

HB 522
Public Schools – School Resource Officers – Prohibited Conduct
Hearing of the House Ways and Means Committee
February 3, 2021

LETTER OF INFORMATION

The undersigned organizations and individuals are committed to dismantling the school-to-prison pipeline in Maryland, including by advocating to end regular police presence in our children’s public schools. **We commend HB 522 for seeking to limit the activities of school-based police in order to prevent needless criminalization of students for developmentally-anticipated childhood and adolescent behavior best addressed through positive discipline, behavior supports, restorative approaches, and other school-and community-based interventions, rather than through the juvenile and criminal system. However, we provide this letter of information to advise the committee that this bill – while well-intentioned – likely will not achieve this laudable objective.**

At Least Half of Maryland School Districts – Including the Largest Districts – Already Prohibit School Police From Enforcing Discipline Policies and Procedures. Every school district in the state maintains a regular police presence in its schools, typically through a Memorandum of Understanding (MOU) with City or County police departments, and in the case of Baltimore City, through a district-run internal police force. At least twelve districts provide in their MOUs or other public statements that these police – or “school resource officers” (SROs) – cannot participate in student discipline matters, which fall within the purview of school administrators and other staff, as summarized and cited below:

- [Allegany County](#) – SROs “shall not be used in any way to impose, or in lieu of, school discipline, and will not conduct investigations of violations of the student code of conduct unless there is a criminal violation”
- [Baltimore City](#) – “School police shouldn’t be involved in routine discipline”
- [Baltimore County](#) – “SROs do not handle school-based disciplinary issues; that is the exclusive responsibility of the school-based administrator.”
- [Carroll County](#) – “SRO shall not be used in any way to impose, or in lieu of, school discipline, and will not conduct investigations of violations of the student code of conduct unless there is a criminal violation”
- Charles County – “The enforcement of CCPS student rules and student discipline will be the responsibility of the principal and administration of each school. The SRO will assist by keeping the peace and enforcing the law, however will not enforce the school’s rules and regulations”¹
- Frederick County – “The SRO shall refer matters of normal school discipline to the school administration.”²

¹ CCPS – CCSO Memorandum of Understanding (2019), on file with Public Justice Center.

² FCPS – FCSO Memorandum of Understanding (2019), on file with Public Justice Center.

- [Garrett County](#) – SROs “shall not be used in any way to impose, or in lieu of, school discipline, and will not conduct investigations of violations of the student code of conduct unless there is a criminal violation”
- [Howard County](#) – SROs “are not involved in disciplinary actions”
- [Montgomery County](#) – “SROs will not be used to enforce MCPS policies, rules, regulations, and/or procedures”
- [Prince George’s County](#) – “Principal and staff shall be responsible for classroom and student discipline” and “enforcement of PGCPS policies and rules,” not SROs
- [Somerset County](#) – “School Resource Officers are not used to enforce SCPS policies, rules, regulations and/or procedures but will assist as permissible by law”
- [Wicomico County](#) – “A School Resource Officer who witnesses a student or students engaging in behaviors that violate the Code of Conduct but that do not create an imminent and substantial risk of serious physical injury shall refer the incident to school administrators who shall make disposition in a timely fashion and who shall communicate relevant information to the School Resource Officer”

Other districts may also have similar language in their MOUs; we simply do not know because those districts have not made the details of their school policing program readily available to the public.

In short, because half or more of Maryland school districts – including the largest districts – already prohibit SRO involvement in disciplinary matters, HB 522 is unlikely to change how the vast majority of Maryland students interact with school police.

Most Violations of Student Codes of Conduct Could Also Be Characterized as Violations of Criminal Law; Thus, HB 522 Will Not Prevent SROs from Responding to – and Arresting Students for – Routine Childhood and Adolescent Misbehavior. Although HB 522 does not define “discipline-related policies, regulations, or procedures,” by common understanding, the term refers to violations of student codes of conduct that each district promulgates and publishes. Yet, virtually every violation of a student code of conduct – even routine misbehavior – also amounts to a violation of the state criminal code. For example:

- A run-of-the-mill schoolyard fight or a physical tantrum can be charged for assault, a crime under Md. Crim. 3-201
- If a student takes another’s backpack, headphones, homework, phone, bike, or any property – no matter its value – he or she could be charged for theft, a crime under Md. Crim. 7-104
- Horseplay or any other disruptive activity could be charged as disorderly conduct, a crime under Md. Crim. 10-201, or willful disturbance of school activities, a crime under Md. Educ. 26-101(a)
- Purposefully coloring on or tearing up another student’s papers or any property belonging to another person could be charged as malicious destruction of property, a crime under Md. Crim. 6-301
- A student who enters campus when he or she is serving a suspension or a student who enters a school building after hours when school is closed could be charged for trespass, a crime under Md. Crim. 6-409.
- A student who buys cigarettes or vaping products for another student who is under 21 could be charged with distribution of tobacco to a minor, a crime under Md. Crim. 10-107
- Underage drinking could be charged as a crime under Md. Crim. 10-114

- A student who possesses under 10 grams of marijuana cannot be charged with a crime but they can be arrested and referred to court for legal proceedings under Md. Crim. 5-601.

Indeed, approximately [70% of the 3,141 school-based arrests in Maryland in 2018-19](#) were for physical altercations without weapons, disruption, theft, property destruction, trespass, and similar conduct, while a large portion of the remainder were for drug offenses, including simple possession. Because of the significant overlap between discipline related policy and criminal law, legislation like HB 522 that limits SROs to criminal enforcement only is unlikely to meaningfully alter their activities or reduce school-based arrests, even in districts that do not already embrace this limitation in their MOUs or otherwise.

For more information, please contact Monisha Cherayil at 410-625-9409 x 234 or cherayilm@publicjustice.org.

Signed by:

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Disability Rights Maryland
Office of the Public Defender
ACLU of Maryland
Racial Justice NOW!
Anti-Racist Education Alliance
PG Changemakers Coalition
Schools Not Jails
March for Our Lives – Maryland
Peers Not Perps
HoCo Black Lives Matter 365 Coalition
24 and None