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POSITION ON PROPOSED LEGISLATION

BILL: HB1433 Juvenile Court Jurisdiction

FROM: Maryland Office of the Public Defender

POSITION: Favorable With Amendments

DATE: February 24, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue a Favorable report on SB422 with the following amendments: strike from Courts and Judicial Proceedings Article § 3-8a-03(d), strike from Criminal Procedure Article §§ 4-202, 4-202.1, and 4-202.2.

Introduction

SB422 changes the jurisdiction in which charges are filed against a child for certain offenses from Criminal Court (adult court) to Juvenile Court. In other words where a serious offense *starts*- in which jurisdiction the child is charged- not in which jurisdiction the case will be tried or where the child may be sentenced. Charging children in adult court is an inefficient and costly process which has a disproportionate impact on children of color from marginalized and impoverished communities, and which is detrimental to public safety in the long run. The Office of the Public Defender has consistently favored ending the automatic charging of all of Maryland's children as if they were adults. While this bill does not end the practice in its entirety, it represents a positive step for Maryland's children, promotes public safety, and represents areas of compromise that some opponents have previously found acceptable. For these reasons we urge a Favorable report on SB422 with the following amendments: strike from Courts and Judicial Proceedings Article § 3-8a-03(d), strike Criminal Procedure Article §§ 4-202, 4-202.1, and 4-202.2.

Current Law Regarding Charging Children as Adults

The law defines adults as individuals over the age of 18 and children as individuals under the age of 18.¹ In general adults are charged in District or Circuit Court, whereas children are charged in Juvenile Court. However, there are thirty-three (33) enumerated charges outlined in the chart below, that are excluded from Juvenile Court Jurisdiction for 16 and 17 year olds, and two exclusionary charges for 14 and 15 year olds. Excluding from Juvenile Court Jurisdiction means those cases are automatically charged in District and Circuit Court as if the children were adults, rather than starting in Juvenile Court. These crimes range from a misdemeanor gun charge carrying a one year penalty to first degree murder.

AUTOMATIC ADULT JURISDICTION Source: § 3-8A-03 of the Maryland Courts & Judicial Proceedings Article		
AGE 14 AND OLDER	AGE 16 AND OLDER	
<ul style="list-style-type: none"> • Murder – 1ST Degree • Rape – 1ST Degree • Any attempts of above • Any conspiracies of above 	Serious/Violent Offenses: <ul style="list-style-type: none"> • Kidnapping • Assault – 1st Degree (CL, §3-202) • Carjacking & Armed Carjacking (CL, § 3-405) • Murder – 2nd Degree <ul style="list-style-type: none"> • Attempted Murder –2nd Degree (CL, §2-206) • Voluntary Manslaughter • Rape – 2nd Degree <ul style="list-style-type: none"> • Attempted Rape – 2nd Degree (CL, §3-310) • Robbery w/ Dangerous Weapon <ul style="list-style-type: none"> • Attempted Robbery w/ Dangerous Weapon (CL, §3-403) • Sex Offense-- 3rd (CL, 3-307(a)(1)) (IE force, a weapon, or threat of force used) 	Firearms Offenses: <ul style="list-style-type: none"> • Wear, Carry, Transport Handgun (CL, §4-203) • Possession of Unregistered Short-barreled Shotgun or Short-barreled Rifle (PS, §5-203(a)) • Possession of Regulated Firearm (PS, §5-133--convicted of prior disqualifying offense, etc.) • Minor in Possession of Regulated Firearm (PS, § 5-133(d)(1)) • Use Wear, Carry, Transport Firearm during Drug Trafficking Crime (CL, §5-621) • Use of Firearm in Commission of Crime of Violence or Felony (CL, §4-204) • Possess, Own, Carry, Transport Firearm by Drug Felon (CL, §5-622) • Possess, Sell, Transfer Stolen Regulated Firearm (PS, §5-138) • Sell, Rent, Transfer Regulated Firearm (PS, §5-134(b)) • Sell, Rent, Transfer Regulated Firearm to Minor (PS, §5-134(d)) • Use or Possess Machine Gun in commission/attempted commission of Crime of Violence (CL, §4-404) • Use or Possess Machine Gun for Offensive or Aggressive Purpose (CL, §4-405) Miscellaneous: <ul style="list-style-type: none"> • Any felony <u>IE</u> prior felony conviction as an adult • Non-incarcerable Traffic & Boating Offenses • Domestic Violence Peace Order requests are heard in the adult court where the victim is: the current or former spouse of the respondent; a cohabitant of the respondent; a person related to the respondent by blood, marriage or adoption; a parent, stepparent, child, or stepchild of the respondent or victim who resides or resided with the respondent or victim for at least 90 days within 1 year before the filing of the petition; a vulnerable adult; or an individual who has a child in common with the respondent. CP, §3-8A-03(d)(6). The juvenile court retains jurisdiction over violations of this section by a juvenile.
<u>Automatic Adult Jurisdiction – When Transfer to Juvenile Court is Prohibited (CP, §4-202(c))</u> <ul style="list-style-type: none"> • In an unrelated case, Juvenile was <u>convicted</u> of any of the above offenses (excluding “non-incarcerable traffic & boating” and excluding if adult jurisdiction is created only by a prior, non-excluded felony offense). • Offense is 1st degree murder and the juvenile was 16 or 17 years of age when the alleged crime was committed 		

