

Testimony.ChristinaAndrews.ReportableOffenseReform

Uploaded by: Christina Andrews

Position: FAV

HOUSE BILL 146: Reportable Offense Reform Bill

March 29, 2022

POSITION: SUPPORT

I am grateful to be able to write this letter on behalf of my former foster daughter and for the children and teens in my community. My name is Christina Andrews. I am a resident of Cecil County, Maryland, a homeowner, a mother and I was a teacher in the local school system. I knew very little about Reportable Offenses until last June when my 15 year old foster daughter was suspended at school and then arrested for getting in a disagreement with a substitute teacher. As a result of the school-based arrest, the school system illegally relied on Maryland's reportable offense statute to deny my foster daughter her due process rights and immediately began the process of transferring her to an alternative school in the county.

As a former special education teacher, I was aware of the rights of students with disabilities under IDEA and had participated in manifestation determination meetings and IEP meetings frequently. My foster daughter was not arrested because of an incident that happened outside of the school but because of a disagreement with a substitute and school employee that happened in school. When I called the school to ask why my foster daughter was not being afforded the protections under the school discipline and special education laws for students with disabilities, I was told it was because under the reportable offenses law, the school did not have to and they were authorized to have a meeting without my foster daughter, her social worker, her lawyer, or anyone else representing her and make decisions about her future educational placement.

I contacted Disability Rights Maryland and they filed an appeal of the reportable offense decision with the school district and sent a demand letter to the school system requesting rescission of the reportable offense decision and immediate return of my foster daughter to her regular school placement. As a result of the appeal and the demand letter, the school district withdrew its decision that the incident was a reportable offense and withdrew its decision to place my foster daughter in an alternative school. Disability Rights Maryland represented my foster daughter at a Manifestation Determination Review meeting and the IEP team found that her behavior that led to the incident at school was a manifestation of her disability and therefore her suspension was terminated. The IEP team ordered updated special education testing and assessments for my foster daughter.

What if I had not been familiar with special education and IDEA? What if I was not committed to advocating for my foster daughter and had assumed what the school told me about reportable offenses was accurate and not, instead, a tool being used as a weapon against my foster daughter to force her out of the high school and into an alternative placement?

My foster daughter has been traumatized her entire life by her family, the schools, the police, and the school administration. She has lifelong disabilities and should have protections in place to assist her in learning and interacting with her peers. Many of our students are already struggling

because of their home situations, their trauma, and their disabilities. They should expect to be treated fairly by the school system.

I support HB 146 to ensure that school systems can only use the reportable offense law for offenses that occur *off* school property, to ensure that school systems afford students due process and follow existing school discipline procedures for general education students and special education students if they propose to remove a student from school based on a reportable offense, and to ensure that the student's counsel is included in the process of removal from school.

Christina Andrews
92 Hickory Ln
Elkton, MD 21921

Choice support HB 146 in EHEA.pdf

Uploaded by: Kelly Quinn

Position: FAV



**Senate Education, Health, and Environmental Affairs
HOUSE BILL 0146**

**Reportable Offenses and Student Discipline
Children With Disabilities and Reporting**

March 29 , 2022

SUPPORT

The Choice Program at UMBC supports HB 146 Reportable Offenses and Student Discipline - Children With Disabilities and Reporting introduced by Delegates Moon and Atterbery. We urge the Senate's Education, Health, and Environmental Affairs committee to support this bill.

