



To: The Honorable William C. Smith, Jr.
From: Advocates for Children and Youth
Re: Senate Bill 853: Juvenile Law - Juvenile Justice Reform
Date: February 28, 2021
Position: Support

Dear Chairman Smith and Honorable Members of the Committee.

Advocates for Children and Youth (ACY) was founded in 1987 by a group of prominent child advocates in Maryland who saw the need for an independent organization to advocate for the needs of the state's children and families in the community, the media, and the public policy arena. Today, ACY builds a stronger Maryland by advancing policies and programs to ensure children and families of every race, ethnicity, and place of birth achieve their full potential.

ACY supports Senate Bill 853: Juvenile Law - Juvenile Justice Reform as it is the partial work product of the Juvenile Justice Reform Council (JJRC).¹ This bill focuses on four (4) sweeping policy changes to Maryland's Annotated Code that undoubtedly will improve Maryland's juvenile justice system. The areas of policy change include:

1. Minimum Age of Jurisdiction;
2. Juvenile Detention Utilization;
3. Juvenile Community Supervision/Probation; and
4. Juvenile Diversion

1. Minimum Age of Jurisdiction

Maryland currently does not have a minimum age of prosecution for kids charged with crimes. Unfortunately, children as young as six (6) years of age have faced arrest and the prospect of entering the juvenile justice system despite not having the capacity to formulate the requisite mens rea with respect to a crime. In the fiscal year 2020, 9.8% of the Department of Juvenile Services (DJS) intake complaint decisions involved children twelve (12) years of age and under.² Sadly, the charging of young children impacts communities of color more disproportionately, with Black children comprising more than two-thirds of the complaints.

Fifteen states or territories have a statutory minimum age of ten (10) years of age.³ Four (4) states have set

¹ [The JJRC's Final Report](#) describes the JJRC as follows, "The JJRC is a diverse, inter-branch, bipartisan group of juvenile justice stakeholders from across the state. In addition to legislators, the Council consists of representatives from the judiciary, prosecutorial and defense bars, state child-serving agencies, law enforcement, and various representatives from national and local organizations with experience in juvenile justice policy reform."

² [DJS Data Resource Guide Fiscal Year 2020](#). In 2020, DJS 14,913 formal complaints. As stated above, 9.8% of the complaints involved children thirteen (13) years of age, which translate to 1,461 children.

³ American Samoa; Arkansas; Arizona; Colorado; Kansas; Louisiana; Minnesota; Mississippi; Nevada; North Dakota Pennsylvania; South Dakota; Texas; Vermont (except for murder for which there is no age limit); and Wisconsin.



higher statutory minimum ages for juvenile court jurisdiction. Nebraska statutorily set its minimum age at eleven (11). Massachusetts is at age twelve (12) with no exceptions. California is also at age twelve (12) with exceptions for murder, rape by force, sodomy by force, oral copulation by force, and sexual penetration by force. Utah is also at age twelve (12) with the exception for cases of young children who are accused of murder, felony aggravated assault, aggravated sexual assault, aggravated robbery, aggravated kidnapping, and the felony discharge of a firearm. SB 853 takes a similar and equitable hybrid approach as California and Utah with a higher general minimum age of prosecution at thirteen (13) years of age and a delineated violent crime floor for children ten (10) years of age and older.

2. Juvenile Detention Utilization

SB 853 would prohibit the out-of-home placement of justice-involved youth for misdemeanor offenses or technical violations of probation. In the fiscal year 2020, fifty-five percent (55%) of Maryland young people received out-of-home placements for misdemeanor offenses.⁴ Maryland's cost for secure confinement is a staggering \$414,929 per year per child, more than double the national average of \$214,620.⁵ The return on such investment is bleak as extensive research shows that secure youth incarceration increases the likelihood of recidivism and harms educational attainment, lifetime wages, and future health outcomes for youth. Additionally, out-of-home placement settings have proven to be a primary vector for spreading the COVID-19 virus.

For far too long, this state has utilized traditional punitive correctional approaches that have proven ineffective. Maryland must stop sending youth to out-of-home placements for misdemeanor offenses and violations of probation and instead focus on creating a strength-based, therapeutic milieu with evidence-based community alternatives to placement that have been proven to reduce recidivism rates

3. Juvenile Community Supervision/Probation

SB 853 takes a meaningful step in restructuring the amount of time that a young person can be on juvenile court probation, thus breaking the seemingly endless cycle of justice system involvement for youth offenders. SB 853 would set a maximum initial term of probation at six (6) months for misdemeanors (max extension twelve (12) months), twelve (12) months for most felonies (max extension forty-eight (48) months), and a maximum of twenty-four (24) months for the most serious crimes (max extension to age of twenty-one (21) years old).

Surveillance-oriented probation is the most common response to crime in juvenile court. According to the DJS, 23% of juvenile court actions for formalized cases resulted in probation. Similarly, violations of probations resulted in 27% of justice-involved youth being commitment during that same time period.⁶ Unfortunately, juvenile probation often reflects the same racial disparities all too common throughout the juvenile justice system as a whole.

⁴ [DJS Data Resource Guide - Fiscal Year 2020](#) at page 154.

⁵ [Just Policy Institute - \[POLICY BRIEF 2020\] Sticker Shock: The Cost of Youth Incarceration](#)

⁶ [DJS Data Resource Guide - Fiscal Year 2020](#)



Like adult probation, the punitive, fear-based nature of the juvenile justice system perceives justice-involved youth as public safety risks who need to be closely supervised and confined when they run afoul of that supervision. Experts agree that this structure is developmentally inappropriate and ultimately ineffective for the youth and our State as a whole. It is therefore essential that youth probation be designed to ensure young people have a meaningful opportunity to participate and be successful in a finite, developmentally appropriate period of probation if imposed.

4. Juvenile Diversion

DJS defines diversion as “a program or practice where the primary goal is to reduce the occurrence of juvenile crime by diverting youth from the traditional juvenile justice system and providing an alternative to formal processing.” Diversion of justice-involved youth should be utilized more comprehensively and equitably in Maryland. SB 853 makes it easier for stakeholders to return a case for informal processing, eliminating the requirement that a complaining witness consent to diversion, and allowing more types of offenses to qualify for pre-court diversion. Through layered wrap-around services resources, diversion offers a genuine and more expeditious opportunity at rehabilitation.

For all the reasons stated, ACY urges this committee to issue a favorable report on SB 853. Should you have any questions about this testimony, please contact Mariama Boney, Interim Executive Director for Advocates for Children and Youth (ACY), at mboney@acy.org.