tried in an adult court, it shifts the burden of proving why a case should be "waived up" to the state. This process protects vulnerable young people from unnecessary violence and mental anguish, as well as saving considerable time and expenses for the court system.

Ending automatic charging of children in adult courts also results in less crime and is widely supported. Research shows that charging children in adult courts leads to higher recidivism and more violent crime. The Maryland Juvenile Justice Reform Council voted overwhelmingly to end automatically charging children in adult court. A broad number of groups, ranging from the American Psychiatric Association to the National Sheriffs' Association, have policy statements in support of judicial hearings over automatic transfer.

Additionally, ending automatic charging is a racial justice issue. 81% of children charged in adult court in Maryland are Black. They are more likely to be sent to adult prison and receive longer sentences than white children. The disparity in automatic charging is not due to increased offenses by Black children, but issues with law enforcement and the courts.

The LWVMD, representing 1500+ concerned citizens throughout Maryland, strongly urges a favorable report.

HB294-Evan Serpick-FAV, JUFJ.pdf

Uploaded by: Evan Serpick

Position: FAV

February 10, 2022

Evan Serpick
Baltimore, MD 21209



THINK JEWISHLY. ACT LOCALLY.

TESTIMONY ON HB294/SB165 - POSITION: FAVORABLE
Juvenile Court – Jurisdiction

TO: Chair Clippinger, Vice Chair Moon, and members of the Judiciary Committee

FROM: Evan Serpick, on behalf of Jews United for Justice (JUF)

My name is Evan Serpick. I am a resident of District 41 in Baltimore City. **I am submitting this testimony on behalf of Jews United for Justice in support of HB294/SB165, Juvenile Court - Jurisdiction.** JUFJ organizes 6,000 Jews and allies from across Maryland in support of local social, racial, and economic justice campaigns.

The Jewish tradition places an enormous emphasis on the protection of children. In Jewish text, children are viewed as gifts from God to be cherished and guided, even and especially when they are struggling or in distress. A traditional story tells of a scholar so deep in his religious pursuits that he doesn't hear his child cry out. The scholar's father - an even more eminent scholar - attends to the child and scolds his son: "No matter how lofty your involvements, you must never fail to hear the cry of a child."

HB294 would end the practice of automatically referring certain juvenile cases to adult court and would leave that decision in the hands of judges on a case-by-case basis. The evidence is clear: sending children to courts designed for adults is harmful for children, detrimental to public safety, and grossly inefficient. Children belong in juvenile courts, which have smaller caseloads, greater access to rehabilitation, and closer collaboration with families and schools. If this bill passes, children might still end up in adult courts, but only after a juvenile court judge listens to counsel and expert witnesses and evaluates each youth and each charge.

Multiple studies show that treating youth as adults decreases public safety by increasing recidivism and future criminal behavior. According to a CDC study, 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."¹

¹ "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System," MMWR, CDC. <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

While juvenile cases tie up adult courts and cause needless additional trauma, only 10% of children automatically charged as adults actually spend time in adult prison.² The vast majority of juvenile cases that get to adult court are either dismissed as nolle pros or sentenced to time served.

However, police often manipulate the existing laws by charging children with offenses, like first-degree assault, that are automatically transferred to adult courts to get them to plead to lesser offenses. As a result, many children who get into fights make deals to avoid the adult courts and end up with criminal records that negatively affect their job prospects, family lives, and housing options for years to come. The practice also disproportionately affects African Americans, since eight out of ten children automatically charged as adults in Maryland are Black.³ This bill makes sure that a judge, rather than police, decides whether a child goes to adult court.

In 2020, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined - those states have 10 times Maryland's population. In fact, Maryland sends more young people to adult court than any other state except for Alabama.⁴

All children are children and we must treat them as such. **On behalf of Jews United for Justice, I respectfully urge a favorable report on HB294 to right this wrong and move us toward a more just Maryland.**

² Witte, Brian. "Supporters of juvenile justice reform hopeful in Maryland," Baltimore Sun. <https://www.baltimoresun.com/politics/bs-md-pol-maryland-juvenile-justice-reform-20211222-zxc3wrnn6vef7iwluujiur5lpy-story.html>

³ Ibid.

⁴ "Kids Sent to Adult Court," Department of Legislative Services, General Assembly of Maryland. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Kids-Sent-to-Adult-Court.pdf>

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Uploaded by: Fatima Razi

Position: FAV



MD JUVENILE JUSTICE COALITION
PO BOX 1282
BOWIE, MD 20718

House Bill 294
Juvenile Court – Jurisdiction
Ending Automatic Charging of Youth as Adults
February 8, 2022
Favorable

Dear Chairman and Honorable Members of the Judiciary Committee:

The Maryland Juvenile Justice Coalition (MDJJC) is a grassroots organization that unites and mobilizes constituents for juvenile justice reform in Maryland. MDJJC supported the Juvenile Restoration Act (JRA) last session because we believe in meaningful reform to protect the vulnerable children of this state. Our organization believes in second chances. We will advocate for any opportunity to create a criminal justice system more aligned with developmental science and research. This committee is prioritizing legislation to combat racial inequities, and this bill, if passed, will do just that.

MDJJC supports House Bill 294. Maryland sends more young people per capita to adult court based on offense type than any other state except for Alabama.¹ That is why Maryland ranks worst in the country for protecting the rights of young people in the legal system.² A major reason is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses – putting us out of step with other states and international human rights law. Last year, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. A staggering 93% of those were youth of color.

In Maryland, youth as young as 14 can be tried in adult court depending on what charge a police officer decides to levy against them. When young people are automatically charged in adult court, they are more likely to re-offend, sooner, with more violent crime than children who are charged in juvenile court. This practice undermines the purpose of the juvenile court system, pursues punishment rather than rehabilitation, and conflicts with what we know from developmental science. Furthermore, laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States.

¹ <http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

² <https://humanrightsforkids.org/national-state-ratings-report/>

The Justice System is Biased Against Youth of Color

Youth of color are overrepresented at every stage of the Maryland court system.³ Rampant racial inequities are evident in the way youth of color are disciplined in school, policed and arrested⁴, detained, sentenced, and incarcerated.⁵ These inequities persist even after controlling for variables like offense severity and prior criminal record. Research shows that youth of color receive harsher sentences than white youth charged with similar offenses.⁶ Youth of color are more likely to be tried as adults than white youth, even when being charged with similar crimes. In Maryland between 2017-2019, 93% of juveniles tried as adults were youth of color; 80% were Black.⁷

“Tough on Crime” Laws Criminalize Youth and Make Us Less Safe

Research shows that “tough on crime” policy shifts during the 1980s and 1990s have negatively impacted youth, families, and communities of color. These laws were fueled by high-profile criminal cases involving youth, sensationalized coverage of system-involved youth by the media, and crusading politicians who warned that juvenile “super-predators” posed a significant threat to public safety. The general sentiment — not based on research or data — across the political spectrum was that treatment approaches and rehabilitation attempts did not work.

However, time has shown that harshly punishing youth by trying them in the adult system has failed as an effective deterrent. Studies have found higher recidivism rates among juveniles tried and sentenced in adult court than among youth charged with similar offenses in juvenile court.

We can and must treat our children better. Maryland should join the 26 other states who have passed laws to **treat kids like kids and end automatic charging**. The Maryland Juvenile Justice Coalition urges this committee to issue a favorable report on HB 294.

Respectfully,

Jayna Peterson and Fatima Razi
Co-founders of the Maryland Juvenile Justice Coalition

³ Hagan J, Shedd C, Payne MR. Race, ethnicity, and youth perceptions of criminal injustice. *American Sociological Review*. 2005;70(3):381-407. See also, *DJS Data Resource Guide FY2021*, 241.

https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf.

⁴ Monroe CR. Why Are “Bad Boys” always Black?: Causes of Disproportionality in School Discipline and Recommendations for Change. *The Clearing House: A Journal of Educational Strategies, Issues and Ideas*. 2005;79(1):45-50. doi:10.3200/TCHS.79.1.45-50

⁵ <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

⁶ Soler M. Health issues for adolescents in the justice system. *Journal of Adolescent Health*. 2002;31(6):321–333.

⁷ Vera Institute, *Preliminary Findings: Youth Charged as Adults in Maryland*, Dec. 10, 2020.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

MD Catholic Conference_FAV_HB 294.pdf

Uploaded by: Garrett O'Day

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 10, 2022

**HB 294
Juvenile Court – Jurisdiction**

House Judiciary Committee

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of House Bill 294. The Catholic Conference represents the public-policy interests of the three (arch)diocese serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

House Bill 294 would end the *automatic* charging of youth between the ages of 14-17 as adults. Currently, there are thirty-three different offenses wherein youth are automatically charged as adults. This legislation would allow for all children to begin their case in the juvenile court system, rather than mandating that the adjudication of their case begin in the adult court system. In short, this bill would refocus our juvenile system from a “waiver-down” system to a “waiver-up” system, wherein juvenile court judges would retain discretion to waive cases up to the adult court system.

It is well-settled, in many secular, judicial and faith-based circles, that holding youth to the same standards of accountability as a fully formed adult is plainly unjust. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically noted that youthful offenders possessed “diminished capacity” and the inability to fully appreciate the risks and consequences of their actions, in considering whether youth should be treated the same as adults jurisprudentially. Additionally, the United States Conference of Catholic Bishops has further stated that “society must never respond to children who have committed crimes as though they are somehow equal to adults fully formed in conscience and fully aware of their actions.” (*Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, USCCB, 2000)

These inherent truths regarding youth should be carefully considered when assessing Maryland’s current automatic-charging law, which presumes that youth should be considered to have the same capacity as an adult in every one of thirty-three different charging scenarios. This presumption can often leave a lasting effect severely limiting a child’s ceiling for success for rest of their lives. Conversely, the transition to a “waiver up” system sought in House Bill 294 would safeguard youth from a lifetime of wasted opportunity, while still allowing judicial discretion to treat differently those rare cases wherein the People feel that the alleged offender is deserving of more serious consequences.

The Church is a strong advocate for restorative justice, particularly within the juvenile system. We therefore implore the General Assembly to make Maryland the next state to treat youthful offenders as they should be treated and issue a favorable report on House Bill 294.

BYA Testimony 294.pdf

Uploaded by: Gianna Rodriguez

Position: FAV



House Bill 294
Juvenile Court – Jurisdiction
Ending Automatic Charging of Youth as Adults
February 10, 2022
Support

Dear Chairman Clippinger and Honorable Members of the Committee:

Baltimore Youth Arts is a creative entrepreneurship and job training program that provides artistic and professional opportunities to young people, ages 14-22, with a focus on those involved in the justice system. Our mission is to assist young people in gaining the creative, personal, and educational skills that will enable them to become leaders in their communities.

Baltimore Youth Arts supports House Bill 294. Automatically charging youth as adults, when less than 13% of cases result in a criminal conviction, causes serious consequences for young people. The length of time that youth are detained when they are charged as an adult, and the process they endure while their case is oftentimes sent to juvenile court, negatively impacts their education, relationships, and emotional well-being.

Maryland sends more young people per capita to adult court based on offense type than any other state except for Alabama.¹ That is why Maryland ranks worst in the country for protecting the rights of young people in the legal system.² A major reason is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses – putting us out of step with other states and international human rights law. Last year, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. A staggering 93% of those were youth of color.

¹

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

² <https://humanrightsforkids.org/national-state-ratings-report/>

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In Maryland, youth as young as 14 can be tried in adult court depending on what charge a police officer decides to levy against them. When young people are automatically charged in adult court, they are more likely to re-offend, sooner, with more violent crime than children who are charged in juvenile court. This practice undermines the purpose of the juvenile court system, pursues punishment rather than rehabilitation, and conflicts with what we know from developmental science. Furthermore, laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States.

The Justice System is Biased Against Youth of Color

Youth of color are overrepresented at every stage of the Maryland court system.³ Rampant racial inequities are evident in the way youth of color are disciplined in school, policed and arrested⁴, detained, sentenced, and incarcerated.⁵ These inequities persist even after controlling for variables like offense severity and prior criminal record. Research shows that youth of color receive harsher sentences than white youth charged with similar offenses.⁶ Youth of color are more likely to be tried as adults than white youth, even when being charged with similar crimes. In Maryland between 2017-2019, 93% of juveniles tried as adults were youth of color; 80% were Black.⁷

“Tough on Crime” Laws Criminalize Youth and Make Us Less Safe

Research shows that “tough on crime” policy shifts during the 1980s and 1990s have negatively impacted youth, families, and communities of color. These laws were fueled by high-profile criminal cases involving youth, sensationalized coverage of system-involved youth by the media, and crusading politicians who warned that juvenile “super-predators” posed a significant threat to public safety. The general sentiment — not based on research or data — across the political spectrum was that treatment approaches and rehabilitation attempts did not work.

However, time has shown that harshly punishing youth by trying them in the adult system has failed as an effective deterrent. Studies have found higher recidivism rates among juveniles tried and sentenced in adult court than among youth charged with similar offenses in juvenile court.

We can and must treat our children better. Maryland should join the 26 other states who have

³ Hagan J, Shedd C, Payne MR. Race, ethnicity, and youth perceptions of criminal injustice. *American Sociological Review*. 2005;70(3):381-407. See also, DJS Data Resource Guide FY2021, 241.

https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf.

⁴ Monroe CR. Why Are “Bad Boys” always Black?: Causes of Disproportionality in School Discipline and Recommendations for Change. *The Clearing House: A Journal of Educational Strategies, Issues and Ideas*. 2005;79(1):45-50. doi:10.3200/TCHS.79.1.45-50

⁵ <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

⁶ Soler M. Health issues for adolescents in the justice system. *Journal of Adolescent Health*. 2002;31(6):321–333.