For nearly 35 years, The Choice Program at UMBC has served Maryland youth who are systems-involved. In FY 21, we provided engaging programming, resource brokering and holistic case management to **656** young people who were under the supervision of the Department of Juvenile Services; we served **850** young people in total. Choice serves as an alternative to the school-to-prison pipeline; our primary goal is to reduce the number of Black and Latinx young people who are entangled in the youth legal system. Despite a year of Covid in which we offered remote services, Choice mentors contacted young people **24,455** times via video, text, phone calls for visits, goal setting activities, job searches, homework help, games, community service, and wellness checks. Choice serves as an alternative to the school-to-prison pipeline; our primary goal is to reduce the number of Black and Latinx young people who are entangled in the youth legal system. Our model seeks to dismantle racist structures and, instead, employs strengths-based approaches focused on positive relationships and their agency. These guiding principles are essential in addressing racial inequities at an individual and systemic level. We hold high expectations for youth and parents as well as high levels of support. Maryland's legal system disproportionately ensnares Black and Latinx young people, limiting their life chances in education, vocation, civic engagement, and health and wellbeing. A punitive criminal legal system does not offer young people developmentally appropriate and culturally responsive interventions; it exacerbates stubborn inequities. This session offers the chance to remake our youth legal system to reduce racial and ethnic disparities.

All students deserve the opportunity to learn, regardless of their circumstances outside of school. Currently, Maryland law requires police to report to schools when a student is arrested off of school grounds, in the community for any one of more than 50 offenses. Schools across the state have used this law to remove students with very little due process, even if the arrest had nothing to do with school. In Maryland, there are virtually no limitations on schools' authority to remove students for reportable offenses. We know all too well that suspensions and expulsions also have an adverse effect on students' wellbeing because they become disconnected from their education for ***alleged*** behavioral incidents outside of school. While this bill does not go as far as we had hoped this session, the addition of discipline due process protections for youth subject to reportable offense removals and the data collection requirement are two critical steps forward in our efforts to end the school-to-prison pipeline in Maryland.

The Choice Program respectfully urges your favorable support for HB 146.

HB 146 Testimony_OAlheri.pdf

Uploaded by: Ony?nye Alheri

Position: FAV

HB 146: Education – Reportable Offenses and Student Discipline – Alterations
FAVORABLE

Greetings members of the Education, Health and Environmental Affairs Committee,

My name is Onyinye Alheri and I am an advocate from Baltimore's 40th district. I am writing to ask that you vote in favor of HB 146 to alter the definition of "reportable offense" to not include offenses that occurred on school premises or at school-sponsored events. This bill would significantly limit the offenses that can be reported as "crimes of violence" and the amount of offenses for which youth are charged as adults. It would also make reporting optional rather than mandatory, effectively **reducing the number of students fed into the school-to-prison pipeline**.

Here are a few of the reasons why I urge you to support the bill:

- All students deserve the opportunity to learn, regardless of their circumstances outside of school
- Black, brown, poor and queer students are disproportionately harmed by the criminal legal system, inside and outside of school walls
- Research demonstrates the adverse impact of suspensions, expulsions, and removals from school for reportable offenses on students; most notably being disconnected from their education and social networks
- Students (in the process of) facing removal deserve legal counsel

As a former student of Maryland public schools, I am all too familiar with the negative impact that carceral logic plays on the lives of children, especially in the Baltimore City public school. Criminal charges are not the solution for harm in schools. Preventative measures need to be taken to address the holistic needs of students, *before* harm occurs. This includes directing funds to meet students' full needs including adequate nutrition, healthy relationships with caretakers/parents, employment opportunities and out-of-school activities, among others.

Thank you, Delegate Moon, for your consistent **commitment to justice beyond a carceral logic**, and Delegate Atterbeary for your support. I urge the committee to vote in favor of HB146.

Best,

Onyinye Alheri
onalheri@pm.me | 410-701-0203

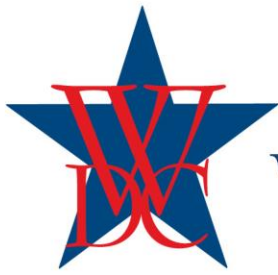
29 March 2022

Baltimore, MD 21201

HB146_MoCoWomen's Democratic Club_FavWamendments.p

Uploaded by: Carol Cichowski

Position: FWA



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**House Bill 146 – Education – Reportable Offenses and Student Discipline – Children with Disabilities and Reporting
Education, Health, and Environmental Affairs Committee – March 29, 2022
FAVORABLE WITH AMENDMENTS**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of HB146, as amended, because we believe this bill takes an important step in protecting children who are arrested each year off school grounds from potentially harmful actions by school officials that threaten education success. The bill addresses two problems: the process used by school officials to remove students from their regular school programs because of a reportable offense and the lack of transparency on these removal actions.

