

Testimony Concerning House Bill 409
Juvenile Court – Jurisdiction (Youth Charging Reform Act)
Position: Favorable

To: Delegate J. Sandy Bartlett, Chair
Delegate Debra Davis, Vice Chair
Members of the Judiciary Committee

From: Monique L. Dixon, Executive Director and Michael Pinard, Faculty Director, Gibson-Banks Center for Race and the Law

Date: February 10, 2026

On behalf of the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center” or “Center”) at the University of Maryland Francis King Carey School of Law,¹ we appreciate the opportunity to submit written testimony concerning House Bill 409 (HB 409) which would limit the number of offenses for which a child could be automatically charged in adult criminal court. HB 409 is a step in the right direction toward ending Maryland’s inefficient, racially disproportionate, and harmful practice of *automatically* charging children as adults. The bill would allow the cases of more young people to begin in the juvenile court system where a judge may conduct a hearing to determine, *on a case-by-case basis*, if a young person’s case should be moved to the adult criminal legal system. Accordingly, we urge you to issue a favorable report for HB 409.

The Gibson-Banks Center works collaboratively to transform institutions and systems of racial inequality, marginalization, and oppression. Through education and engagement, advocacy, and research, the Center examines and addresses racial inequality, including the intersection of race with gender or disability, and advances racial justice in a variety of issue areas, including the youth and criminal legal systems. The Center served as a member of the Maryland Equitable Justice Collaborative (MEJC). Led by Maryland Attorney General Anthony Brown and Maryland Public Defender Natasha Dartigue, the MEJC researched, developed, and recommended reforms that would reduce racial disparities in Maryland’s incarcerated population. In March 2025, the MEJC released a report with 18 recommendations, including to limit the automatic charging of children in adult criminal court.² HB 409 would codify this recommendation.

¹ This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law, the University of Maryland, Baltimore, or the University System of Maryland.

² See, MEJC, *Breaking the 71%: A Path Toward Racial Equity in the Criminal Justice System*, 70 (2025), https://oag.maryland.gov/News/Documents/pdfs/MEJC_Report.pdf. In this report, the Gibson-Banks Center dissented to MEJC’s recommendation to limit the automatic prosecution of youth as adults arguing that the failed practice should be eliminated entirely. *Id.* at 79-80. The Center continues to believe the practice must end. Recently, a working group of the Maryland Commission on Juvenile Justice Reform and Emerging and Best Practices (Commission) echoed this view. *See*

HB 409 would move more children who find themselves in trouble with the law to the youth legal system, which is designed to address their needs as well as the alleged offense, and is therefore more efficient and effective than automatic charging in the adult criminal legal system.

For centuries, Maryland policy makers have been of two minds about how to treat children and youth who are accused of committing a crime. On the one hand, since 1830, Maryland has maintained separate institutions and a juvenile court system for these children, acknowledging that they are different from adults and are more amenable to rehabilitative services.³ On the other hand, since the 1970s, Maryland law has allowed children to be charged and treated as adults in two ways.⁴ First, charges against a child could be filed in juvenile court, where a judge could waive jurisdiction and send the child to the adult criminal court after determining that the child “is an unfit subject for juvenile rehabilitative services;” this is known as a waiver.⁵ Second, Maryland law provides for the automatic charging of children and youth in adult criminal court for certain offenses⁶ with the opportunity to ask the adult criminal court judge to transfer the case to juvenile court if the judge determines it would be “in the interest of the child or society,” to do so; this is known as a transfer.⁷

In the mid-1990s, Maryland policymakers expanded the number of offenses for which a child could be automatically charged as an adult⁸ at a time when nationwide, violent crimes committed by young people had reached its peak; yet fearmongering and forewarnings by the media and criminologists of “super-predator” youth, particularly Black youth,⁹ who would continue to commit violent crimes

generally, Processes and System Coordination Workgroup of the Commission, *Maryland’s JDDPA Compliance Crisis: Children in Adult Detention*, 8-9 (2025), <https://gocpp.maryland.gov/wp-content/uploads/Marylands-JDDPA-Compliance-Crisis-Children-in-Adult-Detention-COMMISSION-APPROVED-.docx.pdf>, [Hereinafter Commission Workgroup Report].

³ See, Maryland Chapter 64, Acts of 1830 (establishing “A House of Refuge for Juvenile Delinquents”), <https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000212/pdf/am212--61.pdf>. See also, Maryland Department of Juvenile Services, History of Juvenile Justice in Maryland, <https://djs.maryland.gov/Pages/about-us/History.aspx> (last visited Feb. 9, 2026).