Scope of the Bill

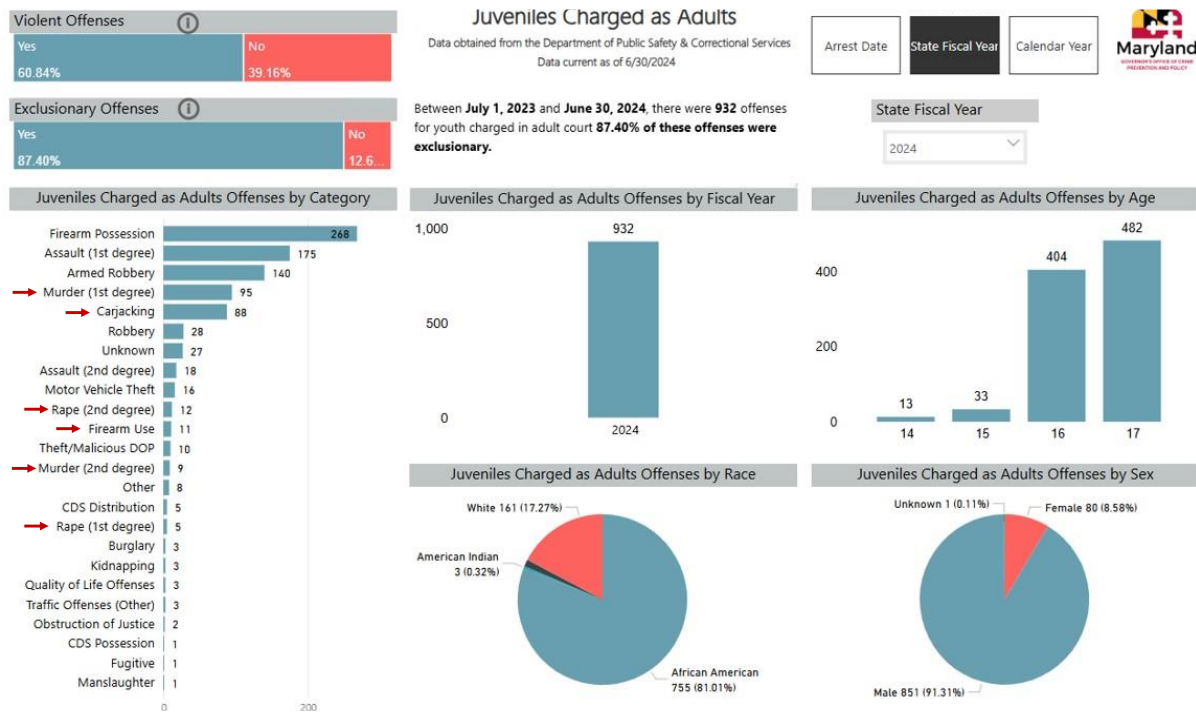
The Governor’s Office of Crime Control and Prevention publishes data regarding the number of children charged as adults via a data dashboard². In FY24 932 children were charged as adults, 87% of them (810 cases) were exclusionary offenses. SB422 would impact approximately 75% of those

¹ Courts and Judicial Proceedings Article §3-8a-01

² The data dashboard can be found at

<https://app.powerbigov.us/view?r=eyJrIjojNzQzYTZhYmMtNzYwOC00OGE2LWFlkNzktZDliYzg5NzEyODU2IiwidCI6IjYwYWZlOWUyLTQ5Y2Q0NDliMS04ODUxLTY0ZGYwMjc2YTJlOCJ9>

cases. A screenshot from the data dashboard detailing the numbers of cases as well as demographic information about those children is below. The charges which would continue to be excluded from Juvenile Court, and therefore start in adult court have been marked with red arrows.