Currently, children are at risk of being removed from school unilaterally for alleged offenses that have no nexus to the school or the child's behavior in school. Under current law, the police are informing school district and school officials of arrests of students for a broad range of offenses committed in the community, including non-violent, low-level offenses. Some Maryland schools use this information to make unilateral decisions about removing students from school indefinitely even when there is no relationship between the alleged out-of-school conduct and the school's safety or the ability of the student to perform in school. Sending children home or placing them in alternative schools based on a belief that a child who has been arrested does not belong in school is concerning because these removals unnecessarily jeopardize success for students who are already at risk of negative life outcomes because of contact with the juvenile justice system.¹ Furthermore, these actions that put students with reportable offenses at further risk of academic failure exacerbate racial inequities related to education outcomes because the population subject to reportable offenses is disproportionately Black.²

Importantly, schools may be unfairly penalizing students for an arrest that may never result in an adjudication of delinquency or a conviction of the student. Most of the arrests of young people do not result in an adjudication of delinquency by a juvenile court or a conviction in adult court. Most of the cases are dismissed or resolved informally by the Department of Juvenile Services, and only a relatively small number of those referred to the State's Attorney for formal proceedings result in a determination of culpability.³

¹ David S. Kirk and Robert J. Sampson, "Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood." *Sociology of Education* 86 (2013): 36–62.

<https://www.asanet.org/sites/default/files/savvy/journals/soe/jan13SOEFeature.pdf>

² Data Resource Guide Fiscal Year 2020, Maryland Department of Justice Services, p. 26, https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

³ Data Resource Guide, p. 26-27.



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

While HB 146 does not stop school officials from seeking to use information on reportable offenses to remove or otherwise discipline students, the bill, as amended, provides for much-needed protections for students in removal proceedings. It protects all students by requiring schools to follow existing school discipline procedures for removals relating to a reportable offense. Importantly, the bill also provides that a child with a disability must be afforded the same due process protections specified by the Individuals with Disabilities Education Act for a removal due to a reportable offense as are provided to such a child for any other removal for disciplinary reasons such as suspension or expulsion from the child's regular placement. This change will help to ensure that children with disabilities are not unjustly penalized for behavior related to their disability and that removals are conducted in compliance with Federal law.

The bill's reporting requirements will also provide greater transparency around the use of information on reportable offenses by school officials. Under the bill's requirements, schools will no longer be able to remove students without later disclosing demographic data about affected students and other information about the school's removal practices, including the duration of removals, the types of placements and education programming provided, and the offenses that are resulting in removals. The required report on removal actions for reportable offenses taken during the past five years, for which no data are currently available, might also surface policy issues that warrant further attention by school district officials or policymakers.

We note that **a technical, conforming amendment to (J) (1) (IV), (V), and (VI) is needed** to ensure that all the required data on actions related to reportable offenses are consistent and relate to students who were **arrested for** (and not adjudicated delinquent or convicted of) reportable offenses.

By providing procedural protections around the removal of students from schools for reportable offenses and requiring reporting on such actions, we believe that this bill will serve to better protect some of our most vulnerable children and help improve education outcomes.

We ask for your support for HB 146 and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President

Reportable offense testimony.3.29.22 (Senate).pdf

Uploaded by: Megan Berger

Position: FWA



Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211

Phone: 410-727-6352 | Fax: 410-727-6389

www.DisabilityRightsMD.org

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE
TESTIMONY OF DISABILITY RIGHTS MARYLAND**

**HOUSE BILL 146 – Education- Reportable Offenses and Student Discipline-
Alterations**

March 29, 2022

Position: Support with Amendments

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. We have been serving children, youth, and adults with disabilities in our state for over 40 years. DRM is a leader in Maryland's educational advocacy community, working on issues such as school discipline, restraint and seclusion, juvenile justice, and enforcing the rights of students with disabilities. DRM has significant experience representing students with disabilities statewide who have been suspended or expelled from school, have been removed from school pursuant to a reportable offense, or are involved in the juvenile justice system.

