

Written Testimony for the Record to the
Maryland Senate
Education, Health, and Environmental Affairs Committee
Submitted by the
Nationwide NAACP and the Maryland State NAACP
February 18, 2020

SUPPORT
Education - Juvenile Services Education System - Establishment, Powers, and Duties
(SB798)

The following testimony is submitted on behalf of the national NAACP and the Maryland State NAACP.

It has long been documented that students placed in almost all of the Maryland detention centers have not been receiving appropriate education as guaranteed under Article 8 of the Maryland Constitution. This dilemma and the associated inequities have persisted even before the juvenile education services were transferred to MSDE. In fact, the problem had become so dire that the state NAACP filed a complaint with the federal Office of Civil Rights. That complaint recorded voluminous cases where children, most of whom are African American and many with special needs, were not being sufficiently educated and centers were not functioning to provide adequate educational services. While the NAACP on both the national and local levels recognizes certain efforts by MSDE to address the issue, the NAACP at both levels still advocates the need for unique Board of Education dedicated to the governance of education in the detention facilities. The NAACP is not proposing that MSDE be totally eliminated from any role in the education in the detention centers. Rather, there might be collaboration, and MSDE may perform functional responsibilities in the education of these students under the authority of the independent board.

The following text outlines a more in-depth analysis and rationale for the NAACP support of the bill.

- I. The quality of Juvenile Services Education is important to the Association because it is a civil rights issue and an education rights issue. Because one of our Education Game Changers is to address the school to prison pipeline, Juvenile Services Education being perhaps the least popular aspect of school to prison pipeline work. Because the youth in juvenile justice secure care settings are pariahs and they badly need our collective help. It is important because we have seen some of the deficits in the system, challenges the State has continued to struggle with.
- II. There are **five guiding principles** for providing high-quality education in juvenile justice secure care settings: **1.** A safe, healthy, facility-wide climate that prioritizes education, provides the conditions for learning, and encourages the necessary behavioral and social support services that address the individual needs of all youths, including those with disabilities and English learners; **2.** Necessary funding to support educational opportunities for all youths within long-term, secure care facilities, including those with disabilities and English learners, comparable to opportunities for peers who are not system-involved; **3.** Recruitment, employment, and retention of qualified education staff with skills relevant in juvenile justice settings who can positively impact long-term student outcomes through demonstrated abilities to create

- and sustain effective teaching and learning environments; **4.** Rigorous and relevant curricula aligned with state academic and career and technical education standards that utilize instructional methods, tools, materials, and practices that promote college and career readiness; and **5.** Formal processes and procedures—through statutes, memoranda of understanding, and practices—that ensure successful navigation across child-serving systems and smooth reentry into communities.
- III. In creating a **Board of Education for the Juvenile Services Education System**, and requiring the Board to appoint a **System Superintendent**, Senate Bill 798 establishes the framework for a rather dramatic break with current, and past, State oversight structures for the education provided in secure juvenile justice facilities, hopefully as prelude to a better future for juveniles in residential facilities.
 - IV. The provision in the bill (22-308(B)(1) which protects juveniles in the custody of the Department of Juvenile Services from being disenrolled from that school until after disposition of the Juvenile’s case is important and commendable.
 - V. By itself, the prohibition against being disenrolled does not provide the student with the necessary affirmative, additional support for learning. This is why the related provision (22-308(B)(2) requiring the public school in which a juvenile is enrolled under paragraph (1) of this subsection shall provide the juvenile with the educational materials necessary to remain current with the juvenile’s educational program at the school is so important.
 - VI. Not being prematurely disenrolled and being provided with the education materials necessary to remain current with the juvenile’s education program at the home school go hand in hand with the further requirements to transfer the juvenile’s education records from the home school to the juvenile facility within 48 hours of notice that the juvenile is receiving services in the Juvenile Services Education System (22-308(3)(I).
 - VII. Articulating what education records must be included in the transmittal is important for all parties: the sending school, the receiving Juvenile Services Education System facility, the juvenile and family, and other supporters of the juvenile. Item 4. “Any other relevant documents and information” may provide too much discretion with too little guidance to the record providers, particularly for students who do not have IEPs or 504 Plans.
 - VIII. The requirement in 22-308(II)(D) that the Board and the Department of Juvenile Services, after consultation with the County Boards, shall develop and implement a procedure for the re-enrollment of a school-aged juvenile in a public or private school before the juvenile is released from the custody of the Department of Juvenile Services is also an essential element in ensuring an efficient, prompt re-enrollment process. This provision is also consistent with the DOJ principle that supports formal processes and procedures that ensure smooth reentry into the community.
 - IX. Actually, 22-308 reflects the spirit of the federal Every Student Succeeds Act (ESSA) provisions designed to improve the success of youth involved in the juvenile justice system and strengthen reentry outcomes by providing increased access to education and supports upon reentry. Under ESSA, states receiving Title 1, Part D funding for prevention and intervention programs for children and youth who are neglected, delinquent or at risk, must promote:

