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Continuing the Missions of the Stephanie Roper Committee and Foundation, Inc.

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LETTER IN OPPOSITION TO HOUSE BILL 409: Youth Charging Reform

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On behalf of the Maryland Crime Victims' Resource Center (MCVRC), I write to express strong opposition to House Bill 409. MCVRC provides legal services for crime victims statewide and is the nation's largest nonprofit of its kind. I write on behalf of our ever-increasing number of clients devastated by juvenile offenders mishandled in a powerless juvenile court system. Marylanders are not safe when juvenile offenders are handled by an ineffective agency intake system and by courts without enforcement authority.

MCVRC understands that there are changes that should be made to the charging system for youth charged as adults, but HB409 recklessly disregards that Maryland's juvenile court system is incapable of handling the most serious offenders. It is the intake, the pre-trial procedures and the ability to place youth that most need reform before moving these serious offenders.

Since 2022, juvenile justice in Maryland has been voluntary treatment over punishment- arguably ideal for much of youthful offenders, but inadequate for the most serious offenders and offenders with a history of non-compliance with voluntary measures. These juveniles must have careful evaluations and judicial review <u>before</u> the decision is made to put their case into such a powerless juvenile system.

Starting such serious cases in the adult system- with a presumption that the juvenile will transfer to juvenile court if in the best interest of the youth *or* the community- protects everyone. Starting in juvenile however, fast-tracts recidivism and more victims being hurt.

If enacted, HB 409 applies these juvenile court rules to Armed Robberies, First Degree Assaults, Firearm offenses, and other violent crimes:

- <u>DJS employees decide on pretrial detention.</u> The revolving cycle of police arrests and DJS releases has plagued our city streets with repeat offenders and additional victims.
- <u>Juvenile Courts have no power to determine the length of a juvenile sentence.</u> The statutes and Appellate Court decisions are clear: "The juvenile court may not

impose a minimum period of commitment on a juvenile who has been adjudicated delinquent." [1]

- DJS controls placement duration (average 107 days), not the Court.- The most recent data published by DJS shows that in their facility for the most serious offenders the average length of stay is 107 days. DJS decides when a juvenile will be released; courts may not keep youth in placement for security or safety reasons, only treatment.
    - DJS has only one hardware secure facility for juvenile male placements. There is only one maximum-security placement in Maryland for males, and it only holds 27 males with an average length of stay of 107 days. After that the offender will be back on the street. DJS Data Resource Guide.
    - Juvenile Court's Probation Orders lack enforcement capability. Unless juveniles commit a new crime, have violations of contact with a victim, or completely abscond, a violation of probation is meaningless. A court can chastise and give them a speech, but nothing more.
    - Juvenile Court trials must occur within 30 days or the juveniles are released from detention. These time requirements eliminate any ability to obtain expert witnesses, analyze DNA or firearm evidence, obtain forensic or crime scene evidence testing. Juveniles charged armed robberies, 3rd Degree Sexual Assaults, 1st degree assaults (serious injury or with a weapon). Rules like this and more need to be changed.

A voluntary system is not a plan to keep our community safe with the most serious of offenders.

The current system to start the charges in adult court has the following protections for juveniles, ensuring that if they are amenable to treatment, they will be sent to juvenile court:

- Attorneys provided immediately at the point of arrest, detention, and throughout every court proceeding.
- Direct file is limited to a specific list of violent crimes.
- Adult Court rules require moving to juvenile detention centers pending trial except in a rare and extreme situation. (With passage of HB 389 even the exceptions would be eliminated.)[2]
- A thorough, evidence-based decision by a judge about juvenile court jurisdiction. When charged in the adult system, the first and most critical decision the court makes is whether to move the juvenile's case to juvenile court. The juvenile is provided with one or two public defenders, and there are psychological evaluations (often multiple) ordered; all

[1] In re Julianna B., 947 A.2d 90, 130, 179 Md.App. 512, 580 (2008) (internal citations omitted) (Juvenile committed Second Degree Murder. The Court transferred her to the juvenile court system. The Appellate Court ruled that the trial judge's order and stated intent to keep the juvenile in the juvenile placement until she was 21 was illegal. Court was without such power.).

[2] Even this exception would be eliminated with the passage of HB 389/SB 296. HB389 would eliminate all juveniles in adult detention.

state-funded. A court considers extensive evidence to make this decision in contrast to important decisions being made by an administrative agency with no power to enforce rules.

- The vast majority of the youth charged as an adult are moved to juvenile court after this process of multiple evaluations and analysis by a judge. This in-depth process provides due process for the juveniles, allows victims to be heard, and provides more safety provisions for the community. This process, including expert evaluations, enables informed recommendations. This process maximizes success for youth and community alike.

Maryland's Juvenile laws are a system of suggestions without enforcement power. MCVRC implores lawmakers to vote against passage of the Youth Charging Reform Act, SB 323/ HB 409.[3] To support this Bill is to ignore how impotent the laws in place are and how the system is unable to respond to these most serious crimes.

Maryland Crime Victims' Resource Center has seen the heartache and felt the fear of our victims who had a gun held to their head, or their house broken into, or their daughter sexually assaulted- only to have DJS release the juvenile suspect after only three months in a committed placement. Our state and our communities will suffer if House Bill 409 is voted into law.

We can agree: Most juveniles deserve second chances in juvenile court, and that Maryland should not be holding juveniles in adult jails. The legislature can accomplish both of these goals by passing HB 389/SB 296, Limitations on Juvenile Contact with Incarcerated Adults. Currently, after a serious violent crime arrest juveniles are temporarily held in adult jails before the next business day when they see a judge. Jails are not built for juveniles, and juveniles often must be held in solitary confinement so they can be sight and sound separated from the adults. At the court hearing, judges are then authorized to order that these juveniles be held in a juvenile facility or release them.[4] Many lawmakers claim that this stay in adult detention is the reason they will vote for Houe Bill 409, but the harm caused by the consequences of HB 409 is exponentially worse.

The youth should be out of the jails --- BUT if that is the goal, vote for and pass HB 389/SB 296, "Limitations on Juvenile Contact with Incarcerated Adults".[5] Year after year this proposal to get youth out of adult jails is brushed under the rug; hidden from consideration. Instead of solving this problem, every year the efforts to eliminate direct-file are allowed to overshadow this fix.

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[3] Again, MCVRC urges that to keep both the community and the juveniles safe, a reasonable solution to juvenile detention in adult jails would be to pass SB 296/ HB 389: Juveniles - Detention and Confinement - Limitations on Juvenile Contact With Incarcerated Adults.

[4] The juveniles can be moved immediately from the jail, but in most cases the Department of Juvenile Service is not ready for them. The Department delays moving these youth for many days and sometimes weeks causing a legitimate outcry from youth advocates. Our legislature needs to realize this is the Department clearly communicating that when the decision is theirs, they will release these juveniles onto the street with the ineffective electronic monitoring we've all read about. Such as the Frederick County youth on electronic monitoring that brutally raped and murdered a neighbor in 2024, or the teen just convicted of two murders in Columbia while on ankle monitoring.

[5] https://mgaleg.maryland.gov/2026RS/bills/hb/hb0389F.pdf

HB 409 is dangerous. It will put serious offenders into a system where the courts have no power. Serious consideration by the adult court must take place before moving these cases into the rehabilitative juvenile justice system. These serious decisions are made by a judge in the Transfer process already our law.

Thank you for considering our concerns about HB 409 and your broader commitment to protecting all Marylanders- juveniles and victims alike.

Sincerely,

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