Transfer and Waiver of Jurisdiction

Most cases where children are charged as adults can be transferred from adult District or Circuit Court to Juvenile Court, the only exception to this is 16 and 17 year olds charged with First Degree Murder.³ Similarly for cases against children who are least 15 years old, Juvenile Court Jurisdiction can be waived and the child can be tried as an adult.⁴ Both Transfer and Waiver Hearings are held after charges are filed, but prior to trial. In the adult court system charges are often initiated in District Court, where the case remains for a maximum of 15 days, until either a probable cause hearing is held before a District Court Judge or the State's Attorney files an Indictment in Circuit Court. In most jurisdictions Transfer motions are not acted upon by courts until a case is Indicted in Circuit Court, and nothing is happening with the case prior to that time. For children held in juvenile facilities the median per diem cost of detention is approximately \$1000 per day.⁵ Assuming,

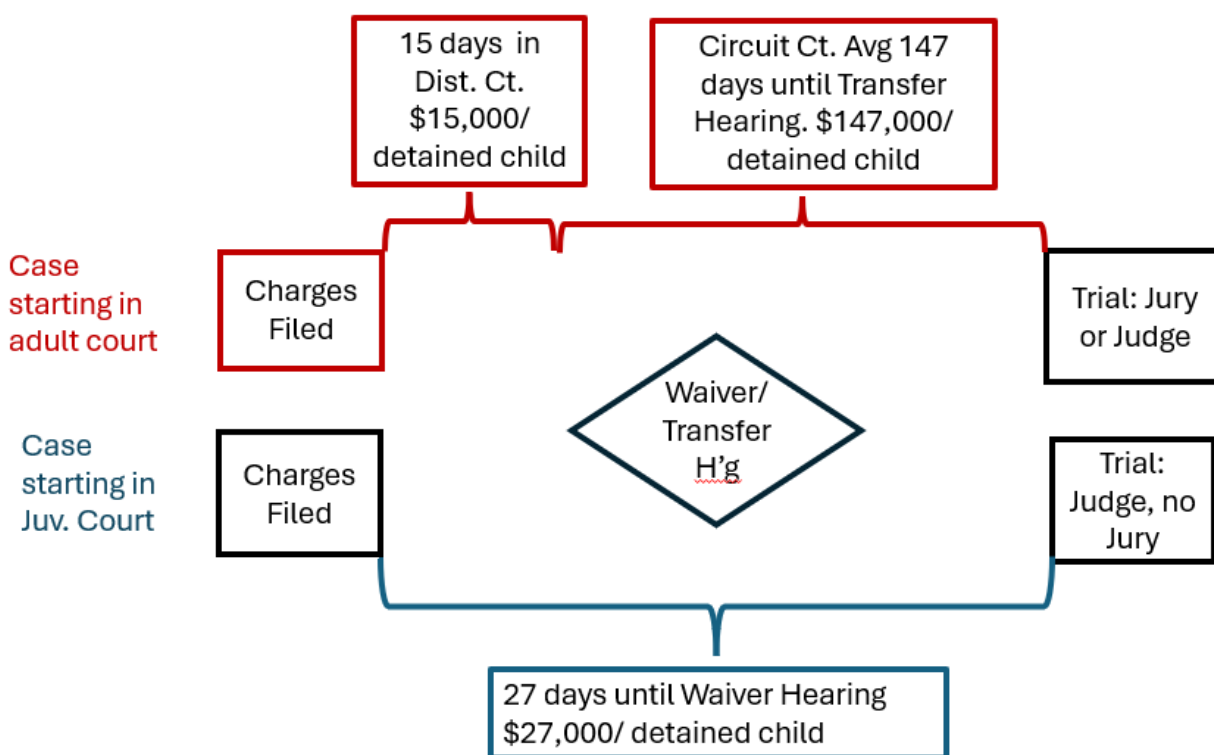
³ Criminal Procedure Article s 4-202.

⁴ Courts and Judicial Proceedings Article 3-8a-06

⁵ DJS, Data Resource Guide, FY2023. P. 228. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf

for the sake of argument, that all of the 810 children charged automatically as adults in FY24 were detained, eliminating the 15 days in District Court by starting charges in Juvenile Court would have saved the State approximately \$810,000 if the cases for all children started in Juvenile Court.

The adult court system moves significantly more slowly than the Juvenile Court system in general. For example, Circuit Court cases must be tried within 180 days, whereas Juvenile Court Cases must be tried within 60⁶. This slower process means that children sitting in detention (whether it be adult detention or juvenile detention) spend much more time waiting for a Transfer Hearing than children whose cases have started in Juvenile Court and are waiting for a Waiver Hearing. According to DJS the average time a child waits for a Transfer Hearing is 147 days, as compared to 27 days for a Waiver Hearing. DJS estimates cost savings of \$17 million dollars.



