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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB792 Juvenile Law - Juvenile Justice Reform - Juvenile Court Jurisdiction**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: February 27, 2024**

The Maryland Office of the Public Defender respectfully submits this testimony and asks for an unfavorable report from the committee.

Senate Bill 762 expands the types of offenses for which 10-12 year olds can be charged in the juvenile justice system. Senate Bill 762 lacks investment in front-end proactive solutions and is centered on punitive measures that have been proven ineffective and are contradicted by best practices, research and data. “A growing body of evidence has found that pre-teens have diminished neurocognitive capacity to be held culpable for their actions; likewise they have little ability to understand delinquency charges against them, their rights and role in an adversarial system, and the role of adults in this system.” Juvenile Justice Reform Council Final Report (2021) at 17, <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

Senate Bill 762 the charging of 10-12 year olds merely because they have been arrested at least twice, regardless of whether the child was ultimately charged with an offense, and regardless of whether the child committed the offense for which they were arrested. Such a standard encourages and incentives law enforcement to make frivolous and unconstitutional arrests.

Moreover, the term ‘arrest’ is not defined in the bill and may cause confusion in the courts. In Maryland, “[i]t is generally recognized that an arrest is the taking, seizing, or detaining of the person of another (1) by touching or putting hands on him; (2) or by any act that indicates an intention to take him into custody and that subjects him to the actual control and will of the person making the arrest.” *Williams v. State*, 212 Md. App. 396, 418 (2013). Thus, even a temporary handcuffing of a child could be considered an ‘arrest’ under Senate Bill 762. Even if a law enforcement officer has no intention of charging a child, the child may still be legally under arrest triggering the proposals in Senate Bill 762.

Senate Bill 762 implements antiquated and dangerous practices of ensnaring 10-12 year olds into the legal system for additional offenses, rather than mandating immediate service referrals.

Maryland should abandon charging pre-teens with juvenile offenses and focus on evidence-based solutions which support our youth and our communities.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 792.**

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

**Authored by: Jeremy Zacker, Assistant Public Defender.**