⁷ Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, Dec. 10, 2020.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

passed laws to **treat kids like kids and end automatic charging**. Baltimore Youth Arts urges this committee to issue a favorable report on HB 294.

People's Commission Testimony in Support of Juveni

Uploaded by: Iman Freeman

Position: FAV



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.¹

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.²

¹ 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).

² 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.³ 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.⁴ 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.”**⁵

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 1008,⁶ 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.**

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

⁴ *Id.*

⁵ *Id.*

⁶ 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/>.

HB 294_FAV_ACLUMD_Nalley.pdf

Uploaded by: Justin Nalley

Position: FAV



Testimony for the House Judiciary Committee

February 10, 2022

HB 294 – Juvenile Court – Jurisdiction

FAVORABLE

JUSTIN NALLEY
PUBLIC POLICY ANALYST

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The ACLU of Maryland supports HB 294, which would repeal provisions specifying that the juvenile court does not have jurisdiction over a child alleged to have committed certain acts. HB 294 is a positive step toward reducing the number of Maryland’s children that will be charged as adults.

Maryland law requires children as young as 14 to be automatically prosecuted in adult court for 33 offenses. Maryland sends more young people to adult court based on offense type, per capita, than any other state except for Alabama.¹ Between 2017-19, more than 87% of Maryland cases where a child was charged in adult court did not result in an adult criminal conviction. Of 314 assault cases where a youth was charged in adult court, 95% of cases did not result in an adult criminal conviction.² HB 294 will better support Maryland’s children by avoiding needless and harmful exposure to the adult system for children whose cases are eventually decided in juvenile court.

Trying children as adults creates damaging and lasting collateral consequences as a result of being adjudicated in adult court instead of the juvenile court system. Children charged and sentenced as adults are marred with the stigma of an adult criminal record, which may exclude them from educational opportunities, some forms of financial aid, as well as future job prospects. Educational and employment opportunities are crucial for young people hoping to continue their lives after entanglement with the criminal justice system.

Automatic transfer to adult court also disproportionately affects Black children. Black children make up 62% of the children prosecuted in the adult criminal system; they are also nine times more likely than White children to receive an adult prison sentence.³ In Maryland, 80% of children charged in adult court in

¹ <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

² *Id*

³ Campaign for Youth Justice, *Critical Condition: African American Youth in the Justice System*

Maryland are Black.⁴

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 294.

⁴ Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, Dec. 10, 2020.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

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Uploaded by: Keith Wallington

Position: FAV

The Child Not the Charge:

Transfer Laws Are Not
Advancing Public Safety

CAMPAIGN FOR

YOUTH  **JUSTICE**

BECAUSE THE CONSEQUENCES /

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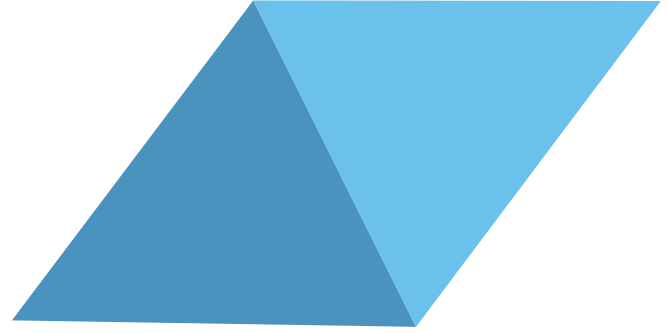
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Introduction

Over the last 20 years, elected officials and juvenile justice system stakeholders have changed policies and practices to create a more developmentally appropriate youth justice system, resulting in a reduction of the number of confined youth by 60 percent since the 1990s and reducing the number of youth automatically prosecuted as adults by 56 percent since 2007.¹ This change in course is largely the result of policies that restrict the use of secure detention facilities and limit prosecution of youth in the adult court system. These trends in declining youth incarceration rates, while positive, have primarily focused on youth involved in nonviolent offenses. Moreover, despite a significant decline in the overall use of confinement, racial disparity in the juvenile justice system has worsened in many jurisdictions. This is due, in large part, to the fact that too many jurisdictions still rely on confinement and transfer to the adult system for youth who engage in violence. The research clearly shows that youth are best served in the least restrictive setting, regardless of underlying offense type. However, state practices frequently do not follow these lessons, turning to secure settings and transfer to the adult criminal justice system when other interventions would be more effective at addressing the underlying cause of the behavior and delivering a better public safety return on investment. Instead, these punitive practices worsen racial disparities, saddle youth with the collateral consequences of a criminal record if they are prosecuted in the adult criminal justice system, and contribute to recidivism.

History

The “tough on crime” era ushers in transfer mechanisms that increasingly treat youth as adults.

The youth and adult criminal justice systems are fundamentally different. The purpose of establishing the juvenile court 120 years ago was to develop age-appropriate rehabilitative responses in recognition of the developmental differences between children and adults. Since the founding of the juvenile court system, crimes committed by children below the legal age of majority were mostly handled in those courts. The juvenile court’s role has evolved as an expanding portfolio of research reinforces the principle that children do not have fully-developed decision making skills, lack requisite impulse control, and are more amenable to rehabilitation than adults. Thus, their culpability for crimes is different than adults, and there is recognition that they should be subject to different laws, different courts, and a distinct set of correctional responses. However, during the “tough on crime” era of the 1980s and 1990s, lawmakers eroded the barrier between the adult and juvenile justice systems and pushed for more punishment at the expense of rehabilitation. This included both more punitive responses within the juvenile justice system as well as enacting laws that allowed for transfer of youth into adult criminal court and housed in adult correctional facilities for certain crimes defined as serious.² That meant that a young person would face adult punishment for their crimes, carrying the stigma of that crime for the rest of their lives, hampering their ability for future education, stable housing, and a steady career. Further, young people increasingly faced placement in adult correctional facilities exposing them to substantially higher risks of suicide and sexual assault.³

This movement to increasingly rely on adult courts for serious crimes was in reaction to public and political pressure for certainty in sentencing in the 1990s. Violent crime rates were growing through the 1980s and media coverage of isolated incidents of young people committing very serious crimes fueled an environment where some children, particularly youth of color, were characterized as “super predators”.⁴ This drove the effort to send more youth to adult court to face serious, often lifetime punishment. Survey research during that time showed that the public favored adult court for serious crimes, with 75 percent believing that violent offenses should automatically be transferred to adult criminal court.⁵

Between 1992 and 1996, 43 states and the District of Columbia changed transfer and statutory exclusion laws out of concern that the juvenile system was ill-equipped to respond appropriately to youth criminal behavior. In the same timeframe, all but 10 states adopted or modified laws making it easier to pursue adult prosecution for youth under age 18. As a result, every state now has at least two mechanisms to place youth in the adult system.⁶

Pathways to Transfer:

Lower Ages of Criminal Responsibility: Laws that establish the age of criminal responsibility below 18. Nature of the crime not considered—original jurisdiction for all crimes is in adult criminal court. Only three states still have the age of criminal responsibility set at 17. In 2015, 66,700 youth were automatically prosecuted in adult court due to these statutory requirements.

Statutory Exclusion – Laws automatically disqualifying youth from having their cases tried in juvenile court.⁷ Such practices prevent judges from considering any mitigating factors arguing for keeping the case in juvenile court. Twenty-six states have a type of statutory exclusion law applying to certain offenses.⁸ Arizona, Connecticut, and Pennsylvania automatically transfer youth starting at age 15 for some robbery and assault charges. New York does so at 14 years old and Georgia transfers at just 13 years old. In 2015, 6,000 youth were transferred into the adult system by mandatory transfer, with one-third coming from Arizona, California, Florida, Michigan, and Washington State.

Judicial Waiver – A judge may choose to transfer a youth to adult court after a court hearing. This type of transfer is quite common in state statutes, with 44 states having laws that allow the practice. However, it is not utilized frequently, with only 3,200 youth judicially-waived in 2015.⁹ Most states allow for judicial waivers after a youth reaches the age of 13. Alaska joins 15 other states in allowing waivers without specifying a minimum age requirement. In waiver decisions, judges may have full discretion on the decision whether to transfer; however the waiver may also be presumptive, or even mandatory in 12 states.

Prosecutorial Direct File – Prosecutors can file the case of a youth directly in adult court with the consent of the judge through executive authority. This is a practice in 12 states and the District of Columbia.¹⁰ Many states give the option for prosecutors to file a case directly in adult court at the same age as judicial waivers, with nine states providing this option for youth under 14 years old.

Juvenile Blended Sentencing – Originally intended to allow courts the flexibility to rehabilitate youth in the juvenile system while remaining tough on crime in the 1980s and 1990s, juvenile blended sentences have resulted in many young people receiving adult sentences in juvenile courts.¹¹ The practice has evolved into a way for adult sentences to reach youth who are too young to be transferred otherwise. Fourteen states currently use this sentencing scheme.

“Once an Adult” Provisions – If a youth is transferred, this provision requires that any subsequent offenses are tried in the adult court. Today, 31 states have adopted ‘once an adult’ language in their criminal code. While most states require that the first transfer results in a conviction to activate the provision, some only require court certification.¹²

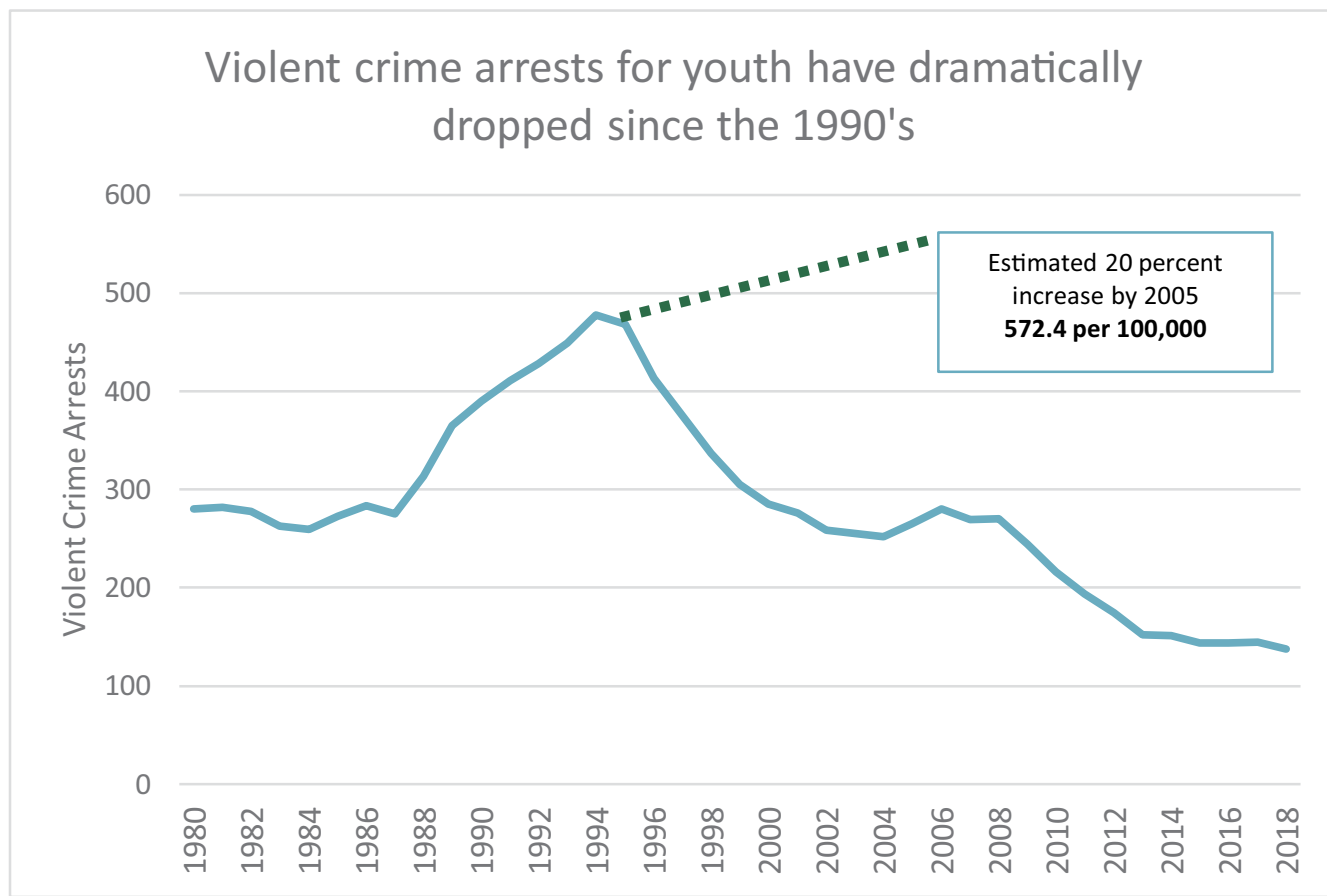
Role of Weapons – The possession or use of a firearm during the commission of a felony can impact the determination of the court system. In many cases it can lower the minimum age for transfer or activate a mandatory minimum sentence. Thirty-one states have statutory language about a firearm’s involvement in a commission of a robbery and 28 states for aggravated assault. New Mexico is the only state where a firearm does not prompt a transfer mechanism for robbery or aggravated assault. Simple possession of a firearm can result in an offense being defined as violent and lead many kids into the adult justice system.



Reforms begin

As crime drops, states gradually expand options to serve some youth in the juvenile justice system.

In the mid-1990s, during this national push to subject children who have committed serious crimes to adult punishment, it was projected that violent offenses by children would continue to rise another 20 percent by the year 2005. In fact, the opposite occurred. In 1996, violent crime was at a rate of 413 per 100,000 youth. By 2005, that rate was almost cut in half to a rate of 265 per 100,000 youth, and by 2016 was at a rate of 144 per 100,000.¹³ (Table A)



The original estimate that violence would continue to increase through the decade contradicts the robust findings emerging from the groundbreaking Pathways to Desistance research.

