



## Montgomery County Commission on Juvenile Justice

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March 2, 2023

### **OPPOSED**

### **House Bill 698 Juvenile Law – Juvenile Court Jurisdiction – Age of Child**

Dear Chairman Clippinger and Members of the House Judiciary Committee:

My name is Melissa Coretz Goemann and I am submitting this testimony in opposition to HB 698 on behalf of the National Juvenile Justice Network (NJJN) and the Montgomery County Commission on Juvenile Justice (MC CJJ). I am the Senior Policy Counsel for NJJN and am Co-Vice Chair of MC CJJ.

NJJN is a membership organization focused on youth justice reform, which is comprised of 60 state-based organizational members and nearly 100 Youth Justice Leadership Institute (YJLI) members and alumni in 42 states across the country, including Maryland. MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning youth justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring youth justice programs and services, visiting facilities, closely following relevant state and local legislation, and making recommendations regarding youth needs.

Both NJJN and MC CJJ are strongly opposed to HB 698. Only a year ago this committee approved and the General Assembly passed legislation establishing age 13 as the minimum age of juvenile court jurisdiction for most offenses, with an exception for children at least ten years of age that are alleged to have committed a crime of violence. Before this law passed, Maryland ranked as one of the worst states in the country at protecting the human rights of children in the juvenile justice system. The legislative package that passed last year was based on many of the

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recommendations of the Juvenile Justice Reform Council (JJRC), created by the Maryland General Assembly in 2019. This diverse and bipartisan group of stakeholders researched best practices regarding the treatment of youth and made recommendations to limit or otherwise mitigate risk factors that contribute to contact with the criminal and juvenile justice systems.

Establishing a minimum age of 13 years old for prosecuting most youth offenses was a big step forward for Maryland in protecting the human rights of children, though age 13 is still younger than the international norm and recommended minimum age for prosecuting children. In 2019, the United Nations Committee on the Rights of the Child urged nations to set their minimum age of criminal responsibility **to at least 14 years old** without allowing any exceptions to be carved out to this minimum age.<sup>1</sup> The United Nations Global Study on Children Deprived of Liberty also called on countries to set the minimum age of prosecution in juvenile court at 14 years old.<sup>2</sup> As the United Nations Global Study stated, “depriving children of liberty is depriving them of their childhood.”<sup>3</sup>

It would be a travesty to throw Maryland backwards in protecting the human rights of children by pushing the minimum age from 13 years old, as this committee just approved last year, to the young age of 11 years old. Legal experts and social scientists have voiced significant concerns regarding younger teen’s competency to understand and exercise their legal rights in any meaningful way.<sup>4</sup> A 2003 study found that “juveniles aged 15 and younger are significantly more likely than older adolescents and young adults to be impaired in ways that compromise their ability to serve as competent defendants in a criminal proceeding.”<sup>5</sup> They further found that in terms of capacities relevant to competence, approximately one-third of 11 to 13-year-olds and one-fifth of 14 to 15-year-olds were “as impaired . . . as are seriously mentally ill adults who would likely be considered incompetent to stand trial by clinicians who perform evaluations for courts.”<sup>6</sup>

There are many tools, other than arrest, that can be used to address harmful behavior and respond to young children that are facing challenges. For example, first responders can refer a child to the Department of Mental Health, the Department of Social Services, or to the [Local Care Team](#) (LCT). The Local Care Team (LCT) is a multidisciplinary team that [exists in every county](#) in the state. The LCT can identify and put into place the appropriate services for young people facing challenges that arise from housing instability, neglect, mental health concerns, poverty, learning

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<sup>1</sup> United Nations Convention on the Rights of the Child (CRC), Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children’s Rights in the Child Justice System* (2019): 6, CRC/C/GC/24,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?DocTypeID=11&Lang=en&TreatyID=5](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?DocTypeID=11&Lang=en&TreatyID=5)

<sup>2</sup> United Nations, General Assembly, “Global Study on Children Deprived of Liberty: report of the Independent Expert,” A/74/136 (11 July 2019): 20, available at <https://undocs.org/en/A/74/136>.

<sup>3</sup> *Ibid.*, 4.

<sup>4</sup> Commission on Youth Public Safety and Justice, *Final Report of the Governor’s Commission on Youth, Public Safety and Justice*, 37.

<sup>5</sup> Thomas Grisso, Laurence Steinberg, Jennifer Woolard Elizabeth Cauffman, Elizabeth Scott, Sandra Graham, Fran Lexcen, N. Dickon Reppucci, and Robert Schwartz, “Juveniles’ Competence to Stand Trial: A Comparison of Adolescents’ and Adults’ Capacities as Trial Defendants,” *Law and Human Behavior* 27(4) (2003): 333–63, 356, <https://bit.ly/3aTun7A>.

<sup>6</sup> *Ibid.*



difficulties, developmental delays, and the myriad of environmental factors that impact a child's behavior, but over which they personally have very little control. The LCT can work with the family, school, and community to ensure that services are offered expediently instead of the months-long delay in services that exists within the juvenile court process.

We strongly urge this committee reject HB 698 and continue to support the bill you passed last year establishing a minimum age of juvenile court jurisdiction of 13 years old for most offenses. Thank you for your consideration.

