



Public defender: Juvenile gun possession should not be adult charge

By: Steve Lash Daily Record Legal Affairs Writer January 17, 2018

ANNAPOLIS – The Maryland public defender's office Wednesday urged the General Assembly to pass legislation barring children from being charged as adults for gun offenses unless they actually used the weapon in a violent crime, saying the juvenile justice system must recognize the vulnerability of youth.

Under current law, juveniles may be charged as adults for merely wearing, carrying or transporting a firearm. Such enhanced charging – and a potential adult-sized prison sentence – runs counter to the “deliberate and measured approach” courts should take toward treating rather than punishing young offenders who were not violent participants, Melanie Shapiro, the public defender's director of juvenile justice policy, told the House Judiciary Committee.

Under the public defender's proposal, prosecutors would have the discretion to charge a juvenile as an adult in cases they believe appropriate, such as when the youngster was the principal offender, and not just an accomplice, or used actual force or violence. In each case, the prosecution should examine whether the juvenile's “individual action” warrants the enhanced charge, Shapiro added.

The proposal, which has yet to be introduced in the General Assembly, received initial support from House Judiciary Committee Chair Joseph F. Vallario Jr.

The veteran lawmaker said he was not chair when the law making juvenile gun possession an adult offense was passed, a decades-old vote he characterized as a careless error.

“We just didn't read the bill carefully,” added Vallario, D-Prince George's.

Racial inequity

The gun-crimes discussion arose during a Judiciary Committee briefing on juvenile justice issues.

Sam J. Abed, secretary of the Department of Juvenile Services, told the panel that non-violent misdemeanors are down more than 50 percent statewide since 2008 but the drop is greater for white offenders, as it is in other states. The department is examining whether the racial inequity results from structural problems in the state's juvenile justice system.

The problems “may be inadvertent but their impact is definitely being seen,” Abed said. “Once we identify things, we have to implement reforms.”

The department must also reduce the time juvenile offenders charged as adults must wait for a transfer hearing on whether they should be charged as juveniles, Abed said. Currently, the average wait is 139 days statewide and 180 days in Baltimore city, he said.

“We need to get some traction on processing these cases,” Abed told the committee.

The department has made strong gains in ensuring that young offenders charged with non-violent misdemeanors are directed away from the criminal justice system and toward drug- and mental-health treatment when appropriate, he said. The aim is “accountability” not “criminalization,” Abed told the committee.

He used the example of teenagers fighting, which could be treated as second-degree assault but should be handled through helpful intervention, as fistfights are common among adolescents.

The department chief also said treatment rather than punishment is generally warranted for children being used as couriers by adult drug dealers.



"I don't believe we should punish the kid for being exploited," Abed said.

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