

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: Feb. 16, 2023

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) supports SB 93 to eliminate the automatic charging of juveniles (age 16 and older) as adults for a long list of felony offenses.

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.

Legislators should recognize five key facts:

- 1) Maryland's Juvenile Justice system offers much more extensive and individualized rehabilitative services for every juvenile committed to custody than our adult correctional system, which actually provides services to only a tiny percentage of incarcerated Marylanders.
- 2) Juveniles, given appropriate treatment services and time, have a much greater opportunity for rehabilitation than adults age 25 and over. Many scientific studies, repeatedly accepted by the U.S. Supreme Court, make clear that "emerging adults" (those under age 25) have brains which still are developing and commonly may be expected to gain better judgment and behavior as they reach maturity. For example, see the discussion in "*The Intersection between Young Adult Sentencing and Mass Incarceration*," Wisconsin Law Review (2018).
- 3) Even if SB 93 is passed, other provisions in Maryland law still would permit an appropriate case to be "waived" from Juvenile Court to adult criminal court. However, that waiver decision would be decided only after a waiver hearing by a statutorily-qualified and regularly-trained Juvenile Court judge. Md. Code, Courts Article, sec. 3-8A-06. At that hearing, the Juvenile Judge would receive extensive reports and testing of the juvenile, then would consider a number of factors as to whether the juvenile is "a fit subject for rehabilitative measures." For example, the Juvenile Judge might consider whether services available in the juvenile system previously have been tried and have failed to work.
- 4) The mixing of juveniles with a population of "higher risk" adult offenders, it is well-known, increases the risk of future criminal behavior by the juveniles, according to many reliable scientific studies. For example, see "Effects [of] transfer of youth from the juvenile to the adult justice system" - <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.
- 5) Finally, it's important to realize that the system of letting prosecutors automatically charge certain juveniles does not require them to consider the impact on the juveniles or their future prospects. Elected State's Attorneys are not, by statute, required to receive any training as to juveniles or their prospects for rehabilitation. Practically, the current system permitting automatic charging as adults has resulted in huge racial disparities, according to one recent report, such that 80% of those charged as adults are African-Americans. <https://www.baltimoresun.com/news/crime/bs-md-co-cr-appeals-court-juvenile-ruling-20210804-jfbr3t6ukjgetprd26fgjagtby-story.html>

For all the above reasons MAJR strongly supports SB 93.

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