

# **WDC Testimony SB119-2022\_FINAL2.pdf**

Uploaded by: Beth Tomasello

Position: FAV



# MONTGOMERY COUNTY, MARYLAND WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

## **Senate Bill 119 – Education – Crimes on School Grounds – Application Education, Health, and Environmental Affairs – February 3, 2022 SUPPORT**

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 the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

**WDC urges the passage of SB119 as a first step toward de-criminalization of school misbehavior.** SB119 would amend §26-101 of the Maryland Education Code to eliminate the authority being used by school resource officers (SROs) and other law enforcement to charge students with misdemeanors for school behavior, such as disruption, that is developmentally typical of adolescents and that should be treated as a disciplinary matter by school officials, not a crime. For example, between school year 2017-2018 and school year 2019-2020, there were 917 school-based arrests for disruptive behavior in Maryland schools, presumably under §26-101. Alarming, over one-third of the arrests in each of three years were of middle or elementary school students.<sup>1</sup>

The arrest of children for normal adolescent misconduct is an unintended effect of the deployment of SROs in Maryland schools whose presence increases the likelihood that school officials will turn to them to intervene in disciplinary incidents. What is problematic is the overlap between a school's code of conduct and the criminal code. When school officials ask an SRO to intervene in an incident, the officer is more likely to see misbehavior typical of adolescents from a law enforcement perspective than from a developmental perspective or as related to a student's disability.<sup>2</sup> The result is arrests for minor infractions that should have been treated as student code of conduct violations and not a crime under §26-101, for example.

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<sup>1</sup>Maryland State Department of Education (MSDE), Maryland Public Schools Arrest Data, School Year 2019-2020, Maryland Public Schools Arrest Data, School Year 2018-2019, Maryland Public Schools Arrest Data, School Year 2017-2018, <http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>

<sup>2</sup> Aaron Kupchik, Research on the Impact of School Policing. ACLU Pennsylvania (August 2020), <https://fisafoundation.org/wp-content/uploads/2020/08/Research-on-School-Policing-by-Aaron-Kupchik-July-2020.pdf>; Emily M. Homer and Benjamin W. Fisher, "Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender," Journal of School Violence (2019), [Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender.pdf \(researchgate.net\)](https://www.researchgate.net/publication/348888888_Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender); ACLU, Cops and No Counselors. How the Lack of School Mental Health Professionals is Harming Students (2020): 23, <https://www.aclu.org/report/cops-and-no-counselors>; Benjamin W. Fisher and Emily A. Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-analysis," Adolescent Research Review 1, 217-233 (2016): 218-220, 229, <https://doi.org/10.1007/s40894-015-0006-8>; Jason P. Nance, "Students, Police, and the School-to-Prison Pipeline," (November 2, 2015). 93 Washington University Law Review 919 (2016), University of Florida Levin College of Law Research Paper No. 15-20: 976-977, <https://ssrn.com/abstract=2577333>; Amanda Merkwae, "Schooling the Police: Race, Disability, and the Conduct of School Resource Officers," 21 Michigan Journal of Race and Law 147 (2015), <https://repository.law.umich.edu/mjrl/vol21/iss1/6>.



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**The disproportionately high arrest rates for Black students are particularly troubling.** For example, in school year 2019-2020, Black students accounted for 54 percent of the school-based arrests for disruption in Maryland, but only 33 percent of the enrollment<sup>3</sup>. For the previous school year, Black students accounted for 57 percent of the arrests for disruption. The unequal disciplinary treatment between Black students and white students cannot be explained away by claims that there are differences in behavior among these groups. A report by the Maryland Commission on the School-to-Prison Pipeline found that differences in discipline are likely to result from inconsistent adult responses to various behaviors. There is a real concern that bias, often unconscious, is coming into play, especially where the adults—teachers, school officials, and police—are making a subjective determination.<sup>4</sup>

**The harmful effects of a single arrest cannot be overstated.** A school-based arrest disrupts the schooling process and the student's social bonds in a way that can jeopardize educational attainment. Like suspensions, arrests can contribute to student disengagement and alienation, resentment, and distrust. An arrest can generate a negative institutional response from teachers and other school officials. Arrests in Maryland's schools are typically accompanied by both suspensions and referrals to the Department of Juvenile Services (DJS). Many studies have found that students who are suspended are at a significantly greater risk of poor academic performance, dropping out, and having subsequent behavioral problems. We know that contact with the juvenile justice system substantially increases a student's risk for later involvement in the adult criminal justice system. The risk of irreparable harm due to an arrest and a referral to DJS is particularly great for students of color.<sup>5</sup>

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<sup>3</sup>See note 1 for sources of arrest data. Enrollment data is found in MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools, September 30, 2019, [https://p3cdn4static.sharpschool.com/UserFiles/Servers/Server\\_9046340/File/MSDE%209.30.2019%20Official%20Enrollment.pdf](https://p3cdn4static.sharpschool.com/UserFiles/Servers/Server_9046340/File/MSDE%209.30.2019%20Official%20Enrollment.pdf)

<sup>4</sup>Maryland Commission on the School-to-Prison Pipeline, Final Report and Collaborative Action Plan, Report to the Maryland Governor and General Assembly pursuant to House Bill 1287(2017) (December 20, 2018): 29-30, <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>; See also Adai Tefera, Genevieve Siegel-Hawley, and Rachel Levy, "Why do racial disparities in school discipline exist? The role of policies, processes, people, and places," Richmond, VA. Metropolitan Educational Research Consortium (2017): 5, [https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc\\_pubs](https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc_pubs); Cheryl Staats, Implicit Racial Bias and School Discipline Disparities (May 2014) Kirwan Institute Special Report, <http://www.racialequityresourceguide.org/resource/implicit-bias-and-school-discipline-disparities>.