This work concluded that a youth's involvement in violence is not predictive of future delinquent or criminal behavior.

A seven-year long study of 1,354 youth found that participants had similar delinquency outcomes regardless of whether they committed a violent or non-violent act. Only a small percentage, fewer than 10 percent, continued to engage in criminal behavior through their adolescent and adult years.¹⁴

In 1995, over 100,000 youth were confined in the juvenile system. The latest numbers reveal a 60 percent decrease as of 2017.¹⁵ This trend was driven by a number of factors, including declining arrest rates, and changes in policy and practice spurred on by advocacy efforts to return the juvenile justice

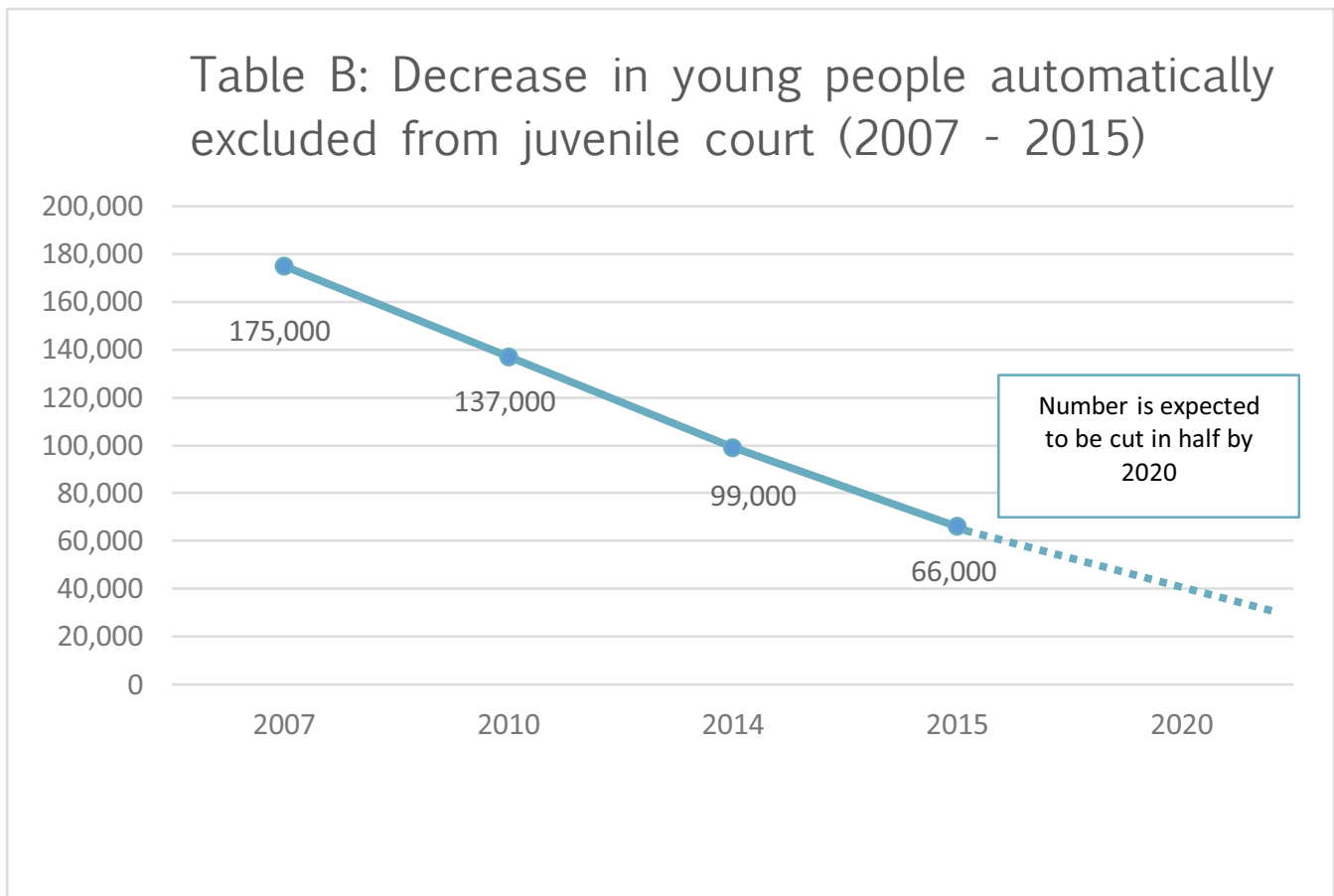
system to its founding principles focused on treatment and rehabilitation. The decline in youth incarceration was primarily focused on youth who committed status offenses or low level misdemeanors, leaving a much smaller population in both detention and commitment facilities and opening up opportunities to bring some youth back from the adult justice system.

Research has demonstrated how community-based interventions that eschew confinement for treatment were more effective at preventing future offending than simply locking up young people. Thus, more youth have remained in the juvenile justice system to receive developmentally-appropriate treatment, fewer are held in confinement, and fewer still are prosecuted in the adult system—particularly those charged with drug offenses and misdemeanors.

Raise the Age (RTA)

In 2007, there were 14 states that automatically prosecuted youth under 18 in the adult court system. At the time, Connecticut's adult jurisdiction included 16 year olds. In 2007, they raised the age to 18 and subsequently created a roadmap for other states to follow. Since that time, nine other states followed the guidance, including the two remaining states, New York and

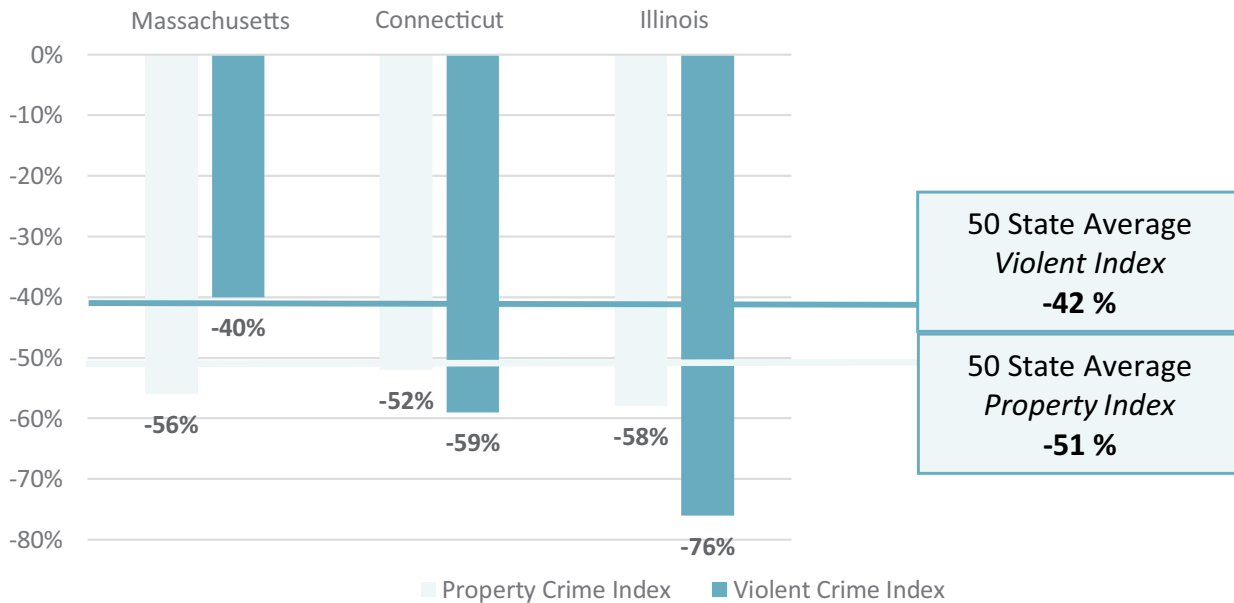
North Carolina, that had automatically prosecuted 16-year-olds as adults. Raising the age of criminal court jurisdiction has led to a decline in the number of youth in the adult system from 175,000 in 2007 to 66,000 by 2015. Projections are for that number to be halved by 2020.¹⁶ (Table B)



The *raise the age* states reformed their continuum of care to focus on community-based interventions and developed policies and practices that relied on use of the least restrictive settings. Over the years, these first-generation

Raise the Age (RTA) states, Connecticut, Illinois, and Massachusetts, reported arrest, confinement, and fiscal outcomes that either outperformed or were consistent with the rest of the country. (Table C)

Table C: The states either outperformed, or remained consistent with the rest of the country in reducing the number of arrests between 2005 and 2017



In addition to putting in place smart policies that were supported by the evidence, states saved money as a result of raising the age. Connecticut projected a \$100 million increase to the Department of Children and Families’ budget, the entity that is tasked with administering juvenile justice services, because of taking on older youth. The increased costs never materialized and instead, the child welfare and court system reinvested \$39 million in savings in community-based approaches.¹⁷

These efforts were buttressed by a growing body of empirical research highlighting that the brain continues to develop past adolescence into the mid-20s. As a result, decision making, impulse control, and culpability are limited among children and young adults (18 to 24 years of age) relative to older adults. This has led some states to consider expanding raise the age efforts beyond 18. Vermont was the first state to raise the age of criminal responsibility to age 20.

As of 2019, only three states remain that set the age of criminal responsibility at 17 years old:

- Georgia
- Texas
- Wisconsin

Raise the age reforms in every state included misdemeanor and some felony charge; however, most also “carved out” older youth who had been charged with felonies, many for crimes of violence. These decisions mirrored other states that had already established 18 as the age of criminal responsibility. In Connecticut and Illinois, after raising the age—further reforms were passed that narrowed which youth were eligible to be transferred to the adult system or excluded from juvenile court.

Raise the Age Impact: New York

As of June 2019, 73 percent of all violent felonies in New York State have been returned to family court jurisdiction to be handled as a juvenile delinquency case. While carve-outs exist, they have not greatly limited the family court’s scope. Prior to the 2017 Raise the Age legislation, those youth would have been tried and sentenced in the adult court.

Source: N.A., New York State Raise the Age Implementation Task Force: Raising the Age of Criminal Responsibility – First annual report (Albany, NY: Governor’s Office, 2019).



Transfer Reforms

Reforms have Primarily Reduced the Number of Youth Charged with Non Violent Offenses

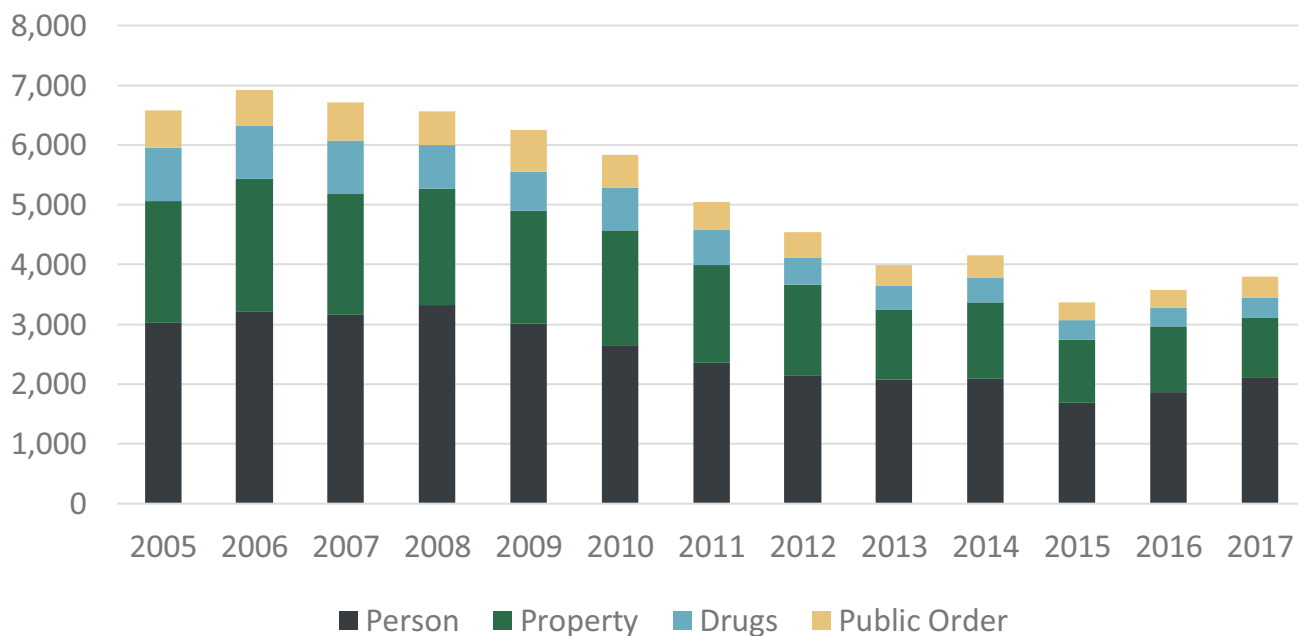
While raise the age reforms have brought the country closer to the agreement that 18 should be the minimum age that youth are considered adults, every state and Washington, D.C. still exclude some youth from juvenile jurisdiction who are younger than 18. This includes laws that statutorily exclude some youth based on age and crime, mandatory judicial waivers, prosecutorial discretion, “once an adult, always an adult” provisions, blended juvenile sentences, or role of firearms.

Since 2009, 22 states have narrowed their automatic/mandatory transfer provisions, and returned discretion to juvenile court judges. Six states have eliminated an entire transfer mechanism from their laws (California, Florida, Kansas, New Jersey, Oregon, Rhode Island); and 11 states have “raised the floor”—or removed younger youth from transfer eligibility. Others, including Delaware, Illinois, New Jersey, Nebraska, Utah have removed specific crimes from eligibility, including some crimes categorized as violent.