- A. Smoother transitions into juvenile justice facilities, including records transfer, better planning and coordination of education between facilities and local education agencies, and educational assessment upon entry into a correctional facility, when practicable;
- B. Strengthened reentry to the community, including requiring education planning, credit transfer, and timely re-enrollment in appropriate educational placements for youth transitioning between correctional facilities and local educational agencies and programs, and requiring correctional facilities receiving funds under the law to coordinate educational services with local educational agencies so as to minimize education disruption;
- C. Opportunities to earn credits in secondary, postsecondary, or career/technical programming, and requiring transfer of secondary credits to the home school district upon reentry.
- D. Prioritizing achievement of a regular high school diploma; and
- E. Services for youth who have had contact with both the juvenile justice and child welfare systems.

In 2011, The attached report, the Annie E. Casey Foundation published the report *NO PLACE FOR KIDS The Case for Reducing Juvenile Incarceration* which highlights many of the failures of the juvenile detention system throughout the nation. First, the report points to the fact that the United State has more incarceration of youth than any other major nation. The circumstances in the report mirror situations that were found by the MSC NAACP in juvenile detention facilities in Maryland.

The mental health of students and need for appropriate treatment or educational accommodations is particularly pertinent. Inquiry by the MSC NAACP led to the conclusion that such services are inadequate and this, in turn, is supported by testimony from former staff and administrators working with and at the juvenile centers who attest that there is not even sufficient credentialed staff to provide the necessary services. Further the quarterly reports from the Maryland Attorney General's Office about conditions in the centers comment on the emotional and mental states of some of the students, but offer little if any evidence of how these matters are to be effectively addressed.

The following quotes from the Casey Foundation report *No Place for Kids* describe unsuitable situations similar to those alleged in Maryland's juvenile detention facilities. Of special note is the quote related to educational services, the content of which mirrors conditions that have persisted in Maryland centers.

Educational Programming. Available evidence suggests that the quality of education services offered to confined youth is often deficient. "Nationally, the educational programs of many state juvenile justice systems receive failing grades," reported a team of scholars in 2003. "Recurrent problems include overcrowding, frequent movement of students, lack of qualified teachers, an inability to address gaps in students' schooling, and a lack of collaboration with the public school system." Including both detained and committed youth, just 45 percent of those with a previously diagnosed learning disability receive special education services while in custody.

A number of other recent studies have also found mental health problems at epidemic levels among confined youth. On average, the research finds that about two-thirds of youth confined in juvenile facilities suffer from one or more diagnosable mental health conditions—several times the rate of youth in the general population. About one of every five youth in custody has a mental health disturbance that significantly impairs their capacity to function. Though these symptoms can sometimes be caused or exacerbated by the confinement experience itself, there is little doubt that juvenile justice youth suffer an unusually high prevalence of mental illness.

Youth confined in juvenile justice facilities also suffer from learning disabilities at exceptional rates—and they exhibit extremely low levels of academic achievement and school success. Studies find that youth in correctional confinement score four years below grade level on average. Most have been suspended from school, and most have been left back at least one grade.

Glaring Lack of Effective Support. Most of the young people involved in the deep end of our nation’s juvenile justice systems have significant emotional, cognitive, and intellectual deficits—needs often rooted in severe trauma and deprivation. They need serious help. Yet in most cases, juvenile correctional facilities are unable to provide it. Crucial gaps are commonplace.

The above findings would indicate that the detention facilities, which were intended to resolve issues for children, instead are exacerbating their circumstances. There is growing concern regarding what is referred to as “the school to prison pipeline.” There is no doubt that this pipeline exists. Contrary to rehabilitation, the NAACP further asserts that conditions in the facilities as well as unsuitable actions by the parties responsible for the centers have been detrimental to the well-being of the children involved, reinforcing the pipeline, and expediting their potential for future imprisonment.

As stated above, both state and national NAACPs remain concerned about the ongoing issue in Maryland. In fact, currently the NAACP at the national level is preparing a white paper that focuses on the various aspects of education in the Maryland detention centers from an objective stance to provide useful insights into the problems and possible outcomes for other states and local branches. Certainly, this is a civil rights issue. According to the Office of Civil Rights data, the overwhelming majority of students are minority, with over $\frac{3}{4}$ being African American. Within that population almost 40% have special needs. The primary commonality among all the students, regardless of race or disability status, is the lack of appropriate educational services. The situation in which these children are placed academically would not be tolerated in regular public-schools and should not be accepted in any setting. The detention centers should be purposed for rehabilitation and not be warehouses for children.

Accordingly, for the reasons stated above, the state and national NAACP, both national and state, support SB798 and urge a favorable report.

Submitted by

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