<sup>5</sup>Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School-to-Prison Pipeline in Montgomery County, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 96-97; <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20with%20CAO%20Response%2020166.pdf>; Daniel J. Losen, Cheri L. Hodson, Michael A. Keith II, Katrina Morrison, and Shakti Belway, "Are We Closing the School Discipline Gap?" UCLA: The Civil Rights Project (2015), <https://escholarship.org/uc/item/2t36g571>; Council of State Governments Justice Center, The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System (2014), <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>; Nance (2015): 924.



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**Education experts and practitioners agree that punitive approaches to school discipline do not work.** In its “Framework for Effective School Discipline,” the National Association of School Psychologists states that effective school discipline promotes a positive school climate, reinforces positive behaviors, and keeps students in the classroom and out of the juvenile justice system. It involves addressing the cause of unwanted behavior and teaching alternatives for negative and harmful behavior. It incorporates evidence-based interventions such as positive behavioral supports, social-emotional learning, and restorative justice.<sup>6</sup>

Maryland State education law and guidance reflect the philosophy that discipline needs to promote positive behavior and be restorative, rehabilitative, and educational.<sup>7</sup> In a 2021 Fact Sheet on Student Discipline, the Maryland State Department of Education (MSDE) recommends that the reaction to “behavioral mistakes” should be responsive interventions that assist students in acquiring skills that increase future success.<sup>8</sup> For example, mentoring and restorative practices would be appropriate responses to disruptive behavior.<sup>9</sup>

After 18 months of social isolation and a wide range of life-changing experiences, students are reeling from anxiety, depression, grief, stress, and trauma—mental health conditions and emotional problems that are triggering a host of behavioral issues. Children are acting out and fighting. Many are disrespectful, defiant, and disruptive. It is essential that Maryland schools respond with trauma-informed interventions, recognize the vast inequities among the students, and help students cope with their emotional challenges. It is also time for policymakers to bar arresting children for behavioral problems for which a punitive response would do no good.

**To end the harm caused by arresting students for minor misbehavior in school, we ask for your support for SB119 and strongly urge a Favorable Committee report.**

Respectfully,

Leslie Milano  
President

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<sup>6</sup>“Framework for Effective School Discipline,” National Association of School Psychologists (2020), [file:///C:/Users/Dell/Downloads/Discipline-Framework-Document%20\(1\)%20\(2\).pdf](file:///C:/Users/Dell/Downloads/Discipline-Framework-Document%20(1)%20(2).pdf)

<sup>7</sup>Code of Maryland Regulations 13A.08.01.11, <http://www.dsd.state.md.us/comar/comarhtml/13a/13a.08.01.11.htm>; Code of Maryland, 7-306 (d)(2)(iii), <https://law.justia.com/codes/maryland/2019/education/division-ii/title-7/subtitle-3/sect-7-306/>

<sup>8</sup> MSDE Fact Sheet on School Discipline (2021), <file:///C:/Users/Dell/Downloads/Student%20Discipline.pdf>

<sup>9</sup>MSDE, Maryland Guidelines for a State Code of Discipline (July 22, 2014):17, [http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student\\_services\\_alt/docs/MDGuidelinesforStateCodeDiscipline\\_08072014.pdf](http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/MDGuidelinesforStateCodeDiscipline_08072014.pdf)

# **SB0119\_Crimes\_on\_School\_Grounds\_MLC\_FAV.pdf**

Uploaded by: Cecilia Plante

Position: FAV



## **TESTIMONY FOR SB0119 EDUCATION – CRIMES ON SCHOOL GROUNDS - APPLICATION**

**Bill Sponsor:** Senator Washington

**Committee:** Education, Health, and Environmental Affairs

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0119 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

We all recognize that the school to prison pipeline exists. So many young people's lives are ruined by a single act that, on the whole, was never really serious. This bill would protect students from being charged under a law that makes disrupting school activities a misdemeanor with potential fine and prison time. Typical adolescent behavior, like storming out of class, becomes a misdemeanor with the potential for fines and prison time. This law is disproportionately used against Black and brown students. 82% of students charged under this law are Black and brown.

Our members understand that school discipline is hard and that teachers already have a hard job, but policies can be put in place at schools that will offer teachers a way to manage this behavior without resorting to putting children in prison.

We support this bill and recommend a **FAVORABLE** report in committee.

## **Support Letter**

Uploaded by: Darryl Barnes

Position: FAV



# LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401

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February 2, 2022

Senator Paul G. Pinsky  
Chair, EHE

Senator Cheryl C. Kagan  
Vice Chair, EHE

Dear Chair Pinsky and Members of the Committee:

The Legislative Black Caucus of Maryland Inc. has voted to offer **favorable** support for SB 119- Education- Crimes on School Grounds- Application.

**This bill is a 2022 legislative priority of the Black Caucus.**

Black and brown children are disproportionately charged under this law which ultimately contributes to the school to prison pipeline. The state of Maryland currently has the highest incarceration rate of black males between the ages of 18-24. According to 2020 data, 82% of children charged with disturbing school activities or personnel in Maryland were Black children and children of color. Because of implicit bias, people will often perceive behavior of Black children as more threatening compared to white children of the same age.

This legislation would amend a section 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. For these reasons, the Legislative Black Caucus of Maryland supports SB 119.

Respectfully,

*Darryl Barnes*

Darryl Barnes  
Chair, Legislative Black Caucus  
of Maryland

*Melissa Wells*

Melissa Wells  
1<sup>st</sup> Vice Chair, Legislative Black  
Caucus of Maryland



## **2022 MSPA SB 119 Senate Side.pdf**

Uploaded by: Gail Martin

Position: FAV



Delegate Paul G. Pinsky, Chair  
Delegate Cheryl C. Kagan, Vice Chair  
Education, Health, and Environmental Affairs Committee  
Miller Senate Office Building, Room 131  
Annapolis, MD 21401

January 19, 2022

**Bill: Senate Bill 119 – Education – Crimes on School Grounds – Application**

**Position: Support**

Dear Chairman Pinsky, Vice Chair Kagan, and Members of the Committee:

I am writing on behalf of the Maryland School Psychologists' Association (MSPA), a professional organization representing about 500 school psychologists in Maryland. We advocate for the social-emotional, behavioral, and academic wellbeing of students and families across the state.