While these reforms impact a much smaller youth population (it is estimated that approximately 10,000 youth are statutorily excluded or waived to adult court annually, or 12 percent of all youth in adult court)—they are important in reinforcing that the juvenile court is the appropriate response to even serious youth crime.¹⁸ While research has shown that the most expedient form of transfer is when judges review on a case-by-case basis, it is important to note that judicial review is still happening in only one-third of the cases that are transferred to adult court.¹⁹

Despite these advancements, judges are still transferring nearly half of youth to adult court for charges involving property offenses, drugs, and public order violations. It was just in the past year or two, that about half of all cases waived by judges involved more serious or violent crimes. (Table D)

Table D: Youth waived to adult court by judges





Problems persist

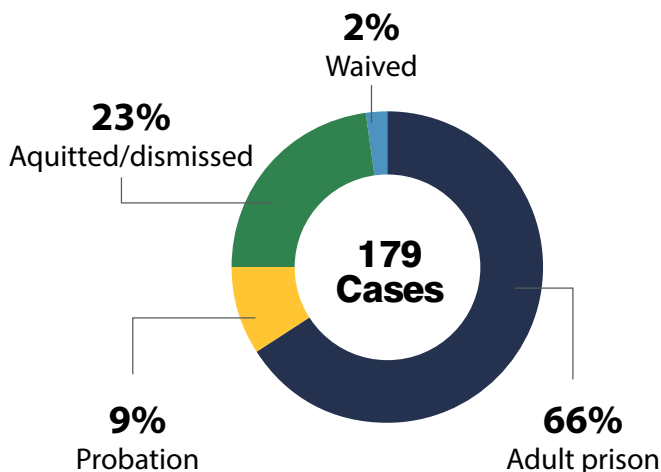
Despite Reforms, Serious Problems Persist with Transfer

Adult Findings Don't Indicate Youth Pose Public Safety Risks

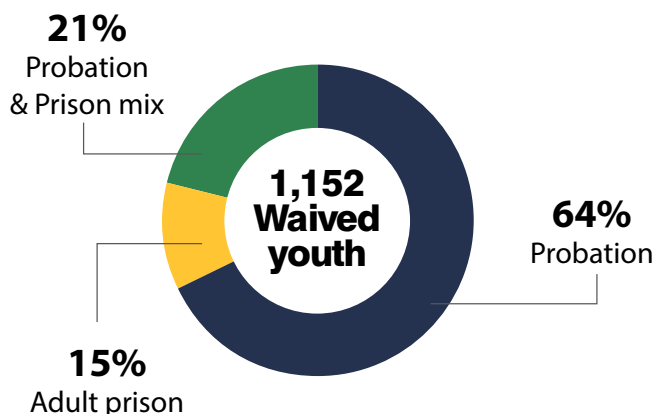
Across states, there is an alarming lack of data about youth in the adult system. Only six states reported outcomes of those who were transferred to the adult court. While it does not paint a comprehensive picture across the country, the reporting data does reveal that most cases do not result in prison time. This poses questions around the seriousness of their offense, and whether they should have been kept under the jurisdiction of the juvenile system the entire time.

Table E: Adult sentences for transferred youth by state

California (2018)



Florida (2012-2013)



California: In 2018, there were 179 cases disposed. 111 were for violent offenses.

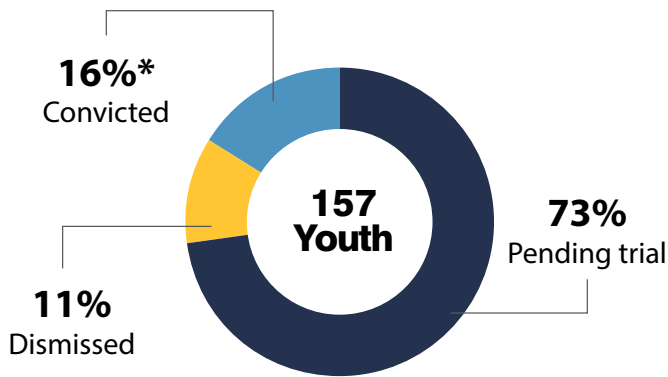
<https://data-openjustice.doj.ca.gov/sites/default/files/2019-07/Juvenile%20Justice%20In%20CA%202018%2020190701.pdf>

<https://oppaga.fl.gov/Documents/Reports/17-06.pdf>

Florida: In 2012-2013, there were 1,152 cases direct filed to adult court; only 65% led to convictions.

Table E: Adult sentences for transferred youth by state

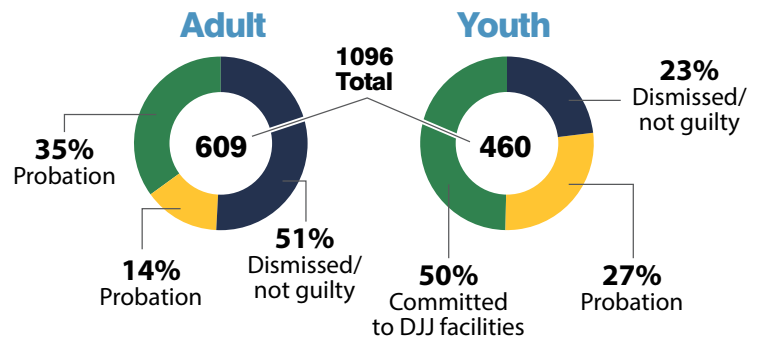
Indiana (2019)



Indiana: In 2019, of the 157 cases in adult court, 123 were a result of direct file. Top charges were armed robbery and robbery. While a small percentage of cases were disposed, most received a sentence other than prison* (35% probation; 21% supervision; 42% prison).

<https://www.in.gov/cji/2370.htm>

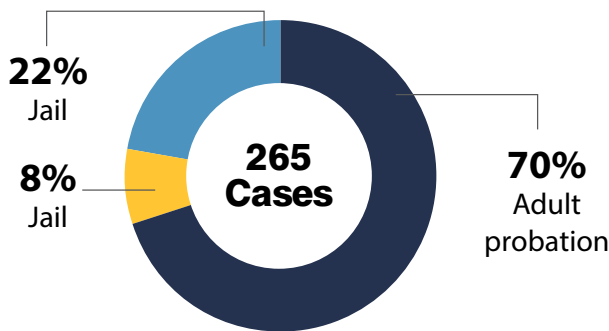
Maryland (2012-2017)
(Baltimore)



Maryland: In 2016, Maryland sent 691 youth at adult court; 216 from Baltimore. Sentencing data is only available in Baltimore over a 5 year span. Slightly more youth were kept in the adult system than returned to the juvenile system over the five years. Outcomes varied widely between to the two systems.

Cite: <https://assets.documentcloud.org/documents/4564543/Juvenile-Justice-Report-6-26.pdf>

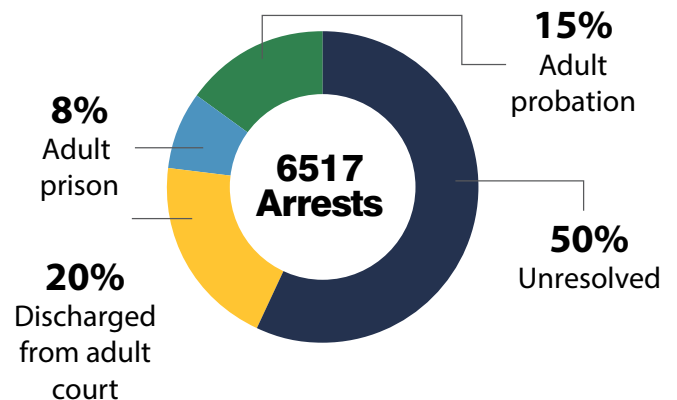
Nebraska (2017)



Nebraska: In 2017, Nebraska had 265 youth charged as adults, 29% were for traffic offenses, 43% for misdemeanors, and 27% for felonies.

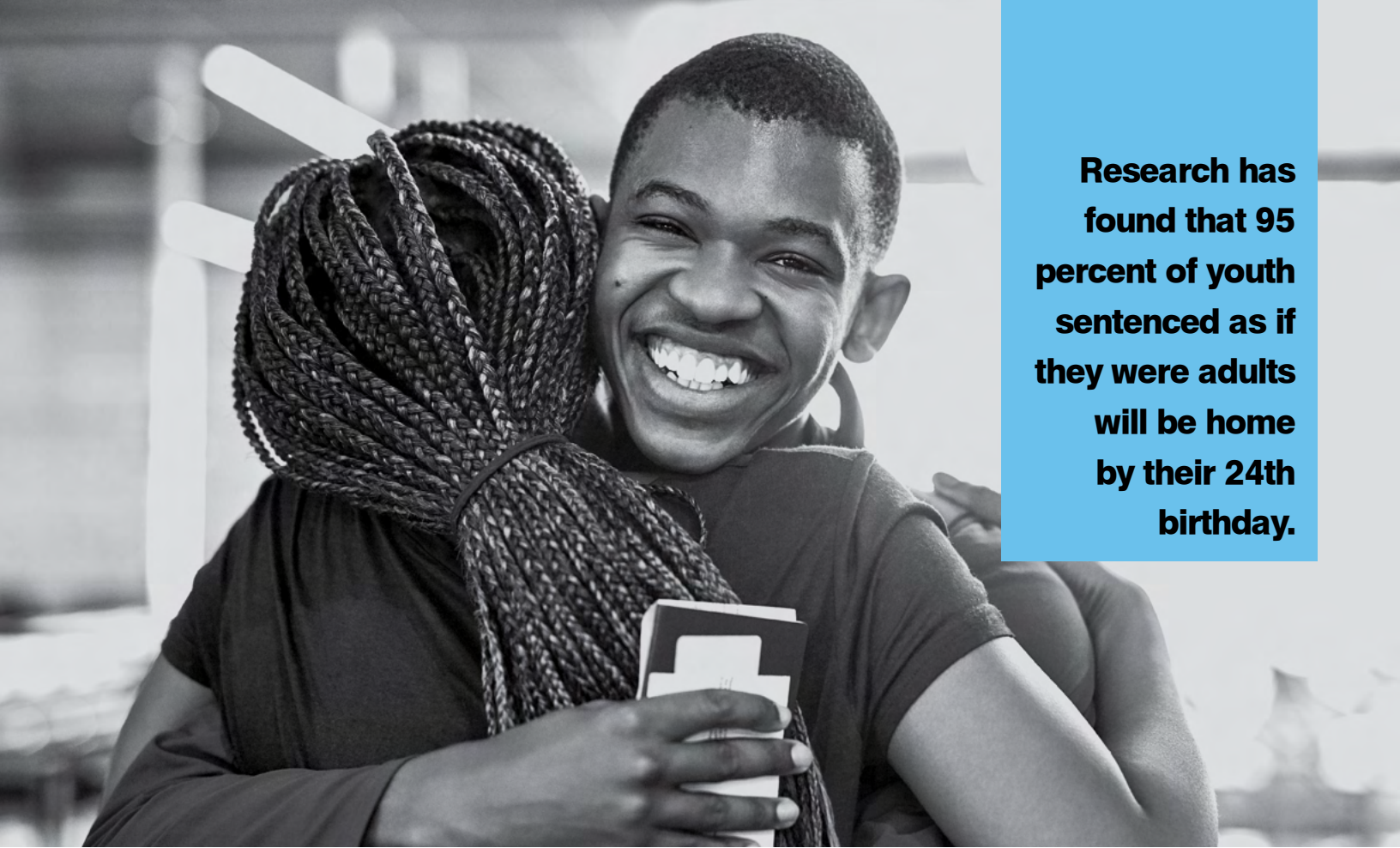
<https://supremecourt.nebraska.gov/sites/default/files/jssar.pdf>

New York (2016)



New York: Prior to raising the age, all 16-17 year olds in NY were considered adults. Of the felony arrests, only 8% went onto prison.

https://www.ny.gov/sites/ny.gov/files/atoms/files/NYS_RTA_Task_Force_First_Report.pdf



Research has found that 95 percent of youth sentenced as if they were adults will be home by their 24th birthday.

Based on a snapshot of states for the outcomes of transferred cases, it appears that some youth tried as adults end up on adult probation or receive jail time (less than one year); calling into question whether the initial charges were serious enough to warrant transfer.

