

Department of Legislative Services
Maryland General Assembly
2021 Session

RACIAL AND EQUITY IMPACT NOTE

Senate Bill 395
Judicial Proceedings

(Senator Carter)

Criminal Law – Felony Murder – Limitation and Review of Convictions for Children

Summary

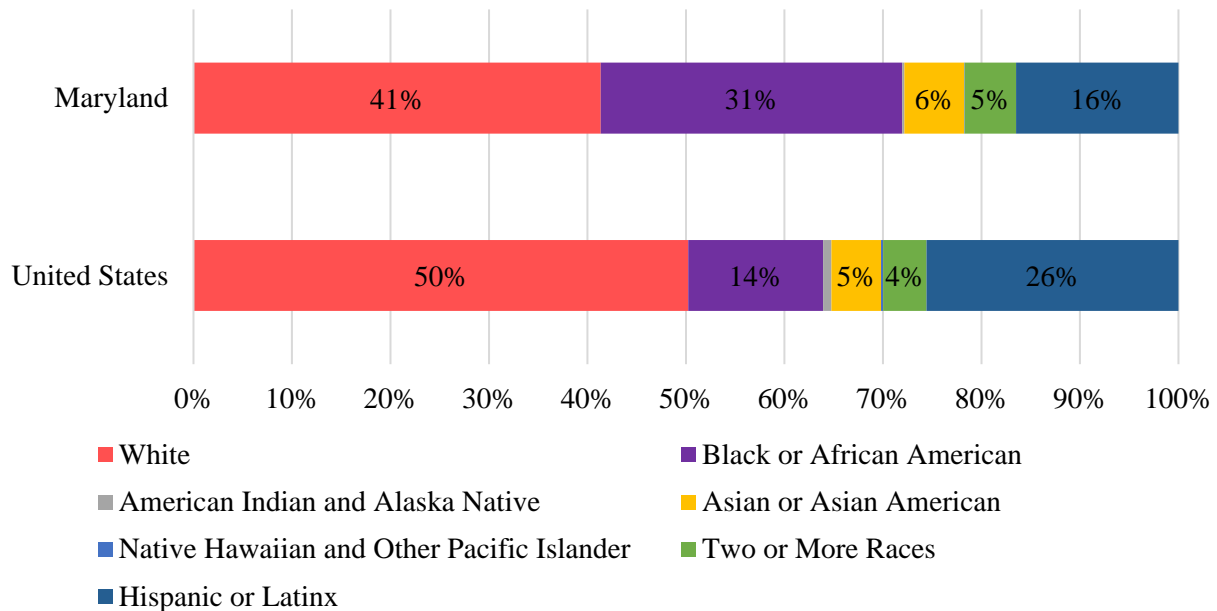
This bill prohibits an individual younger than age 18 from being convicted of first-degree murder under the felony murder provision under State law. The bill also authorizes a person convicted of first-degree murder under the felony murder provision who was a child at the time of the offense to apply for a review of the person’s conviction under specified circumstances.

Maryland Demographics

Race and Ethnicity of the Maryland Population under Age 18

In 2019, Maryland’s estimated under age 18 population was just over a million (1,114,701) individuals. Compared to the U.S. under age 18 population, the State’s under age 18 population by race alone is more diverse. As shown in **Exhibit 1**, in Maryland, 42% of this population identify as non-White or multi-racial compared to 24% of the national population. In both the State and national population, the largest shares of the non-White population are individuals who are Black or African American, with 31% of the State population identifying only as Black or African American. Additionally, 5% of the State population under age 18 are bi- or multi-racial. Similar to this demographic group, Asian or Asian American individuals under age 18 make up 5% of the U.S. population and 6% in the State. Maryland’s under age 18 population is less ethnically diverse than the U.S. under age 18 population. In Maryland, 16% of this population are Hispanic or Latinx compared to 26% in the U.S. population.

