

Favorable with amendments - HB 744 – Juvenile Court - jurisdiction

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 9, 2024

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports SB744 to adjust provision as to juvenile jurisdiction but also urges a few important amendments. I offer these remarks as a recently retired Juvenile administrative judge and based on more than 30 years in the system also as a prosecutor, defense attorney, and Juvenile Court master - n/k/a magistrate.

Specifically, we propose two amendments:

- a) Deletion of theft, CL Art., 7-105, as a crime of opportunity for youth whose role, often, may occur as one member of a group; this offense should not compel adult accountability with its long-term damaging consequences and much greater costs to the public; and
- b) Deletion of the bill's overly harsh "two-time loser" charging option (CL, 3-8A-10 (c)(4)(ii)) which could much too quickly pull a child, even with two minimal juvenile offenses, much deeper into the system.

Legislators, initially, should recognize four key facts in relation to adult vs. juvenile jurisdiction:

- 1) Maryland's Juvenile Justice system offers much more extensive and individualized rehabilitative services for every juvenile committed to custody than our adult correctional system, which actually provides services to only a tiny percentage of incarcerated Marylanders.
- 2) Juveniles, given appropriate treatment services and time, have a much greater opportunity for rehabilitation than adults age 25 and over. Many scientific studies, repeatedly accepted by the U.S. Supreme Court, make clear that "emerging adults" (those under age 25) have brains which still are developing and commonly may be expected to gain better judgment and behavior as they reach maturity. For example, see the discussion in "*The Intersection between Young Adult Sentencing and Mass Incarceration*," Wisconsin Law Review (2018).
- 3) It is well-known that commingling juveniles with a population of "higher risk" adult offenders increases the risk of future criminal behavior by the juveniles. For example, see "Effects [of] transfer of youth from the juvenile to the adult justice system." <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.
- 4) Finally, it's important to realize that the system of letting prosecutors automatically charge certain juveniles does not require them to consider the impact on the juveniles or their future prospects. Elected State's Attorneys are not, by statute, required to receive any training as to juveniles or their prospects for rehabilitation. The current system, which enables prosecutors to charge more children automatic charging as adults has resulted in huge racial disparities, according to one recent report, such that 80% of those charged as adults are African-Americans. Expansion of this system to permit more charging of more juveniles should be resisted.

With the proposed amendments above, MAJR supports SB 744.

PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary or any other unit of state government.