HB 146 is a critically important bill that takes an important step forward in ending the school-to-prison pipeline in Maryland. It provides students who are removed and excluded from school for reportable offenses with due process protections and rights that align with current state discipline law and federal and state special education law, ensures a student's counsel is included in the process for removal from school, and requires data collection on school systems' use of reportable offenses. Although there are other parts of the current reportable offense law that require further reform, the House did not move forward with these reforms. We hope to be back next year to advocate for the full set of reforms outlined in the original bill, however we are still encouraged by and fully support HB 146 with amendments.

Support for the Bill:

The current reportable offense law is outdated and out-of-line with Maryland law aimed at reducing reliance on exclusionary discipline. Under the current reportable offense law, school districts routinely and unilaterally remove students from school for indefinite periods of time when students are arrested off school grounds for conduct in the community unrelated to school. When students are subject to these reportable offense removals, they receive very little due process and schools have much more authority to remove them for longer periods of time than they do under current school discipline law for in-school behavior that is directly connected with school. This does not make sense. For behavior that happens off school grounds with no direct connection to school, students should have more protections from being removed from school, not less. **HB 146 fixes this glaring problem by directing school systems to follow existing school discipline procedures for general and special education students if they propose to remove a student from school based on a reportable offense.** This way, students being removed under the reportable offense law have at least the same rights and protections as students removed pursuant

to an in-school disciplinary violation or a school-based arrest.

This is especially important for students with disabilities because under the current reportable offense law, students don't receive legally required protections under federal (Individuals with Disabilities Education Act) and state law. If a student with a disability is to be removed from school for more than ten school days, federal and state special education law requires that school systems convene a Manifestation Determination Review (MDR) meeting to determine whether the student's behavior was caused by or had a direct and substantial relationship to the child's disability. If the behavior was a manifestation of the student's disability, then the removal is terminated and the student returns to their regular education placement. The reason behind this law is to prevent students from being punished for disability-related behavior since the law requires accommodation. **Maryland's current reportable offense law does not provide students removed pursuant to a reportable offense with the legally required MDR. Maryland's current reportable offense law therefore violates the IDEA and is out-of-line with state special education law.** HB 146 fixes this by directing school systems to follow existing school discipline procedures for special education students if they propose to remove a student with a disability from school based on a reportable offense. This only makes sense. If a student is going to be held accountable by school systems for disability-related behavior that happens *off school grounds*, at a minimum those students should be afforded the same rights and protections that students with disabilities receive for in-school disability-related behavior and discipline violations.

HB 146 also provides students subject to a reportable offense removal with another important protection—it requires that the student's attorney be invited to participate in the removal process, as well as the MDR. This provision is critical and will help ensure that students who are facing removal from school based on mere allegations (arrest) of a reportable offense will have their rights protected, and will contribute to a more balanced and just system.

Finally, the provision of HB 146 that directs the Maryland State Department of Education to collect data from local school systems on removals of students for reportable offenses, the demographics of the students being removed, and the reasons for removal is imperative for transparency and accountability purposes. Like all forms of exclusionary discipline, it can almost be guaranteed that school systems use the reportable offense law disproportionately with students with disabilities and students of color. **The data requirement will allow lawmakers to monitor how school systems are using the reportable offense law and whether it is being disproportionately used to remove certain groups of students.**

Technical Amendments Proposed:

As a result of the amendments made to the bill, there are two technical errors that need to be addressed and so we therefore offer two friendly amendments.

