



# **RACIAL EQUITY IMPACT NOTE**

DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2023 Session  
HB0170

---

## **Minors Convicted as Adults - Sentencing - Transfer to Juvenile Court**

---

### **Bill Summary**

This bill requires a court to consider specified factors before sentencing a minor convicted as an adult. The bill also authorizes a court to transfer a minor convicted as an adult to the juvenile court for sentencing if the court determines by clear and convincing evidence the individual against whom the minor is convicted of committing the offense previously committed a sex crime (under Title 3, Subtitle 3 of the Criminal Law Article) or human trafficking (under Title 3, Subtitle 11 of the Criminal Law Article) against the minor within three months before the offense for which the minor was convicted.

---

### **Racial Equity Impact Statement**

The bill mandates courts to consider specific mitigating factors prior to sentencing juveniles who are charged as an adult. These factors may reduce the severity of sentencing after a conviction for certain serious and/or violent offenses. Evidence of adverse childhood trauma, among other things, are included in the factors the bill lists for a court to take into consideration, and state and national data indicate youth who are racial minorities experience this trauma at significantly higher rates. Thus, to the extent a court mitigates sentences or considers rehabilitation as a result of the bill, it will likely impact minority youths to a greater extent.

---

### **Analysis**

Under existing law, the juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed specified violent crimes, children age 14 and older charged with a crime punishable by life imprisonment, and children who have previously been convicted as an

adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. Juveniles meeting the criteria above are treated as adults and moved to the circuit court except in limited circumstances where a circuit court transfers the case to the juvenile court (reverse waiver). The bill mandates that a court must take the following factors into consideration before sentencing a minor convicted as an adult: (1) the age of the minor at the time of the offense; (2) the capacity of the minor for rehabilitation; (3) the minor's family/community environment; (4) the minor's ability to appreciate risks and understand the consequences of actions; (5) the intellectual capacity of the minor; (6) peer and familial pressure; (7) the level of participation of the minor in the offense; (8) the ability of the minor to meaningfully participate in the minor's legal defense; (9) the involvement of the minor in the child welfare system; (10) prior exposure of the minor to adverse childhood experiences and trauma history; (11) faith and community involvement of the minor; (12) if a comprehensive mental health evaluation of the minor was conducted by a mental health professional licensed in the State to treat adolescents, the outcome of the evaluation; and (13) any other mitigating factor or circumstance.