In anticipation of a Transfer Hearing DJS utilizes a Multidisciplinary Assessment Staffing Team (MAST) which includes a psychiatric evaluation, a psychological evaluation, and a psychosocial evaluation which is provided to the court. The court is required to consider five factors in any waiver or transfer decision: (1) the age of the child; (2) the child's physical and mental condition; (3) the child's amenability to treatment in any institution, facility, or programs available to

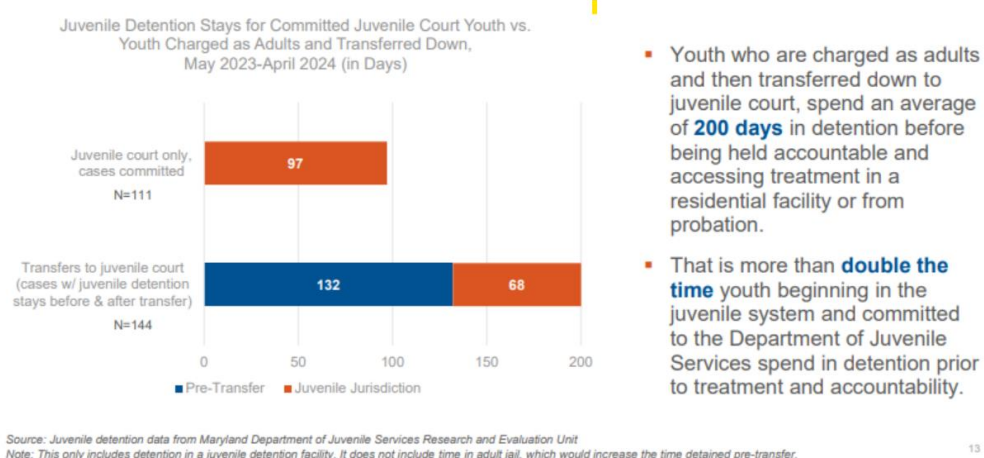
⁶ Further, in Juvenile Court, the case must be tried within 30 days if a child is detained pending their trial date.

delinquents; (4) the nature of the offense(s); and (5) public safety.⁷ One noteworthy distinction in these factors is that in a Waiver Hearing the court is required to presume that the child is guilty, whereas in a Transfer Hearing the Court is not required to do so.⁸ Additionally in a Waiver Hearing it is the State's burden to prove that a child is unfit for juvenile rehabilitative measures⁹, whereas at a Transfer Hearing the burden is on the child to prove that transfer is in the best interest of the child or society.¹⁰

Inefficient Process

Starting these 33 offenses in the slower moving adult court system extends the time it takes for Transfer Hearings to happen and therefore increases the length of time a child spends in detention. By comparison starting cases in Juvenile Court with the ability to waive cases to adult court is a much more efficient process that will better serve Marylanders. This bill, with OPD's proposed amendments, will streamline an inefficient system while still enabling prosecutors and courts to waive the most serious offenses to adult court. Our process as it currently stands also lengthens the amount of time it takes for children to be held accountable for their actions.

Dead Time: Youth initially charged as adults take much longer to receive accountability and treatment in JJ system



We also know that very few of the cases that start in adult court end in adult court. When the JJRC examined this issue they received technical support from the Vera Institute, which included

⁷ Courts and Judicial Proceedings Article 3-8a-06(e), and Criminal Procedure Article 4-202(d)