Many students who exhibit disruptive behavior in school are in fact communicating their mental and emotional distress in the only way they know how. HB 119 would remove school disruption from the short list of criminal offenses that are specific to and typically enforced in schools. It is unconscionable that these children can be arrested and charged with a criminal offense especially as these arrests disproportionately affect students of color.

HB 119 will help us to break the “school-to-prison” pipeline which derails the lives of too many Maryland students. Schools need better and more humane, student-centered discipline procedures, integrated with comprehensive systems of emotional and behavioral support for these students with such needs. School psychologists stand ready to help our schools to develop and to grow these supports, and to provide the mental health supports many of the students need.

For these reasons, we urge a favorable report on HB 84. If we can provide any additional information or be of any assistance, please contact us at [legislative@mspaonline.org](mailto:legislative@mspaonline.org) or Scott Tiffin at [stiffin@policypartners.net](mailto:stiffin@policypartners.net) or (443) 350-1325.

Respectfully submitted,

Katie Phipps, M.Ed., Ed.S., NCSP  
Chair, Legislative Committee  
Maryland School Psychologists' Association

# **PeoplesCommissionTestimony\_2022\_SB119.docx.pdf**

Uploaded by: Iman Freeman

Position: FAV



**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.**<sup>1</sup>

**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**

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<sup>1</sup> 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](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2018_full_book.pdf).

**disabilities, intellectual disabilities, physical disabilities, and other types of disabilities.**<sup>2</sup>

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.<sup>3</sup>

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.**

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

<sup>3</sup> 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](http://www.masslegalservices.org/system/files/library/H.S.ed_and_arrest_-_ct_involvement_study_by_Sweeten.pdf).

# **SB119 FAVORABLE.pdf**

Uploaded by: India Ochs

Position: FAV

**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.<sup>1</sup> 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.<sup>2</sup>

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.**<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> <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.”<sup>4</sup> 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,

India Ochs  
Annapolis, Maryland

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



## **SB 119.Repealing crime of students disrupting schoo**

Uploaded by: John Woolums

Position: FAV

**BILL:** Senate Bill 119  
**TITLE:** Education - Crimes on School Grounds - Application  
**DATE:** February 3, 2022  
**POSITION:** SUPPORT  
**COMMITTEE:** Education, Health, and Environmental Affairs  
**CONTACT:** John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 119.

Local boards of education place a high priority on providing a safe workplace and learning environment for each student and staff person. MABE also supports a progressive student discipline system that emphasizes in-school responses to student behaviors that provide professional educational and behavioral health supports to affected students.

In this light, MABE supports Senate Bill 119 and the proposed amendments to the provisions of the Education Article which inappropriately criminalize certain student behaviors on school premises. Importantly, the bill would exclude only students from the criminal charges provided under this section of law. This approach reflects amendments adopted by this committee in the previous legislative session.

MABE supports Senate Bill 119 because it would retain the prohibition against non-student conduct contained in the Education Article, which states that “A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.” Enacting Senate Bill 119 would ensure that any person other than a student who enters a school and willfully disturbs the ongoing education being conducted would continue to be subject to a charge and penalty under the law, in addition to any other applicable crimes contained in the Criminal Law statute.

Again, local school systems are committed to each and all of their students becoming college and career ready and ensuring that the appropriate use of school discipline furthers that goal. MABE has adopted the position of supporting the State Board’s initiative to require local boards to reform student discipline policies to:

- Prohibit “zero tolerance” policies;
- Reflect a philosophy that fosters positive behavior;
- Provide continuous education services to all suspended and expelled students; and
- Hold school systems accountable for reducing and eliminating disproportionate impacts of student discipline policies on minority students.

Legislation enacted in 2019 required local boards of education to revise local board policies related to student discipline to provide for restorative practices. This law defines “restorative approaches” as a relationship-focused student discipline model that (1) is preventative and proactive; (2) emphasizes building strong relationships and setting clear behavioral expectations that contribute to the school community well-being; (3) in response to behavior that violates clear behavioral expectations, focuses on accountability for any harm done by the problem behavior; and (4) addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.

For these reasons, MABE requests a favorable report on Senate Bill 119.

**sb119testimony.pdf**

Uploaded by: Julie Reeder

Position: FAV



**Youth As Resources, Inc. (YAR)**  
**111 North Charles Street, suite 502**  
**Baltimore, MD 21201**  
**(410) 576-9551x1**  
**www.youthasresources.org**

### **Education – Crimes on School Grounds – Application**

Presented to the Honorable Mary Washington and Members the Senate’s Education Health and Environmental Affairs Committee  
February 3, 2022, 1pm

**POSITION: SUPPORT**

### **Testimony of Youth As Resources**

Youth As Resources **strongly supports SB119 – Education – Crimes on School Grounds – Application**, introduced by Delegate Sheila Ruth and Senator Mary Washington. We urge the Senate’s Education Health and Environmental Affairs Committee to issue a favorable report on this bill.

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 behavior. HB84/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. **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.**<sup>1</sup>

Youth As Resources (YAR) Youth As Resources, (YAR) is a youth-led grantmaking, community organizing and leadership development non-profit organization. We provide the funding, training, and support to Baltimore youth to develop strategies that address our critical issues and positively impact the community. We are governed by a Board of Directors currently comprised

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<sup>1</sup> 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\\_FY2019.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf).

of 20 youth and young adults (ages 14-24), The Board adopts an issue organizing and advocacy agenda each year. School police accountability, school climate, disability awareness, mental health and supporting efforts around youth homelessness are our priorities for direct organizing and youth leadership. We train and support an average of 500 of our peers each year as organizers, leaders, and strategic planners.

We choose to support this bill because it directly impacts ourselves and our peers. We are all young people of color in Baltimore City. We attend Baltimore City Schools or are recent graduates. Our advocacy and organizing work all aims to disrupt the school-to-prison pipeline from developing the next generation of non-traditional leaders to organizing our peers to holding school police accountable to educating the community around disability rights and working with youth who have disabilities both seen and unseen.