Even when looking at the crimes of violence, most youth are not receiving long sentences. As JPI discussed in a 2016 report *Defining Violence*, a contributing factor to so many youth being excluded or transferred may be tied to our society's expansive definition of what is violence. In some states the burglary of an empty garage is a crime of violence, even though it doesn't involve physical harm to a person. JPI also found that the presence of a weapon, whether or not it was used in a crime, can also increase the sentence that an individual will face.²⁰ These same findings apply to young people. Research has found that 95 percent of youth sentenced as if they were adults will be home by their 24th birthday—lining up nicely with the age/crime desistance

Transfer laws worsen existing racial and ethnic disparities

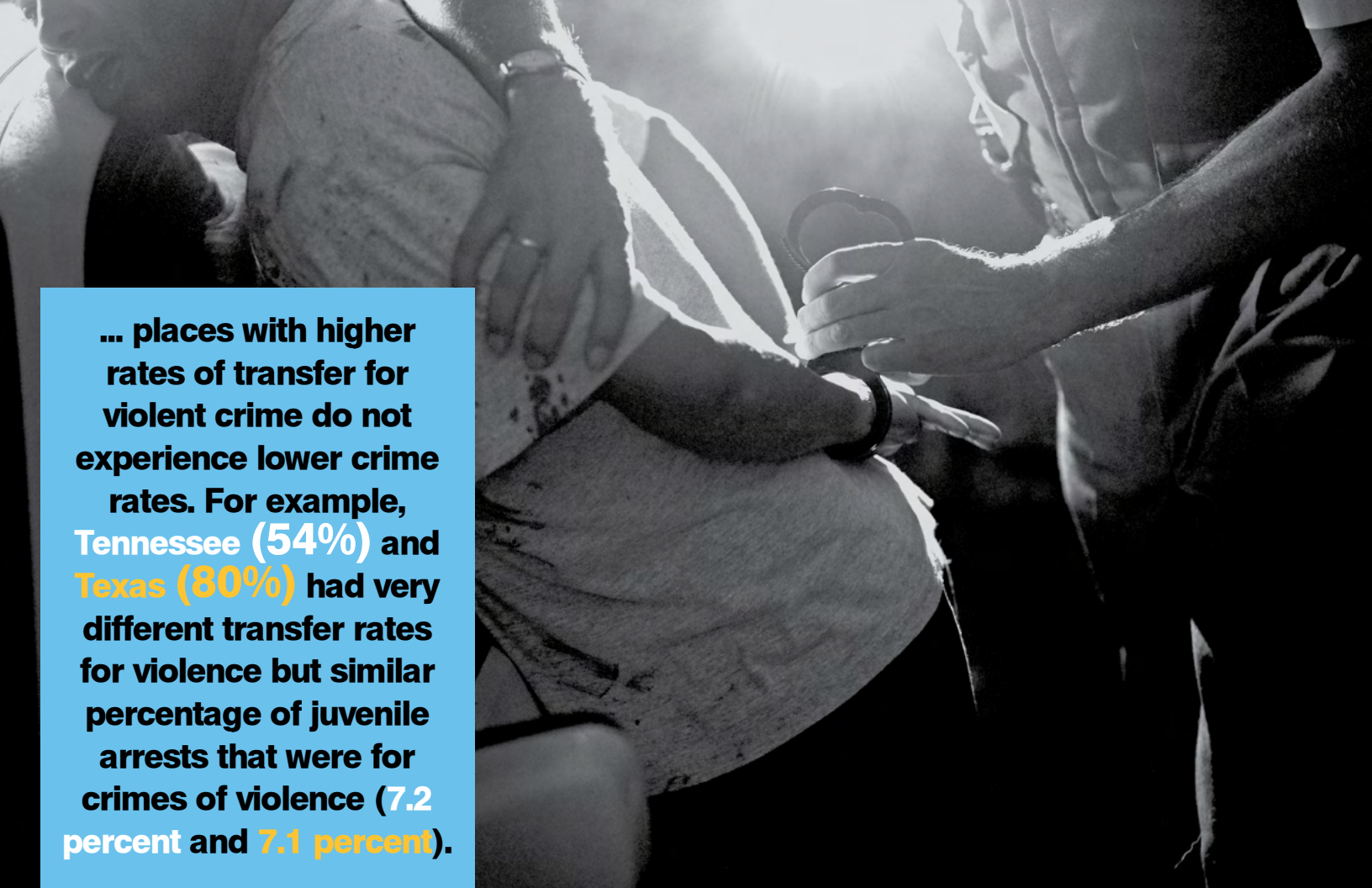
As the overall numbers of transfers decline, the proportion comprised of violent crimes has grown. While some states have partially reformed these harmful transfer policies, every state continues the practice for certain age groups and offense categories regardless of an individual's risk of reoffending or what is in an individual's best interest. These policies exacerbate longstanding racial disparities. Despite all of the recent reforms intended to improve the juvenile

curve.²¹ Moreover, 85 percent will be home by the time they are 21, which means that they could be served, with a rehabilitation frame, in the juvenile justice system in all but six states²² who end juvenile extended jurisdiction prior to age 21.

While the above reforms are moving states in the right direction, young people who commit acts of violence are still likely to be placed in secure confinement in the juvenile system or transferred into the adult system, regardless of their risk level or outcome of their case. This is problematic because research has shown that secure detention has diminishing returns for young people, and that youth transferred to adult court are more likely to recidivate with more serious crimes. California, Colorado, Indiana, and Maryland are trying to address this issue through a reverse waiver that grants judges the discretion to waive youth back to juvenile court for adjudications if they plead to something lower than what initially excluded them from family court.

justice system, judicial waivers in 2017 were the most racially disparate in 40 years.²³

State data provide a window into these worsening racial and ethnic disparities. For example, in Florida, of the 1,115 youth under 18 years of age certified to adult court, 79 percent were youth of color. Similarly, of the 677 transferred for a violent offense, 81 percent were either Black or Latinx.



... places with higher rates of transfer for violent crime do not experience lower crime rates. For example, Tennessee (54%) and Texas (80%) had very different transfer rates for violence but similar percentage of juvenile arrests that were for crimes of violence (7.2 percent and 7.1 percent).

These numbers indicate that, while youth transfers are being used less often, an increasing percentage of youth sent to the adult justice system are young people of color sentenced for a violent offense, despite findings that youth of color are engaged in acts of violence at similar rates than white youth.²⁴ This is consistent with racial disparities seen throughout the system, where youth of color are treated more harshly at each point of the system (arrest, pretrial detention, disposition, placement in confinement and transfer to adult court), resulting in increased racial disparities the deeper one goes into the system.²⁵

Outcomes remain poor

While it may appear to be a wise allocation of resources to preserve the most restrictive setting and most punitive treatment for the most harmful offenses, research shows that this approach goes a long way toward harming young people with little return on investment as it pertains to public safety. While transfer mechanisms were designed for the most serious cases, they

are often triggered by sentencing enhancements, including the possession of a firearm that does not involve an act of violence. Moreover, these practices have a detrimental impact on safety within facilities, damage reentry prospects, and worsen existing racial and ethnic disparities.

Public Safety Outcomes

The intended goal of transfer of youth to adult court was to increase public safety. The reality has been far more complicated. There is clearly no pattern between transfer mechanisms and reductions in violent crime. Looking across the states that provide data, it is clear that places with higher rates of transfer for violent crime do not experience lower crime rates. For example, Tennessee and Texas had very different transfer rates for violence (54 percent and 80 percent), but similar percentage of juvenile arrests that were for crimes of violence (7.2 percent and 7.1 percent). Several studies indicate only one state experienced a decline in crime as a result of transfers, and a few actually indicated a correlation with an increase in crime.²⁶

Nationally, there are very few states that report all adult transfers (regardless of mechanism) that are broken down by the offense category. This data is analyzed with caution due to the lack of information on outcomes. However, it is a representation that their percentage of violent crime varies dramatically, showing no correlation between the two.²⁷ (Table F)

Table F: Transfer correlation to Youth Arrests for Crimes of Violence

State	Percentage of Violent Crime Transfers	Percentage of Youth Violent Crime Arrests
Arizona	82%	5.5%
California	73%	16.8%
Florida	59%	6.7%
Indiana	81%	7.0%
New Jersey	56%	7.6%
Ohio	66%	4.4%
Oregon	55%	4.1%
Texas	80%	7.1%

The Centers for Disease Control and Prevention Task Force on Community Preventative Services concluded that transfer policies are “counterproductive for the purpose of reducing violence and enhancing public safety.” Of the studies the CDC analyzed, the median effect of increased violent or general crime for transferred youth was 34 percent more than similar youth who were retained in the juvenile system.²⁸ In fact, research demonstrates that youth adjudicated for an offense, even an act of violence, who are served in the community are significantly less likely to re-offend than if they were incarcerated.²⁹ Our adult criminal justice system is already plagued by high recidivism rates. The latest data indicate a 68 percent re-arrest rate after three years, and 83 percent after nine years.³⁰ Without appropriate programming and services, youth in the adult court have even less success.

High rates of recidivism and a system-wide failure to protect public safety is why a focus on community supervision is supported by portions of the crime victim community. Research conducted by JPI and the National Center for Victims of Crime found that victims frequently prefer a youth be held accountable and served through a community-based alternative.³¹ It allows the individual to address the harm caused and work to repair the damage, while reducing future criminality and future victimization through engagement with treatment and services. These findings are consistent with public opinion research conducted by the Alliance for Safety and Justice.³²

The research also recognized that many young people who engage in a violent act are overwhelmingly victims of crime themselves. Establishing community-based treatment and services is central to disrupting the cycle of crime and violence and begin the healing process.³³

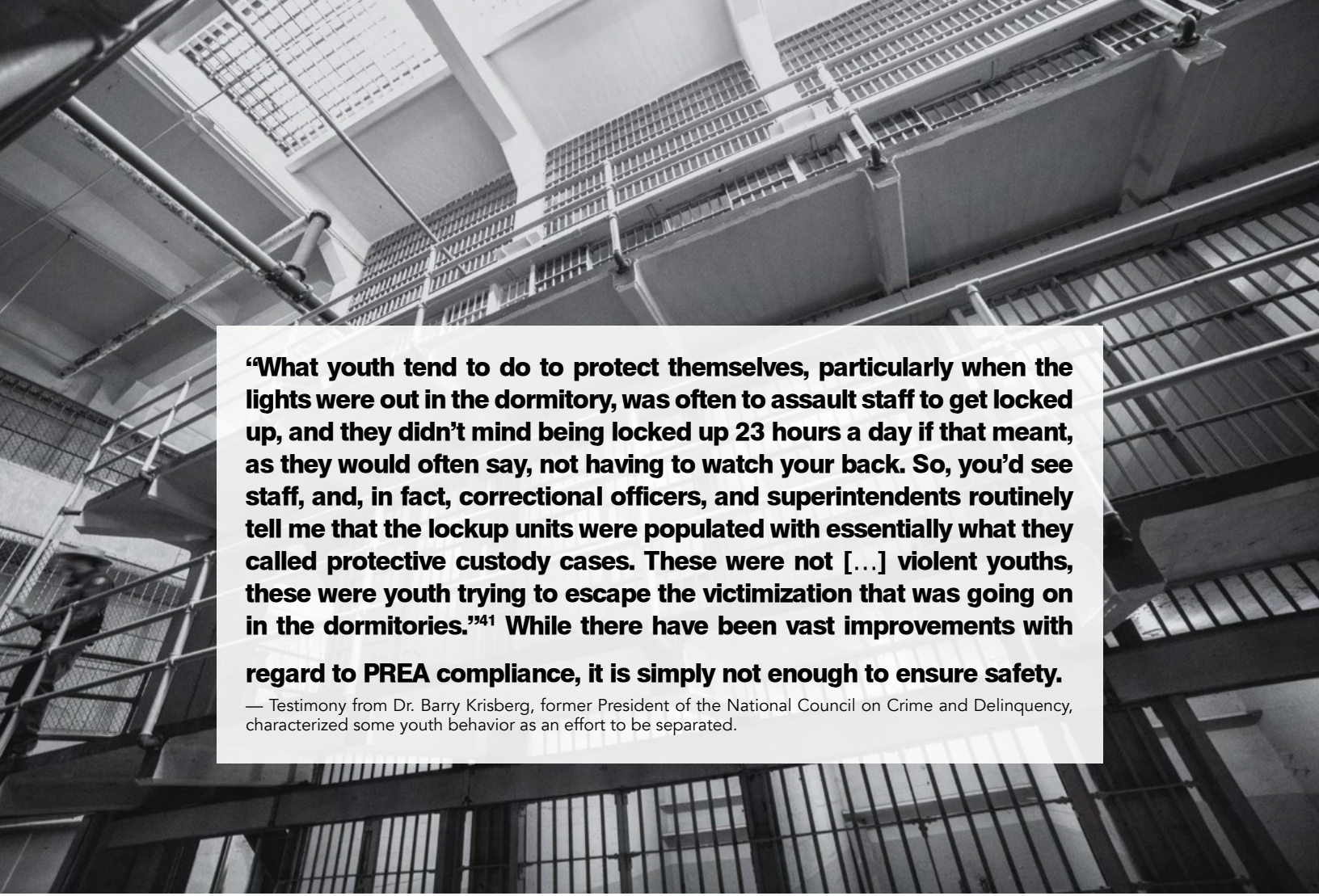
“Our adult criminal justice system is already plagued by high recidivism rates. The latest data indicate a 68% re-arrest rate after three years, and 83% after nine years.”

Ultimately it is about protecting public safety and preventing future victims, and the research shows that community-based interventions do this far more effectively than transfer into the adult system. For example, youth prosecuted in Wisconsin’s adult criminal justice system were re-incarcerated at a higher rate than adults in the criminal justice system or youth retained in the juvenile justice system. Within three years, re-offense rates were more than two times that of adults.³⁴ Looking at 15 states across the country, 82 percent of youth released from the adult system were re-arrested, 16 percent higher than their adult counterparts within a three year period.³⁵

Historical data trends suggest that when youth are re-arrested after serving adult time, it is typically the result of a serious, violent offense.³⁶ A study of 400 automatically-waived youth in New York and those retained in the juvenile system in New Jersey found that New York’s youth were 39 percent more likely to be re-arrested for a violent offense.

The results are further worsened for youth transferred for a violent offense. Nearly 80 percent of 600 youth in Pennsylvania who were transferred for robbery, aggravated assault, or both, had a greater likelihood of a violent felony arrest after release compared to those with similar offenses who were kept in the juvenile justice system.³⁷

In 2018, a 36-month recidivism analysis in Oregon found that 22 percent of youth who completed their sentence in the youth justice system recidivated, compared to 38 percent of those who served their time in the Department of Corrections.³⁸ This helped move Oregon’s legislature to end statutory exclusion in 2019.



“What youth tend to do to protect themselves, particularly when the lights were out in the dormitory, was often to assault staff to get locked up, and they didn’t mind being locked up 23 hours a day if that meant, as they would often say, not having to watch your back. So, you’d see staff, and, in fact, correctional officers, and superintendents routinely tell me that the lockup units were populated with essentially what they called protective custody cases. These were not [...] violent youths, these were youth trying to escape the victimization that was going on in the dormitories.”⁴¹ While there have been vast improvements with

regard to PREA compliance, it is simply not enough to ensure safety.

— Testimony from Dr. Barry Krisberg, former President of the National Council on Crime and Delinquency, characterized some youth behavior as an effort to be separated.