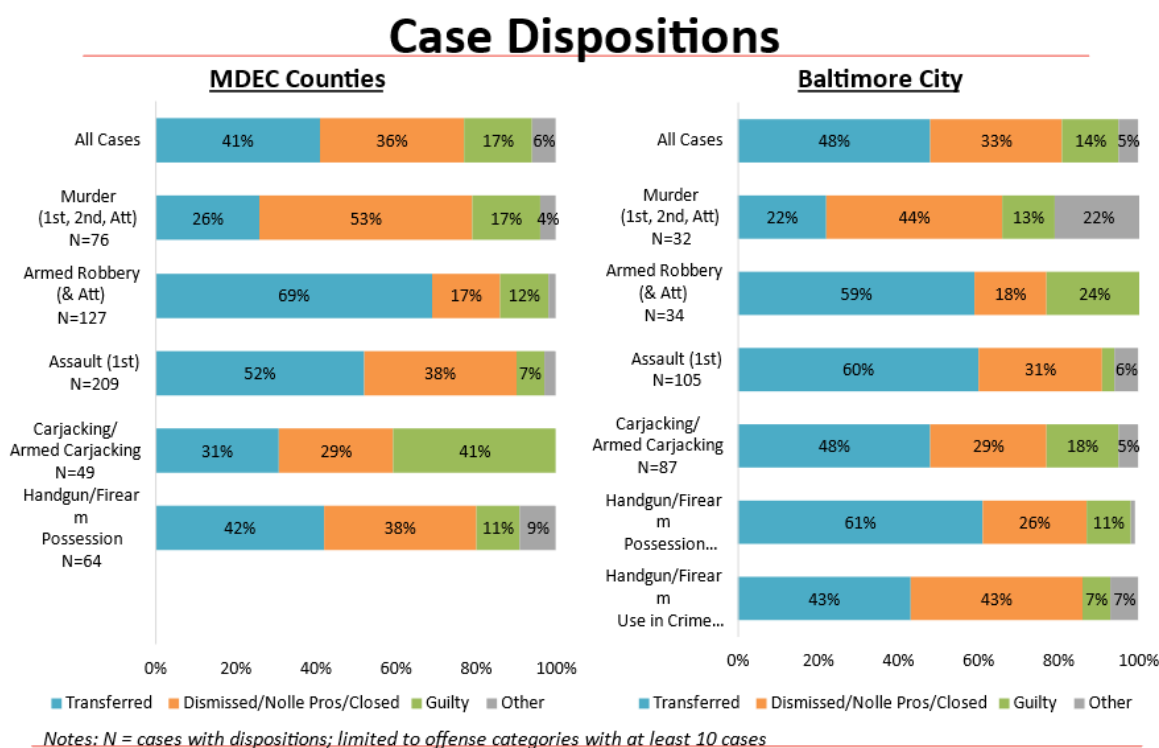
⁸ *Whaley v. State*, 186 Md. App. 429, 974 A.2d 951 (2009)

⁹ Courts and Judicial Proceedings Article 3-8a-06(d)

¹⁰ Criminal Procedure Article s 4-202(b)

analyzing data from Maryland's Courts on the cases of children charged as adults¹¹. It should be noted that Vera only analyzed data from 21 Counties and Baltimore City. Two of Maryland's largest jurisdictions, Prince George's County and Montgomery County, were not yet utilizing MDEC.¹² As can be seen by the graph below, the vast majority of cases did not end in an adult conviction.

Roughly 30% of the cases charging children as adults were dismissed outright. Over 40% of the cases were transferred to Juvenile Courts. In some of those cases, the SAO agreed to transfer, in others there was lengthy litigation before a Judge ultimately granted the transfer motion.



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Detrimental Impact of Auto-Charging on Public Safety

The problems created by automatically *charging* children as if they were adults are separate and apart from the problems created by actually trying them and *sentencing* them as if they were adults, and so this testimony will first address the latter issue. As previously discussed the time it

¹¹ https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Juveniles_Charged_as_Adults_Data.pdf

¹² Juveniles Charged As Adults Data, presented July 2021.

takes for children to have a Transfer Hearings is significantly longer than the time it takes to have a Waiver Hearing. The delays inherent in the adult criminal court system are detrimental to children. “Delays in youth justice can have negative consequences for youth, their families, and their communities. Especially given the developmental immaturity of adolescents, swift intervention is likely to be more effective with youthful offenders, both in achieving the specific deterrent effects of punishment and in realizing the potential benefits of treatment and other services.”¹³

Further, when children are charged as adults they will automatically be held in adult detention, usually in solitary confinement, until they are seen by a Judge for a bail review hearing.¹⁴ While Maryland law allows Judges to hold children charged as adults at DJS facilities, not all do. When children are held in adult jails the Prison Rape Elimination Act requires children to be sight and sound separated from adult inmates.¹⁵ Local detention centers are not equipped to maintain separate units for children and adults. Instead, children are often held in solitary confinement while they wait for a transfer hearing.

Mental Health Professionals have long known that solitary confinement causes significant harm. The American Psychological Association has come out solidly against the use of prolonged solitary confinement for children.¹⁶ As has the American Academy of Child and Adolescent Psychiatry noting “the potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.”¹⁷ Courts have also acknowledged the harms caused by solitary confinement, holding that for inmates already suffering with mental illness it can amount to cruel and unusual punishment.¹⁸

We know that trauma plays a role in both offending and re-offending. And so to inflict these harmful conditions on children before we have even decided whether to try them as children or adults, let alone determined whether they are guilty or innocent, increases the likelihood that they

¹³ Jeffrey A. Butts, Gretchen Ruth Cusick, and Benjamin Adams, “Delays in Youth Justice.” 2009. <https://www.ojp.gov/pdffiles1/nij/grants/228493.pdf>

¹⁴ While it is possible for a Commissioner to release a child charged as an adult on bond this rarely, if ever, happens.