**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.** 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 disabilities, intellectual disabilities, physical disabilities, and other types of disabilities.**<sup>2</sup> Finally, the term “disturbing” is vague and, therefore, highly discretionary and susceptible to disparate application to youth of color: in Fiscal Year 2020, 82% of referrals to DJS for this reason were for youth of color.<sup>3</sup>

**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.<sup>4</sup> Even after controlling for a wide variety of demographic, socioeconomic, academic, and behavioral factors, formal processing in juvenile court sharply reduced the likelihood that young people would graduate from high school.

Current State Board of Education regulations stating that youth should not be referred to the juvenile justice systems for matters that can be handled through the school’s disciplinary process are not sufficient to remedy this problem, particularly given the fact that the Department of Juvenile Services receives hundreds of referrals per year for this offense. **This law has become a part of Maryland’s school-to-prison pipeline. It must be amended to ensure that it does not continue to be part of that pipeline.**

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

<sup>3</sup> Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2020, pg. 252 (December 2020), available at [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2020.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf).

<sup>4</sup> 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](http://www.masslegalservices.org/system/files/library/H.S.ed_and_arrest_-_ct_involvement_study_by_Sweeten.pdf).

It is important to us that adolescent behavior is not criminalized. Restorative practices, diversion and other strategies that do not include the justice system increases our life chances.

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, Youth As Resources strongly supports HB84/SB119 and urges the Committee to issue a favorable report.**

# **Choice 2022 ltr support SB 0119 .pdf**

Uploaded by: Kelly Quinn

Position: FAV



## SENATE BILL 119 Education – Crimes on School Grounds – Application

February 3 2022

POSITION: SUPPORT

The Choice Program at UMBC strongly supports SB119 – Education – Crimes on School Grounds –Application, introduced by Delegate Sheila Ruth and Senator Mary Washington. We urge the House Ways and Means Committee to issue a favorable report on this bill.

Maryland's legal system brings children and youth—disproportionately Black and Latinx young people—to the attention of law enforcement and the Department of Juvenile Services. Far too often, children of color are over-policed in schools. According to Maryland State Department of Education's report, [Maryland Public Schools Arrest Data](#) for School Year, 2019-2020, there were **2,484** arrests in Maryland's school systems. **Seventy-five percent** were Black/African American or Hispanic or two more races. Maryland Education Code *Arrests on School Premises* is one example of laws that perpetuate the School-to-Prison pipeline in Maryland. These laws result in adverse life chances for some of the youngest members of our communities. Existing education law specifically—Maryland Education Code § 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, educators, school resource officers, and school police officers.

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. 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.



This session is an opportune time to decriminalize disruptive behavior in Maryland's education system. It's time to invest in student wellness and public health programs that directly engage young people's emotional, social, and cultural needs, especially during the ongoing trauma of the global pandemic.

The Choice Program respectfully urges your support for SB 119, the repeal of Section 26–101 15 Annotated Code of Maryland.

# **Testimony.LoriTaylor.SB119.pdf**

Uploaded by: Lori Taylor

Position: FAV

**EDUCATION, HEALTH AND ENVIRONMENTAL AFFAIRS COMMITTEE**

**SENATE BILL 119: Education-Crimes on School Grounds-Application**

**February 3, 2022**

**POSITION: SUPPORT**

My name is Lori Taylor and I'm testifying today in support of **SB 119** on behalf of my daughter. When my daughter was in her first year of middle school and just 11 years old, a substitute teacher asked her to get out of her seat and go to another assigned seat. This might seem like a simple request, but my daughter has suffered with anxiety for years and the school had a documented Section 504 Plan indicating that if she is called out in front of others, that she tends to shut down. My daughter said nothing but simply froze. The substitute teacher called for administration to come into the classroom and ask her again. When she still didn't move or say a word, he asked the other kids to leave the room and he called the Assistant Principal. It seemed that the Assistant Principal couldn't think of another manner to handle the situation, so she called 911 stating that a student was disrupting school activities. When 3 officers arrived, my daughter had complied and was walking into the office. The officer asked her why she wasn't listening, and she just shrugged her shoulders and said, "I don't know". She was told to stand up and put her hands behind her back. She was handcuffed, arrested, and charged with "Disturbing School Activities or Personnel." My 11-year-old was taken to the Western District police station and put in a holding cell until I could get to her which was almost 3 hours later since I was working in Virginia that day. Not only was this situation traumatizing for my daughter and myself, but it was confusing to me as her mother. When I questioned the school, they said that they had no idea the police would be arresting her and didn't want that to happen. When I questioned the arresting officer, he told me that when a school calls with this type of report, that they are required to arrest the child. When there are no signs of violence or threatening language used by a student, why is the student's behavior criminalized? Why was my daughter arrested and needlessly injected into the school-to-prison pipeline for disability-related behavior and typical adolescent noncompliance?

My daughter will live with this trauma for the rest of her life because the school wrongly decided that involving the police was their best option and the police were then able to use the charge of "Disturbing School Activities" to criminalize an eleven year old child's behavior. It's time to stop allowing children to be charged with "disturbing school activities." It's clear from my daughter's situation that it was not needed and can cause life-long damage to the child.

**I strongly support SB 119.**

Sincerely,

Lori Taylor  
1706 Greentree Court  
Crofton, Maryland 21114

# **Memo on SB119 from Office of the Public Defender.p**

Uploaded by: Mary Washington

Position: FAV



PAUL DeWOLFE  
PUBLIC DEFENDER

KEITH LOTRIDGE  
DEPUTY PUBLIC DEFENDER

To: Delegate Sheila Ruth and Senator Mary Washington  
From: Maryland Office of the Public Defender  
RE: HB84/SB119, Crimes on School Grounds—Exemptions

HB84/SB119 would exclude students from being prosecuted under Education Law 26-101, disturbing school activities. In Fiscal Year 2019, the Maryland Department of Juvenile Services (DJS) received 1,700 referrals for young people charged with disturbing school activities or personnel. Corresponding school arrest data shows that students of color and students with disabilities are disproportionately charged with this offense; additionally, this charge is most often the way in which the very youngest children—those in elementary and middle school—are brought into the juvenile legal system.

