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SB 119 – Education – Crimes on School Grounds – Application
Hearing before the Senate Education, Health and Environmental Affairs Committee
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Position: SUPPORT

The Public Justice Center (PJC)’s Education Stability Project advances racial equity in public education by combatting the overuse of practices like suspension, expulsion, and school policing that disproportionately target Black and brown children and push students out of school and into the criminal legal system. The PJC strongly supports SB 119, which would amend Maryland Education Code § 26-101 to not apply to students.

§ 26-101 is overly broad because it criminalizes a wide range of behaviors, many of which are based on the subjective interpretations of school officials and school police officers. For instance, the statute criminalizes “willful disturbance” of schools. Any number of communications and behaviors – such as words, tone of voice, attitudes, refusals, or defiance – can be interpreted as “willful disturbance.” Thus, a child who is misunderstood or agitated is at-risk of being criminalized.

The same is true of a “threat,” which is also criminalized in § 26-101. This is problematic because in the school context a perceived “threat” may not be a threat at all. It can be an expression, word, or action that is consistent with normal adolescent behavior. It can also be that the school official or school police officer, clouded by biases attached to race, gender, or disability, perceives a student to present or express a “threat” that may actually be a moment of frustration or an inability to express a feeling.

The subjective interpretations of childhood behaviors by school officials and school police officers drive and exacerbate the criminalization of Black children and children with disabilities in schools in Maryland. In the 2018-19 school year – the last full year of in-person instruction before the COVID-19 pandemic – the number of arrests in Maryland schools for disruption was exceeded by only three other offenses.¹ That year, over 57% of students arrested in Maryland

¹ MARYLAND STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA, SCHOOL YEAR 2018-19, 12-13, <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestData/SY20182019.pdf>

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schools for disruption were Black, and more Black girls were arrested for disruption than White males.² Research has shown that “[t]he terms ‘threat,’ ‘harm,’ and ‘disruption’ are subjective terms that are more often applied to the behavior of Black girls.”³ Likewise, “[w]hat is perceived as a threat when committed by a Black student is commonly not considered a threat when committed by a White student.”⁴

§ 26-101 detracts from the urgency of implementing alternatives to criminalization for behaviors and needs that are best addressed by recognizing biases, understanding youth brain development, and providing supports to students, such as counseling and behavioral health services, that keep them in school and away from the criminal legal system. Therefore, amending § 26-101 to not apply to students is a necessary step to moving away from laws, policies, and practices that have criminalized children in Maryland’s schools, and moving towards the resources, practices, and focus that support students, better address behaviors, and improve long-term outcomes.

For these reasons, the PJC strongly supports SB 119.

² *Id.* at 130.

³ THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., THURGOOD MARSHALL INSTITUTE, OUR GIRLS, OUR FUTURE: INVESTING IN OPPORTUNITY & REDUCING RELIANCE ON THE CRIMINAL JUSTICE SYSTEM IN MARYLAND 14 (2018), https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf.

⁴ Jennifer Martin & Julia Smith, *Subjective Discipline and the Social Control of Black Girls in Pipeline Schools*, 13 J. URB. LEARNING, TEACHING AND RESEARCH 63, 64 (2017) (citation omitted), <https://files.eric.ed.gov/fulltext/EJ1149866.pdf>