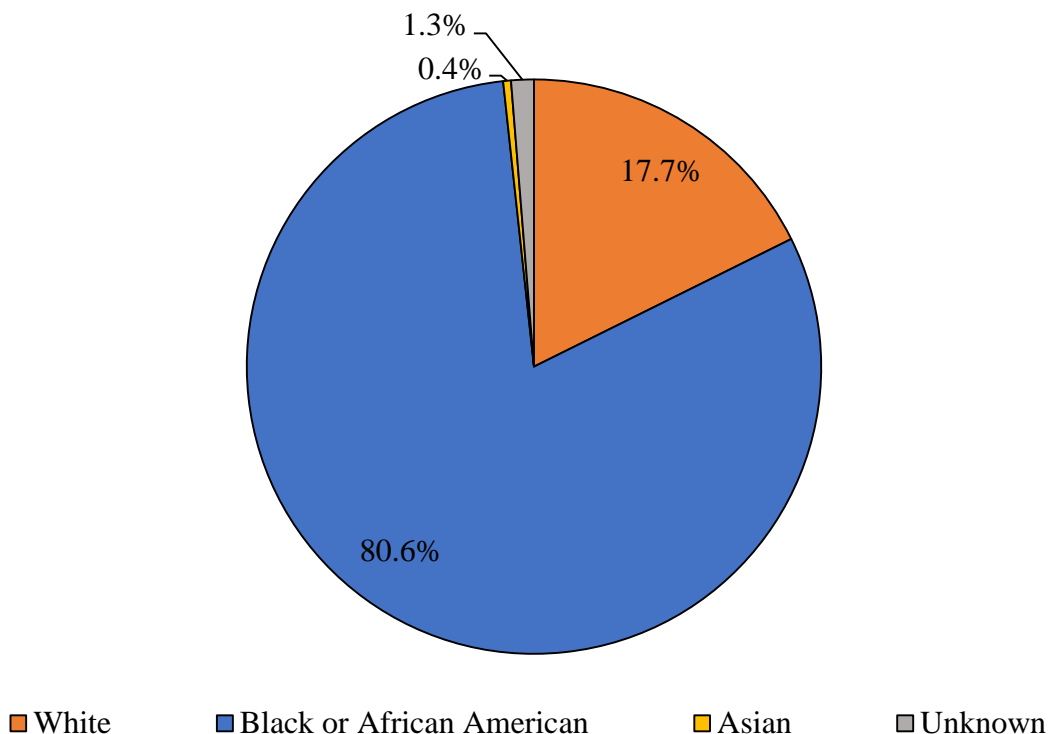
The Maryland Department of Health's Behavioral Risk Factor Surveillance System identifies items (3), (6), (9), and (10) above as potential negative influences on a minor that are consequences of other, deeper-rooted issues often referred to as "adverse childhood experiences," or "ACEs." ACEs, simply put, are traumatic childhood events that upset the child's sense of safety and well-being. Indicators of ACEs include parental absence, child and/or substance abuse, poverty, being involved in the child welfare system, and/or other traumatic factors and are disproportionately experienced by Black or African American and other racial minority youths regardless of criminal history. Minority youth are also disproportionately represented in the population of youths charged criminally as adults.

#### *Juveniles in the Criminal Justice System*

According to the Department of Public Safety and Correctional Services, 8,692 juveniles were arrested and charged as adults in the State from 2013-2022. Of the total, over 75% of these arrests were for offenses in statute that require the youth to be charged as an adult. Being charged as an adult subjects these youths to the potential collateral consequences of an adult conviction. **Exhibit 1** shows that more than 80% of these youths identified as Black or African American, making this group over seven times more likely than white youths to be charged as an adult.

---

**Exhibit 1**  
**Youth Charged as Adults by Race in Maryland**  
**2013-2022**



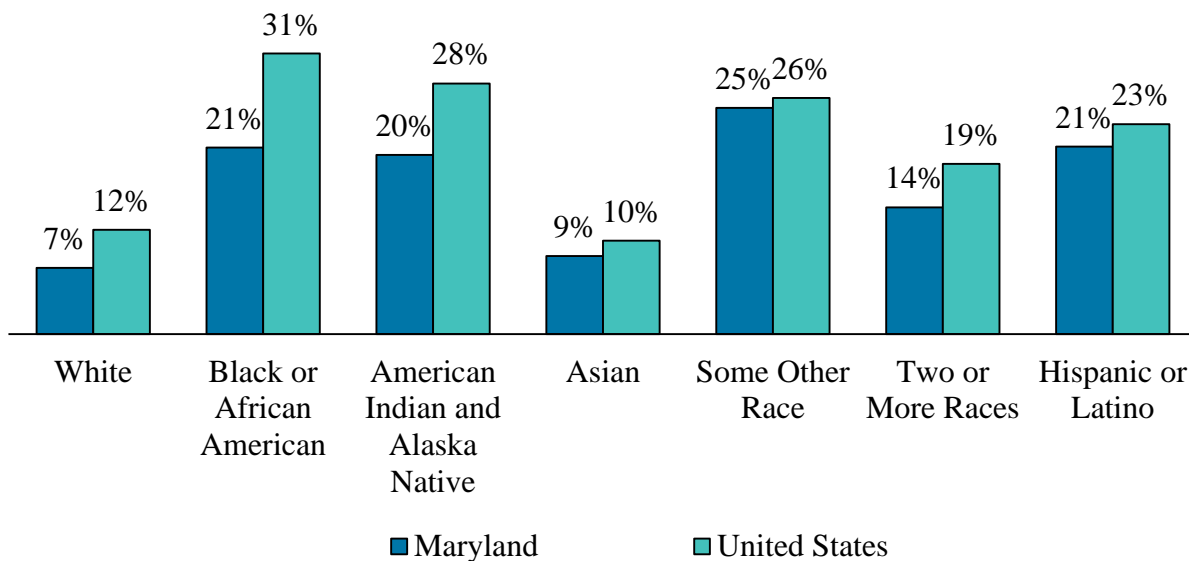
Source: Governor’s Office of Crime Prevention, Youth, and Victim Services