Facility Outcomes

Subjecting young people to incarceration frequently results in victimization and trauma that lead to lifelong consequences.³⁹ A 2011 report shows that 66 percent of 16 and 17 year olds who reported being sexually victimized while incarcerated, were victimized more than once.⁴⁰

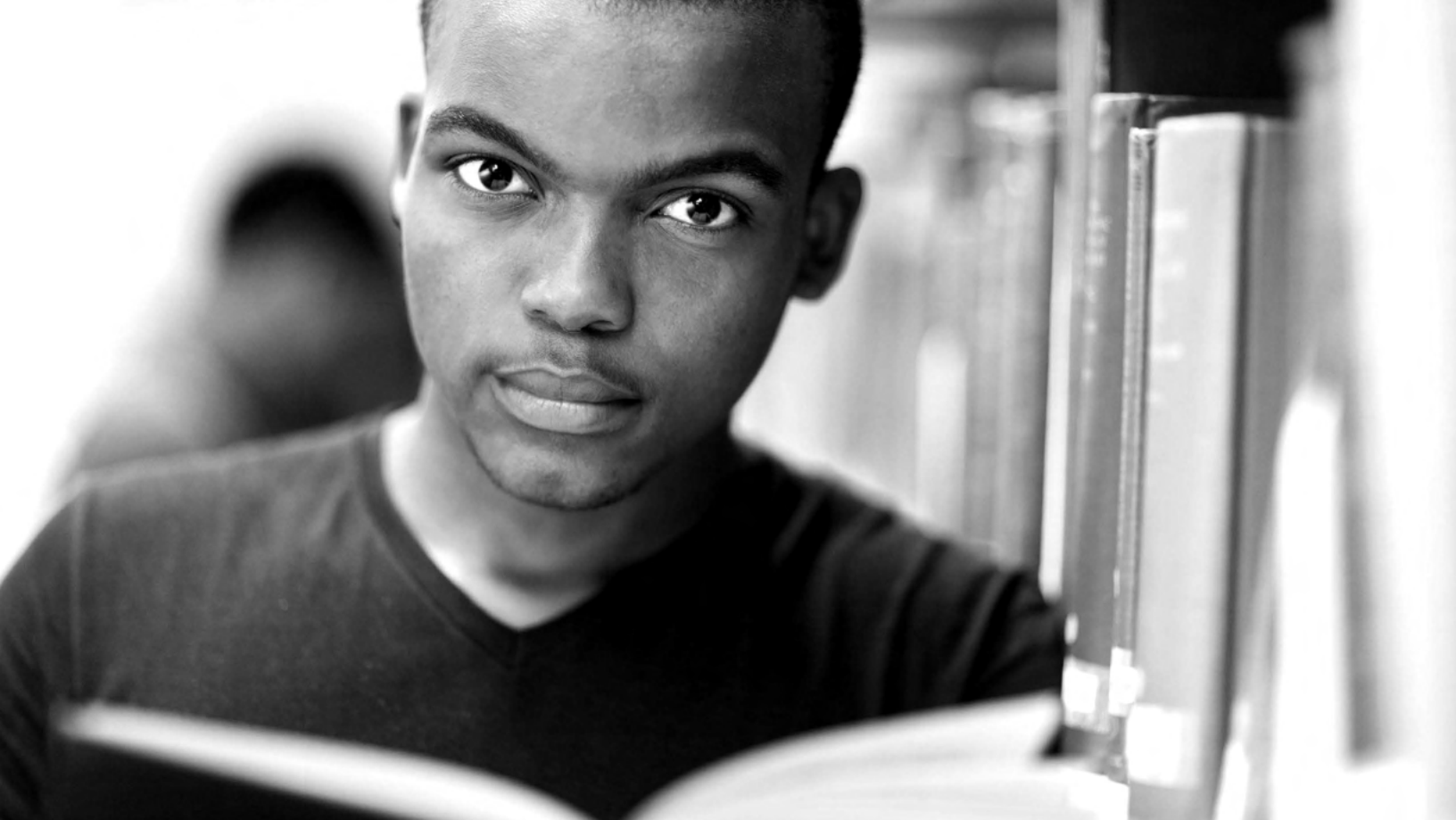
Despite the passage of the Prison Rape Elimination Act (PREA) in 2003, those under 18 incarcerated in adult facilities are still at an elevated risk for sexual and physical assault. As a result of facility officials being ill-equipped to protect youth in adult facilities, they will often take matters into their own hands in an effort to escape the brutality.

Adult prison facilities were designed without the perspective of a youth’s individualized needs. In many cases, a facility does not allow for ‘sight and sound separation’ from the adult population, which can impact access to adequate programming. Despite the progress of PREA compliance, youth are still extremely vulnerable to physical assaults and rely on separation as a solution.⁴²

The combination of being separated and potentially isolated

plays a role in the increased risk of suicide. While available data are limited, the Bureau of Justice Statistics reports that incarcerated people 17 and under in jails had one of the highest rates of suicide of any population, 49 per 100,000 from 2000 to 2014.⁴³ Moreover, youth in jails are 19 times more likely to commit suicide than those not incarcerated.⁴⁴ Even short stays in an adult jail put youth at a high risk for suicide. Forty-eight percent of suicides within an adult jail occur during the first week, with nearly a quarter occurring in the first two days of incarceration.⁴⁵

Adult facilities are no place for children. With conditions that are often unconscionable for adults, jails and prisons are even more dangerous for young people. An extremely high risk for sexual and physical assault, increased likelihood of suicide, and staff’s inability to ensure a youth’s safety contribute to adult facilities being an unacceptable place for any child. These placements have life-long consequences. Recognizing these facts, in 2018, the US Congress updated the cornerstone federal law that exists to protect children in custody, the Juvenile Justice & Delinquency Prevention Act. The new legislation calls for ALL youth (even those charged as adults) to be removed from adult jails by 2021.⁴⁶



Life Outcomes

The Positive Youth Justice (PYJ) framework is part of a transformation in the juvenile justice system that focuses on non-justice related outcomes as a measure of success. The concept centers on an individual's assets for personal growth away from anti-social behavior toward becoming a valued community member. It focuses on six domains: *work, relationships, health, education, community, and creativity.*

The number of youth in adult jails and prisons remains a small fraction of the total population, thus funding developmentally-appropriate programs for youth has historically been a low priority. According to a Bureau of Justice Statistics report in 2003, 40 percent of jails offered no educational services or programming and less than 7 percent offered some vocational training.⁴⁷ More recently, the Southern Poverty Law Center released a report about Florida, a state which prosecutes more children in the adult criminal justice system than any other.⁴⁸ They concluded that Florida's jails are failing to meet their legal obligations to provide educational services to youth. Issues included shortened school services that do not meet the required time minimums, inability to accommodate those with disabilities, and youth receiving no credit for their work that had been successfully completed while being held in jail.⁴⁹

Access to adequate educational services is imperative to the future success of anyone, especially those with a history of involvement in the justice system.⁵⁰ Those charged with violent offenses in adult court are usually placed in older and

larger facilities with higher security protocols. Staff working in these types of facilities often struggle to provide the sophisticated programming needed for youth development both because of lack of appropriate training and physical plant constraints.⁵¹

When youth eventually return to their communities, the consequences of prosecution and incarceration in the adult system continue. Because adult criminal records are not automatically expunged and are not confidential, as they typically are in the juvenile court, the effects of waiving or transferring young people into adult court can follow youth for the rest of their lives. According to the National Juvenile Defender Center, collateral consequences for youth can include disqualification from accessing public benefits and housing, inability to serve in the military, limited employment opportunities, and an increased social stigma.⁵² Additionally, individuals may have trouble securing government loans to pursue higher education and will be required to disclose convictions on most school applications.⁵³

Existing research suggests that justice involvement during the adolescent development years is associated with overall worsened health, including stress-related illnesses such as hypertension or obesity during adulthood. Such ailments potentially decrease an individual's life expectancy.⁵⁴

When certified as an adult, youth are less likely to receive programming rooted in PYJ, and are offered programming not suited for their developing needs. This significantly reduces the likelihood of successful reentry.

Black youth represented approximately

54%

of all youth who were judicially waived to adult court and...

58%

of youth transferred to adult court for persons offenses

Meanwhile, White youth accounted for

31%

and...

26%

respectively

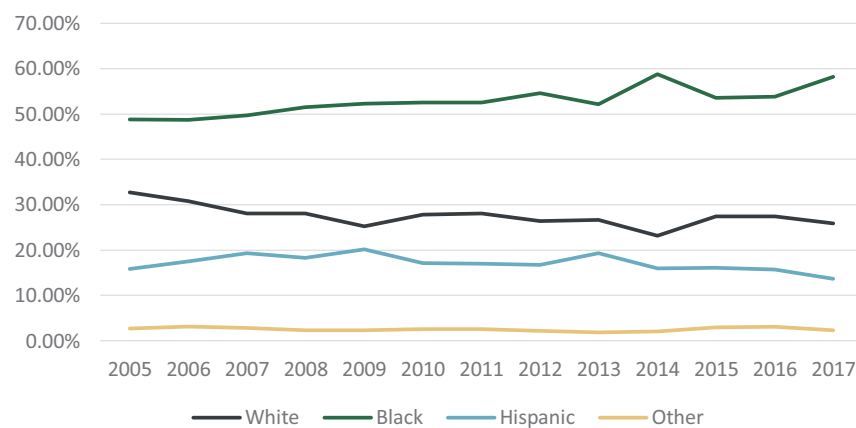
Racial Disparities Outcomes

Black youth are more likely to be admitted to prison for violent offenses.⁵⁵ According to a 2017 American Communities Survey, Black individuals under the age of 18 comprised 14 percent of all youth, while White youth accounted for approximately 68 percent.⁵⁶ Despite this, Black youth represented approximately 54

percent of all youth who were judicially waived to adult court and 58 percent of youth transferred to adult court for persons offenses according to national data in 2017; the biggest gap in disparities in forty years.⁵⁷ Meanwhile, White youth accounted for 31 percent and 26 percent respectively.⁵⁸ Thus, Black youth are disproportionately affected by waivers and transfers to adult court, particularly when it is for a violent offense.

The percentage of Black youth waived to adult court for violent

Table G: Percent of Youth Waived to Adult Court by Race



offenses was the only group to increase in judicial transfers to adult court between 2016 and 2017. (Table G)

In short, the practice of transferring youth has decreased dramatically since the mid-2000s. Despite these improvements in policy and practice over the last two decades, there has been an increase in the percentage of youth waived for violence, disproportionately among youth from

communities of color. This disparity occurs despite research showing that all young people have similar rates of risk-taking behavior. As part of a self-report study by the Centers for Disease Control and Prevention, Black (9.6 percent) and Latino (6.5 percent) youth males, carried a firearm at similar rate to white youth (9.6 percent). The transfer disparity is not an indication of increased offending by black youth, but issues within the transfer mechanism.⁵⁹



Recommendations

Eliminate transfer mechanisms for all youth, regardless of the committing offense.

The criminal justice system was designed for adults – not for youth under any circumstances. The adult system lacks educational services and other age-appropriate programs that support youth mental and physical development, which in turn impacts the likelihood of successful reentry. Eliminating adult court transfers and shifting supervision toward age-appropriate, rehabilitative-focused interventions in the juvenile system will increase public safety. Deep-end youth facilities are already handling some serious cases, such as robbery, assault, and homicide. While not perfect, these settings are far more appropriate and more effective than the adult system.

Adolescent development research shows that youth continue to develop cognitively into their mid-20s, with youth-like characteristics of heightened impulsivity, greater risk-taking, and impaired judgement remaining prominent until that age. To better align with these findings, some states have eliminated some automatic exclusions from the juvenile justice system. Some states, like Connecticut, Colorado, Illinois, and Massachusetts, are now exploring the possibility of expanding such exclusion efforts to emerging adults above the age of 18. Vermont has already made such strides, increasing its jurisdictional age to 20 beginning in 2022.

While there have been reform efforts around automatic exclusion, other transfer tools remain readily available and largely unchallenged. It is important to note that children sentenced to

adult court receive an adult criminal record. These offenses are not automatically concealed and often play a barrier in securing adequate employment, education, military service, and student financial aid.

To improve safety outcomes for everyone, no crime committed by a child should result in adult court transfers. Rather, the juvenile justice system should serve all youth during their developmental years, ideally into their mid-twenties.

Use community-based programming as a first choice, and any type of age appropriate confinement as a last resort.

When adequately supported and facilitated, community-based programming garners better outcomes than confinement for everyone: justice-involved youth, community members, and victims. The research clearly shows that the same youth disproportionately subjected to transfers for violent offenses can be more appropriately managed in the community. These programs are shaped by local stakeholders with direct parallels to the community's values and culture, with the goal of reducing future justice involvement. These alternatives have been successful with those charged with serious violent offenses, ranging in ages from 16 to 24 years old.⁶⁰ The growth in these community-based options is partially a result of support from law enforcement, prosecutors, and the victim's community.⁶¹

Incarceration in adult prisons leads to higher recidivism rates than those served by the juvenile justice system. The Pathways

to Desistance study found that an individual's persistence into future criminal activity is not based on the presenting offense, but about the specific risks posed by an individual. Adult courts are ill-suited to account for a child's risks and needs, or to develop an age-appropriate rehabilitation plan. Conversely, youth-focused community alternatives are rooted in the principles of Positive Youth Justice (PYJ) and contribute to lower youth crime and recidivism rates. PYJ focuses on personal accountability and builds on young people's strengths. It seeks to address the root issues that led a youth to be involved in the justice system in the first place by lifting barriers and connecting them to necessary resources. Other restorative justice programs across the nation have also resulted in reduced recidivism rates and safer neighborhoods.

