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POSITION ON PROPOSED LEGISLATION

BILL: HB 358 - Department of Juvenile Services – Juvenile Felony Database

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/7/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 358.

House Bill 358 creates a publicly accessible database of juvenile felony offenses. This searchable database contains a description of the offense, the date of the offense, and the location of the offense. The name, age, race, and home address of the child are excluded. House Bill 358 also requires the database include general information about court actions in the case. This information is made publicly available regardless of whether the child was formally charged in juvenile court, or whether the child is ultimately found guilty.

House Bill 358 exposes the identities of children, families and victims, and subjects them to public ridicule, embarrassment, and harassment. Let me explain how.

Adam — a 14-year-old child — assaults his sister Betty at home. Betty calls the police. The police charge Adam with Assault. Adam is diverted by the Department of Juvenile Services. Adam is never formally charged. Because Adam's home is the location of the offense, his home address is listed in the publicly accessible database. The neighbors see that an assault occurred at the home. The neighbors express concern to the parents. The parents are mortified. The neighborhood children won't play with Adam anymore.

Another example. Denise lives alone. Charles — 15-years old — goes to Denise's home and sexually assaults Denise. The location of the crime is Denise's home. The publicly accessible database now lists Denise's home as the location of a sexual assault on a certain date. Denise's co-workers see this and express concern. Denise's privacy is shattered.

Another example. Four 10-year-olds at school spy a fifth child with Pokémon cards. The Four 10-year-olds push the fifth to the ground and steal his Pokémon cards and the run down the hallway laughing. The four 10-year-olds are charged with Robbery. All cases are diverted. The publicly accessible database now shows that four robberies took place at the school on a certain

date. Parents are outraged. The principle wants to explain the details but is precluded from doing so due to confidentiality rules. Parents remove their children from a dangerous school environment.

Last example. The database shows that a child is charged with Sexual Assault in the Third Degree. The location is a local church with few congregants. Edward, the school bully, tells all his friends that the person in the database is Fiona, a 16-year-old who is known to attend this church. There is no way for Fiona to disprove this allegation. Rumors spread. Fiona is taunted and teased. Fiona withdraws from school.

The relaxation of confidentiality rules in juvenile court was attempted in the 1980s and 1990s in response to the perception that courts were ‘soft’ on youth offenses and in response to the ‘super predator’ disinformation campaign. The modern approach to juvenile justice recognizes that exposing confidential information to the public stigmatizes youth. The National Council of Juvenile and Family Court Judges advises that “Youth’s law enforcement and court records should not be widely available and never available online.” *Enhanced Juvenile Justice Guidelines*, NAT’L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES 14 (2018), *available at* https://www.ncjfcj.org/wp-content/uploads/2019/01/NCJFCJ_Enhanced_Juvenile_Justice_Guidelines_Final.pdf.

The public already has several ways of learning about the juvenile justice system and its effectiveness. In felony cases, juvenile court proceedings are open to the public. MD CODE ANN., CTS. & JUD. PROC. § 3-8A-13(f)(3)(i). The Department of Juvenile Services (DJS) annually publishes their Data Resource Guide which provides statistical information regarding recidivism rates, programs available to youth, and a breakdown of charges by race, gender, age, and district. *Data Resource Guides*, MARYLAND DEP’T OF JUVENILE SERVICES, *available at* <https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>. In addition, the Juvenile Justice Monitoring Unit publishes quarterly and annual reports on DJS operated and licensed facilities across the state. *Juvenile Justice Monitoring Unit*, MARYLAND OFFICE OF THE ATTORNEY GENERAL, *available at* <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>. All of this information is publicly available on the internet.

Creating an entirely new database of offenses serves no purpose other than to expose the identities of participants in the juvenile justice system. Internet sleuths and armchair detectives will use the database to hunt down children and victims merely for the sport of it. This database will result in irreparable damage to those involved and has no value in terms of improving services to children, families, or victims.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 358.

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

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