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Testimony from:

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Testimony in Opposition to SB 744, “An Act Concerning Juvenile Law-Reform”

February 9, 2024

Maryland Senate Judicial Proceedings Committee

Chairman Smith and members of the committee,

My name is Logan Seacrest, and I am a fellow in the Criminal Justice and Civil Liberties program at the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. This is why the juvenile justice provisions in SB 744 are of special interest to us.

We believe SB 744 may have consequences this committee does not intend. In particular, page 8, section D, lines 26-30 are written in a manner that could require police to deliver minors directly to the Department of Juvenile Services (DJS) upon arrest, bypassing Maryland’s many police-led diversion programs intended to keep kids out of DJS in the first place. According to an R Street policy paper from 2021, Maryland’s police-led diversion programs successfully divert thousands of kids every year.¹ For example:

- In Anne Arundel County, more than 80 percent of young people diverted by the sheriff’s office had no further law enforcement involvement within a year. When police connect youth with mental health and addiction services at the same time, that number jumps up to 98 percent.
- The Calvert County Sheriff’s Office’s Diversion program has helped drive down the number of youth on DJS probation in the county from 70 each year to less than ten.

¹ Casey Witte and Emily Mooney, “The Front Line: A Scan of Law Enforcement-Driven Youth Diversion Programs in Maryland,” R Street Institute, February, 2021. <https://www.rstreet.org/wp-content/uploads/2021/02/Final-No.-221-MD-diversion-programs.pdf>



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- According to the Howard County Police Department’s Diversion Coordinator, of their 911 diversion referrals between 2015-2019, the recidivism rate was only 12 percent.

Requiring officers who take children into custody to “complete and forward a written complaint or citation to the Department of Juvenile Services for processing,” as stated in the bill, risks putting a stop to many of these successful diversion programs.

Such a change would likely increase the number of youth referred to DJS for relatively minor infractions, which is already high in Maryland as compared to other states.² In 2020, 77 percent of the juvenile complaints referred to DJS were done so for citations, ordinance violations, and misdemeanors.³ These low-level referrals drain time and attention away from youth with more serious needs. In addition, the majority of these complaints are either dismissed or handled informally before resulting in a petition to the State’s Attorney.⁴ In other words, most of the young people referred to DJS have no need to be there in the first place.

Even if diversion would still be offered through DJS or prosecutors’ offices, delaying enrollment is less effective than letting police take the lead.⁵ For example, diversion after an arrest may still burden a youth with a record that can be used to deny college admission, military service, housing access, and even serve as grounds for employment termination. Youth formally processed in the juvenile justice system are at an increased risk of both dropping out of high school and being arrested as an adult compared to youth who undergo pre-arrest diversion.⁶ The earlier diversion programs can engage youth, the greater the benefit to public safety.

In addition, page 10, subsection A5, lines 26 and 27 would make two or more unexcused absences from a court-ordered treatment program a probation violation. Two absences constitute a low bar for minors,

² Office of Juvenile Justice and Delinquency Prevention Statistical Briefing Book, “Offense Profile of Committed Youth in Residential Placement by State, 2021 Technical Violations,” U.S. Department of Justice Office of Justice Programs, August 28, 2023. <https://www.ojjdp.gov/ojstatbb/corrections/qa08306.asp?qaDate=2021&text=no&maplink=link5>

³ Witte and Mooney, 2021.

⁴ Ibid.

⁵ Logan Seacrest, “Data-Driven Deflection: A Systems Approach to Reducing Juvenile Arrests,” R Street Institute, June 8, 2023. <https://www.rstreet.org/research/data-driven-deflection-a-systems-approach-to-reducing-juvenile-arrests/>

⁶ Anna Aizer and Joseph Doyle, “Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges,” Quarterly Journal of Economics 130:2, Massachusetts Institute of Technology, February 2, 2015. <https://dspace.mit.edu/handle/1721.1/97380>



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who are often not in charge of their own transportation and could be impacted by circumstances beyond their control. When youth wind up in detention for violating probation, it not only cuts off access to community service and support, it also costs more than keeping them at home.⁷ In fact, one of the Council of State Governments' primary juvenile justice recommendations is repealing statutes that criminalize technical violations, such as unexcused absences.⁸

At present, law enforcement agencies across Maryland are doing their best to keep kids who have made minor mistakes out of the system by providing rehabilitative alternatives. However, as drafted, this legislation threatens those efforts, potentially putting more Maryland youth on a lifelong path of justice system involvement. Such a change to the law would represent a significant expansion of government, an exorbitant use of state resources, and a departure from the latest developmental science. We respectfully ask the committee to consider amending this legislation before advancing it.

Thank you for your time,

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⁷ Richard Mendel, "Why Youth Incarceration Fails: An Updated Review of the Evidence," The Sentencing Project, March 1, 2023. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

⁸ Josh Weber, Michael Umpierre, and Shay Bilchik, "Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes, Georgetown University Center for Juvenile Justice Reform, May, 2018. <https://csgjusticecenter.org/wp-content/uploads/2020/02/Transforming-Juvenile-Justice-Systems.pdf>