1. 7-303 (J)(IV)(V)&(VI) (p. 6, lines 6-12) should be amended to delete the phrase "ADJUDICATED DELINQUENT OR CONVICTED OF" and replace with "ARRESTED FOR." In its original form, HB 146 changed the time of reporting for a reportable offense from "arrest" to the point at which the student is "adjudicated delinquent or convicted of" a reportable offense. However, this amendment was not accepted by the House and thus the

point of reporting in the current law, which is at arrest, still stands. The language in 7-303 (IV)(V)&(VI) needs to be amended accordingly. The provisions should read:

(IV) THE RACE, ETHNICITY, GENDER, AND DISABILITY STATUS OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

(V) THE GRADE OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

(VI) THE REGULAR SCHOOL PROGRAM OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

2. Section 2(b)(1)(iii) (p. 8, lines 11-12), which addresses a certain reporting requirement of each county board, should be amended. Section 2 (b)(1)(iii), which currently requires reporting of “any disciplinary action the school took as a direct result of the reportable offense” should be changed to require reporting of “any removal or exclusion of the student from the student’s regular school program.” This amendment is necessary because schools do not currently classify reportable offense removals as disciplinary action. Reportable offense removals are treated as “outside the disciplinary process” and thus the proposed amendment ensures that the language is broad enough to capture reporting of all removals and exclusions pursuant to a reportable offense. This will ensure the data that the county boards are reporting is accurate. The provision should read:

(iii) any ~~disciplinary action the school took~~ **removal or exclusion of the student from the student’s regular school program** as a direct result of the reportable offense.

For the reasons stated above, Disability Rights Maryland strongly supports HB 146 with amendments.

For more information contact:

Megan Berger
Disability Rights Maryland
Assistant Managing Attorney
1500 Union Avenue
Suite 2000
Baltimore, MD 21211
443-692-2504

OPD Written Statement for HB 146 Senate.pdf

Uploaded by: Michal Gross

Position: FWA



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: HB146 - Education – Reportable Offenses and Student Discipline – Alterations

FROM: Maryland Office of the Public Defender

POSITION: Favorable with Amendments

DATE: March 28, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report with amendments on House Bill 146.

Under current Maryland law, police are required to report to schools whenever a student is arrested in the community for one of over 50 potential offenses. Some schools have abused this law to remove students from school with very little process, even if the arrest had nothing to do with school and the student's presence has no impact on school safety. This is one of the last and most draconian features of our former school discipline system, and perpetuates the school to prison pipeline. HB 146 provides the first steps towards essential reform to ensure that all children continue to receive access to a free and appropriate education, while balancing concerns regarding school safety.

Under current law, school districts routinely and unilaterally remove students for indefinite periods of time when students are arrested off of school grounds for conduct unrelated to schools. While Maryland has numerous statutes and regulations requiring important due process protections for children regarding disciplinary procedures for in-school conduct, our laws are silent surrounding the due process protections for children subject to a reportable offense, an arrest for *alleged* out-of-school conduct. The allegations subject to reporting often have no nexus to the child's educational needs or school safety.

The practices and policies around reportable offenses vary largely between jurisdictions, and there is currently *no data that is required to be collected on the treatment of children arrested for a reportable offense*. That means we have nothing beyond anecdotes from our clients and families to understand the scope of reportable offense removal abuse, and no way to hold school systems accountable.

Finally, under current law a student can be removed from school with minimal process for a mere arrest outside of school that they are never proven to have committed. In the past three years:

Maryland Office of the Public Defender, Government Relations Division, 45 Calvert St, Suite 108, Annapolis MD 21401
For further information please contact Krystal Williams, krystal.williams@maryland.gov 443-908-0241;
Elizabeth Hilliard, elizabeth.hilliard@maryland.gov 443-507-8414; or Michal Gross and Michele Hall, Assistant Public
Defenders and subject matter experts, michal.gross@maryland.gov and michele.hall@maryland.gov.

- Almost 50% of all cases forwarded to the Department of Juvenile Services were resolved with no formal or informal action taken;
- Almost 60% were resolved without ever being formalized in court;
- 20-30% of all cases that were formalized for court action were ultimately dismissed.¹

These statistics make clear that under the current law, the vast majority of children who can be and are removed from school are never found guilty of anything at all, making the removal all the more harmful to the child and divorced from school safety.

