



BILL: Senate Bill 94 - Juvenile Law – Intake and Probation
FROM: Maryland Office of the Public Defender
POSITION: Unfavorable
DATE: February 12, 2024

“I think the best we can do is give our young people a chance to make the best decisions possible by providing them with the information and the tools and the support they need.”

Wes Moore, *The Other Wes Moore: One Name, Two Fates*

Leaders in the Maryland General Assembly have consistently expressed their commitment to providing rehabilitative supports to children in crisis and at risk as soon as practicable, and yet this bill does the opposite. It erects unnecessary barriers for timely interventions, it narrows the eligibility of proven diversion programs to the youth who could most benefit from them, and it exacerbates racial disparities between children who get to access non-carceral and non-punitive options to address their harmful behavior and the Black and brown children who are denied those opportunities. To prevent the rollback of diversion opportunities for children who will benefit and succeed from them, the Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 814.

Diversion works incredibly well at reducing recidivism and providing immediate implementation of services for kids and families who need them most. According to the Department of Juvenile Services 2023 Data Resource Guide, 92.4 % of children whose cases were diverted in FY 2021 had no new sustained offense within a year, and approximately 80% of young people who participate in diversion services successfully complete them. However, rather than expanding on these undeniably successful programs and empowering intake officers to connect children with services from the outset, HB 814 severely undermines these efforts.

HB 814 reinforces a bureaucratic hurdle that requires that DJS forward all complaints of non-violent felonies to the State’s Attorney for approval of informal adjustment. It also adds an additional barrier to diversion by requiring DJS forward all complaints, no matter how minor, to the State’s Attorney if the child is under DJS supervision. This effectively vests the State’s Attorney with all decision-making authority regarding diversion options for these cases—agencies that have little to no information regarding the child’s background or needs, and no proactive services to offer of their own. Ironically, it also means that fewer children will receive actual services or supervision: in FY19, 46% of all juvenile cases forwarded to the State’s Attorney for petitioning of formal charges did not result in court ordered probationary or commitment services, mostly due to dismissal, nolle pros, or stet of the cases. As a result, the window of opportunity to intervene and redirect their path towards positive outcomes narrows, increasing

the likelihood of further entrenchment in delinquent behavior or involvement with the justice system.

Finally and fundamentally, HB 814 exacerbates the wide racial gulf in which children we deem “worthy” of receiving non-punitive and rehabilitative support, and those we deem only suited to formal (and long-lasting) embedding in the criminal justice system. According to DJS, youth of color were well over twice as likely to have their cases referred to DJS, 50% more likely to have their cases petitioned with formal charges, and over 30% less likely to have their cases referred to diversion. Black youth were the least likely to receive diversion for low-level offenses. This less-discussed but still robust pipeline unquestionably contributes to the stark racial disparities throughout the criminal justice system.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 814.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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