

Racial and Ethnic Impact Statement

2022 General Assembly Session

****Updated for Substitute****

Bill number: SB 134 (Substitute); Raises the maximum age for delinquency matters in juvenile and domestic relations courts

Review requested by: Chairman Edwards; Senate Judiciary Committee

Date: February 2, 2022

JLARC Staff Assessment of Potential for Disproportionate Impact

SB 134 would raise the maximum age for delinquency matters in juvenile and domestic relations district court (J&DR court) from persons under 18 years of age to persons under 21 years of age. This would result in a shift in the adjudication of criminal cases involving individuals ages 18–20, classified as underage persons under the bill, from general district and circuit courts to J&DR courts.

JLARC staff estimate that several racial differentials would result from the enactment of SB 134. The largest shift in adjudications to J&DR court would come from general district court, where Black underage persons are about 1.4 times more likely to have cases adjudicated for criminal offenses relative to their share of the general population. A smaller number of adjudications would shift to J&DR court from circuit court, but the racial differential is larger, as Black underage persons are about two times more likely to have cases adjudicated for a criminal offense in circuit court relative to their share of the general population.

An explanation of the JLARC staff review is included on the following pages.

Bill summary

SB 134 would raise the maximum age for delinquency matters in juvenile and domestic relations district court (J&DR court) from persons under 18 years of age to persons under 21 years of age. The bill also creates a new category of “underage persons,” who are individuals 18 years of age or older but less than 21 years of age, and adds underage persons to all provisions regarding delinquency proceedings in J&DR court.

Under current law, youth may be adjudicated for delinquency matters in J&DR court only for offenses that were committed prior to age 18. By raising the age of jurisdiction for delinquency matters up to 21, SB 134 would allow underage persons to have their cases resolved in J&DR court for offenses that were committed after age 17 but before age 21. This would allow these individuals to receive dispositions and rehabilitative services through the juvenile justice system.

Impact on aggregate criminal justice outcomes

SB 134 would shift the cases of individuals ages 18–20, classified as underage persons under the bill, to J&DR court. Under current law, these cases are adjudicated in general district court or circuit court. Most of the shift would occur in general district court, where less serious criminal cases, which are more numerous, are adjudicated. However, there would likely also be a shift for some criminal cases currently adjudicated in circuit court. From 2018 to 2021 for individuals ages 18 to 20, an average of 25,000 individuals per year were defendants in criminal cases in general district court, and an average of 1,900 individuals were defendants in criminal cases in circuit court, excluding individuals charged with the most serious offenses, which would still be tried in circuit court.

SB 134, as introduced, would also increase the amount of time juveniles must wait for automatic expungement of their records. The substitute for the bill would eliminate this impact.

SB 134 would provide rehabilitative dispositions for underage persons through the juvenile justice system

Resolving the cases of underage persons in J&DR court would allow these persons to receive dispositions and rehabilitative services through the juvenile justice system. Under current law, these individuals are only eligible to receive sanctions under the adult criminal system, which may include fines, jail, probation, or prison. Cases resolved in J&DR court generally result in less severe sanctions and greater access to

rehabilitative services. In addition, some juveniles who commit less severe offenses are eligible to have their cases diverted from the system and handled without court involvement. These youth instead participate in community service, counseling, or other programs. Under SB 134, similarly situated underage persons ages 18-20 would now also be eligible for diversion.

Juveniles found delinquent for more serious offenses and who are committed to the custody of the Department of Juvenile Justice (DJJ) receive rehabilitative services to address their criminogenic risk factors and reduce their likelihood of re-offending. Under SB 134, underage persons could also be committed to DJJ custody for offenses committed after age 17 and would receive similar rehabilitative programming.

Evidence of Differential Impacts on Racial or Ethnic Subgroups

To estimate whether there would be differential racial impacts resulting from SB 134, JLARC staff assessed (1) the racial differences among underage persons whose criminal cases currently are adjudicated in general district court whose cases would now be resolved in J&DR court; and (2) the racial differences among underage persons whose criminal cases currently are adjudicated in circuit court whose cases could now be resolved in J&DR court.

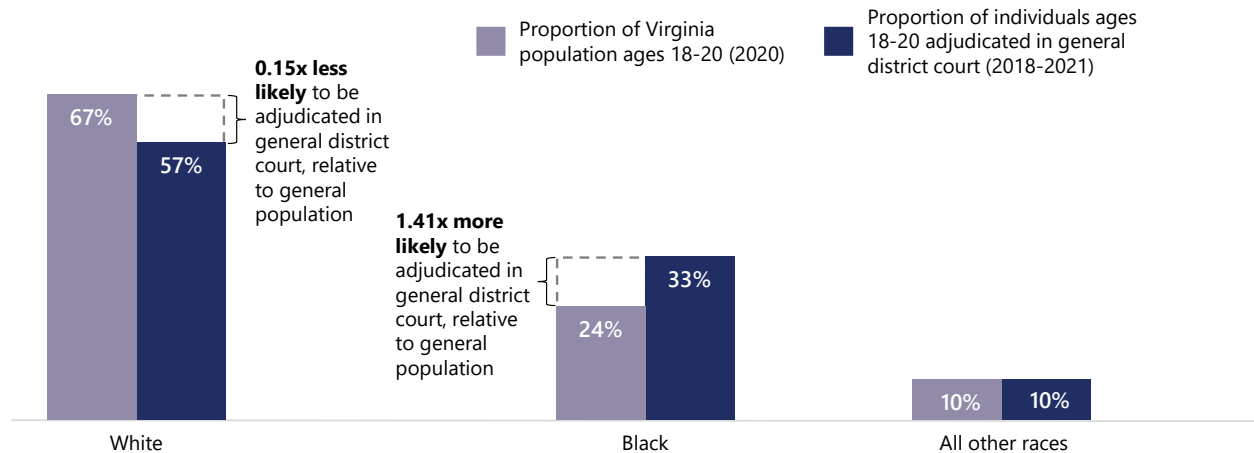
There would also be a racial differential in the proportion of juveniles who would have to wait longer for automatic expungement of their delinquency records under the introduced version SB 134, as Black youth are about two times more likely to have juvenile records pending expungement relative to their share of the youth population. This differential impact would be eliminated under the substitute for the bill that would remove the provisions related to expungement.

