



# HUMAN RIGHTS *for* KIDS

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## TESTIMONY IN SUPPORT OF SB 850 BEFORE THE MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE

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*March 14, 2023*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 850. We are grateful to Senator Carter for her leadership in introducing this bill and appreciate the Maryland Legislature's willingness to address these important human rights issues concerning Maryland's children.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

### **Human Rights Standards**

Human Rights for Kids supports SB 850 because the application of the felony-murder rule to children runs counter to the Inter-American Commission on Human Rights' recommendations to avoid sentencing children by the same guidelines that apply to adults, and to consider child brain and behavioral development science when charging and sentencing child offenders. It is a well-

documented fact that children are more impetuous, prone to irrational decision-making, and often lack the ability to foresee the unintended consequences of their actions. Therefore, states should move to eliminate the application of the felony-murder rule to children to create more age-appropriate charges and sentences.

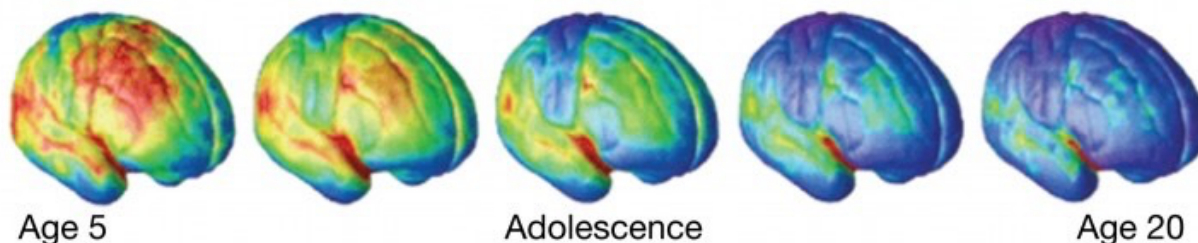
Maryland's policy of allowing children to be convicted of first-degree murder, and be subject to a mandatory life sentence, for murders they did not commit, intend, or foresee that their co-defendant would commit, flies in the face of these widely accepted international human rights standards.

### **Juvenile Brain & Behavioral Development Science**

Studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and being heavily influenced by their surrounding environment.

Children's underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities.

### **Dynamic mapping of human cortical development**



Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

*In this picture the blue areas can be thought of as representing 'more mature' sections of brain. The frontal areas are among the last to mature.*

### **Human Rights Violations**

Because of the way children are treated in the criminal justice system, we designated Maryland one of the "Worst Human Rights Offenders" in the nation in our 2020 National State Ratings Report. Maryland was penalized in our assessment, in part, for its application of the felony murder doctrine to children. It should be noted that more than 80% of youth charged as adults in

Maryland are Black. Such practices are contrary to human rights law and have made Maryland a national outlier.

While it is important to note that the vital reforms to the juvenile justice system passed since the aforementioned 2020 report resulted in Maryland's recognition as the "most improved state" in the 2022 edition of our National State Ratings Report, Maryland is still penalized for its felony murder policy.

In late 2022, Human Rights for Kids requested and received data from the State of Maryland on people who are currently incarcerated for crimes they were convicted of as children. According to our analysis of the data provided by the State, there are 1,132 currently incarcerated people who fit this description. This number represents 6.09% of Maryland's overall prison population, which is more than double the national average of 3%. Maryland ranks 5<sup>th</sup> highest in the nation for the percentage of its overall prison population that has been incarcerated since they were children. Only Michigan, Louisiana, Wisconsin, and South Carolina have higher percentages.

### **Conclusion**

Nelson Mandela once said, "*There is no keener revelation of a society's soul than the way in which it treats its children.*"

With the passage of SB 850, Maryland has the opportunity to become a national leader by recognizing that kids are different and therefore should be treated differently in the criminal legal system.

**It is for the foregoing reasons that Human Rights for Kids respectfully requests that the Committee issue a favorable report on SB 850 by Senator Carter.**

Thank you for your time and consideration.

Submitted by: Emily Virgin, Director of Advocacy & Government Relations, Human Rights for Kids, [evirgin@humanrightsforkids.org](mailto:evirgin@humanrightsforkids.org)