

Bill #: SB119

Bill Title: Education – Crimes on School Grounds – Application

February 3, 2022

****FAVORABLE ****

Dear Mr. Chairman and members of the Education, Health, and Environmental Affairs Committee,

As Chair of the national disability civil rights nonprofit Communication First and juvenile justice advocate who has fought to combat the high rates of abuse of students of color and students with disabilities (and especially students of color with a disability), I am writing in SUPPORT of *Bill #: SB119, Bill Title: Education – Crimes on School Grounds – Application*.

Statistics do not lie: Students of color and/or with disabilities are disproportionately referred to law enforcement for school-based incidents.¹ Most of the time, this is for typical adolescent behaviors. SB119 would amend part of the Maryland Education Code to prevent students from being 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. The current law perpetuates the School-to-Prison pipeline, or I should say, Cradle-to-Prison Pipeline in Maryland, with FY 2019 seeing 1,700 referrals to the Maryland Department of Juvenile Services for this reason alone.

Our kids are being charged with crimes for behavior that should be handled within a school. Numerous studies show that a significant portion of law enforcement activity actually deals with garden-variety student misconduct, including many behaviors that do not threaten school safety. Students are cited and even arrested for behaviors that were historically handled by educators as discipline issues: playground fights, drawing on desks, temper tantrums, throwing a paper airplane, kicking a trash can, wearing sagging pants, and throwing a carrot at a teacher to name a few. Even if a child never goes to court, a single arrest can impact a student’s achievement and lead to a 25% increase in the likelihood of dropping out of school.²

Courts have stated 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, intellectual, and physical disabilities.

The term “disturbing” is vague and susceptible to disparate application to youth of color: in FY 2020, 82% of referrals were for youth of color. Maryland State Department of Education data also show an 87% increase in arrests in Anne Arundel County Public Schools (AACPS) from 2016-17 to 2018-19. In the same period, African American students were consistently arrested at 2-3 times the rate of white students statewide. **More students were arrested in AACPS in 2018-2019 than in any other county school system in Maryland.**³

¹ African-American and Latino boys with disabilities represent only three percent of students nationally, but account for 12 percent of school arrests. African-American boys are often labeled as “emotionally disturbed” or “bad” when non-compliant behavior occurs - whether or not they have an emotional or behavioral disability - and those behaviors disproportionately lead to a law enforcement response rather than a supportive response through appropriate accommodations.

² Webbink D, Koning P, Vujić S, Martin NG. Why Are Criminals Less Educated than Non-Criminals? Evidence from a Cohort of Young Australian Twins. CPB Netherlands Bureau for Economic Policy Analysis, The Hague, the Netherlands.; 2008.

³ <http://marylandpublicschools.org/stateboard/Documents/2020/0623/ArrestsSchoolPremises06232020.pdf>

In the 1983 decision *Hornbeck v. Somerset County Board of Education*, the Maryland Court of Appeals wrote that the state is obligated “to minimize the impact of undeniable and inevitable demographic and environmental disadvantages on any given child.”⁴ Maryland has an opportunity to make education safer for our kids by amending this law. **Children should be focused on learning, while we focus on their safety and well-being. This is the time to take action: stop criminalizing our children of color and/or with disabilities, isolating them from their peers, separating them from school, and entering them into the criminal justice system.**

For the reasons stated above, I strongly support SB119 and urge the Committee to issue a favorable report.

Respectfully Submitted,

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⁴ <https://edlawcenter.org/states/maryland.html>