SB 134 would result in a moderate racial differential for Black underage persons who otherwise would have their cases adjudicated in general district court

To estimate any racial differentials for individuals who would have had their cases adjudicated in general district court but whose cases would be resolved in J&DR court under SB 134, JLARC staff compared the racial composition for underage persons whose cases were adjudicated in general district court from 2018–2021 to the racial composition of Virginia’s population ages 18–20 (Figure 1). There would be a moderate racial differential for individuals whose criminal cases currently are adjudicated in general district court but whose cases would be resolved in J&DR court under SB 134, as Black underage persons are about 1.4 times more likely to have their cases adjudicated

in general district court relative to their proportion of Virginia’s population. Dispositions appear to be similar by race for criminal cases adjudicated in general district court.

FIGURE 1
Black underage persons 1.4 times more likely to be defendants in criminal cases adjudicated in general district court, relative to general population



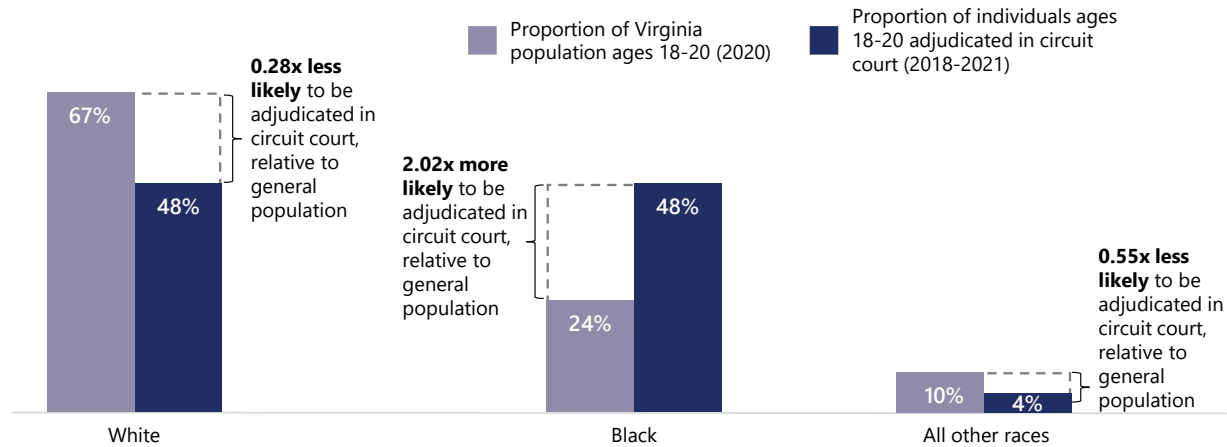
SOURCE: Population data from U.S. Census Bureau; general district court data from the Office of the Executive Secretary of the Virginia Supreme Court.

NOTE: Excludes (1) individuals charged solely with traffic infractions and (2) individuals adjudicated in general district court whose age at the court filing date was over 20.5 years old on the assumption that the disposition would not be made before age 21, at which point J&DR court would no longer have jurisdiction.

SB 134 could result in a larger racial differential for Black underage persons who otherwise would have their cases adjudicated in circuit court

To estimate any racial differentials for individuals who would have had their cases adjudicated in circuit court but whose cases likely would be resolved in J&DR court under SB 134, JLARC staff compared the racial composition for underage persons whose criminal cases were adjudicated in circuit court from 2018–2021 to the racial composition of Virginia’s population ages 18–20 (Figure 2). Although fewer individuals have criminal cases adjudicated in circuit court than general district court, the racial differential for these individuals as a result of SB 134 could be larger. Black underage persons are about two times more likely to have their cases adjudicated in circuit court relative to their proportion of Virginia’s population. Dispositions appear to be similar by race for criminal cases adjudicated in circuit court.

FIGURE 2
Black underage persons two times more likely to have criminal cases adjudicated in circuit court, relative to general population



SOURCE: Population data from U.S. Census Bureau; circuit court data from the Office of the Executive Secretary of the Virginia Supreme Court and Fairfax County Circuit Court.

NOTE: Excludes (1) individuals who had at least one charge that, pursuant to § 16.1-269.1, would require a mandatory transfer to circuit court or that could be transferred at the prosecutor’s discretion, and would therefore likely still be adjudicated in circuit court under SB 134; (2) individuals charged solely with traffic infractions; and (3) individuals adjudicated in circuit court whose age at the court filing date was over 20.5 years old on the assumption that the disposition would not be made before age 21, at which point J&DR court would no longer have jurisdiction.

Patron: Senator Edwards

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