⁴ See, Patrick Griffin, *et al*, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, 8, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, (Sept. 2011)(displaying map of states, including Maryland, where before and during the 1970s state laws either allowed juvenile courts to waive jurisdiction over children, sending “hard cases” to adult criminal court or required the automatic charging of children in adult criminal court), <https://www.ojp.gov/pdffiles1/ojjdp/232434.pdf>.

⁵ See generally, MD. CODE ANN. CTS. AND JUD. PROC. § 3-8A-06 (2020).

⁶ MD. CODE ANN. CTS. AND JUD. PROC. § 3-8A-03 (2024).

⁷ MD CODE ANN CRIM PROC § 4-202(b)(3)(2024).

⁸ 1994 Maryland Laws Ch. 641 (removing over a dozen offenses from juvenile court jurisdiction), <https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000773/html/am773--2874.html>.

⁹ See generally, John J. DiIulio, Jr., *My Black Crime Problem, and Ours Why are so many blacks in prison? Is the criminal justice system racist? The answer is disquieting*, City Journal (1996), <https://fbaum.unc.edu/teaching/articles/DiIulioCityJournal1996.pdf>.

persisted.¹⁰ While “the fear of an impending generation of superpredators proved to be unfounded ... and the scholar credited with originating that term has acknowledged that his characterizations and predictions were wrong,”¹¹ Maryland’s entrenched tough-on-youth crime approach has resulted in a reflexive and harmful system of automatically charging children in adult criminal court.

Maryland has held the shameful distinction of automatically sending children and youth to adult criminal courts at higher rates than any other state except Alabama.¹² In Maryland, children and youth as young as 14 may be automatically charged in adult criminal court if they are accused of committing one of 33 offenses.¹³ Notably, this entire system is inefficient and ineffective, as only a small percentage of children and youth receive a conviction in adult criminal court (16%).¹⁴ The cases of most children are either transferred to the juvenile court (45%) or dismissed (35%).¹⁵

Yet, hundreds of children and youth linger in youth detention centers or adult jails awaiting their transfer hearings. For example, the most recent data from the Maryland Department of Juvenile Services (DJS) shows that up to 68% of its pre-disposition detention population is youth charged as adults and their average length of stay is 147 days.¹⁶ By comparison, children and youth whose cases originate in the juvenile court system are detained pre-disposition for an average of 27 days.¹⁷ If enacted, HB 409 would not only expose fewer children to the adult criminal legal system, but would also increase efficiency for DJS. Limiting the number of offenses that results in the automatic charging of youth as adults would reduce the number of children detained pre-disposition for an average of 147 days. Consequently, as the *Fiscal and Policy Note* for HB 409 details, “DJS anticipates processing cases and providing services at a faster rate to its youth population; any associated cost savings due to operational efficiencies may be offset ... by an increased DJS population and increased demand for DJS services.”¹⁸

Importantly, HB 409’s limitation on the number of offenses for which a child may be automatically charged in adult criminal court would not prohibit a juvenile court judge from considering a

¹⁰ Marcy Mistrett and Mariana Espinoza, *Youth in Adult Courts, Jails, and Prisons*, 1, The Sentencing Project (Dec. 2021), <https://www.sentencingproject.org/reports/youth-in-adult-courts-jails-and-prisons/>.

¹¹ Brief of Jeffrey Fagan, *et al.*, Amici Curiae in Support of Petitioners, 8 (Jan. 17, 2012), *Miller v. Alabama*, 567 U.S. 551 (2012), <https://eji.org/wp-content/uploads/2019/11/miller-amicus-jeffrey-fagan.pdf>.

¹² The Sentencing Project, *National Trends in Charging Children as Adults*, 6 (July 20, 2021), <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-charging-children.pdf>.

¹³ MD. CODE ANN. CTS. AND JUD. PROC. § 3-8A-03 (2024).

¹⁴ Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, 13 (Dec. 2020), <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

¹⁵ *Id.* at 12.

¹⁶ Department of Legal Services, Maryland General Assembly 2026 Session, *Fiscal and Policy Note House Bill 409*, 4, https://mgaleg.maryland.gov/2026RS/fnotes/bil_0009/hb0409.pdf.