In our experience, children are charged with this offense for behavior consistent with typical adolescent development. Children are charged for disturbing school activities for behaviors such as walking out of class, talking back to teachers or staff members, and behaviors that are consistent with the students' documented disabilities. This type of behavior should not result in students being charged in juvenile court, but rather school based interventions should take place, when necessary.

While this bill is meant to curb students being charged for conduct that is part of typical adolescent development and should not be criminalized, when appropriate students can still be charged in juvenile court for conduct that arises to criminal in nature. For example:

- A school fight or threatening to hurt someone can be charged as assault, a crime under Md. Crim. 3-203;
- If a student takes another's backpack, headphones, homework, phone, bike, or any property – no matter its value – he or she could be charged for theft, a crime under Md. Crim. 7-104. If a student uses force to take another student's property, he or she could be charged for robbery, a crime *and* a felony under Md. Crim. 3-402;
- A student who buys cigarettes or vaping products for another student who is under 21 could be charged with distribution of tobacco to a minor, a crime under Md. Crim. 10-107;
- Underage drinking could be charged as a crime under Md. Crim. 10-114;
- A student who possesses under 10 grams of marijuana cannot be charged with a crime but they can be arrested and referred to court for legal proceedings under Md. Crim. 5-601;
- A student who sets a fire on school grounds can be charged with the crime of arson under Md. Crim. 6-102;
- A student who commits a sexual offense against another student can be charged under any relevant charge under Md. Crim. 3-301 *et seq.*, the criminal code chapter on sexual crimes;
- A student who harasses or threatens another student could be charged with harassment under Md. Crim. 3-803;
- A student who makes a bomb threat or threatens other violence at school could be charged with Md. Crim. 3-1001, threats of crimes of violence;
- Firearm and other weapons charges can still be prosecuted pursuant to Title 4 of Criminal Law, including Md. Crim. 4-102 for possession of a Deadly Weapon on School Property;

- Schools, specifically “institution[s] of elementary, secondary, or higher education,” are considered public places pursuant to Md. Crim. 10-201, Disturbing the Public Peace and Disorderly Conduct, and disruptions at school can be prosecuted as they would in any other public place; and
- A student who is on school property when they shouldn’t be there or were told to leave can be charged with trespass, Md. Crim. 6-401 *et seq.*

# **SB119 Fact Sheet - Final.pdf**

Uploaded by: Mary Washington

Position: FAV



## House Bill 84/Senate Bill 119: Amend the Maryland Education Code to Stop Criminalizing Student Behavior

### What Would HB84/SB119 Do?

[HB84](#), introduced by [Delegate Sheila Ruth](#) (District 44B, Baltimore County), and [SB119](#) introduced by [Senator Mary Washington](#) (District 43, Baltimore City), would amend a section 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.

### Why Is HB84/SB119 Necessary?

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 either typical adolescent behaviors or a reflection of how we have marginalized large segments of Maryland’s youth. Most young people’s contact with the system results from someone labeling typical adolescent behavior, or behavior stemming from trauma, abuse, neglect, or poverty, as “criminal” conduct – instead of seeing that behavior as an indicator of a need for support to help that young person thrive. Referring youth to the justice system for these behaviors is ineffective, harmful, and a poor use of scarce financial resources.

In Fiscal Year 2019, the Maryland Department of Juvenile Services (DJS) received **1,700 referrals for young people charged with disturbing school activities or personnel** ([Data Resource Guide](#), page 238). While there are no additional details about the nature of these referrals, the law is so broad that youth can currently be charged with a crime for behaviors that should be handled within a school or school district, such as talking back, refusing to follow directions, or making an impulsive statement that is not associated with – and that does not result in – harm to anyone. 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 disabilities, intellectual disabilities, physical disabilities, and other types of disabilities**. Finally, the term “disturbing” is vague and, therefore, highly discretionary and susceptible to disparate application to youth of color: **in Fiscal Year 2020, 82% of referrals to DJS for this reason were for youth of color** ([Data Resource Guide](#), page 252).

This part of the Maryland Education Code also runs directly counter to the goals of promoting academic achievement and success, as arresting young people for typical adolescent behavior 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.

The State Board of Education does have [regulations](#) stating that youth should not be referred to the juvenile justice systems for matters that should be handled through the school’s disciplinary process. However, the fact that the Department of Juvenile Services receives **nearly two thousand referrals per year for this reason 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.**



## What Should Happen Instead?

After amending this part of the Maryland Code, school officials and law enforcement can respond to situations that currently result in a criminal charge for disturbing school activities or personnel by:

- Handling the situation through the school's behavior management system.
- If the situation requires additional or different services and support than the school or school district can provide, diverting the young person to social service agencies, community-based organizations, or local management boards in lieu of charging them with a crime. Compared to formal juvenile justice system involvement, diversion generally decreases a young person's likelihood of re-arrest. For example, a [2013 study](#) found that low-risk youth placed in diversion programs returned to the juvenile justice system 45% less often than similar youth who were formally processed or who received restrictive sanctions.

