



Testimony of Josh Rovner

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SB 422 – Favorable with
Amendments

Before the Maryland Senate Judicial
Proceedings Committee

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Chair Smith, Vice Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee:

Established in 1986, The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice. The Sentencing Project is also a member organization of the Maryland Youth Justice Coalition (MYJC).

We urge the committee to issue a **favorable with amendments** report on Senate Bill 422. As currently written, this legislation seeks to limit the number of youth that can, under Maryland law, be automatically charged as if they were adults for certain offenses. However, we ask the committee to amend the bill to end the practice of automatically charging people under 18 as if they were adults entirely and begin all cases involving youth (17 and younger) in juvenile court.

As written, this bill reflects a political compromise but not a policy solution. We welcome steps that would limit Maryland's aggressive use of automatically sending adolescents to adult courts based solely on the initial charge. However, there is no evidence to support the essential idea of this compromise: carving out certain offenses from starting in juvenile court is not better for youth and not better for public safety.

We support amending this bill to end the automatic charging of all of Maryland's youth as if they were adults for three reasons:

1. Charging youth as if they were adults harms public safety.
2. Starting all cases in juvenile court is more sensible and efficient.
3. Maryland's automatic transfer law is unusually harsh and unjust.

Charging Youth as If They Were Adults Harms Public Safety

Sending youth to the adult criminal justice system, for any offense, harms public safety. Youth in the adult system are more likely to commit future offenses and particularly more likely to commit the most violent offenses when compared with peers in the juvenile system. Howell, et al., note that "research consistently shows lower recidivism rates in the juvenile justice system than in the criminal justice system."¹

The CDC's Task Force on Community Preventive Services reviewed decades of literature and concluded that sending a youth to the adult system generally increases rates of violence among youth.² In addition, Maryland's process of automatically transferring children and adolescents accused of a lengthy but still specific list of offenses in the name of deterrence or public safety also contradicts findings from the National Research Council, which supports "a policy of retaining

¹ Howell, J. C., Feld, B. C., Mears, D. P., Petechuk, D., Farrington, D. P. and Loeber, R. (2013) Young Offenders and an Effective Response in the Juvenile and Adult Justice Systems: What Happens, What Should Happen, and What We Need to Know. Washington, D.C.: U.S. National Institute of Justice (NCJ 242935), p. 4, 10-11.

² The Community Preventive Services Task Force (2003, April). Violence Prevention: Policies Facilitating the Transfer of Juveniles to Adult Justice Systems. <https://www.thecommunityguide.org/findings/violence-prevention-policies-facilitating-transfer-juveniles-adult-justice-systems>

youth in the juvenile justice system” both to keep punishments proportional with the age of offenders and to prevent additional offending.³

While opponents often suggest that charging youth as if they were adults means that the state is taking crime seriously, the truth is, that charging teenagers in adult courts creates more crime.

Despite its flaws, the juvenile justice system is designed to be youth-serving. Adult courts are generally tasked with determining guilt or innocence and then assigning a punishment to fit the crime. Juvenile courts have the added responsibility of understanding the young person accused. All courts are concerned with recidivism; juvenile courts are built to prevent it. Post-conviction programs and professional staff in the adult system are not designed or trained to work with young people. This is especially important because youth convicted as if they were adults are likely to receive probation, and ought to be served by juvenile probation officers.

Moreover, charging teenagers as if they were adults has collateral consequences. Youth tried in the adult criminal justice system generally leave with an adult criminal record and, possibly, news coverage that the Internet does not forget. Such a formal -- and informal -- record is a significant obstacle to a youth’s successful reentry into the community, limiting access to the employment and student loans that provide the path to self-sufficiency outside of the world of crime. The Council of State Governments has found 415 collateral consequences for a felony conviction in Maryland, the vast majority (367) of them limiting employment in some form.⁴ A 16-year old should not be saddled with such lifelong consequences based on a poor, though impulsive, decision.