---

Socioeconomic data shows that minority youth, particularly Black or African American youth, experience hardships mirrored in the bill’s factors for consideration. Across the nation, racial minorities experience higher rates of traumatic barriers such as child poverty, adverse home environments classified as “child abuse,” and placement into foster care that likely contribute to one’s likelihood of criminal justice system involvement.

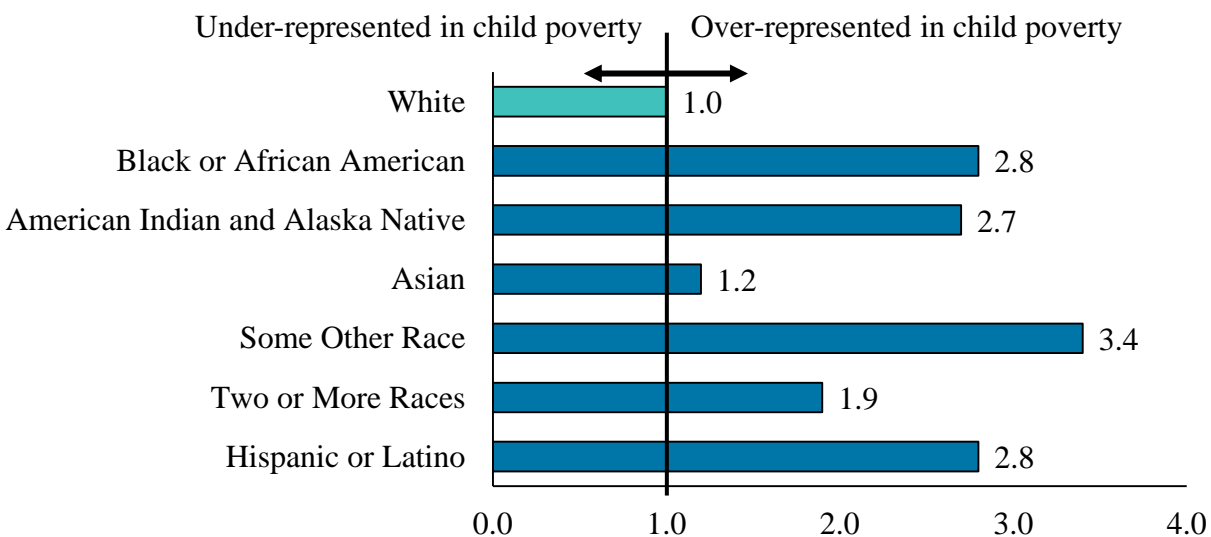
**Exhibits 2 and 3** show child poverty rates by race in Maryland and nationally in 2021 as well as the proportion of child poverty for various racial and ethnic groups compared to the white population. While Maryland’s overall child poverty rate is lower than the national average, most minority groups in the State experienced a child poverty rate of 20% or higher with the exception of the Asian and multiracial categories. This means those minority children, on average, are three times more likely than white children to experience poverty in Maryland.