While removed from school awaiting disposition of the reportable offense cases, these children suffer irreparable harm. Quite often, they are moved to alternative schools that do not offer the education they need, whether it is special education services, advanced placements, or elective classes. At times, instead of being moved to another school, they are placed on home tutoring, receiving workbooks that they are expected to complete on their own with only a few hours of instruction from a tutor each week. During the period when they are removed from school, students cannot participate in extra-curricular activities such as athletics and student government, leaving a gaping hole in their academic transcripts. And, when the case is adjudicated, the students are placed back at their home schools without any compensatory services to help them through the transition, vital when students as young as 11 have missed out on the important socialization of early middle school.

HB 146, as amended by the House, provides solutions to prevent some of these harms. The bill requires school systems to follow the general and special education discipline procedures in order to remove a child for a reportable offense, and directs the Maryland State Department of Education to collect data on removals of students for reportable offenses.

What the amendments to HB 146 eliminated were the clear definition of a reportable offense as an offense that happens off of school property so that children are not removed from school through the reportable offense procedure for events that happen in school. Prior to amendments in the House, the bill would have also limited those offenses that a child can be removed for to “crimes of violence” and offense for which children are charged as adults to ensure that there was a nexus between the offenses subject to reporting and school safety. In addition, the bill as originally drafted would have also changed the point of reporting from arrest to a finding of delinquency or a conviction, and would have ensured the involvement of the student’s attorney. These protections were eliminated in the committee and those changes resulted in the need for some technical amendments, including replacing language referring to “adjudicated delinquent or convicted” with “arrested for” as the committee reverted to the current point of reporting, and specifying that the data collection is for reportable offenses and not limited to school disciplinary action so as to effectively collect data on reportable offenses.

¹ Maryland Department of Juvenile Services *Data Resource Guide: Fiscal Year 2021* at 28, available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf

While the version of HB 146 that is before the Committee does not fully fix the many problems with reportable offenses, it does take two important steps forward in ensuring that data is collected and there is a process followed prior to removal. **For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report with amendments on HB 146.**

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

Authored by: Michal Gross and Michele Hall

michal.gross@maryland.gov and michele.hall@maryland.gov

Renuka Rege_Public Justice Center_Support_HB146_EH

Uploaded by: Renuka Rege

Position: FWA



Renuka Rege, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 272
reger@publicjustice.org

HB 146 – Education – Reportable Offenses and Student Discipline – Alterations

Hearing before the Senate Education, Health, and Environmental Affairs Committee

March 29, 2022

Position: SUPPORT WITH AMENDMENTS

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 provides legal representation to students who are pushed out of school, including for reportable offenses, and has seen how the current reportable offense law is abused by school systems and can severely derail a student's education. The PJC supports HB 146 with amendments, which would take a first step in reforming the reportable offense process to shed light on and stop this hidden part of the school to prison pipeline.

All students deserve the opportunity to learn, regardless of their circumstances outside of school. Currently, Maryland law requires police to report to schools when a student is arrested in the community for any one of over 50 offenses. Schools across the state have used this law to remove students with very little due process, even if the arrest had nothing to do with school.

Maryland's reportable offense law is out-of-line with the vast majority of states that have one, and makes it much easier for schools to remove students if they are arrested in the community. In Maryland, a simple arrest triggers a report to a student's school, whereas in most other states, a report is only triggered later in the juvenile legal process. Over 60% of arrests are resolved before any petition is ever filed in court. Many states do not allow removal from school for a reportable offense, or limit removal to circumstances where the student's presence in school poses a serious threat. In Maryland, there are virtually no limitations on schools' authority to remove students for reportable offenses.

All of the well-known data and research that demonstrates the adverse impact of suspensions and expulsions also demonstrates the adverse impact of removals from school for reportable offenses, because students are being disconnected from their education for alleged behavioral incidents. However, reportable offense removals are governed by a much weaker process, legal standard, and accountability measures than suspensions and expulsions in Maryland, even though they often have nothing to do with the school. Furthermore, because they are not required

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to do so by state law, most Maryland school districts do not track data on removals of students for reportable offenses. As a result, schools cannot be held accountable if they are removing students for unjustified reasons or in racially disproportionate ways.

