

CHILDREN HAVE THE RIGHT TO REMAIN SILENT



Support HB 624/SB 593



Every day in Maryland, children entangled in the criminal legal system are questioned without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to. This is particularly dire for Black and Brown children, who are overpoliced.

WHAT IS DUE PROCESS?

Due Process is the legal requirement that the state must respect a child's right to remain silent.

MARYLAND'S CHILDREN DESERVE DUE PROCESS

The right to counsel for children was established in 1967 with the landmark case *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967). The Supreme Court held in *Gault* that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated.

Maryland has no uniform process to appoint public defenders and no eligibility criteria for indigency. Parents with low income who need public defender services for a child face confusing procedures that vary from county to county. Parents may not have the required financial documentation or \$25 intake fee to apply for services immediately or may not be aware that they must apply within a certain time period.

Black and Brown Children are the Most Harmed

- 90% of all children arrested in Baltimore are Black. However, only 64% of the city's children are Black.²
- Black children are overpoliced. Of the 14,000 complaints made against youth of color, 90% of complaints against Black children are filed by the police (including school police and school resource officers).³

Children with Disabilities Fare Worse in Our Legal System

- Students with disabilities were referred to law enforcement 16% more often than students without disabilities.⁴
- In 2015-2016, Maryland students with disabilities made up 11% of the student population, but 22% of school-related arrests.⁵

Young Children are the Most Vulnerable

- Over 30,000 children under 10 have been arrested in the US from 2014 to 2018.⁶
- In Maryland, children as young as seven years old can be ensnared in the criminal legal system.⁷

Children Make Better Decisions with Legal Support

- In a 2013 study of Maryland counties, in 1/3 of the counties visited in the study, 40% to 58% of children routinely waived their right to counsel.⁸
- Studies show that children waive their Miranda rights at a rate of 90% and make false confessions at a higher rate than adults.⁹

Legal Support for Children Can Help End

Support our children's legal rights!

MARYLAND'S CHILDREN DESERVE BETTER

the School-to-Prison Pipeline

- Over 3,000 arrests were made in Maryland schools in the 2017-2018 school year.¹⁰
- In 2015-2016, school-based arrests in Maryland were more than double the national average.¹¹
- Every school-based arrest creates a risk that children will further entangle themselves in the criminal legal system by not getting legal counsel.
- In Maryland, Black students are more likely to be arrested in school than all other racial or ethnic groups combined!¹²

¹<https://www.ncjrs.gov/pdffiles1/ojjdp/204063.pdf>

²<https://www.baltimoresun.com/news/crime/bs-md-ci-youth-assessment-20190417-story.html>

³<https://djs.maryland.gov/Documents/DRG/Youth-of-Color.pdf>

⁴<https://www.gao.gov/assets/700/690828.pdf>

⁵<https://education.umd.edu/research/centers/mep/research/k-12-education/when-law-enforcement-meets-school-discipline-school>

⁶https://www.ojjdp.gov/ojstatbb/structure_process/qa04102.asp?qaDate=2016

⁷<https://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf>

⁸<https://jlc.org/issues/youth-interrogations>

⁹<https://abcnews.go.com/US/30000-children-age-10-arrested-us-2013-fbi/story?id=65798787>

¹⁰<http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf>, p. 125

¹¹<https://education.umd.edu/research/centers/mep/research/k-12-education/when-law-enforcement-meets-school-discipline-school> (Maryland reported 2,759 school-related arrests in the 2015-16 school year. With a statewide enrollment of 879,196, the arrest rate was 3.1 arrests for every 1000 Maryland K-12 public school students. Comparatively, in 2015-16 the national school-related arrest rate was 1.2 per 1000 students)

¹²<http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf>, p. 125