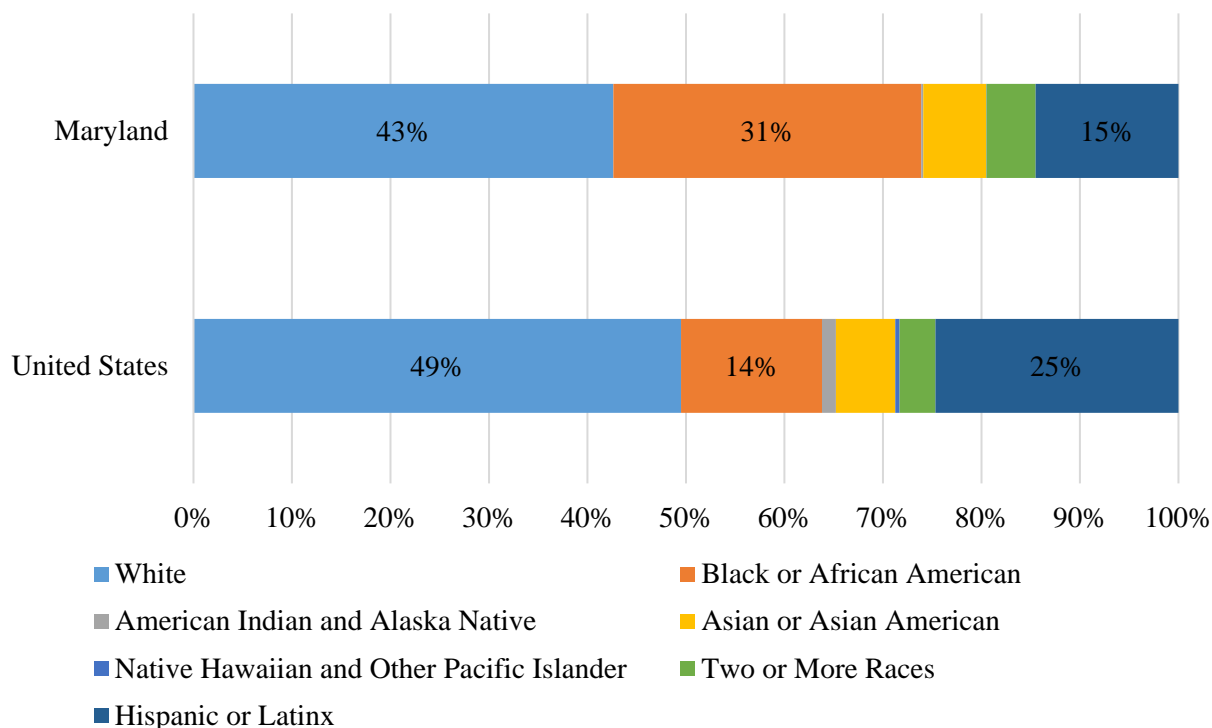
Exhibit 1
U.S. and Maryland Population Under Age 18 by Race and Ethnicity
2019



Source: Department of Legislative Services; U.S. Census (2019)

The Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) reports on children ages 10 to 17 every six months. In 2019, Maryland’s estimated population of this age group was 514,859. Compared to the 10- to 17-year-olds in the U.S. population overall, the State’s population for this age group by race alone is more diverse. As shown in **Exhibit 2**, in Maryland, 57% of the population identify as non-White or multi-racial compared to 51% of the national population. In the State, 43% of this population identify as White, 31% as Black or African American, and 5% as bi- or multi-racial, while American Indian and Alaska Native as well as Native Hawaiians and Other Pacific Islander each make up less than 1% of the population in Maryland. In both the State and the nation, approximately 6% of the population identify as Asian or Asian American. In Maryland, 15% of the 10- to 17-year-old population are Hispanic or Latinx compared to 25% in the U.S. population.

Exhibit 2
Youth Population 10 to 17 Years of Age in Maryland and United States
2019



Source: Department of Legislative Services; U.S. Census (2019), University of Baltimore Schaefer Center; Governor’s Office of Crime Prevention, Youth, and Victim Services

Demographics of Youth in the Criminal Justice System

Nationally, Black and Hispanic youth are overrepresented in the justice system, including within the juvenile justice system. In 2019, 57% of children under age 18 arrested for murder were Black or African American and 29% were Hispanic or Latinx. In Maryland, youth may be charged as adults if, for example, they are of a certain age and accused of committing a crime that, if committed by an adult, would result in life imprisonment or is among a group of specific felony charges.