**Importantly, if a young person does engage in a criminal act, Maryland's Criminal Code already allows for a referral for a criminal offense. Thus, the current law is unnecessary and promotes criminalization of typical adolescent behavior in a school setting.**

## What Can I Do to Support HB84/SB119?

You can show your support through any or all of the following:

- Submit written testimony in favor of the legislation. Written testimony for HB84 must be submitted online on **Tuesday, January 18 between 10am and 3pm**. The Job Opportunities Task Force has a [great cheat sheet](#) for making sure you've done everything you need to do to register. A template for written testimony is available [here](#).
- Sign up to testify at the first hearing on HB84, which will take place on **Thursday, January 20 at 1pm**. As with written testimony, you need to register to sign up to testify online in advance on **Tuesday, January 18 between 10am and 3pm**. You can find the steps to sign up to testify by video in the [cheat sheet](#) mentioned above.
- Email your legislator and tell them you support HB84/SB119 (a sample letter you can use is [here](#)). You can look up who your representatives are and their phone numbers and email addresses [here](#) (click on "Lookup" to search by address).
- Share your support for HB84/SB119 on Twitter by following and retweeting posts about the legislation from [Delegate Ruth](#), [Senator Washington](#), the [People's Commission to Decriminalize Maryland](#), and others. You can also tweet your own support using any of the sample tweets [here](#). Be sure to find and tag your House and Senate representatives on Twitter and tag them in your tweet!

**The People's Commission to Decriminalize Maryland** was established to reduce the disparate impact of the justice system on youth and adults who have been historically targeted and marginalized by local and state laws based on their race, gender, disability, or socioeconomic status. Established in 2019 with support and participation from almost three dozen Maryland-based advocacy organizations, coalitions and impacted individuals, the People's Commission has developed [a 2021 report](#) on decriminalization in Maryland and [2022 legislative priorities](#) in five policy areas: drugs, unhoused individuals, poverty, bodily autonomy, and youth. Learn more at [decrimmaryland.org](http://decrimmaryland.org) and on Twitter [@DecrimMaryland](https://twitter.com/DecrimMaryland).

# **Sen Washington Testimony SB119.pdf**

Uploaded by: Mary Washington

Position: FAV

MARY L. WASHINGTON, PH.D  
Legislative District 43  
Baltimore City

Education, Health, and  
Environmental Affairs Committee

*Chair*  
Joint Committee on Ending  
Homelessness

*Chair*  
Joint Committee on Children,  
Youth, and Families



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

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SB 119 – EDUCATION – CRIMES ON SCHOOL GROUNDS – APPLICATION

TESTIMONY OF SENATOR MARY WASHINGTON

FEBRUARY 3, 2022

Chair Pinsky, Vice Chair Kagan, and Members of the EHE,

SB119 is a bill which passed the House of Delegates in 2021 as HB700 and is in the same posture. In 2021 HB700 did not have a Senate cross-file and did not receive a hearing in this committee until March 30<sup>th</sup>.

SB119 modifies a section of the Education code which currently allows students to be charged with a misdemeanor 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.” Young people can be charged with a crime and processed into the criminal justice system for typical adolescent behavior like storming out of class, talking back, or refusing to follow directions. 1700 students were charged with disturbing school activities in FY19.

This law is vague, unnecessary, harmful to students, and doesn’t belong in the Education code. SB119 remedies that by preventing students from being charged under this law.

The human brain doesn’t reach full maturity when it comes to decision making or judgment until age 25. Young people often lack the impulse control that gives most adults the ability to filter their words and actions. Anyone who’s ever been the parent of a teen knows that defiance and anger are part of the territory. This doesn’t mean that we should accept such behavior: young people need to learn appropriate behavior. However the criminal justice system isn’t the appropriate place to learn that. In fact, trauma from contact with the criminal justice system may actually increase such behavior.

The penalty for the “crime” of acting like a typical teen could be a fine of up to \$2500 or 6 months in prison. But even cases where these penalties are not applied can still have serious consequences for the young person. [A 2006 study](#) found that “first-time arrest during high school nearly doubles the odds of high school dropout, while a court appearance nearly quadruples the odds of dropout.” The consequences of charging a

student for acting in line with their age and brain development are potentially long-term and devastating, and play a role in the school-to-prison pipeline.

The consequences of this law impact most heavily on Black, Brown, and disabled children. According to 2020 data, 82% of children charged with disturbing school activities were Black children and children of color. Because of implicit bias, people often perceive behavior of Black children as more threatening compared to the same behavior conducted by white children of the same age. Studies have shown that white adults tend to overestimate the age of Black children, leading to unrealistic behavioral expectations.

The statute regarding disturbing school activities also disproportionately impacts disabled children. Children with disabilities represent 23% of all school arrests, but only make up 12% of the entire student population. Students with developmental disabilities may, due to their disabilities, act out in ways that can be wrongly perceived as threatening.

School behavior management systems can and should be used to teach young people appropriate behavior. For more challenging behavioral issues, diversion to social service agencies, community-based organizations, or local management boards is an alternative to involving the criminal justice system.

Any conduct that rises to the level of criminal activity (e.g. threats, assault, firearms offenses, theft, trespassing, etc.) would still be able to be charged under the criminal code. I have included with my testimony a memo from the Office of the Public Defender which lists some of the many provisions in the criminal code that can still be charged for conduct that rises to criminal in nature. This list is not an exhaustive list of crimes, but instead meant to show why Education 26-101 isn't necessary. If there's a crime that is committed while on school property, it can be prosecuted as such. The problem with Education 26-101 is that it's used to prosecute children for behavior that is not criminal.

The education code should be focused on the ultimate goal of student success and preparation for their future. The criminal charges in 26-101 run counter to that goal and do not belong in the education code. It's time to clean up the education code and stop criminalizing typical student behavior.

I respectfully request a favorable report on SB 119.

In Partnership,

A handwritten signature in blue ink, appearing to read "Mary Washington", with a stylized flourish at the end.

Senator Mary Washington  
Maryland 43<sup>rd</sup> District



# **SB 119\_CRSD\_fav.pdf**

Uploaded by: Michael Pinard

Position: FAV

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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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## EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

### SENATE BILL 119

#### EDUCATION – CRIMES ON SCHOOL GROUNDS – APPLICATION

#### POSITION: FAVORABLE

The Maryland Coalition to Reform School Discipline (“CRSD”) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public-school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. **CRSD strongly supports Senate Bill 119**, which would exempt students at the educational institutions they attend, students currently excluded from their educational institutions for disciplinary reasons, and students who are participating in or attending a sporting event or extracurricular activity at another school from the offenses set forth in Maryland Education Code § 26-101. At present, section 26-101 is an overly broad statute that criminalizes behaviors and acts that are criminalized in various provisions of the Maryland Criminal Code, sets forth subjective offenses that disproportionately impact Black students and students with disabilities, and criminalizes normal adolescent development.

