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Testimony from:

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In support of House Bill No. 842, “AN ACT concerning Juvenile Law – Informal Adjustment.”

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House Judiciary Committee

My name is Emily Mooney, and I am a resident criminal justice policy fellow at the R Street Institute, which is a nonprofit, center-right public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. As part of this mission, our Criminal Justice and Civil Liberties team evaluates policies related to our criminal and juvenile justice systems with an eye toward promoting public safety, human dignity, fiscal stewardship and strong families. Therefore, HB 842 is of special interest to us.

By increasing opportunities for informal adjustment—the more technical name for “diversion” or movement away from traditional court processing—HB 842 stands to greatly benefit youth involved in the juvenile system as well as whole communities by increasing public safety and improving state stewardship of taxpayer dollars.

Youth benefit when informal adjustment allows them to avoid the harms of formal system involvement including incarceration and a formal adjudication record. They also benefit when informal adjustment increases their access to services located within their communities, connects them with positive role models and reduces the stigmatization that often follows involvement in the juvenile justice system. Additionally, when informal adjustments work to include families and community partners in a child’s plan, they can bolster families and community partners as the first layer of defense against youth misbehavior.

Developmental research demonstrates that many children will naturally age out of criminal activity as they mature.¹ For these young people, heavy-handed interventions often do more harm than good.

¹ For a broad overview of the theoretical foundation of diversion and the various forms it can take, see: “Diversion from Formal Court Processing,” OJJDP, February 2017. https://www.ojjdp.gov/mpg/litreviews/Diversion_Programs.pdf; Richard Bonnie et al., “Reforming Juvenile Justice: A Developmental Approach,” National Research Council, 2013, pp. 5 and 91-95. http://www.njcn.org/uploads/digi- tal- library/Reforming_JuvJustice_NationalAcademySciences.pdf#page=22.

Indeed, research suggests informal adjustment or diversion generally results in better or, at worst, similar public safety outcomes than more intensive interventions such as formal probation or incarceration.²

This is backed up by recent analysis in Maryland. Here locally, young people on informal adjustment programs have had great success: A 2019 report found that only about 9 percent of youth who had their cases handled informally by the Department of Juvenile Services and were placed on pre-court supervision sustained a new offense within a year following their supervision.³ And when looking only at those youth who successfully completed informal pre-court supervision, this number drops to just 7 percent.⁴ Among young people whose cases were handled informally and resolved at intake without pre-court supervision, the recidivism rate was also 7 percent.⁵

In comparison, 15 percent of youth who had their cases formally processed and referred to the State's Attorney's Office sustained a new offense during the one-year follow-up period. Although not an apples-to-apples comparison, these estimates suggest that increasing the use of informal adjustment is likely to result in improved public safety outcomes alongside better outcomes for youth.

Greater use of informal adjustment is also likely to benefit taxpayers. Informal adjustments prioritize keeping youth in the community and are generally completed within 90 days, making them relatively concise and strategic interventions.⁶ In contrast, the formal court process can take months, and dispositions of probation and commitment can last years. In fiscal year 2019, the average length of stay for young people on probation was 450 days.⁷ And the average youth committed to a state-operated facility was held there for 125 days.⁸ All of this comes at great cost to taxpayers. In fiscal year 2019, taxpayers paid an average of \$192,355 for each bed in the Baltimore City Juvenile Justice Center alone.⁹

² Two recent meta-analyses suggest that, generally speaking, diversion either brings benefits or at the very least poses no harm to rates of recidivism. Naturally, some diversion programs are more effective than others. See, e.g., Elizabeth Seigle et al., "Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System," CSG Justice Center, 2014, p. 9. <https://docplayer.net/2322522-Core-principles-for-reducing-recidivism-and-improving-other-outcomes-for-youth-in-the-juvenile-justice-system.html>; Holly Wilson and Robert Hoge, "The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review," *Criminal Justice and Behavior* 40:5 (2013), pp. 507 and 511. http://users.soc.umn.edu/~uggen/Wilson_CJB_13.pdf; Craig Schwalbe et al., "A meta-analysis of experimental studies of diversion programs for juvenile offenders," *Clinical Psychology Review* 32:1 (November 2011), pp. 26-33. https://www.researchgate.net/publication/51850643_A_meta-analysis_of_experimental_studies_of_diversion_programs_for_juvenile_offenders.

³ Maryland Department of Juvenile Services, "Alternatives to Detention & Informal Case Processing Performance Report," Dec. 30, 2019, p. ii. https://djs.maryland.gov/Documents/publications/2019_p220-DJS-Juvenile-Services-ATD-Report.pdf.

⁴ *Ibid.* p. 14. In contrast, approximately 16 percent of youth who did not successfully complete their pre-court supervision had a new sustained complaint within a year.

⁵ *Ibid.* p. 21

⁶ *Ibid.* p. 4. They may be extended in cases in which youth are able to participate in longer mental health or substance abuse treatment programs.

⁷ Maryland Department of Juvenile Services, "Data Resource Guide: Fiscal Year 2019," December 2019, p. 23. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.

⁸ *Ibid.* p. 23.

⁹ *Ibid.* p. 204.

Only around 4 percent of youth complaints result in commitment to the Department of Juvenile Services (DJS), but state-operated facilities take up more than 47 percent of the DJS' budget—over \$127 million.¹⁰ By diverting more minors away from the justice system and working to close down expensive and outdated facilities, Maryland can funnel more of this money back into communities to prevent crime from occurring in the first place.

Ultimately, HB 842 is straightforward, good policy. Informal adjustment is a critical tool to ensure low- and medium-risk children are first held accountable in their communities, and it has a long history of promoting public safety. By allowing judges to send more youth cases back to the DJS, we should expect to see similar positive outcomes for Maryland's kids.

Thank you for your time,

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¹⁰ Ibid. p. 7, 12.