Maryland’s Automatic Transfer Law is Unusually Harsh

In the 1960s, Maryland was one of just three states (Mississippi and Pennsylvania were the other two) to automatically charge youth (14 and older) as if they were adults on murder charges.⁵ By 1986, Maryland was one of just 14 states that automatically charged youth as if they were adults based on the offense, typically murder. Maryland, on the other hand, added armed robbery as a so-called adult charge in 1973; as of 1986, only six other states did the same.⁶

Throughout the 1980s and 1990s, this legislature repeatedly added offenses to that list. As of today, Maryland automatically transfers youth charged with 33 separate offenses into adult criminal courts. Per capita, the available data show only Alabama automatically sends more of its young people into adult courts based on the charge, and Alabama’s most recent numbers are so old (2016) that Maryland may actually rank last, not second-to-last, in this shameful statistic. (It is to Maryland’s credit that its dashboard on adult charges⁷ is more current than every other state.)

³ National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/14685>, p. 134.

⁴ The National Inventory of Collateral Consequences of Conviction was created by the Council of State Governments and is available at <https://niccc.nationalreentryresourcecenter.org/consequences>.

⁵ Feld, B. (1987). The Juvenile Court Meets the Principle of the Offense: Legislative Changes to Juvenile Waiver Statutes, *Journal of Criminal Law and Criminology* 78(3): 471-533 at 512-513.

⁶ Feld (1987) at 512-513.

⁷ [Juveniles Charged as Adults](#), created by the Governor’s Office of Crime Prevention and Policy.

It is important for this committee to understand after decades of tough-on-crime rhetoric and policies, Maryland law remains an outlier.

Six states (California, Hawaii, Kansas, Missouri, Oregon, and Texas) start all cases involving youth in juvenile court, and all six have judicial waivers that allow individual cases to move to adult criminal court.

Maryland law currently allows for discretionary waivers, under which any 15-, 16- and 17-year old can be transferred to criminal court. In fact, 20 percent of youth charged as adults between Jan. 1, 2013 and June 30, 2024 were charged discretionarily. **Eliminating automatic charging would still leave the discretionary pathway open.** Juvenile courts can and do use such discretionary waivers; and they would still be allowed under this amendment.

Racial disparities

The available data compiled by the Governor's Office of Crime Prevention and Policy⁸ show that youth of color are vastly more likely to be charged as if they were adults. In fact, over 80% of youth charged in adult court in Maryland are Black (there is no data on ethnicity, so we don't know what proportion of white youth charged as if they are adults are Latino). Moreover, among those youth automatically charged as if they were adults, white youth are vastly more likely to be reverse waived into the juvenile courts. In the MDEC Counties, white youth whose cases were not dismissed were transferred to juvenile court 94 percent of the time. In those same counties, only 26 percent of non-dismissed cases involving youth of color were transferred to juvenile court.

Youth Charged as If They Were Adults Are Not Typically Sentenced as Adults.

Maryland law, sensibly, allows for reverse waivers as one safety valve for the state's aggressive and unusual list of charges that must be filed in adult courts. Criminal court judges are then tasked with determining whether their courtrooms or those of family court judges, are the appropriate venue to proceed.

Youths transferred into adult court are often not sentenced there. In fact, roughly 85 percent of youth automatically sent to the adult justice system either have their case dismissed or sent back to the juvenile system. Clearly, too many young people begin their cases in adult courts under current law. The status quo sends hundreds of teenagers into adult courts to wait for a process that will dismiss the charge entirely or waive the youth back into the juvenile court more than 85 percent of the time. This is an astonishingly inefficient system likely to coerce guilty pleas from teenagers.

Conclusion:

The Sentencing Project urges the committee issue a favorable with amendment report on SB 422 and amend the current legislation to start all cases involving youth in juvenile court. We urge the

⁸ [Juveniles Charged as Adults](#), created by the Governor's Office of Crime Prevention and Policy.

Committee to advance the amended legislation as soon as possible. This evidence-based reform is long overdue.

Thank you for your time and attention. If you have any questions or need any additional information I am happy to assist and can be reached at the email address below.

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