To address these concerns, HB 146 in its current form directs school systems to follow existing school discipline procedures for general education students and special education students if they propose to remove a student from school based on a reportable offense, and ensures that the student's counsel is included in the process of removal from school. HB 146 also directs the Maryland State Department of Education to collect data from local school systems on removals of students for reportable offenses, the demographics of the students being removed, and the reasons for removal. While more significant reforms are needed to the reportable offense law, these due process protections and data reporting are an important first step, and we believe they will demonstrate the pressing need for the General Assembly to enact the full set of reforms included in the original bill in a future session.

Technical Amendments Proposed:

As a result of the amendments made to the bill, there are two technical errors that need to be addressed to fulfill the intended purpose. Therefore, we offer two friendly amendments.

1. 7-303(J)(IV)-(VI) (p. 6, lines 6-12)

(IV) THE RACE, ETHNICITY, GENDER, AND DISABILITY STATUS OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

(V) THE GRADE OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

(VI) THE REGULAR SCHOOL PROGRAM OF THE STUDENT ~~ADJUDICATED DELINQUENT OR CONVICTED OF~~ **ARRESTED FOR** THE REPORTABLE OFFENSE;

Explanation: In its original form, HB 146 changed the time of reporting for a reportable offense from “arrest” to the point at which the student is “adjudicated delinquent or convicted of” a reportable offense. However, this provision was not passed by the House and thus the point of reporting in the current law, which is at arrest, still stands. Thus, the data reporting should be about arrests for reportable offenses.

2. Section 2(b)(1)(iii) (p. 8, lines 11-12)

(iii) any ~~disciplinary action the school took~~ **removal or exclusion of the student from the student's regular school program** as a direct result of the reportable offense.

Explanation: This amendment is necessary because schools do not currently classify reportable offense removals as disciplinary action. Reportable offense removals are treated as “outside the

disciplinary process” and thus the proposed amendment ensures that the language is broad enough to capture reporting of all removals and exclusions pursuant to a reportable offense. This will ensure the retroactive data that the county boards are reporting is accurate.

For the reasons outlined above, the PJC supports HB 146 with amendments to take the first step in reforming the reportable offense process.

HB146 Reportable Offenses and Discipline 3.29.22.p

Uploaded by: Jeanette Ortiz

Position: UNF



HB146 EDUCATION – REPORTABLE OFFENSES AND STUDENT DISCIPLINE – ALTERATIONS

March 29, 2022

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

OPPOSE

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) opposes **HB146 Education – Reportable Offenses and Student Discipline – Alterations**.

The single most important strategic goal of the Board of Education of Anne Arundel County is to ensure that every student meets or exceeds standards as achievement gaps are eliminated. As such, AACPS believes that specific emphasis should be on increasing the participation of all students, including our students who have been charged with reportable offenses. At the same time, safety in public schools remains increasingly important to local boards of education as the number of school-related security incidents and threats in Maryland and throughout the nation have risen over the years. Ultimately, school systems must strike a balance between the educational rights of all students, including students charged with a reportable offense, and the school system's responsibility to educate all students in a safe environment that is conducive to learning.

A fundamental requirement for openness and responsiveness is an ability to effectively communicate with stakeholders in a comprehensive and holistic fashion. This proposed legislation is a dramatic step back from the 2010 revisions made in Maryland law that were specifically designed to facilitate increased stakeholder collaboration and allow for enhanced educational programming for students charged with a reportable offense.

AACPS appreciates amendments to the bill which retain the definition of reportable offense as currently defined in statute. However, the district still has concerns with several provisions in the legislation.

