

**The University of Baltimore School of Law's Sayra and Neil Meyerhoff Center for
Families, Children and the Courts (CFCC)**

In Support with Amendments of HB 1433

Juvenile Court - Jurisdiction

TO: Chair Clippinger, Vice-Chair Bartlett and Esteemed Members of the House Judiciary
Committee:

FROM: CFCC Executive Director Aubrey Edwards-Luce, MSW, Esq.

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The Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC) at the University of Baltimore School of Law envisions communities where children and families thrive without unnecessary involvement in the legal system. CFCC engages communities to work towards transforming systems that create barriers to family well-being.

CFCC supports HB 1433 with amendments, as the bill seeks to reform Maryland's unjust system of automatically charging youth as adults by eliminating the automatic charging of youth aged 14 and 15 and reducing the chargeable offenses for 16 and 17-year-olds. **CFCC proposes amendments to end the automatic charging of all youth for all offenses.** This would enable a judge to waive a youth's case into the adult system on a case-by-case basis and also ensure that the initial judicial review would be completed in the juvenile system. **If amended as proposed, HB 1433 will protect a youth's constitutional right to family integrity, align our legal system's practice with the science of adolescent development, protect youth from harmful conditions, and facilitate youth's access to developmentally appropriate services.**

I. HB 1433 will protect a youth's right to family integrity.

The Constitution provides that families have a fundamental right to family integrity, which includes preserving the family entity, without unwarranted state interference.¹ The parent-child bond is extremely imperative for the healthy upbringing of a child and severing that bond can result in a traumatic experience for both the child and the parent.² Specifically, research reveals that children with an incarcerated parent are more likely to experience mental health issues,

¹ Shanta Trivedi, *My Family Belongs to Me: A Child's Constitutional Right to Family Integrity*, 56 Harvard Civil Rights - Civil Liberties Law Review (2021).

² Indiana University, *Analysis Finds More Research Needed On Impact Of Maternal Incarceration On Children*, (May 15, 2023), <https://policyinstitute.iu.edu/news-media/stories/maternal-incarceration-brief.html#:~:text=A%20child's%20school%20experience%20also,quit%20school%20than%20other%20children.>

which include depression and anxiety.³ This phenomenon will negatively exacerbate when an incarcerated parent is a youth who is automatically charged as an adult, as they are separated from their families for a much longer time awaiting their hearing than they would have had they initially been placed in the juvenile system.⁴

Further, a youthful parent held in an adult system may need to comply with court orders, which include completing education or finding employment, all while coping with the emotional effects of losing the parent-child bond during that time of confinement.⁵ The impacts of automatically charging a youth as an adult not only pose a risk to the incarcerated parent and their interest in maintaining family integrity but also detrimentally contribute to their child's trauma, creating a ripple effect which negatively impacts the mental and emotional development of future generations.⁶ HB 1433, with the proposed amendment, will mitigate the negative impact that separation of parent and child will have on family integrity and prioritizes the parent-child bond through rehabilitation of the youth parent, all of which the adult system is incapable of providing.⁷

If amended HB 1433 will significantly reduce the unnecessary harm of charging youth as an adult, ensuring an age-appropriate judicial review and access to essential developmental services while safeguarding their exposure to harmful conditions and upholding their right to family integrity.

II. If amended, HB 1433 will align our legal system's practice with the science of adolescent development.

Sending youth to the adult criminal system is a serious action. It communicates, contrary to modern-day research, that a young person is undeserving or beyond the hope of the rehabilitation found in the juvenile legal system. It tells teenagers that they are hardened criminals. It says to young people that they need the harsher punishment that is found in the adult criminal system. In most case, automatically charging youth as if they are adults is in direct contradiction to their well-being, our communities' safety, and children's right to family integrity.

In general, adolescent brains are different from adult brains in their ability to control their impulses and to consider the future consequences of their actions. The type of charge that a young person receives cannot tell us whether that young person has the type of maturity that

³ *Id.*

⁴ Acoca, Leslie, *Are Those Cookies For Me Or My Baby? Understanding Detained And Incarcerated Teen Mothers And Their Children*, <https://isc.idaho.gov/cp/docs/Understanding%20Detained%20and%20Incarcerated%20Teen%20Mothers%20and%20Their%20Children.pdf>, (Last visited Jan. 31, 2025)

⁵ *Id.*

⁶ *Id.*

⁷ Mooney, Emily, *Maryland: A Case Study Against Automatically Charging Youth As Adults*, (Oct. 2019), <https://www.rstreet.org/wp-content/uploads/2019/10/Final-Short-No.-76.pdf>.

could conceptually be appropriate for the adult criminal system. The charge should not be determinative of whether our legal system should treat children as if they are adults.

