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POSITION ON PROPOSED LEGISLATION

BILL: SB 0015 - Mandatory Petition and Notice

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 4/3/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 15.

Senate Bill 15, as amended, is imprecise, unworkable, violates separation of powers, and conflicts with other sections of the juvenile code. The bill would amend Section 3-8A-10 of the Juvenile Causes Act, which directs how the Department of Juvenile Services processes complaints they receive for youth. 3-8A-10(c)(1) outlines the steps a DJS intake officer must take in order to comply with the constitutional requirements of due process. It also details the inquiry an intake officer must make into the complaint in order to establish that the court has jurisdiction. Senate Bill 15, in its current iteration, would require an intake officer to file a petition alleging that a child is delinquent or in need of supervision any time a child under 13 is alleged to have committed an act that results in a death.

The current version of SB15 as amended would muddle the statutory language of section 3-8a-10, making the intake process unclear. For example, on page 3, Lines 21 through 24 state “IF A COMPLAINT IS FILED THAT ALLEGES THE COMMISSION OF AN ACT BY A CHILD UNDER THE AGE OF 13 YEARS THAT RESULTS IN THE DEATH OF A VICTIM, THE INTAKE OFFICER SHALL FILE A PETITION ALLEGING THAT THE CHILD IS EITHER DELINQUENT OR IN NEED OF SUPERVISION.”The amendment orders the DJS intake officer to take actions that intake workers do not have the authority or ability to do: specifically, to file a delinquency petition. DJS does not file petitions; instead DJS can authorize the filing of a formal petition by forwarding complaints to the State’s Attorney’s Office, who completes a separate review and ultimately is the only party authorized to file delinquency petitions in the state of Maryland.

That impossibility cannot simply be fixed by further amending the bill language to read “authorize the filing of a petition” because requiring the authorization of the petition may violate other elements of 3-8a-10. Section (c)(2) of 3-8a-10 requires an intake officer to determine



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whether the court has jurisdiction and whether formal court action is in the child and the public's best interest. Requiring an intake officer to bypass that determination would contravene the purposes of the Juvenile Causes Act, as outlined in Courts and Judicial Proceedings 3-8a-02. In addition to the language of the amendment being unclear and badly drafted, its intended impact is unclear. The drafting of the amendments to SB15 does not comport with the jurisdiction limits of Courts and Judicial Proceedings 3-8A-03, which expressly limits delinquency jurisdiction for children under the age of 10 years old. Children between the ages of 10 and 12 years old are already subject to delinquency proceedings for crimes of violence, a category of crimes which would encompass most allegations that involve the death of the victim. As such, the only set of facts that this bill would impact is a 10, 11, or 12 year old who is accused of involuntary manslaughter, a situation that is thankfully exceedingly rare.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 15.

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

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