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HB 146 – Education – Reportable Offenses and Student Discipline – Alterations
Hearing before the Senate Education, Health, and Environmental Affairs Committee

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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.