**Exhibit 2  
Child Poverty by Race  
2021**



Source: Racial Equity Profile for Maryland, University of Baltimore Schaefer Center for Public Policy

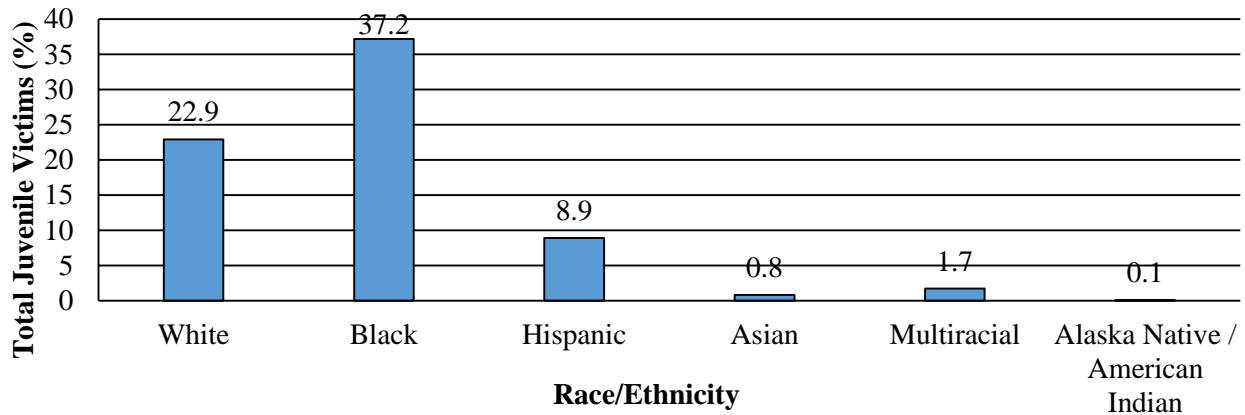
**Exhibit 3  
Ratio of Proportion of Child Poverty by Race in Maryland  
2021**



Source: Racial Equity Profile for Maryland, University of Baltimore Schaefer Center for Public Policy

In addition, as shown in **Exhibit 4**, Black or African American children stand out as victims of child abuse with a 37% child abuse rate for 2021 according to the U.S. Department of Health and Human Services. The child abuse rate for white children of 23% was also relatively high compared to the remaining racial groups. Victims of child abuse include those experiencing neglect, and physical and sexual abuse.

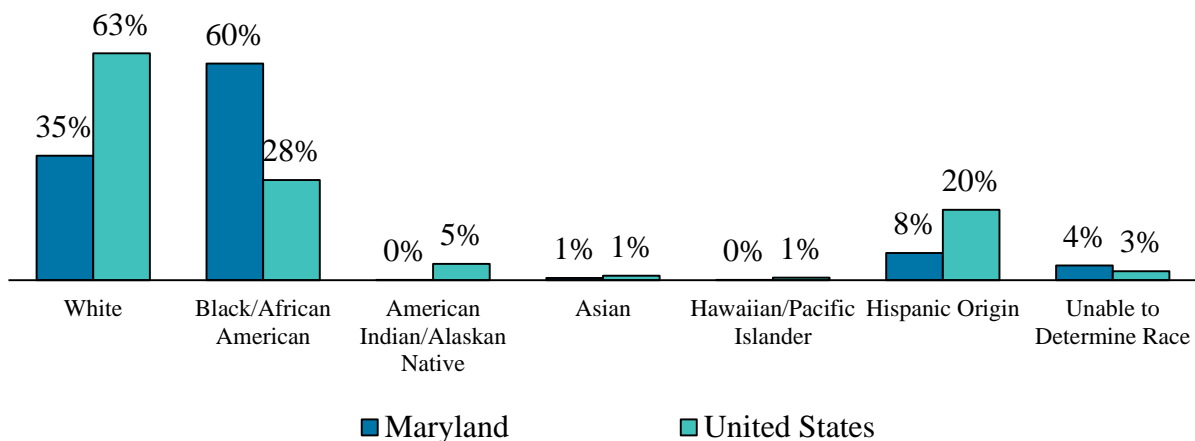
**Exhibit 4  
Juvenile Victims of Abuse by Race, Maryland  
2020**



Source: U.S. Department of Health and Human Services, Administration for Children and Families

In many instances, these factors may contribute to home environments deemed unfit for a child’s wellbeing, resulting in their entrance into child welfare systems. **Exhibit 5** shows that this is another area where Black youth are significantly overrepresented.

