

Support HB 459 – Juvenile Justice Reform

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Luke Clippinger and House Judic. Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: Feb. 10, 2022

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports HB 459 which effectively uses the Justice Reinvestment model to improve our State's juvenile justice system, reduce its overuse of confinement, and make better use of restorative techniques. I offer these remarks as a recently retired Juvenile administrative judge and based on more than 30 years in the system also as a prosecutor, defense attorney, and Juvenile Court master - n/k/a magistrate. Here are comments on specific provisions of HB 459:

1. The age of children brought into the juvenile courts, occasionally, has been very inappropriate. On a few occasions, I had children as young as 6 years-old brought into my courtroom on juvenile charges. Such cases clearly represented failures of parenting, not children in need of State sanctions. More appropriate responses involve referral of such families for behavioral management counseling. HB 459's section 3-8A-03 would improve this problem by setting a minimum for delinquency jurisdiction of age 10 for the most serious offenses and age 13 for others.

(Please note: HB 459 retains prosecutors ability to preemptively charge juveniles most serious offenses in adult court. MAJR, instead, prefers HB 294 / SB 165 provisions to eliminate such preemptive adult charges and require transfers to adult court to be approved by juvenile judges after a hearing.)

2. Section 3-8A-10's provisions permitting Department of Juvenile Services (DJS) intake officers to apply informal adjustment of less serious felonies also are appropriate to prevent juveniles and their families in such cases to receive similar services, but to avoid a juvenile delinquency record.

3. Section 3-8A-10 (N), allowing a juvenile court with the parties' consent, to stay court action in order to permit referral back for possible informal adjustment also is a very valuable provision. Why? A primary reason that many cases are not informally adjusted relates to parents' ability to get the alleged offending child to the DJS office on time; not coincidentally, many children who find themselves in trouble have parents who are impoverished, undereducated, have transportation problems and work long hours. Such children's failure to appear does not demonstrate their culpability or lack of amenability for informal adjustment. The parents' limitations should not result in penalties to the child if this can be avoided. Such arrangements have been done via case management plans for many years in Anne Arundel County's juvenile court, but the statutory provision is desirable to ensure it may be adopted statewide.

4. Risk-scoring instruments to reduce pretrial detention also are a desirable feature of HB 459, employing another principle embraced by Maryland's Justice Reinvestment Act. (While some advocates have concerns that racial disparities might be preserved via risk assessments, this problem can be resolved with independent validation, although disparate arrest and charging rates may continue to present problems. <https://advancingpretrial.org/psa/research/>)

5. Limits on the duration of probation in section 3-8A-19.6 also offer a means to ensure that a child will not be left indefinitely on a "parking lot" awaiting community services. One improvement to the language of this section might add the clarification "For a single case, the Court may not place a child on probation..."; this will remove the argument that a child on probation for one year should be ineligible for an extension despite committing a new offense late in the probation term.

6. Requirements of annual reporting, creation of an ongoing Juvenile Justice Commission and related uncodified provisions of HB 459 also are desirable to monitor progress, resources needed, and emerging best practices.

For all these reasons, MAJR supports HB 459 to continue Maryland's efforts to reduce harmful and costly detention and commitment of juveniles in favor of more efficient community rehabilitation services.

PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.