The rates of adverse childhood experiences and abuse experienced by children who were tried as adults weighs in favor always allowing a judge to make this critical decision. Research from Human Rights of Kids reports that over 70% of survey respondents who were children that were waived into the adult criminal system had experienced physical abuse before their incarceration.⁸ A youth's charge cannot tell you if she is actually a child sex-trafficking victim who killed her trafficker. Nor can the charge tell you if the alleged youthful offender is an older brother who acted to protect their little sister from gang violence. Such a very serious decision should be determined by a judge who can take into account the totality of the child's circumstances and the details of the alleged offense. If all cases involving young people started out in the juvenile court system, then these types of details could be taken into consideration before children are placed in the adult system and put at risk of experiencing the types of harm described below.

III. HB 1433 will protect youth from unnecessary harm to their psychological and physical wellbeing.

Charging youth as if they were adults places them at risk of harm because the adult system was not designed to accommodate youths' needs for safety and developmentally appropriate services.⁹ Research reveals that youth placed in adult facilities are reported to be more fearful and are likely to form relationships with anti-social individuals while incarcerated, posing harm to their psycho-social development.¹⁰ Further, a child's proximity to violence in the adult justice system exacerbates the likelihood of their harm and disintegration of their well-being.¹¹ Often, youth who are charged as if they were adults are placed in solitary confinement in adult facilities as they await their hearing.¹² These children are in solitary confinement for approximately 23-24 hours a day, which is similar to torture.¹³

⁸ Human Rights for Kids. Disposable Children: The Prevalence of Child Abuse and Trauma Among Children Prosecuted As Adults in Maryland, (Nov. 20, 2024), <https://humanrightsforkids.org/publication/disposable-children-the-prevalence-of-child-abuse-and-trauma-among-children-prosecuted-as-adults-in-maryland-2/> (Last visited Jan. 31, 2025).

⁹ Moodee, JT, et al., *Maryland Public Defender's Office Calls For An End To The Automatic Charging Of Minors As Adults*, (Jan. 16, 2025), <https://www.cbsnews.com/baltimore/news/maryland-juvenile-justice-general-assembly-legislation-legal-system/>.

¹⁰ Silver, Ian A., et al., *Incarceration of Youths in an Adult Correctional Facility and Risk of Premature Death*, <https://pmc.ncbi.nlm.nih.gov/articles/PMC10323704/>, (Last visited Jan. 31, 2025).

¹¹ Human Impact Partners, *Juvenile InJustice: Charging Youth as Adults is Ineffective, Biased, and Harmful*, (Feb. 2017), <https://humanimpact.org/hipprojects/juvenile-injustice-charging-youth-as-adults-is-ineffective-biased-and-harmful/#:~:text=When%20we%20lock%20up%20young,that%20can%20worsen%20family%20poverty.>

¹² Johnson, Kevin, *Consequences of Trying Children as Adults Often Ignored*, (Jan. 9, 2024), <https://nationalpress.org/topic/juveniles-criminal-justice-prosecution-courts-journalism/>.

¹³ *Id.*

Additionally, automatically charging a youth as an adult can confine them for an unreasonable and unwarranted amount of time.¹⁴ This torture is highly detrimental and unnecessary and will have a terrible impact on the child's development. Youth will be accountable for their behavior even if they initially wait for their hearing in the juvenile court system. Juvenile court hearings can initiate the process of transferring the youth to the adult system on a "as needed" basis.¹⁵ HB 1433 with the proposed amendment will ensure an unnecessary exposure of children to the harsh conditions of the adult justice system, which was built as a purely punitive measure for criminals, not for youth awaiting a hearing.

IV. HB 1433 will facilitate youth's access to developmentally appropriate services.

The automatic charging of a youth as an adult can result in the denying youth access to crucial services, as the adult system does not provide these services. These services include the opportunity to seek treatment, education, and counseling, all of which are essential for healthy growth and development.¹⁶ Further, research supports that education can reduce the likelihood of a youth re-offending, emphasizing the importance of ensuring that all youth have proper access to minimize the possibility of recidivism.¹⁷ HB 1433, with the proposed amendments, will ensure that children will have immediate access to developmentally appropriate services they do not receive when placed in the adult facilities.

For these reasons, the CFCC strongly supports HB 1433 with amendments and urges a favorable report with amendments.

¹⁴ Mooney, Emily, *Maryland: A Case Study Against Automatically Charging Youth As Adults*, (Oct. 2019), <https://www.rstreet.org/wp-content/uploads/2019/10/Final-Short-No.-76.pdf>.

¹⁵ Byers, Christine, *Failure To Change Or A Failed System? The Complexity Of Charging Children As Adults*, (Aug. 31, 2020), <https://jlc.org/news/failure-change-or-failed-system-complexity-charging-children-adults>.

¹⁶ Silver, Ian A., et al., *Incarceration of Youths in an Adult Correctional Facility and Risk of Premature Death*, <https://pmc.ncbi.nlm.nih.gov/articles/PMC10323704/>, (Last visited Jan. 31, 2025).

¹⁷ Juvenile Law Center, *Youth Tried as Adults*, <https://jlc.org/issues/youth-tried-adults#:~:text=Prosecuting%20Youth%20as%20Adults%20Puts,with%20the%20%20opportunity%20to%20apply>, (Last visited Jan. 31, 2025)