



**Testimony in Favor of Senate Bill 119 - Education - Disruption of School Activities -
Repeal of Prohibition**

TO: Chair Pinsky, Vice Chair Kagan, and Members of the Senate Education, Health, and Environmental Affairs Committee

FROM: Iman Freeman, Executive Director of Baltimore Action Legal Team, on behalf of The People's Commission to Decriminalize Maryland

The People's Commission to Decriminalize Maryland strongly supports Senate Bill 119, sponsored by Senator Mary Washington, and we urge the Education, Health, and Environmental Affairs Committee to issue a favorable report on this bill. The People's Commission was created to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability or socioeconomic status.

Maryland's legal system contains many laws that unnecessarily bring young people, and disproportionately youth of color, to the attention of the justice system. Most often, this is for behaviors that are typical adolescent behaviors. SB119 would repeal part of the Maryland Education Code that allows students to be charged with a misdemeanor crime if they "willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education" or "threaten" students or staff. **This law perpetuates the School-to-Prison pipeline in Maryland, with 1,700 referrals to the Maryland Department of Juvenile Services for this reason in just Fiscal Year 2019 alone.**¹

This provision of the Maryland Education Code is so broad that youth can currently be charged with a crime for behaviors that should be handled within a school or school district, including making an impulsive comment in the heat of the moment or refusing to immediately follow directions from school staff. Not only that, Maryland Courts have said that students are **not exempt** from being charged with this crime because they have "behavior problems," which means that **the law can be used to criminalize youth with learning**

¹ Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2019, pg. 238 (December 2019), available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2018_full_book.pdf.

disabilities, intellectual disabilities, physical disabilities, and other types of disabilities.² Finally, the term “disturbing” is vague and, therefore, highly discretionary and susceptible to disparate application to youth of color.

This part of the Maryland Education Code also runs directly counter to the goals of promoting academic achievement and success, as arresting young people and referring them to court is associated with worse educational outcomes. In a large-scale study of young people in the National Longitudinal Survey of Youth who were arrested during their high school years, youth who were formally processed in court proved far more likely to drop out of school than those who were not formally processed.³

Current State Board of Education regulations state that youth should not be referred to the juvenile justice systems for matters that should be handled through the school’s disciplinary process. But it is clear that this is not adequate, given the fact that the Department of Juvenile Services receives hundreds of referrals per year for this offense. **This shows that the law has become a part of Maryland’s school-to-prison pipeline. It should be removed from the Maryland Education Code altogether.**

Schools should rely on other options to respond to any situations that arise, including handling the situation through the school’s behavior management system or diverting youth to social service agencies, community-based organizations, or local management boards in lieu of charging them with a crime. And, if a young person does engage in a serious criminal act, Maryland’s Criminal Code already allows for a referral for a criminal offense. This provision has no place in our education laws.

For these reasons, the People’s Commission to Decriminalize Maryland strongly supports SB 119 and urges the Committee to issue a favorable report.

² *In re Nahif A.*, 123 M.D. App. 193, 206 (Md. Ct. Spec. App. 1998).

³ Sweeten, G. (2006). Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement. *Justice Quarterly*. 23(4). Retrieved from www.masslegalservices.org/system/files/library/H.S.ed_and_arrest_-_ct_involvement_study_by_Sweeten.pdf.