¹⁷ *Id.*

¹⁸ *Id.*

be automatically charged in adult criminal court, HB 409 may have a positive impact on Black youth who are disproportionately charged as adults, by giving them “more access to coordinated resources, individualized treatment, and a continuum of care not available in the adult system.”²⁷

Also, automatic charging exacts upon children and youth a heavy physical and psychological toll. Children and youth who are automatically charged as adults may be held in youth detention centers operated by DJS or adult jails operated by Maryland counties or the Maryland Department of Public Safety and Correctional Services.²⁸ Research has consistently shown that children held in adult facilities are at increased risk of physical or sexual assault or solitary confinement.²⁹

Additionally, “Maryland is significantly out of compliance with federal standards governing the pretrial detention of children charged as adults[,]”³⁰ including the requirement to keep children completely separated from adults in pretrial detention, known as sight and sound separation.³¹ Consequently, children and youth have reported being bullied and threatened with sexual violence by adults in Maryland’s adult jails.³² HB 409 could help address harms children face in adult jails by placing more children in the juvenile court system and youth facilities where age-appropriate services are available to them.

Adolescent brain development science shows that children are different from adults in ways that are relevant to culpability and rehabilitation.

HB 409’s limits on the automatic charging of children in adult criminal court is consistent with adolescent brain development science, which recognizes that children are different from adults as they are

and 56% of students arrested in school. Research has consistently shown that Black students do not misbehave more than their peers. *See*, Russell J. Skiba, PhD and Natasha T. Williams, *Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior A Summary of the Literature*, 6 (March 2014), https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/african_american_differential_behavior_031214.pdf.

²⁷ Maryland Department of Legislative Services, Maryland General Assembly, *Racial Equity Impact Note 2025 Session HB 1433*, 9 (2025), <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2025RS-HB1433-REIN.pdf>. HB 1433, which was introduced during the 2025 Session of the Maryland General Assembly, is similar to HB 409.

²⁸ Data Resource Guide, *supra* note 20 at 114. *See also*, MD CODE ANN, CRIM PRO, § 4-202(h)(2023)(stating that pending a transfer hearing, an adult criminal court could order a child automatically charged as an adult to be held in a secure youth detention center unless the young person is released on bail, youth detention centers do not have the capacity to house the child, or the court finds detention in youth detention centers would pose a harm to the child or others).

²⁹ *See*, Human Rights for Kids, *Disposable Children The Prevalence of Child Abuse and Trauma Among Children Prosecuted and Incarcerated as Adults in Maryland*, 17 (2024), <https://humanrightsforkids.org/publication/disposable-children-the-prevalence-of-child-abuse-and-trauma-among-children-prosecuted-as-adults-in-maryland-2/>; *See also*, Marcy Mistrett and Mariana Espinoza, *Youth in Adult Courts, Jails, and Prisons*, 2-3, The Sentencing Project, (Dec. 2021), <https://www.sentencingproject.org/reports/youth-in-adult-courts-jails-and-prisons/>; Just Kids Partnership, *Just Kids: Baltimore’s Youth in the Adult Criminal Justice System*, 11-13 (Oct. 2010), <https://justkidsmaryland.org/wp-content/uploads/2014/06/Just-Kids-Report.pdf>.

³⁰ Commission Workgroup Report, *supra* note 2 at 3.

³¹ *Id* at 2 (explaining the requirements of recipients of grants under the Juvenile Justice and Delinquency Prevention Act Reauthorization 2018, https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/jjdp-as-amended_0.pdf).

³² *Id.* at 4.

more impulsive and unable to contemplate the impacts of their actions and behaviors. Sections of the brains of children and youth that control impulses, planning, and risk avoidance continue to develop through their mid-20s, and once they are fully developed, children are likely to grow out of delinquent and criminal behavior.³³ Adolescent brain development has been relied upon in U.S. Supreme Court decisions declaring that sentencing children to the death penalty and life without the possibility of parole were unconstitutional because children are different from adults.³⁴

Children are children and need to be seen and treated as such. Accordingly, ending the automatic charging of youth as adults in Maryland is long overdue. Because we want as many children as possible to have access to age-appropriate services and accountability systems when they find themselves in trouble with the law, we urge the Judiciary Committee to issue a favorable report on HB 409.

³³ Brief for the American Psychological Association, *et al*, as Amici Curiae in Support of Petitioners, 6-25, *Miller v. Alabama*, 567 U.S. 460 (2012), <https://eji.org/wp-content/uploads/2019/11/miller-amicus-american-psychological-association.pdf>.

³⁴ *See generally*, *Roper v. Simmons*, 543 U.S. 551, 569-70 (2005), *Graham v. Florida*, 560 U.S. 48, 68-69 (2010), and *Miller v. Alabama*, 567 U.S. 460, 471-72 (2012).