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POSITION ON PROPOSED LEGISLATION

BILL: HB0389 – Juveniles - Detention and Confinement - Limitations on Juvenile Contact With Incarcerated Adults

FROM: Maryland Office of the Public Defender

POSITION: FAVORABLE

DATE: February 3, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB0389. This bill is a necessary step to ensure that Maryland is in compliance with federal law regarding the detention of children, whereas we are currently an extreme national outlier in allowing children to be detained in close contact with adults throughout the State. The bill requires children who are arrested and charged as adults to immediately be transported to a juvenile detention facility and limits temporary detention in adult jails to six hours.

This bill complements the Youth Charging Reform Act (“YCRA”), SB0323. The two must be considered in tandem in order to achieve their desired result. To pass this bill without the YCRA would increase demands on the Maryland Department of Juvenile Services (“DJS”) secure detention facilities without the corresponding gains in efficiency and case-processing speed which are inherent in the YCRA. Passed with the YCRA, HB0389 will guarantee that children charged in the adult criminal justice system are protected from the myriad harms of adult incarceration. The Department of Justice reported in 2010 that “[a]s compared with those in juvenile facilities, juveniles incarcerated in adult prison are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and almost twice as likely to be attacked with a weapon by inmates or beaten by staff.”¹

¹ Redding, Richard. *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Office of Justice Programs (June 2010). Available online at <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>



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House Bill 389 adjusts detention procedures for children charged as adults in Maryland to ensure compliance with federal law. The federal Juvenile Justice and Delinquency Prevention Act² and the Prison Rape Elimination Act³ both require that children not be held in any jail or lockup for adults, or have any sight and sound contact with adults, while detained. As recently reported by the Maryland Commission on Juvenile Justice Reform and Emerging and Best Practices, “Maryland is significantly out of compliance with federal standards governing the pretrial detention of children charged as adults. In 2025, the United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) began enforcing thresholds on length of stay and sight and sound separation in adult facilities, using new data formulas to assess state performance. In FY 2023, Maryland’s detention rate was 93.26 per 100,000 children, over six times the federal standard of 14.68. That number rose to 119.59 in FY 2024, a 27% increase. The state reported roughly 1,600 violations, more than any other state, prompting OJJDP to exclude Maryland’s data from national averages due to its extreme outlier status (emphasis added).”⁴

Under current Maryland law, every child who is charged as an adult passes through an adult lockup or jail, for time periods ranging from a few days to several months.⁵ Children may be exposed to adult inmates during processing, while moving through the facility, while eating, while receiving medical care, and in the units on which they are housed. Oftentimes, children are held in solitary confinement, deprived of human contact for as many as 23 hours per day, for their own “protection.” Mental health professionals have long known that solitary confinement causes significant harm. The American Psychological Association opposes the use of prolonged solitary confinement for children.⁶ 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

² 34 U.S.C.A. § 11133(a)(11)(B) (West 2026).

³ 34 U.S.C.A. § 30307 (West 2026); 28 CFR § 115.14.

⁴ <https://gocpp.maryland.gov/wp-content/uploads/Marylands-JJDP-Compliance-Crisis-Children-in-Adult-Detention-COMMISSION-APPROVED-.docx.pdf>

⁵ Refer to OPD’s written testimony on the Youth Charging Reform Act for more background on how Maryland law results in hundreds of youth being automatically charged as adults, even for non-violent crimes, every year.

⁶ 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>



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majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.”⁷

Maryland law already requires most youth to be transferred from adult jails to juvenile detention facilities while awaiting their transfer hearings.⁸ If youth are granted the option to be held in a juvenile facility pending their transfer proceeding, depending on a host of factors not related to the child or case, the delay in being moved to a juvenile detention facility varies from a few days to several months. This Bill would eliminate this inefficient and pointless practice of having youth waiting in adult jail to be inevitably moved to juvenile detention and streamline the process while protecting youth from harm along the way.

For all of the foregoing reasons, the Office of Public Defender urges a favorable report on HB0389.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.
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⁷ 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

⁸ Md. Crim. Proc. 4-202(h) (West 2026).