Maryland Education Code § 26-101 is overly broad because it criminalizes a wide range of student 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. The notion of “disturbance” is exceedingly broad, vague, and subjective. 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, misinterpreted, or agitated is at risk of being criminalized. Notably, in October 2021, the United States District Court for South Carolina held a South Carolina law that made it unlawful to interfere with or disturb students or teachers at any school or college in the State to be unconstitutionally vague as applied to elementary and secondary school students.<sup>1</sup>

Likewise, the notion of a “threat,” which is also criminalized in section 26-101, is very board, vague, and subjective. As set forth in the statute, what constitutes a threat is often based on subjective interpretations by school officials and school police officers. This is particularly 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, intersectionality, and/or disability, perceives a student to present or express a “threat” that may

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<sup>1</sup> *Kenny v. Wilson*, 2021 WL 4711450, 54 (D.S.C. Oct. 8, 2021).

# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

actually be a moment of frustration, an inability to express a feeling, a childish attempt at humor, or something else. The bottom-line is that any variety of words, non-verbal behaviors, and other expressive conduct – perceived or actual – that fall within this statute have been criminalized. These are crimes rooted not only in the behavior and actions of children in school, but also in the subjective interpretations of these children by school officials and school police officers.

These subjective interpretations very much drive and exacerbate the criminalization of Black children and children with disabilities in schools, including 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.<sup>2</sup> That same year, over 57% of students arrested in Maryland schools for disruption were Black<sup>3</sup> and more Black girls were arrested for disruption than White males.<sup>4</sup> In the truncated in-person 2019-20 school year, the number of arrests in Maryland schools for disruption was exceeded by only four other offenses.<sup>5</sup> That same year, over 53% of students arrested in Maryland schools for disruption were Black.<sup>6</sup> Again, more Black girls were arrested for disruption than White males.<sup>7</sup> In this regard, Maryland is not unique, as “[t]he terms ‘threat,’ ‘harm,’ and ‘disruption’ are subjective terms that are more often applied to the behavior of Black girls.”<sup>8</sup> 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.”<sup>9</sup>

Moreover, section 26-101 is unnecessary for students because it is duplicative of crimes set out in the Maryland Criminal Code. Indeed, *every* crime in section 26-101 is covered in other criminal statutes. For example, “willful disturbance” is duplicative of disorderly conduct, which in the school context is also frequently rooted in subjective interpretations, particularly when

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<sup>2</sup> 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/MarylandPublicSchoolsArrestDataSY20182019.pdf>

<sup>3</sup> *Id.* at 130

<sup>4</sup> *Id.*

<sup>5</sup> MARYLAND STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA, SCHOOL YEAR 2019-20, 12-13, <https://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20192020.pdf>

<sup>6</sup> *Id.* at 119.

<sup>7</sup> *Id.*

<sup>8</sup> 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](https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf).

<sup>9</sup> 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>



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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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school resource officers (SROs) are stationed in schools.<sup>10</sup> In the recent South Carolina case referenced above, the United States District Court found that the State’s disorderly conduct law, which could criminalize student behavior in classrooms, hallways, and school cafeterias, resulted in disproportionate numbers of students of color and students with disabilities being charged.<sup>11</sup> An often-cited study comparing schools with SROs to schools without found that SROs “dramatically increase the rate of arrests with disorderly conduct charges . . . .”<sup>12</sup> Also, the “threat” and “molest” crimes in section 26-101 are covered in the Maryland Criminal Code. Accordingly, there is no need for this separate statute, in the Educational Code, to apply to students.

In addition to its over-breadth and redundancy, section 26-101 distracts from the urgency of implementing alternatives to criminalization for behaviors, words, needs, and issues that are best addressed by recognizing biases, understanding youth brain development (and behaviors that are consistent with normal adolescent development), and providing supports to students, such as counseling and behavioral health services, that keep them in school and away from the juvenile and criminal legal systems. Therefore, exempting students from section 26-101 is a necessary step to moving away from laws, policies, and practices that have criminalized children – particularly Black children and children with disabilities – 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, CRSD strongly supports Senate Bill 119**

For more information contact:

Michael Pinard

Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law  
mpinard@law.umaryland.edu

## **CRSD Members**

### *Organizations*

ACLU of Maryland

The Arc, Maryland

BMore Awesome, Inc.

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<sup>10</sup> For a discussion of the racialized impact of school disorderly conduct statutes see KRISTIN HENNING, *THE RAGE OF INNOCENCE: HOW AMERICA CRIMINALIZES BLACK YOUTH* 135-36 (2021)

<sup>11</sup> *Kenny v. Wilson*, *supra* note 1, at 50.

<sup>12</sup> Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUSTICE 280, 285 (2009).

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## MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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Disability Rights Maryland  
Family League of Baltimore  
Maryland Office of the Public Defender  
Open Society Institute – Baltimore  
Positive Schools Center, University of Maryland School of Social Work  
Project HEAL at Kennedy Krieger Institute  
Public Justice Center  
Restorative Counseling Services  
Schools Not Jails  
Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law

### *Individuals*

Lindsay Gavin, Ph.D.  
Shannon McFadden  
Janna Parker  
Kelsie Reed  
Gail L. Sunderman

# **Senate OPD Written Statement for HB84 SB 119 FINAL**

Uploaded by: Michele Hall

Position: FAV



## POSITION ON PROPOSED LEGISLATION

BILL: HB84/SB119 - Education – Crimes on School Grounds – Application  
POSITION: Favorable  
DATE: February 1, 2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 84/Senate Bill 119.