¹⁵ 28 CFR § 115.14

¹⁶ APA Position Statement on Solitary Confinement (Restricted Housing) of Juveniles <https://www.psychiatry.org/getattachment/7bc96d18-1e73-4ac1-b6b5-f0f52ed4595a/Position-2018-Solitary-Confinement-Restricted-Housing-of-Juveniles.pdf>

¹⁷ American Academy of Child and Adolescent Psychiatry, Juvenile Justice Reform Committee. Solitary Confinement of Juvenile Offenders (2012). https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx

¹⁸ Palakovic v. Wetzel, 854 F.3d. 209 (2017).

will get into trouble with the law in the future. Given that the vast majority of these children will be released someday regardless of where the case is tried, or what the ultimate outcome of the case is, we are doing a grave disservice to our communities by inflicting further trauma on them.

Ability of Law Enforcement to Arrest Youth

Opponents have argued that passage of this bill will hamper the abilities of law enforcement officers to arrest youth for the crimes which would now start in juvenile court. Courts and Judicial Proceedings § 3-8A-14.1 gives DJS the authority to request an arrest warrant, but only with the assistance of a law enforcement officer: “After an inquiry conducted in accordance with § 3-8A-10 of this subtitle, an intake officer may file with the court an application for an arrest warrant prepared by a law enforcement officer”. This is akin to provisions permitting District Court Commissioners to issue arrest warrants where an individual has filed an application for statement of charges with a Commissioner; except that DJS would need the assistance of law enforcement should an individual file a complaint in a situation where DJS wants an arrest warrant. It does not require law enforcement officers to go through the process of getting an arrest warrant before taking action, including detaining or arresting suspects in felonies, or misdemeanors committed within their presence. The authority of law enforcement to arrest people is governed by the US Constitution¹⁹, Maryland Declaration of Rights²⁰, and Criminal Procedure Article 2-201 et sec. While police do need a warrant to effectuate an arrest within a private home, police are permitted to effectuate warrantless arrest for any felony or misdemeanor committed within the view of the police officer, or for which they have probable cause to believe is being committed.²¹ This encompasses many of the charges contemplated by this bill, specifically all of the misdemeanor gun charges as those charges often arise from an officer searching an individual or automobile and finding a gun. Officers may also effectuate a warrantless arrest they have “probable cause to believe that a felony has been a committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer.”²² In circumstances where police would need an arrest warrant, one may be requested from either the District or Circuit Court. Neither Courts and Judicial Proceedings §1-609 or Criminal Procedures § 2-107 preclude a judge from issuing a warrant for a minor, they simply require that the warrant contain “specific instructions to indicate the judge or court commissioner before whom the person is directed to appear once arrested.”²³

Moreover, when police arrest a child charged with a felony or handgun charge children are eligible for detention²⁴, and if DJS does not authorize detention they are required to forward a case to the State’s Attorney’s Office within two days.²⁵ All felony offenses are required to be forwarded to State’s Attorneys Offices²⁶, and intake hearings must be held 15 days of DJS receiving the complaint.²⁷

¹⁹ United States Constitution, Amendment IV: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

²⁰ Maryland Declaration of Rights, Article 26: “That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.”

²¹ Md Code Criminal Procedure § 2-202(a) & (b)

²² Criminal Procedure Article § 2-202(c).

²³ Criminal Procedure Article § 2-107(a)(3).

²⁴ Courts and Judicial Proceedings Article § 3-8A-15(b).

²⁵ Courts and Judicial Proceedings Article § 3-8A-10(c)(1)(ii).

²⁶ Courts and Judicial Proceedings Article § 3-8A-10(c)(4).

²⁷ Courts and Judicial Proceedings Article § 3-8A-10(c)(1)(i)