Moreover, many victims of crime do not prefer confinement. The Justice Policy Institute and the National Center for Victims of Crime solicited input from crime survivors and crime victims' advocates. The discussion was focused on how to serve youth effectively who have committed crimes of violence. Key takeaways from the conversation included that accountability does not equal confinement, and any community treatment needs to be effective at reducing future criminality and victimization.⁶² Similar findings have been supported by other national surveys.⁶³ For all children, regardless of the offense, many crime survivors prefer programming that meets the needs of the individual, strengthens families, and addresses the underlying causes of crime. These restorative, community-based programs engender accountability and aid in avoiding future victimization.

Increase investments in approaches that address the needs of individual and community-level victimization and increase prevention and intervention by establishing public health partnerships to reduce violence.

Despite the success of a community-based, treatment-focused model, most resources are still dedicated to confinement and there is significant underinvestment in the approaches that most effectively reduce youth violence and address the harms of crime. According to the National Crime Victimization Survey, those most likely to experience crime are often least likely to access services. For example, only 12 percent of victims of serious violent crime receive support.⁶⁴

There is a connection between those least likely to receive victimization services and those currently incarcerated. Take Florida's system, for example. Tracking Adverse Childhood Experiences (ACEs) is one way to determine an individual's past trauma and victimization. Untreated ACEs can lead to negative consequences, including increased risk of future criminal justice involvement. An analysis of Florida's juvenile justice system illustrates the entanglement of victimization and justice-involved youth; 98 percent of Florida's confined population had reported four or more ACEs, and the remaining two percent reported at least one ACEs.⁶⁵ Trauma recovery centers are an effective, yet underfunded, tool to address these harms of

crime and victimization. They aim to assist people suffering from trauma, violence, and loss by providing mental health and medical services. Trauma recovery centers also seek to address barriers that victims of violent crime face, such as working with law enforcement and receiving adequate support to address their needs.

Funds should also be reallocated from incarceration to support proven public health prevention strategies. These programs target communities of color, where crime and incarceration occur at higher rates. This new, concentrated focus on violent crime would decrease the number of children transferred to the adult court and shift wasted prison resources to help scale community-level programs that serve more neighborhoods plagued by violence.

Use risk and needs assessment tools in decision-making around placement and length of stay.

Youth are typically incarcerated or waived into adult court based solely on the nature of the underlying offense rather than an assessment of both their needs and risk of future harm to the community. A risk and needs assessment can provide decision makers vital information to tailor a community-based response that addresses the cause of the behavior while also avoiding the imposition of often harmful confinement on a youth.⁶⁶ If this practice was standardized, we could see a significant decrease in transfers for all types of offenses.

Some of these tools are beginning to measure previous exposure to traumatic events. This level of understanding would help connect individuals to appropriate treatment services and expand trauma-informed care practices.

These tools are not a panacea. They do not replace the need for a trained justice professional to make an individualized judgement. They also must be carefully validated and reviewed to ensure that they accurately assess risk and do not exacerbate existing racial or ethnic biases present in other parts of the system. Nonetheless, risk and needs assessment tools can better inform decision makers about the most appropriate setting and interventions for youth who have engaged in violence.

Increase age-appropriate resources for youth who are subjected to secure confinement.

The ultimate goal should be to eliminate any mechanism that leads to youth entering the adult criminal justice system. However, as long as transfers occur, adult facilities need to invest in children's futures by expanding education, recreation, mental health, and workforce opportunities. The absence of such programs prohibits crucial emotional and physical growth and increases the risk of recidivism. They may also violate federal IDEA (Individuals with Disabilities Education Act) law for youth who had identified disabilities prior to their arrest. All children in the adult system, regardless of security level or committing offense, need age-appropriate resources to help them develop.



Conclusion

The juvenile justice system has undergone dramatic changes over the last two decades. The era of “super predators” and punitive policies and practices that increasingly treated children like adults has been supplanted by falling crime rates and a focus on diversion and community-based interventions that are more effective at addressing underlying needs of youth while also protecting public safety.

Unfortunately, the news is not all positive. One vestige of that prior era remains with regard to youth who engage in violent behavior. Too many states still rely on confinement and transfer to the adult system. While all youth are at risk of being transferred or excluded from the juvenile court, depending on jurisdictional law, there is an evolving focus on youth who commit acts of violence. This is despite the fact that the research clearly shows youth are better served in the community regardless of the underlying conduct.

The harms of confinement and transfer of children into the adult system actually drive higher rates of recidivism. Moreover, it exacerbates racial disparity as youth of color are more likely to be transferred into the adult system for violent behavior.

It is time that policy makers follow the research and substantially reduce the number of youth placed in secure confinement or the adult system for acts of violence. States should be employing evidence-based and validated risk and needs instruments to identify appropriate interventions that address the cause of the behavior in the least restrictive setting that is safe. This approach is supported by many victims of crime who recognize that simply incarcerating youth or transferring youth to the adult system fails to protect public safety and can contribute to future victimization.

Endnotes

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- 10 Ibid.
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- 16 N.A., *Raise the Age: Shifting to a safer and more effective juvenile justice system* (Washington, DC: Justice Policy Institute, 2017); See also, Brian Evans, *Let's Get Children Out of Adult Courts, Jail, and Prisons* (Washington, DC: Campaign for Youth Justice, 2018).
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Endnotes

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Juvenile justice testimony (1).pdf

Uploaded by: Max Socol

Position: FAV

TO : The House Judiciary Committee

FROM : Max Socol (mbsocol@gmail.com)

RE : HB 294 Juvenile Court Jurisdiction

Position : FAVORABLE

My name is Max Socol and I am a resident of Montgomery County, MD, in State District 18. For the past four years I have been a leader in the movement for racial justice in our community, as a co-founder of the Silver Spring Justice Coalition and the Montgomery County Racial Equity Network. I am also a former educator and spent the early years of my career working primarily with teenagers, who are the subject of this legislation.

I am glad that the legislature is considering an end to the practice of automatically charging children as adults, along with several other badly-needed reforms to our juvenile justice system. I strongly urge this committee to vote favorably on the bill with no amendments. I have also gathered written testimony from my neighbors which is included below.

The urge to punish has deep roots in our society. From the colonial plundering of the territory that became the United States and the need to apply a “lawful” characteristic to inherently lawless acts; to the slave patrols using brutal and often deadly violence to enforce an inhuman regime of exploitation; to the “wars” on ineffable social concepts like poverty, drugs, and terror, that were really wars against our own people. Punishment as a political tool is all too American.

Our children are not spared. Corporal punishment is still legal in many school districts. Suspensions, expulsions, and arrests by school-embedded police are consequences faced by poor and Black and brown children every day, across the country and in Maryland.

But in Maryland we bear some unfortunate distinctions. We charge more children as adults than nearly any other state in the country. Last year, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. 81% of these children are Black.

If the committee finds it relevant, I will add here that this regime of punishment does not achieve its goal, if the goal is to improve public safety. The vast majority of these cases do not result in an adult conviction, instead merely consuming time and the scarce resources of public defenders, while traumatizing children in the process. Children who are transferred to adult court are more likely to experience or commit violence and more likely to be arrested again in the future than counterparts who remain in the juvenile system.

But to me, as an educator, all of that is beside the point. Children are children. No matter what horrible circumstance or mistake in their lives might have led them to court, they deserve to be

treated as they are, and not to face additional, unnecessary, counterproductive punishment. They did not choose to grow up in a society obsessed with punishment.

Again, I hope the committee will move this bill forward without amendments that would weaken it, or carve out exceptions, or anything else that suggests that punishment remains our goal. It should not be too much to ask that Maryland join the majority of states in having a legal system that treats children as children. And we cannot begin to unwind centuries of punishment-as-policy if we do not have the courage first and foremost to spare our children. Thank you for your consideration.

Testimony from Maryland residents

Name (First Last or Official Name)	City	Zip/Postal	Notes
Matthew Butler	Columbia	21044	Because the justice system is unequally applied, we need to allow every child the rights that are afforded to them in the constitution. Any time we back children into a place where they feel forced to interact in a certain way without an adult looking toward their interest, we create a system that is morally objectionable.
Stephen Melkisetian	Bethesda	20814	I believe that cases involving juveniles should start in juvenile court. I also think we need to take a serious look at why so many of the kids who are sent to adult court are black.
Alan Socol	Kensington	20895	This procedure will save resources and probably keep some juveniles from the express lane to criminality. It's a better option for everyone.
Peter Myo Khin	Silver Spring	20904	Do not throttle back any of the police reforms bills up for consideration in the General Session. These reforms are in dire need and would not have been put forth if not needed. please support the three juvenile bills up for consideration this session.
Beth Socol	Kensington	20895	Not done fairly for people of color
Catherine Stauss	Takoma Park	20912	Young people should get to see a judge who can decide what's best rather than some automatic trigger. That's old 1990s views of crime, that failed. Maryland needs to turn around.
Emily Zeller	Rockville	20852	Recidivism, racism, and lack of resources all go hand in hand. Children should not be charged in adult courts, and Maryland needs to catch up.

Michael Tardif	Kensington	20895	The statistics are appalling: last year, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined. A staggering 81% of those children were Black. Maryland must be first, not last, in juvenile justice reform.
Elaine Weiss	Silver Spring	20902	These policies would be a travesty of justice in any state, but to have them in place in Maryland, where we pride ourselves on functional policy- making and a progressive legislature is baffling and absolutely unacceptable. We can do better, and we need to!
Alexander Banks	Silver Spring	20902	It's repugnant that we treat our most vulnerable people with such a lack of humanity. That there are even children being treated like adults (adults who are already being inhumanely disregarded in our criminal injustice system) within our broken, racist, and classist courtrooms is unacceptable.
Collin Foster	Piney Point	20674	Either children are children, or they're not. There shouldn't be a double standard in the criminal justice system for juvenile cases.
John Wilson	Silver Spring	20901	Automatic charging sounds like a "tough on crime" stance that doesn't respect the individual circumstances of children. Can't we be smarter?
Joseph Puglisi	Kensington	20895	Youth deserve a second chance! They should not be locked up except for in the gravest circumstances!
Laurel Hoa	Potomac	20854	Brain development is different in children and youth than in adults. They should not be automatically prosecuted as adults.
Danielle Veith	Kensington	20895	As a mother of two white kids, I'm sickened to learn about how badly we treat Black and brown kids in the so-called Justice system in Maryland. All of our children deserve to be treated as children. I support efforts to ensure they are.
Molly Hauck	Kensington	20895	Youth should be given help from a lawyer and given a second chance.
Sandra Marquardt	Silver Spring	20902	Kids may be messed up and do atrocious things, but they are still kids and that should be taken into consideration.

Emily Beckman	Kensington	20895	Adult court is not appropriate for children, and children should not start out their cases in adult court when no one in the system has even evaluated the strength of the evidence or the culpability of the child. Children should 100% be presumed to be children, and be held in facilities that are appropriate to children, that understand their developmental stage and that can provide appropriate services such as school. Adult jails are unquestionably inappropriate environments for children and should certainly not be the initial placement of a child who has just been accused of a crime.
Julie Berla	Columbia	21044	I have been a school counselor in Maryland for 28 years. Kids need support and compassion not jail time. We can do better. The disproportionality is horrendous. Our black youth need us. BLACK LIVES MATTER!
Robert Stubblefield	Silver Spring	20904	Because youth should not be punished as adults for petty crimes and if white youth are given a plethora of chances, than so should black youth and non black youth of color
Sallie Holmes	Silver Spring	20901	It is outrageous that so-called progressive Maryland ranks worst in the country for protecting the rights of young people in the legal system. Every day in Maryland, children entangled in the legal justice system are questioned without a parent, guardian, or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to. This is particularly dire for Black, Indigenous, and Children of Color, who are overpoliced. Maryland and Maryland's children deserve better. I call upon you to stop automatically charging youth in adult court and do everything you can to pass SB 165/HB 294.
MARY LOU HARTMAN	Chevy Chase	20815	Everyone deserves second chances, especially children. Children must be treated like children.
Lizz Goldstein	Vienna	22182	I live right over the line in VA and have been involved in faith-based initiatives here as well to change how harshly many people are charged. We should all be pursuing more rehabilitative action, especially for youth.

HB 294_MS_fav_.pdf

Uploaded by: Maya Szilak

Position: FAV



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Testimony from:

Maya Szilak, Resident Fellow, Criminal Justice and Civil Liberties, R Street Institute

Sarah Wall, Government Affairs Region Manager, Northeast Region, R Street Institute

in SUPPORT of HB 294/ SB 165

February 10, 2022

House Judiciary Committee Proceedings

Chairman Clippinger and Honorable Members of the House Judiciary Committee:

R Street Institute (RSI) is a nonprofit, nonpartisan public policy research organization focused on advancing limited government and effective free-market policy at the state and federal level. As part of this mission, the Criminal Justice and Civil Liberties team at RSI evaluates policies related to the justice system, and proposes changes to law that would improve outcomes for criminal justice stakeholders and the public. Because HB 294 /SB 165 would align Maryland with research that demonstrates better outcomes for youth and enhanced public safety, RSI encourages its **favorable report**.

HB 294/ SB 165 would end the direct-file provisions under Maryland law that automatically place an inordinate number of youth in the adult criminal court system. From the time of the initial charging decision, youth under 18 years old, and as young as 14, are automatically subject to adult criminal prosecution if they are charged with any one of 33 offenses.¹ Although youth have an opportunity to argue in “waiver hearings” that their cases should transfer back to the juvenile court, the burden of proof is on the youth to show they can be rehabilitated in the Department of Juvenile Services.²

HB 294/ SB 165 would change the current law by establishing that all children under the age of 18 begin their cases in the juvenile courts. In doing so, the bill would not preclude prosecuting youth as adults, as prosecutors still would retain the right to seek a waiver to the adult system, considering the nature of the offense, the youth’s maturity and capacity for rehabilitation, and the need to protect the public. Hence, if SB 165 was enacted, it would merely shift the burden of proof to the prosecution to show that the juvenile system is inadequate to treat a youth and protect the public.