**Exhibit 5  
Children in Foster Care  
2021**



Source: U.S. Department of Health and Human Services, Administration for Children and Families

## Conclusion

By taking adversity into account when sentencing juveniles on adult charges, the bill's provisions could minimize harsh sentences and the concomitant potential of some youth in this category being exposed to the collateral consequences of criminal conviction later in life. Such collateral consequences include employment/income disparity, financial and housing insecurity, inadequate access to quality healthcare, and poorer overall health. Data suggests that Black or African American youth and other racial minorities are disproportionately affected by socioeconomic factors that may provide important context in sentencing situations, thus they would be more significantly impacted by the provisions of the bill. It is difficult to estimate the magnitude of the bill's effect on youth charged as adults, however, without longitudinal data to better understand the complexities and relationship between adverse childhood experiences and serious juvenile criminal activity.

---

**Information Sources:** University of Baltimore Schaefer Center for Public Policy; Maryland Department of Health; Crime in Maryland 2020 Uniform Crime Report; Department of Public Safety and Correctional Services; U.S. Department of Health and Human Services; Governor's Office of Crime Control, Youth, and Victim Services; Department of Legislative Services

**Analysis by:** Dr. Mikaela Zimmerman

**Published:** 02/03/2023

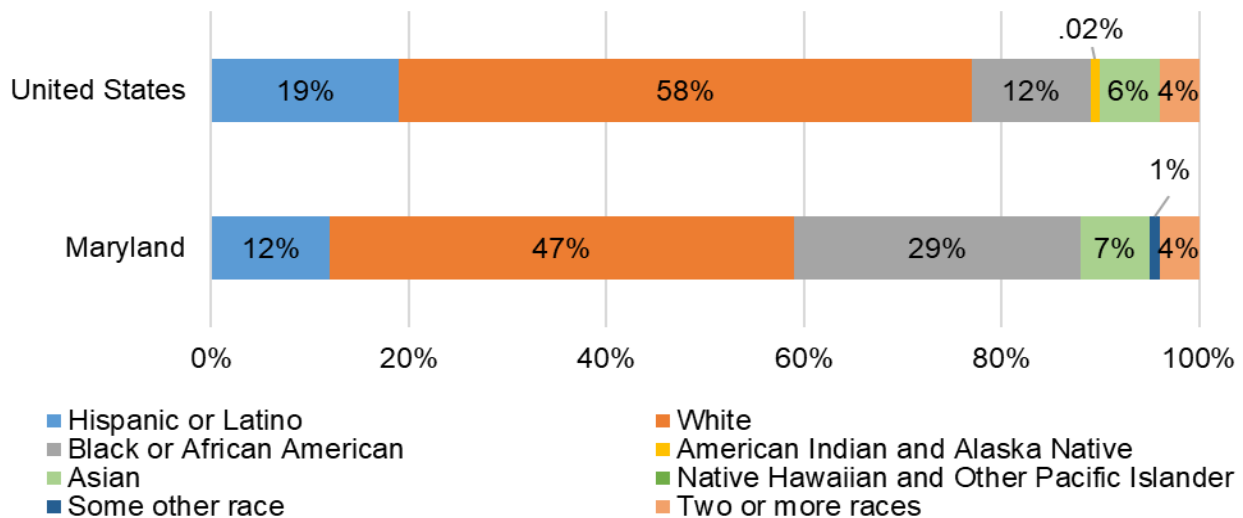
## Appendix – Maryland Demographics

### *Race and Ethnicity of the Maryland Population*

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest single race demographic group in the State of Maryland comprising 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% 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 29% of the State population identifying only as Black or African American and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

**Exhibit 1**  
**U.S. and Maryland Population by Race and Ethnicity**  
**2020**



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.