Racial Equity Impact

Between 1986 and 1994, Maryland and 48 other states expanded the automatic charging of children in adult court as a response to the race-based fear-mongering and false predictions of increased crime and the rise of “super-predator” youth. As a result, children in Maryland are now automatically be charged in adult court. Most of the children we charge in adult court are children of color from marginalized communities. When providing technical assistance for the JJRC, the Vera Institute examined data related to youth charged in adult court between 2017 and 2019. Vera found that in MDEC counties at that time (which did not include Prince George’s and Montgomery County) youth of color made up 72.8% of youth charged in adult court, but only 39% of youth transferred to juvenile court. By comparison white youth made up only 21% of kids charged in adult court in MDEC counties, but 49% of youth who are transferred down.²⁸ The charts provided by Vera are below for reference. Under the current law, Maryland is charging an inordinate amount of children of color in adult court. According to the Department of Public Safety and Correctional Services (DPSCS), between July 1, 2023 and July 30, 2024, 81.01% of youth who were charged as adults were Black. In FY20, Maryland sent more children to adult court than Arizona, Massachusetts, California, and Pennsylvania combined. Those states have nearly 10 times Maryland’s population. The damage caused by this practice is inflicted primarily on children of color from marginalized communities, who are ultimately not convicted in adult court, may be a contributing factor to why Maryland imprisons a higher percentage of Black people (70%) than any other state in the nation.

²⁸ Juveniles Charged As Adults Data, presented July 2021.

https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Juveniles_Charged_as_Adults_Data.pdf

Profile of Cases for Youth Charged as Adults

MDEC COUNTIES (DC & CC)

Total Cases: 1,295

Average Age: 16.5 years old

89.3% Boys
10.0% Girls
0.7% Unknown

72.8% Black
21.2% White
6.0% Other/Unknown

% of cases that include an
exclusionary offense: 85%

% of cases where an exclusionary
offense is the top charge: 77%

BALTIMORE CITY (CC)

Total Cases: 476

Average Age: 16.5 years old

95.2% Boys
4.6% Girls
2.1% Unknown

94.1% Black
2.1% White
3.8% Other/Unknown

% of cases that include an
exclusionary offense: 93%

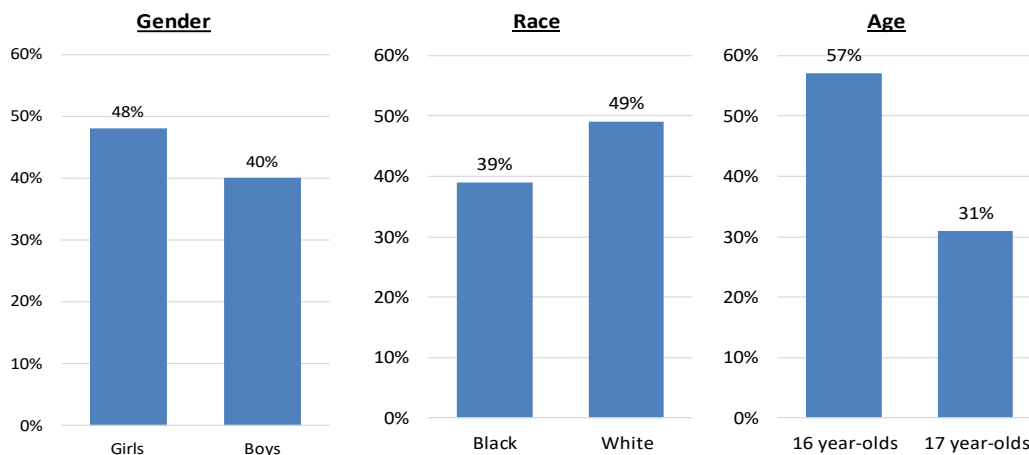
% of cases where an exclusionary
offense is the top charge: 91%

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Cases Transferred Down to Juvenile Court, MDEC Counties

41% of all cases with a disposition were transferred to juvenile court



Note: While 48% of cases in Baltimore City were transferred to juvenile court, differences by race and gender could not be calculated due to such a homogenous sample with so few white youth/girls

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Failed Public Safety Policy

In the long run prosecuting children in the adult criminal system does more harm to Marylanders than prosecuting them in the Juvenile Court. As stated earlier, the problems created by automatically charging children as if they were adults are separate and apart from the problems created by actually trying them and *sentencing* them as if they were adults. Nevertheless, one might be concerned that by charging more children in Juvenile Court we could be undermining public safety if more children are therefore also ultimately tried and sentenced in Juvenile Court. The simple fact of the matter is that the opposite appears to be true. Decades of research published by governmental agencies responsible for public safety and health - Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Centers for Disease Control (CDC) - make clear that prosecuting children as adults increases recidivism among juvenile offenders, rather than reducing it. In 2007, the CDC published an article entitled "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System" reviewing several studies. The authors of the CDC Report concluded "the transfer policies have generally resulted in increased arrest for subsequent crimes, including violent crime, among juveniles who were transferred [to the adult criminal system] compared with those retained in the juvenile justice system."²⁹

