



Levi Bradford, Staff Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 272
bradfordl@publicjustice.org

Senate Bill 865: Juveniles – Truancy Reduction Pilot Program – Expansion

Hearing before the Senate Committee on Judicial Proceedings, February 28, 2023

Position: UNFAVORABLE

The Public Justice Center (PJC) is a nonprofit legal services organization which advocates for social justice, and economic and racial equity in Maryland, including by upholding the rights of historically excluded and underserved students through individual representation, community outreach, and systemic advocacy. We are committed to making discipline responsive to students' behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate.

PJC opposes SB 865, which would pave the way to expand the truancy court program to all counties and circuits within Maryland. The truancy court program is fundamentally punitive and there is no evidence that it is effective. This bill takes a punitive approach to truancy rather than an access-to-resources approach. Instead of providing funding for resources to address the underlying causes of truancy, it empowers judges to drag children into court and order them to comply. Research continues to show that status offenses like truancy may be signs of abusive home or foster environments and be a child responding to traumatic environments, among other things.¹ A judge is not a social worker and issuing a child a court order is an inappropriate avenue for connecting students and families to support services.

Not only does this bill allow the expansion of the program to new jurisdictions, it also vastly expands the express power of the court over children in the program. This bill empowers judges to “issue any . . . order” it deems “appropriate to achieve the purposes” of the program (emphasis added). It should be noted that one purpose a judge may base an order on is, broadly, to “adjudicate cases” filed under Md. Code Educ. § 7-301, the truancy law of the education article. While federal law prohibits detaining children for status offenses like truancy, a child may be detained for not complying with a court order.² This bill includes no limits on the types of orders judges may issue, and children who fail to comply face the range of sanctions available to juvenile courts.

This bill adds one tool to the truancy judge’s tool belt that illustrates the troubling reality of truancy courts: SB 865 allows judges to order children to complete community service. This is a measure wholly disconnected from

¹ Mae C. Quinn & (law students) Tierra Copeland, Tatyana Hopkins, Mary Brody, Jamie Adams, Olivia Chick, Madelyn Roura, and Ashley Taylor, and (community partners) Patrice Sulton and Naïké Savain, *A More Grown-Up Response to Ordinary Adolescent Behaviors: Repealing PINS Law*, 25 UDC Law Review 66, 78 (2022).

² 34 U.S.C. § 11133.

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equipping students for re-engagement with school. It serves exclusively as punishment. And that is what truancy court ultimately is: individual punishment for a problem caused by many factors external to a child.

Additionally, the court is empowered in this bill to order students to attend virtual school or GED programs without their consent. Under Maryland law, students may not be suspended or expelled from school for lack of attendance. Along with that, forced disciplinary transfer to a different school program, like the kind contemplated in SB 865, legally constitutes suspension or expulsion. This bill allows administrators to circumvent their due process obligations and push a child out of their school program by filing a truancy petition.

A decade ago, an evaluation of this program found there was insufficient evidence to conclude it was effective at addressing truancy.³ Today, proponents of SB 865 provide little evidence of efficacy. In previous years, this evidence has been anecdotal and based on outcomes of students who successfully finish the program.⁴ Students who have more difficulty with following the program do not get highlighted by proponents for obvious reasons. Lack of comprehensive data regarding efficacy is particularly concerning for a problem-solving court like this because it prevents lawmakers and community members from determining which programs deserve expansion and continued funding.

This bill proposes increased data collection, but that data is precisely what we need in order to decide whether to expand a court program. Truancy court is a pilot program. The pilot stage is where data should have been collected before now and used to help the legislature decide whether to expand or shutter the program. Now, proponents of SB 865 ask the Senate to expand a pre-existing program with little to no data demonstrating efficacy.

For these reasons, the PJC strongly opposes Senate Bill 865.

For more information contact:

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³ Administrative Office of the Courts, *Assessing School Attendance Problems and Truancy Intervention in Maryland: A Synthesis of Evidence from Baltimore County and the Lower Eastern Shore*, at 99;

https://www.igsr.umd.edu/applied_research/Pubs/Truancy%20Intervention%20Synthesis%20Report.pdf.

⁴ *Hearing on House Bill 1418 Before the H. Judiciary Committee*, 2022 Leg. Sess. (MD 2022) (testimony of the Honorable Karen Jensen, Senior Maryland State Judge).

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