



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**House Bill 700 – Education – Crimes on School Grounds -- Exemptions
Education, Health, and Environmental Affairs – March 30, 2021
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club** (WDC) for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of HB 700 as a first step toward de-criminalization of school misbehavior. HB 700 would amend §26-101 of the Maryland Education Code to eliminate the authority being used by school resource officers (SROs) and other law enforcement to charge students with misdemeanors for school behavior, such as disruption, that is developmentally typical of adolescents and that should be treated as a disciplinary matter by school officials, not a crime. For example, in school year 2018-2019, 260 students were arrested for disruption in Maryland schools, presumably under §26-101. Over one-third were middle or elementary school students. In school year 2017-2018, 447 students were arrested for disruption, of which 138 were middle and elementary students.¹ We believe arresting students for this kind of misconduct is at odds with Maryland education policy and research on adolescent behavior and is extremely harmful to students.

What we find to be particularly troubling are the alarmingly high arrest rates for Black students. For example, in school year 2018-2019, Black students accounted for 57 percent of the school-based arrests for disruption in Maryland, but only 34 percent of the enrollment². The unequal disciplinary treatment between Black students and White students cannot be explained away by claims that there are differences in behavior among these groups. A report by the Maryland Commission on the School-to-Prison Pipeline found that differences in discipline are likely to result from inconsistent adult responses to various behaviors. There is a real concern that bias, often unconscious, is coming into play, especially where the adults—teachers, school officials, and police—are making a subjective determination.³

¹Maryland State Department of Education (MSDE), Maryland Public Schools Arrest Data, School Year 2018-2019, Maryland Public Schools Arrest Data, School Year 2017-2018,

<http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>

²MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools, September 30, 2018.

³Maryland Commission on the School-to-Prison Pipeline, Final Report and Collaborative Action Plan, Report to the Maryland Governor and General Assembly pursuant to House Bill 1287(2017) (December 20, 2018): 29-30,

<https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>; See also Adai Tefera, Genevieve Siegel-Hawley, and Rachel Levy, "Why do racial disparities in school discipline exist? The role of policies, processes, people, and places," Richmond, VA. Metropolitan Educational Research Consortium (2017): 5,

https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc_pubs; Cheryl Staats, Implicit Racial Bias and School Discipline Disparities (May 2014) Kirwan Institute Special Report,

<http://www.racialequityresourceguide.org/resource/implicit-bias-and-school-discipline-disparities>.



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HB 700 will help address this unacceptable inequity in the administration of discipline and the criminal orientation to discipline. One unintended effect of the deployment of SROs in Maryland schools has been the arrest of students for misbehavior that should be addressed by school officials as a disciplinary matter under the school's student code of conduct. The presence of SROs in schools can increase the likelihood that school officials will turn to them to intervene in disciplinary incidents. When an SRO is asked to assist, the officer has discretion in determining whether to make an arrest and is more likely to see misbehavior typical of adolescents from a law enforcement perspective rather than from a developmental perspective or as related to a student's disability.⁴ What is problematic is the overlap between a school's code of conduct and the criminal code. The result is arrests for minor infractions that should have been treated as student code of conduct violations and not criminalized.

School-based arrests threaten a student's future success. The harmful effects of a single arrest cannot be overstated. A school-based arrest disrupts the schooling process and the student's social bonds in a way that can jeopardize educational attainment. Like suspensions, arrests can contribute to student disengagement and alienation, resentment, and distrust. An arrest can generate a negative institutional response from teachers and other school officials. Arrests in our schools are typically accompanied by both suspensions and referrals to the Department of Juvenile Services. Many studies have found that students who are suspended are at a significantly greater risk of poor academic performance, dropping out, and having subsequent behavioral problems. We know that contact with the juvenile justice system substantially increases a student's risk for later involvement in the adult criminal justice system. The risk of irreparable harm due to an arrest and a referral to the Department of Juvenile Services is particularly great for students of color.⁵

⁴ Aaron Kupchik, Research on the Impact of School Policing. ACLU Pennsylvania (August 2020), <https://fisafoundation.org/wp-content/uploads/2020/08/Research-on-School-Policing-by-Aaron-Kupchik-July-2020.pdf>; Emily M. Homer and Benjamin W. Fisher, "Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender," *Journal of School Violence* (2019), [Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender.pdf \(researchgate.net\)](https://www.researchgate.net/publication/338888888_Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender); ACLU, Cops and No Counselors. How the Lack of School Mental Health Professionals is Harming Students (2020): 23, <https://www.aclu.org/report/cops-and-no-counselors>; Benjamin W. Fisher and Emily A. Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-analysis," *Adolescent Research Review* 1, 217-233 (2016): 218-220, 229, <https://doi.org/10.1007/s40894-015-0006-8>; Jason P. Nance, "Students, Police, and the School-to-Prison Pipeline," (November 2, 2015). 93 *Washington University Law Review* 919 (2016), University of Florida Levin College of Law Research Paper No. 15-20: 976-977, <https://ssrn.com/abstract=2577333>; Development Services Group, Inc., "Interactions between Youth and Law Enforcement." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention (2018): 6-7, [file:///C:/Users/Dell/Downloads/826140.pdf](https://www.ojjdp.gov/pubs/2018/1806.pdf); Amanda Merkwae, "Schooling the Police: Race, Disability, and the Conduct of School Resource Officers," 21 *Michigan Journal of Race and Law* 147 (2015), <https://repository.law.umich.edu/mjrl/vol21/iss1/6>.

⁵ Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, *The School-to-Prison Pipeline in Montgomery County*, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 96-97; [https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20wit](https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20with%20Appendix.pdf)



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Arresting a child for typical adolescent behavior in school is totally at odds with Maryland education policy. Maryland State Department of Education regulations call for a “discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior.”⁶ Maryland State education law and guidance reflect the philosophy that discipline needs to promote positive behavior and be restorative, rehabilitative, and educational. For example, in the case of disruption, Maryland discipline guidance suggests talking with a counselor, mentoring, and restorative practices as appropriate disciplinary responses to disruptive behavior, and nothing harsher than a short-term suspension.⁷ Harsh punishment is not seen as advancing Maryland’s education goals.

WDC supports HB 700 because its passage would help to end the harm caused by arresting students for misbehavior in school that should be addressed by school officials as a disciplinary matter. We ask for your support for HB 700 and strongly urge a favorable committee report.

Respectfully,

Diana Conway
President

[h%20CAO%20Response%2020166.pdf](#); Daniel J. Losen, Cheri L. Hodson, Michael A Keith II, Katrina Morrison, and Shakti Belway, “Are We Closing the School Discipline Gap?” UCLA: The Civil Rights Project (2015), <https://escholarship.org/uc/item/2t36g571>; Council of State Governments Justice Center, The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System (2014), <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>; Justice Policy Institute, “Education under Arrest: The Case Against Police in Schools” (November, 2011), <http://www.justicepolicy.org/research/3177>, Nance (2015): 924.

⁶Code of Maryland Regulations 13A.08.01.11, <http://www.dsd.state.md.us/comar/comarhtml/13a/13a.08.01.11.htm>

⁷MSDE, Maryland Guidelines for a State Code of Discipline (July 22, 2014):17,

http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/MDGuidelinesforStateCodeDiscipline_08072014.pdf