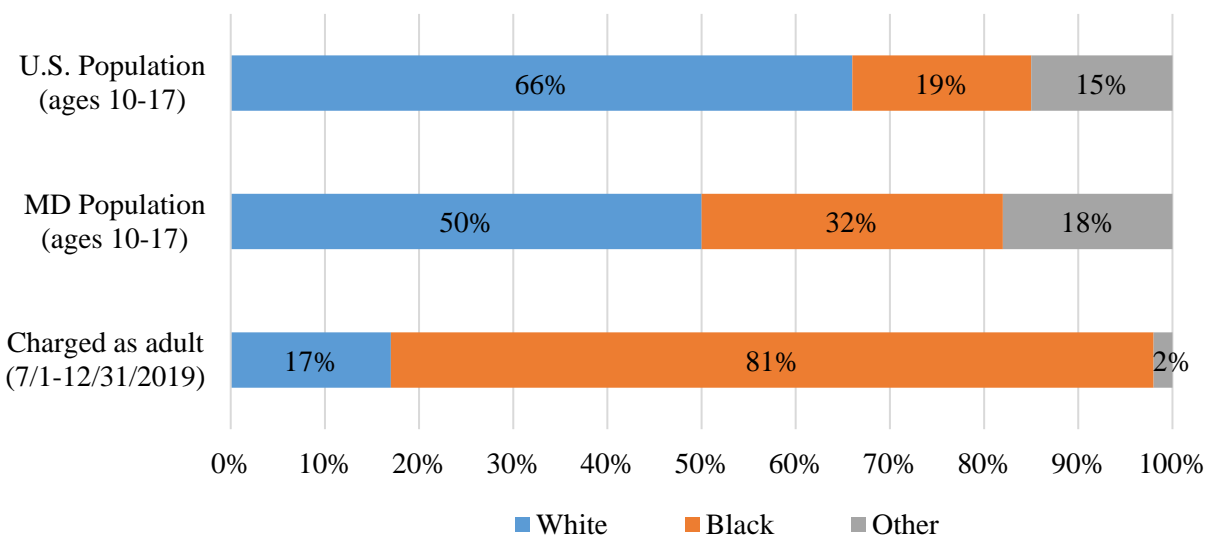
Data is not available in the GOCPYVS report on the length of sentence or the offense committed by race. Nationally, however, data shows that approximately 63% of youth serving life sentences without parole and 50% of those serving life with parole are Black or African American. Of note, these percentages are higher than Black or African American adults serving life sentences without parole (55%) and with parole (43%).

Maryland's 10- to 17-year-old Youth Charged as Adults

From July 1 to December 31, 2019, 459 youth in Maryland were charged as adults, down slightly from the 490 youth charged as adults in the six months prior. The most common offense committed by the youth charged during the July to December period was armed robbery, followed by firearm possession and first-degree assault. Thirty-three juveniles were charged with first-degree murder in the latter half of 2019.

As shown in **Exhibit 3**, 81% of youth charged as adults from July to December 2019 were Black or African American. This is approximately the same percentage of Black or African American youth charged as adults during the first half of the year as well. This percentage is significantly higher than the share of the Black or African American youth population in the State between the ages of 10 and 17.

Exhibit 3
Maryland Youth Charged as Adults by Race Compared to
U.S. and Maryland Overall Population
2019



Source: University of Baltimore Schaefer Center; Governor's Office of Crime Prevention, Youth, and Victim Services

Children such as those represented in Exhibit 3 may be sentenced more harshly than young adults aged 18-20 in adult court. Several studies reported in various criminal justice journals indicate that this is likely to amplify the documented racial inequities where Black and other minority youth in adult court are potentially perceived to be more culpable, dangerous, and blameworthy than their White peers. Several studies have also identified that both Black and Latinx youth receive significantly more punitive sentences in adult courts than White juveniles and adult defendants.

