



Senate Bill 853 – Juvenile Law – Juvenile Justice Reform

Presented to the Honorable Chair William Smith, Vice Chair Jeffrey Waldstreicher, and
Members of the Judicial Proceedings Committee

POSITION: SUPPORT

Testimony of The People's Commission to Decriminalize Maryland

The People's Commission to Decriminalize Maryland strongly supports Senate Bill 853, sponsored by Senator Carter, and we urge the House Judiciary Committee to issue a favorable report on this bill. The People's Commission was created to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability, or socioeconomic status.

Maryland's legal system contains many laws that unnecessarily bring young people, and disproportionately youth of color, to the attention of the justice system.¹ Most often, this is for behaviors that are either typical adolescent behaviors or a reflection of how we have marginalized large segments of Maryland's youth. Most young people's contact with the system results from someone labeling typical adolescent behavior, or behavior stemming from trauma, abuse, neglect, or poverty, as "criminal" conduct – instead of seeing that behavior as an indicator of a need for support to help that young person thrive.

Senate Bill 853 would make many long overdue and common-sense changes to Maryland's youth justice system that are aligned with recommendations released by the People's Commission in November 2020.² These changes include:

- Limiting the definition of delinquent act to exclude criminalizing behaviors that should be handled within schools with student support and appropriate consequences, and expanding the ability of law enforcement to use citations in lieu of arrest and referral to

¹ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pg. 22 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf (showing that youth of color are 2.56 times more likely than white youth to be referred to juvenile court/intake).

² People's Commission to Decriminalize Maryland, *Policy Recommendation Outline* (November 2020), available at <https://www.decrimmaryland.org/post/people-s-commission-releases-policy-recommendation-outline>.

DJS.

- Excluding youth under the age of 13 from the jurisdiction of the juvenile court, except in limited circumstances. In Fiscal Year 2019, 1,882 complaints were referred to DJS intake for youth age 12 and under, with 83% of the most serious charges in those referrals being misdemeanors.³ Black youth represented two-thirds (65.8%) of referrals to DJS for youth age 12 and under.
- Expanding the opportunity to use of informal adjustments in lieu of formal court processing, mandating diversion in certain situations, and establishing standards for diversion throughout the state. In Fiscal Year 2019, 81% of referrals to the Maryland Department of Juvenile Services were for status offenses, citations, ordinance violations, and misdemeanor offenses.⁴ Studies show that formal interventions by the juvenile justice system do more harm than good for a large percentage of youth and are associated with higher rates of future contact with the justice system as compared with the use of diversion.⁵ Importantly, the legislation limits an alleged victim's ability to veto a decision to use an informal adjustment to resolve a referral. This type of veto power does not exist in the adult system, and it has no place in the youth justice system when we know justice system can have lifelong negative consequences for a child and public safety.
- Limiting the use of detention and out-of-home placements for technical violations of community supervision and low-level offenses. In Fiscal Year 2019, judges ordered 767 committed out-of-home placements, 78.9% of which were for youth of color.⁶ Of those placements, almost 60% (58.1%) were for youth who had been adjudicated for a misdemeanor as their most serious charge.

SB 853 would take an important step toward expanding equitable access to diversion and reducing unnecessary incarceration of young people throughout the state. **For these reasons, the People's Commission to Decriminalize Maryland strongly supports SB 853 and urges the Committee to issue a favorable report.**

³ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pgs. 26-27 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.

⁴ *Id.* at 22.

⁵ Wilson, H. A., & Hoge, R. D. (2013). The effect of youth diversion programs on recidivism: A meta-analytic review. *Criminal Justice and Behavior*, 40(5), 497–518. <https://doi.org/10.1177/0093854812451089>

⁶ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pg. 144 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.