

Testimony in *Opposition* of House Bill 0313 (Unfavorable)
Juvenile Law – Probation

To: Luke Clippinger, Chair, and Members of the Maryland House Judiciary Committee

From: Joel Houlette, Student Attorney: Youth, Education, and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore St. Baltimore, MD 21201 (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

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I am a student attorney in the Youth, Education, and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents K-12 students who have been excluded from their schools through suspensions, expulsions, and other less formal methods, as well as individuals who are serving life sentences in prison for crimes they were convicted of when they were children or emerging adults (ages 18-25). The Clinic opposes House Bill 0313 (“HB 313”), which seeks to roll back important aspects of the recently passed Juvenile Justice Reform Act (“the JJRA”).

HB 313 seeks to remove the entire section of the Maryland Code¹ that outlines technical violations of probation and limits the lengths of probation for children. The bill seeks to replace both aspects with a single sentence that permits a court to place a child on probation for any amount of time the court deems appropriate for the child to complete necessary services and treatment.

As a general matter, probation is a poorly studied aspect of the juvenile justice system. However, the studies that do exist strongly suggest that it is not effective, especially for children with the lowest risk of rearrest.²

¹ MD. CODE ANN., CTS. & JUD. PROC. § 3-81-19.6.

² E.g., ANNIE E. CASEY FOUNDATION, TRANSFORMING JUVENILE PROBATION: A VISION FOR GETTING IT RIGHT 6-8 (May 7, 2018) (discussing studies), <https://assets.aecf.org/m/resourcedoc/aecf-transformingjuvenileprobation-2018.pdf>.

Additionally, probation is incredibly harmful to young people and is most detrimental to Black and Brown children, as it “perpetuat[es] the vast overrepresentation of African-American, Latino and other youth of color in our nation’s justice systems.”³ Though youth of color comprise 44% of the U.S. population aged 10-17, they account for 55% of those youth on probation.⁴ The removal of limits to the length to which courts can sentence children to probation will only exacerbate the effects of juvenile justice system on youth of color.

Longer periods of probation can have horrific effects on students in Maryland. Children on probation live with a host of probation conditions, some of which are extraordinarily difficult to follow because their compliance is largely out of their control. For example, a Maryland judge can implement a “no suspension” condition on probation, which prohibits the child probationer from being suspended from school.⁵ Accordingly, a student who is removed from class for an hour – the shortest length of time that is legally a suspension – could be found in violation of probation, have their probationary period extended, and possibly face further consequences. In addition, school suspensions in Maryland are disparately imposed on Black students and students with disabilities.⁶ In the 2022-2023 school year, Black children comprised approximately 33% of the total enrollment in Maryland’s public schools⁷ but totaled nearly 60% of out-of-school suspensions.⁸ HB 313, if passed, would extend the length of probation in these circumstances, which would only further punish students who are already disparately impacted by systems of punishment within schools.

If the purpose of the HB 313 is to make sure children access the services they need during the probationary period, we should focus on solving the right problem. The current law already allows courts to extend probation if there is good cause and doing so is in the child’s best interests. If the services are not readily available – even though the child has been placed on probation – the solution is to fix the services, not to extend the punishment

³ *Id.* at 5.

⁴ *Id.* at 6.

⁵ See generally, *In Re S.F.*, 477 Md. 296 (2022).

⁶ *Id.* at 322.

⁷ MARYLAND STATE DEP’T OF EDUC., ENROLLMENT BY RACE/ETHNICITY AND GENDER AND NUMBER OF SCHOOLS SEPTEMBER 30, 2022, 1, tbl. 1 (Jan 2023), https://marylandpublicschools.org/about/Documents/DCAA/SSP/20222023Student/2023_Enrollment_ByRace_Ethnicity_Gender.pdf

⁸ MARYLAND STATE DEP’T OF EDUC., SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY, OUT-OF-SCHOOL SUSPENSIONS AND EXPULSIONS, MARYLAND PUBLIC SCHOOLS 2022-2023, 6 (Nov. 2023), <https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20222023Student/2022-2023-MD-PS-Suspensions-By-School-and-Major-Offense-Category-Out-of-School-Suspensions-and-Expulsions.pdf>

for children as they wait for the services to become available. Children should not suffer in carceral systems through no fault of their own.

Lastly, it should not be ignored that the hearing date for HB 313 is exactly two years after the Judiciary Committee held a hearing on the JJRA. The JJRA, including its limits of youth probation, went into effect on June 1, 2022. Thus, it has not even been two years since these limits went into effect. The JJRA has not been on the books long enough to evaluate these changes. Indeed, children adjudicated for felonies soon after the JJRA went into effect have potentially not even served their full probationary period. This is not the time to revert the law back to its previous state before it has even had time to take full effect.

For these reasons, the Clinic requests an unfavorable report.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.