Placing the burden of proof on the prosecutor, rather than the defendant, would align with the right to due process.³ It also would bring Maryland in line with other states, such as Kansas, that presume that young people should be given the benefit of having their cases heard in the juvenile courts and a meaningful opportunity for rehabilitation, unless proven otherwise.⁴ As it stands, Maryland is an outlier



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among the states in its adult-charging practices, ranking second only to Alabama in the per capita number of youth that it automatically sends to adult criminal court.⁵

Rather than automatically shunting children into the adult system, HB 294/ SB 165 would ensure every option for rehabilitation in the juvenile system is used before moving to the adult criminal courts. This would be a boon to youth rehabilitation and public safety, and prevent the needless waste of resources.

Unlike the adult criminal justice system, Maryland's juvenile justice system preserves family connections that protect against future criminality and provides youth with the rehabilitative services needed to reenter society as productive adults.⁶ While juvenile court records are sealed upon a youth reaching the age of 21, youth convicted as adults face the life-long stigma and negative collateral consequences of a criminal conviction, which foreclose critical opportunities for education, housing and employment. Keeping youth in the juvenile system helps to improve public safety and reduce recidivism by providing youth with rehabilitative services, preventing youth from learning criminal behaviors through contact with adult inmates, and removing negative collateral consequences that flow from adult criminal convictions and prevent successful reentry.⁷

More than a decade ago, the U.S. Department of Justice found, "[r]esearch provides sound evidence that transferring juvenile offenders to the criminal court does not engender community protection by reducing recidivism. On the contrary, transfer substantially increases recidivism."⁸ The Centers for Disease Control and Prevention likewise found, "[t]ransfer to the adult criminal justice system typically increases rather than decreases rates of violence among transferred youth," and therefore recommended "[a]gainst laws or policies facilitating the transfer of juveniles to the adult criminal justice system for the purpose of reducing violence."⁹ Maryland's antiquated system of automatically charging youth as adults demands reform because it is wholly out of step with prevailing research and best practices, and ultimately undermines public safety.

Moreover, Maryland's automatic adult charging system is grossly wasteful and inefficient. The majority of youth automatically charged as adults end up transferred back to the juvenile court system.¹⁰ In total, more than 80 percent of youth charged as adults are transferred back to the juvenile courts, found not guilty or sentenced to time served—obviating the utility and validity of operating under a presumption that youth charged with certain offenses automatically should be prosecuted in adult criminal courts.¹¹ Rather than wasting the time and resources of prosecutors in pointless waiver hearings, SB 165 would allow prosecutors instead to focus on prosecuting and securing adult criminal convictions in cases where young offenders present a true threat to public safety and security.

In recent years, the Maryland General Assembly has received well-deserved recognition for its holistic analysis and corrective action, such as the 2017 Justice Reinvestment Act, and has worked to undo the impact of decades-old ineffective policies that over-criminalized individuals and harmed public safety.¹² The continued practice of automatically charging youth as adults contradicts the legislature's otherwise-positive efforts toward implementing reforms that lead to better outcomes for youth and the public. It is long past time for policymakers to change Maryland law on automatic adult charging. For these reasons,



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R Street Institute thanks the members of this Committee for their consideration and urges a favorable report on HB 294/SB 165.

Respectfully submitted,

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⁹ Robert Hahn, et al., "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System. A Report on Recommendations of the Task Force on Community Preventive Services,"



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HB 294 End Automatic Charging testimony 2022 .pdf

Uploaded by: Natalie Spicyn

Position: FAV

Natalie Spicyn MD, MHS, FAAP
District 41

February 10, 2022

TESTIMONY IN SUPPORT OF HB 294
Juvenile Court - Jurisdiction
Ending Automatic Charging of Youth As Adults

TO: Hon. Chair Clippinger and the members of the Judiciary Committee

FROM: Natalie Spicyn MD, MHS, FAAP

As a board-certified pediatrician and adult internal medicine specialist at a community health center in the Park Heights neighborhood of Baltimore, I care for children, adolescents and adults across the life span, including many families adversely impacted by the criminal justice system in Maryland. I am writing in strong support of SB 165, which would curb Maryland's developmentally-inappropriate practice of automatically prosecuting children in adult court for various offense types.

Regardless of offense type, a child is a child; this is the very underpinning of the existence of the juvenile court system, which is undermined when we allow our children to be tried in adult court as a matter of default in many cases. This practice is not concordant with our understanding of the developing adolescent brain.

It is well-known that the area of the brain that is responsible for higher order cognitive processing, the prefrontal cortex, continues to develop well into the 3rd decade of life. Unfortunately, not only is the practice of automatically charging youth as adults developmentally-inappropriate, but it is even detrimental to their health; the CDC has found that the "adult criminal justice system is associated with subsequent violence among juvenile participants when compared... [to] juveniles retained in the juvenile justice system." These youth also have higher rates of recidivism.

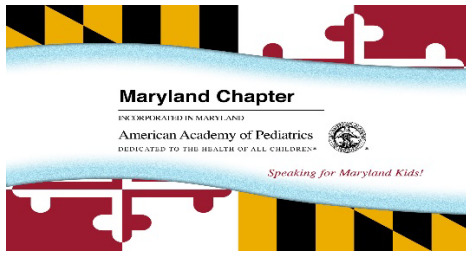
Sadly, the impact of this practice is disproportionately shouldered by the Black and brown children for whom I care in my medical practice: in Maryland between 2017 and 2019, 93% of kids tried as adults were youth of color, and 80% were Black. At a time when we in the medical community are evaluating the "social determinants of health" including the impact of structural racism on health outcomes, I was aghast to learn that Maryland sends more young people per capita to adult court, based on offense type, *than any state other than Alabama*.

Maryland can and must do better for our youth. Alongside my pediatrician colleagues within the Maryland Chapter of the American Academy of Pediatrics, I respectfully submit this individual testimony requesting a favorable report on HB 294, an urgently important bill for Maryland's children.

HB0294_FAV_MDAAP_Juvenile Court - Jurisdiction.pdf

Uploaded by: Pam Kasemeyer

Position: FAV



TO: The Honorable Luke Clippinger, Chair
Members, House Judiciary Committee
The Honorable Charlotte Crutchfield

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone

DATE: February 10, 2022

RE: **SUPPORT** – House Bill 294 – *Juvenile Court – Jurisdiction*

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for House Bill 294.

House Bill 294 proposes to reform Maryland's law as it relates to the jurisdiction of the juvenile court. While the Juvenile Court generally handles cases involving youth who are under the age of 18, there are multiple ways a young person under the age of 18 may be subjected to initial jurisdiction in the adult criminal court. Currently, Maryland law requires young people who are 14 and older and charged with a crime that carries a sentence of life imprisonment if committed by an adult, to be charged directly in the adult court. In addition, young people who are 16 and older and charged with one of 33 crimes are also required to be automatically charged as an adult. In both instances, young people directly charged in the adult criminal justice system are tried and sentenced in that system unless their case is transferred back to the juvenile justice system.

Years of research on brain development has demonstrated that the frontal lobes, which are the seat of reasoned judgment and higher order cognitive decision making, develop late and continue to develop in late adolescence into early adulthood, rendering the adolescent brain consequentially distinct from the adult brain. Charging juveniles in adult court fails to recognize that they are physiologically disadvantaged to adjust their behavior to the mandate of the law in comparison to adults. The juvenile court system, given its established responsibility to promote the best interests of children while helping them to adjust their behavior, is better suited to adjudicate youth cases than adult criminal courts. Evidence shows that youth and public safety outcomes suffer when children are charged in the adult courts.

Passage of House Bill 294 will ensure that all cases involving juveniles will be required to begin in juvenile court. While some youth's cases may ultimately be moved to adult court, the burden will fall on the State to establish why juvenile adjudication would be inappropriate. A favorable report is requested.

For more information call:

Pamela Metz Kasemeyer
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HB294 - Juvenile Court – Jurisdiction .pdf

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Bolton Street Synagogue

Chevra Ahavas Chesed, Inc.

Chevrei Tzedek Congregation

Chizuk Amuno Congregation

Congregation Beit Tikvah

Congregation Beth Shalom of

Carroll County

Congregation Tiferes Yisroel

Federation of Jewish Women's

Organizations of Maryland

Hadassah

Har Sinai - Ohel Shalom Congregation

J Street

Jewish Federation of Howard County

Jewish Labor Committee

Jewish War Veterans

Jewish War Veterans, Ladies Auxiliary

Jewish Women International

Jews For Judaism

Moses Montefiore Anshe Emunah

Hebrew Congregation

National Council of Jewish Women

Ner Tamid Congregation

Rabbinical Council of America

Religious Zionists of America

Shaarei Tfiloh Congregation

Shomrei Emunah Congregation

Simon E. Sobeloff Jewish Law Society

Suburban Orthodox Congregation

Temple Beth Shalom

Temple Isaiah

Zionist Organization of America

Baltimore District



Written Testimony

Housed Bill 294 - Juvenile Court – Jurisdiction

Judiciary Committee

February 10, 2022

SUPPORT

Background: House Bill 294 (HB294) if enacted, would stop the automatic charging of youth in adult court. Currently in Maryland, children as young 14 can be automatically charged as adults for certain criminal charges. Maryland sends more youth to adult court than any other state besides Alabama. This bill does not preclude children to be tried as adults, it only precludes them from automatically beginning their legal process in adult court for certain criminal charges.

Written Comments: Last year Maryland sent more children to adult court than Pennsylvania, Massachusetts, and Arizona combined. However, less than 13% of children charged as adults end up with a conviction. Starting these cases in juvenile court not only saves the state money and time, but it also creates better outcomes for these children. Children who start in the adult system are more likely to recidivate and engage in more violent crimes. Further, automatic charging shows large racial disparities, where over 80% of children charged as adults are Black and those children are much more likely to receive longer sentences in adult prison than White children.

The Baltimore Jewish Council believes that children are society's most vital futures resources, yet one of its most vulnerable classes. When they are charged with crimes, great care should be taken to ensure that the justice system provides them with fair opportunities for growth and that the mandatory charges of children as adults should be avoided.

For these reasons, the Baltimore Jewish Council urges a favorable report on HB294.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated: Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

BALTIMORE JEWISH COUNCIL

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Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated



2022-02-10 HB 294 (Support with Amendments).pdf

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Position: FWA

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February 10, 2022

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Office of the Attorney General

Re: HB0294 – Juvenile Court – Jurisdiction – **Support with Amendments**

The Office of the Attorney General urges the Judiciary Committee to favorably report with amendments House Bill 294. Delegate Crutchfield's bill repeals all provisions permitting prosecutors to directly charge juveniles in adult court for dozens of specified crimes. House Bill 294 is a good faith attempt to take cognizance of recent Supreme Court jurisprudence establishing that under the U.S. Constitution children are different than adults.¹ These cases rest upon an emerging scientific consensus that children have both diminished culpability and a heightened capacity for rehabilitation.

While we agree that, under current Maryland law, far too many enumerated crimes permit prosecutors to direct file against juveniles in adult court, we do believe that permitting prosecutors to do so in the worst of violent crimes—e.g. murder and rape—should continue to qualify for direct file. Because Department of Juvenile Services intake decisions (i.e. whether to commit or leave a juvenile in community supervision) are not immediately reviewable, it makes sense to permit prosecutors the discretion to remove particularly violent juvenile offenders from the community. Many of these same juveniles will have significant criminal histories warranting their separation from society at large pending trial on only the most violent of crimes.

¹ See e.g. *Tatum v. Arizona*, --- U.S. ---, 137 S.Ct. 11 (2016) (granting, vacating, and remanding in several cases where Arizona courts failed to consider individual circumstances of juveniles sentenced to life without parole); *Montgomery v. Louisiana*, 577 U.S. 190, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016) (holding that *Miller v. Alabama* holding that Eighth Amendment mandatory life sentences without parole for juvenile offenders is a new substantive constitutional rule that was retroactive on state collateral review); *Miller v. Alabama*, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) (mandatory life without parole for juvenile offenders is unconstitutional); *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010) (Eighth Amendment prohibits imposition of life without parole sentence on a juvenile offender who did not commit homicide, and State must give juvenile nonhomicide offender sentenced to life without parole a meaningful opportunity to obtain release); and *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005) (prohibiting death sentences for those who committed their crimes before age 18).

For the foregoing reasons, the Office of the Attorney General urges the Committee to favorably report HB 294 with amendments continuing to permit direct file against juveniles who commit rape and murder (not to include felony murder).

cc: Committee Members

Juvenile justice jurisdiction - house - 2022 - MCA

Uploaded by: Lisae C Jordan

Position: FWA



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 294 with Amendments

Lisae C. Jordan, Executive Director & Counsel

February 10, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judiciary Committee to report favorably on House Bill 294 with Amendments

House Bill 294 – Juvenile Justice Reform - Jurisdiction

The Maryland Coalition Against Sexual Assault fully supports efforts to reform Maryland's juvenile justice system. We note that minors who are Black, Brown, poor, immigrant, or disadvantaged are disproportionately represented in the juvenile justice system and believe that juvenile justice reform is a critical piece of addressing this injustice. We also note that victims of criminal acts – including those committed by juveniles -- are often members of these same communities. Reform efforts should also address their perspective. House Bill 294 would move *all* cases involving allegations against minors to juvenile court, including cases involving the most extreme types of sexual violence such as gang rape, rapes involving kidnapping, sexual assaults involving disfigurement, and even sexual assaults involving murder. We respectfully suggest that cases involving committing extreme violence should start in the adult system. Adult cases are more open and transparent and starting cases there provides victims and their communities with more support and access to the justice system. Additionally, the State should have the option to retain jurisdiction over some violent juvenile offenders beyond their 21st birthday and should develop a more nuanced response to young people who commit violent crimes.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on House Bill 294 with Amendments**