Four years later the OJJDP published a bulletin where they found "[I]nsofar as these laws are intended to deter youth crime generally, or to deter or reduce further criminal behavior on the part of youth subjected to transfer, research over several decades has generally failed to establish their effectiveness."³⁰ ... Six large-scale studies have all found greater overall recidivism rates among juveniles who were prosecuted as adults than among matched youth who were retained in the juvenile system. Criminally prosecuted youth were also generally found to have recidivated sooner and more frequently. Poor outcomes like these could be attributable to a variety of causes, including the direct and indirect effects of criminal conviction on the life chances of transferred youth, the lack of access to rehabilitative resources in the adult corrections system, and the hazards of association with older criminal 'mentors.'³¹

In 2012 OJJDP examined a longitudinal study conducted in Maricopa Co., Arizona. This study showed evidence of differential effects of prosecuting children as adults.³² They explain that children

²⁹ Robert Hahn, et al. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*, MORBIDITY AND MORTALITY WEEKLY REPORT, Vol 56, No:RR9, Nov. 2007.

³⁰ Patrick Griffin, et al, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, Sept. 2011, 1, 8 JUVENILE JUSTICE BULLETIN, WASHINGTON, D.C., OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION at p. 26. (Hereinafter *OJJDP 2011 Report*)

³¹ Id. At 26

³² Edward P. Mulvey and Carol A. Schubert, *Transfer of Juveniles to Adult Court: Effects of a Broad Policy in One Court.*, JUVENILE JUSTICE BULLETIN, WASHINGTON, D.C. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, December 2012.. (Hereinafter *OJJDP 2012 Report*).

who had been prosecuted as adults “experience many challenges in the community while on probation or following release from an adult facility. Although the vast majority are involved in gainful activity quickly (within 2.5 months) and consistently (for nearly three-quarters of the months they spend in the community), the majority (77%) also resumed some level of antisocial activity and two-thirds were subsequently re-arrested or placed in an institutional setting. Only 18 of these youth (out of 193) managed to break out of this antisocial pattern completely.”³³

Children are held accountable for their illegal actions in the Juvenile Court system but in a way that aims for rehabilitation rather than only retribution. In fact, DPSCS purports to have a recidivism rate of approximately 37% after three (3) years,³⁴ as compared to DJS’s rate of 15.2% after three (3) years³⁵.

Regardless of what the data shows, the perception of the public is that things are worse than ever before. If that is in fact true, then we need to consider how decades of this failed policy may have contributed to the problem rather than solving it. Many kids charged and tried as adults have cases that are dismissed after they have been incarcerated, often for months. That is a concrete implication of our current process that starts off by putting children in solitary confinement, which we all know is harmful. But what happens after we’ve harmed those kids by virtue of charging them as adults and not starting in Juvenile Court? We are all living in communities with those children. We are all better off with policies that favor rehabilitation rather than retribution. Our current laws impact not only the most terrifying scenarios, but also comparatively immature conduct. To use a real-world example, if a child punches someone who falls and hits their head causing a momentary loss of consciousness, that child will be automatically charged as an adult. Whether that child happens to be a student taking Advanced Placement and Gifted and Talented classes with no prior incidents of problematic behavior, or a child who habitually skips school and has previously been on probation will not matter at the point of charging. Both of those children will start in adult court and are subjected to the harms outlined above merely by starting in adult court. Even without OPD’s proposed amendments, SB422 would allow a case like this to be charged in Juvenile Court. If a prosecutor felt that the circumstances of the case, the child’s history, and potential risk for

³³ Id. At 11.

³⁴ Maryland Department of Public Safety and Correctional Services, Recidivism Report. November 15, 2022. At p.9. Notably DPSCS defines recidivism as “return to either the DOC or the Division of Parole and Probation following sentencing for a new criminal offense, or return to the Department’s physical custody from parole or mandatory supervision due to violation of the conditions of release”. (p. 24).

³⁵ Maryland Department of Juvenile Services, Data Resource Guide Fiscal Year 2024 at p.167. DOC breaks out recidivism data by rearrest, re-conviction, and re-incarceration. In an effort to compare “apples to apples” the re-incarceration rate is shown above is that of re-incarceration.

public safety justified waiving Juvenile Jurisdiction they would be able to file a Waiver Petition and have a full hearing on the issue.

The Office of the Public Defender remains in favor of ending the automatic charging of all of Maryland's children as if they were adults and proposes the previously enumerated amendments to effectuate that. OPD acknowledges that while SB422 does not end the practice in its entirety, it does take step in the direction of making Maryland's communities safer. For these reasons we urge a Favorable report on SB422 with the following amendments: strike from Courts and Judicial Proceedings Article § 3-8a-03 subsection (d) in its entirety.

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