AACPS is concerned with references to discipline throughout the bill. It is important to understand that a removal for a reportable offense is a non-disciplinary removal and should remain as such. Accordingly, references to discipline should be stricken from the bill. There are also several references to a student's attorney. Such references in the legislation limit an administrator's ability to meet with a student or a student's parent(s)/guardian(s) unless an attorney is present. It is important to understand that schools do not receive attorney information and this requirement can become time consuming and negatively impact school operations.

Further, AACPS has concerns with the limitations placed on when a student may be removed from a school even if an alleged victim is in the school. More specifically, the provision in the bill which would allow a student with a disability to return to regular school program the student attended before the removal period poses many issues. This could be problematic and create safety issues for the alleged victim. Additionally, this provision could violate State law the General Assembly recently passed which prohibits a registered student sex offender from being on school property.

It is important to note the local school systems are already required to report to MSDE regarding student arrests. Accordingly, there is no need for the Section 2 reporting requirements amended onto the bill. In fact, there is an *MSDE Student Arrests Data Collection Manual* which guides local school systems on reporting student arrests. Here again, the reference to discipline in this section is also inappropriate. In accordance with existing MSDE regulations, which have the force of law, a student cannot be disciplined as a result of a reportable offense.

In sum, HB146 would significantly and unacceptably reduce the communications abilities between allied stakeholders when events occur outside of the school but have the potential to catastrophically impact school operations. Specifications in the bill that impose administrative hurdles to implementation of the safety strategies necessary create an onerous and unsafe burden upon local school systems.

Accordingly, AACPS respectfully requests an **UNFAVORABLE** committee report on HB146.

HB 146.Reportable Offenses and Student Discipline-

Uploaded by: John Woolums

Position: UNF

BILL: House Bill 146
TITLE: Education - Reportable Offenses and Student Discipline - Children With Disabilities and Reporting
DATE: March 29, 2022
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Education, Health, and Environmental Affairs
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) opposed House Bill 146 as introduced because it would have eliminated most mandatory notifications to school systems of student criminal behavior, including all arrests, and also impose new requirements for school systems in the cases in which a State's Attorney opts to provide notification only after the student's conviction. MABE greatly appreciates that the House Ways and Means Committee amended the bill to address MABE's primary issues. However, additional amendments are requested to align the bill with other legal requirements and clarify other issues.

For example, MABE continues to oppose the bill's proposal to create an absolute right of a student removed from school for a reportable offense to return to their original school. This provision conflicts with new law enacted in 2021 regarding students who are registered sex offenders and does not allow for any discretion to make school placements in the best interests of student safety.

The bill also continues to include substantial reporting requirements, which MABE appreciates as consistent with the intent ensure that educational programs and services are provided to all students. However, the reporting requirement for school systems and schools, on page 6 in lines 21-23, should be amended to include law enforcement agencies and the department of juvenile services to report on the student outcomes outlined in the bill.

Of particular concern are the amendments to section 7-305 of the Education Article which governs student discipline, including extensive amendments under 7-305(g) which governs the discipline of students with disabilities. It is not clear whether all of these amendments are intended to apply only to students with disabilities. It is also unclear whether these amendments refer to all reportable offenses or those reported based on off-campus behavior. MABE requests clarification of these issues through further amendments.

The reportable offense statute is intended to ensure that law enforcement agencies and State's Attorney's offices communicate with school systems at the time of arrest of students for specified crimes and then following the disposition of such charges. Reportable offenses include an extensive list of crimes of violence, sexual offenses, and weapon and drug offenses. MABE certainly appreciates the interests of all parties involved in carrying out their responsibilities under the reportable offense statute to communicate and provide programmatic response in the best interests of the student committing the offense. But another key facet of the law is to ensure that the school system is informed and can respond accordingly to ensure the safety of all other students and staff following the arrest and before adjudication.

Local boards also support additional resources and the continuous improvement of the quality and scale of programs for students experiencing arrest, and their schools and communities. MABE looks forward to provisions of the Blueprint for Maryland's Future that contribute to improving student services, and to improvements and expansions in diversionary programs and restorative alternatives to incarceration.

For these reasons, MABE supports House Bill 146 with the amendments described above.