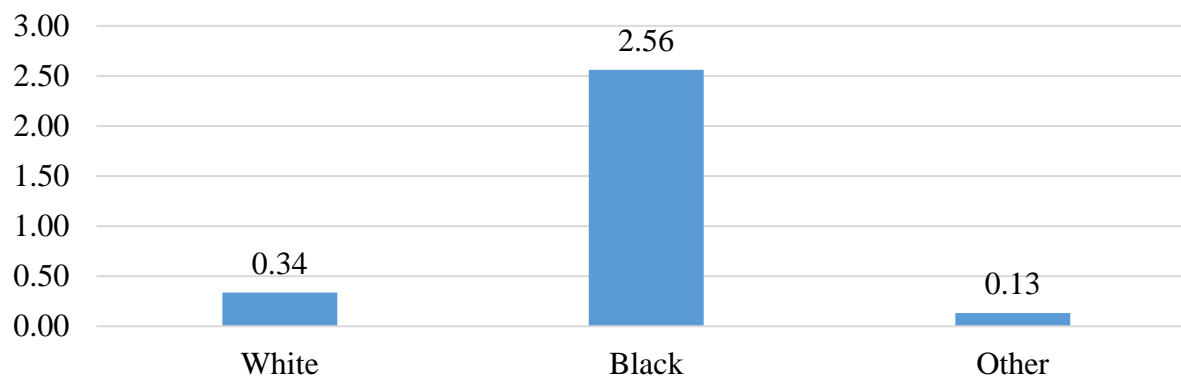
Racial and Equity Impact Statement for Senate Bill 395

Senate Bill 395 prohibits an individual younger than age 18 from being convicted of first-degree murder under the felony murder provision under State law. The bill permits a person previously convicted of first-degree murder under the felony murder provision who was a child at the time of the offense to apply for a review of the person’s conviction under specified circumstances.

Given statewide racial and ethnic demographics for the 10- to 17-year-old population as compared to the racial and ethnic demographics of children charged as adults as shown in Exhibit 3, notable patterns of disproportionality and disparities exist in adult criminal charges against 10- to 17-year-old children in the State.

As shown in **Exhibit 4**, current data reveals that the disproportionality rate for 10- to 17-year-old African Americans, or children identified as Black, charged as adults in Maryland is 2.56. This means that African American youth, or 10- to 17-year-old children identified as Black, are more than twice as likely to be criminally charged as an adult relative to the overall proportion of African American or Black youth in the State population. Compared to African Americans, Whites and other non-Black youth charged as adults have disproportionality rates of less than one. Thus, these groups are underrepresented in the population of 10- to 17-year-olds criminally charged as adults as compared to their proportion in the State population.

Exhibit 4
Disproportionality Rates
Youth Charged as Adults in Maryland
2019



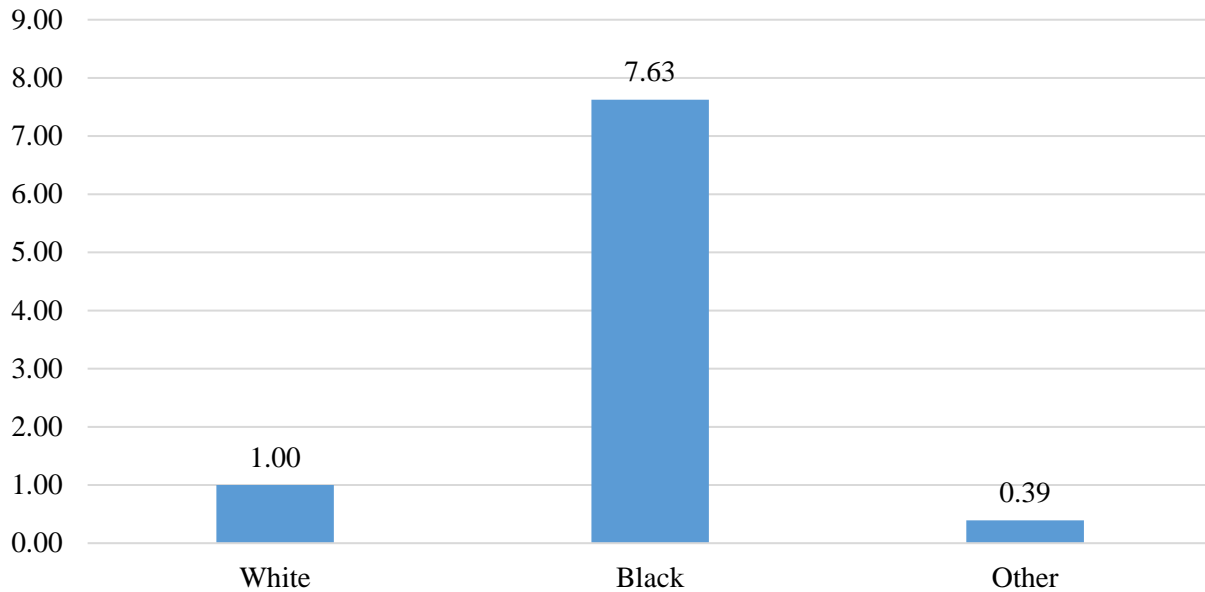
Source: Department of Legislative Services

Note: “Other” includes youth who identify as Native American or Alaska Native; Asian; Native Hawaiian or Other Pacific Islander; some other race; or two or more races.

Exhibit 5 shows how racial disparity ratios vary among the different racial groups with respect to 10- to 17-year-old children criminally charged as adults in Maryland. The 2019 data reveals a

racial disparity ratio of greater than 1 for African American youth, or children identified as Black, in Maryland. With a disparity ratio of 7.63, African American youth, or 10- to 17-year-old children identified as Black, are more than seven times as likely to be criminally charged as adults than their White peers in the State. Regarding non-White individuals identifying as “Other,” Exhibit 5 shows that this group has a racial disparity ratio of less than one. Thus, they are much less likely to be criminally charged as adults than their White peers in Maryland as compared to their proportion in the State population. Data was not available to analyze disproportionality rates and disparity ratios related to ethnicity.

Exhibit 5
Disparity Ratios
Youth Charged as Adults in Maryland
2019



Source: Department of Legislative Services

Note: “Other” includes youth who identify as Native American or Alaska Native; Asian; Native Hawaiian or Other Pacific Islander; some other race; or two or more races.

Conclusion

In Maryland, racial and ethnic disparities exist throughout the criminal justice system. These disparities are not exclusive to Maryland but are prevalent throughout the American criminal justice system. National and statewide data reveals notable racial and ethnic disproportionality and disparities in 10- to 17-year-old children criminally charged as adults.

African Americans in Maryland are disproportionately incarcerated for murder/non-negligent manslaughter. Approximately 71% of offenders charged with murder/non-negligent manslaughter offenses are African Americans.

The bill will also have an indirect effect on the victims of the crimes for which the youth were sentenced. However, there is no data publicly available on the race and ethnicity of these individuals. While some data is available on the race and ethnicity of victims of specific types of crimes overall (*e.g.*, murder), this data is not available for those for whom the offender was age 17 or younger at the time of the crime.

Given existing data and scholarly research, the bill has the potential to reduce the inequitable impacts on Black youth criminally charged as adults in the State.

Methodologies, Assumptions, and Uncertainties

Although some reports use disparity and disproportionality interchangeably, this racial and equity impact note distinguishes them. Disproportionality is the state of being out of proportion. It compares the proportion of one racial or ethnic group of a target population to the proportion of the same racial or ethnic demographic group in the general population. Disparity, however, refers to a state of being unequal. A disparity describes an unequal outcome experienced by one racial or ethnic group of the target population as contrast against a different racial or ethnic group in the target population.

Available data on the race and ethnicity of youth charged as adults, serving life sentences, or found guilty of first-degree murder is limited. Without additional data on youth charged as adults, the racial impact of the legislation cannot be fully determined.

The information provided in this note is drawn from quantitative data analysis of available statistical datasets on crime and criminal justice collected by entities at the national and state level. Moreover, the information includes scholarly literature on racial and ethnic disparities in the U.S. criminal justice system.

Information Sources: University of Baltimore Schaefer Center; Bowie State University; Department of Legislative Services

Analysis by: Dr. Jasmón Bailey

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