As public defenders, we represent children charged in juvenile and adult court, many for incidents that occurred at school. According to the Maryland Commission on the School-to-Prison Pipeline and Restorative Practices' December 2018 report, "[t]he most common arrests in school are simple assault...and the vague category of 'disorderly conduct,' which could be a temper tantrum, cursing, or talking back to a teacher. In other words, **'children develop arrest records for acting like children.'**"<sup>1</sup> These are the traumatic arrests that HB84/SB119 would prevent.

Maryland Education Code §26-101, which prohibits disruptions of school operations, is an unnecessary and overbroad statute that criminalizes children's behavior at school. The changes with this bill would preclude kids from being prosecuted for being kids.

### ***The History***

The Court of Appeals summarized the history of the statute in *In re Jason W.*, 378 Md. 596 (2003) (Washington County):

"In 1970, through the enactment of a new section 123A to Art. 27, the criminal provisions were strengthened, largely as the result of the recent outbreak of riots and organized disturbances on college campuses and in some of the secondary public schools. The broadening and focused application of trespass, disorderly conduct, or school disturbance laws was then a national phenomenon. See Sheldon R. Shapiro, *Participation of Student in Demonstration on or near Campus as Warranting Imposition of Criminal Liability for Breach of Peace, Disorderly Conduct, Trespass, Unlawful Assembly, or Similar Offense*, 32 ALR 3d 551 (1970). ...[C]ontemporary press reports reveal that the bill was a response to a wave of rioting, violent racial confrontations, and vandalism at high schools in Prince George's County and Annapolis."

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<sup>1</sup> Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, *Final Report and Collaborative Action Plan* at 26, available at <http://marylandpublicschools.org/stateboard/Documents/AEEBB/CommissionSchoolPrisonPipeline.pdf>.

“When the 1970 Act was pending before the Legislature, some concern was expressed about its breadth. Debate in the Judiciary Committee of the House of Delegates was extensive, and the fear was raised that, if read literally, the Act “could be applied to a kindergarten pupil throwing a temper tantrum.” See *Baltimore Sun*, April 1, 1970 at C24, *supra*. Clearly, however, that was not its intent.”

### ***The Cases***

Despite the legislature’s concern at the time of enactment that Maryland Education Code §26-101 would be used against children for acting as children, it was passed. And soon the cases bore out that reality.

Jason W. was one such child, charged under the statute for graffiti-ing a wall. The Court of Appeals reversed, saying that the words “disturb or otherwise willfully prevent” cannot be read too broadly, because of the nature of schools:

“[a] typical public school deals on a daily basis with hundreds—perhaps thousands—of pupils in varying age ranges and with a variety of needs, problems, and abilities, scores of teachers, also with varying needs, problems, and abilities, and a host of other employees, visitors, and occasional trespassers. The “orderly conduct of the activities, administration, or classes” takes into account and includes within it conduct or circumstances that may momentarily divert attention from the planned classroom activity and that may require some intervention by a school official. Disruptions of one kind or another no doubt occur every day in the schools, most of which, we assume, are routinely dealt with in the school setting by principals, assistant principals, pupil personnel workers, guidance counselors, school psychologists, and others, as part of their jobs and as an aspect of school administration. Although, undoubtedly, some conduct is serious or disruptive enough to warrant not only school discipline but criminal, juvenile, or mental health intervention as well, there is a level of disturbance that is simply part of the school activity, that is intended to be dealt with in the context of school administration, and that is necessarily outside the ambit of Education Code § 26–101(a).”

Despite this explanation that the statute was not meant to be used for the thousands of instances that momentarily disrupt the school day that are part of the administration of education, cases since *Jason W.* continue to revolve around the prosecution of run-of-the-mill school disruption:

- *In re J.W.*, 2021 WL 943806 (Charles County): A 17 year old came into a classroom looking for a folder, and when he was upset that he could not find it said jokingly “I’m going to blow up the classroom.” He was disciplined at school and prosecuted for disturbing school activities and threats of mass violence. The courts found that this was a joking and exaggerated “sophomoric attempt at humor” and not even perceived to be a true threat by the witnesses, and therefore not a crime.

- *In re N.H.*, 2018 WL 3602960 (Wicomico County): A high school girl who was convicted of disturbing school activities and making threats on school property for saying to a girl who she accused of previously stealing her cell phone “I’m going to take [your phone] because you stole mine, you’re dead and going to pay.”
- *In re Ryan H.*, 2016 WL 3220636 (Wicomico County): A 17 year old junior who was hit with an orange by another student, and the two fought. Ryan was taken to the principal’s office and became agitated and upset, and said he “would F up” the principal. The principal and another teacher testified that they did not believe these were real threats, but a manifestation of Ryan’s adolescent frustration.
- *In re A.S.*, 2016 WL 3002470 (Wicomico County): A middle school student who was found involved of disrupting school operations for a school fight, which was reversed.
- *In re Micah M.*, 2016 WL 1733272 (Wicomico County): A 15 year old boy where the principal asked Micah at least three times to take the hood of his sweatshirt off of his head. Micah refused, yelling and cursing at the principal and school resource officer. Micah walked away from the adults, and was charged with disorderly conduct and disrupting school operations. The appellate court reversed, saying “This situation, therefore, was a school administrative response, and the State failed to produce sufficient evidence to demonstrate that Appellant disturbed the normal operation of the school.”
- *In re Terrelle A.*, 2016 WL 689004 (Wicomico County): a 14 year old boy prosecuted for cursing at the assistant principal in the hallway while students were changing classes. The appellate court reversed.
- *In re Qoyasha D.*, 2015 WL 5944257 (Wicomico County): a 14 year old boy who had a special education plan (IEP) for an emotional disability, who was prosecuted for disrupting school activities for walking out of class without permission, which is a behavior noted in his IEP. Qoyasha was pepper sprayed and handcuffed by the school police officer.

And anecdotally, Public Defenders across the state continue to see this statute abused, and used to pull children into the school to prison pipeline just for being kids:

- Baltimore County public defenders see kids charged for disturbing school operations for cursing in the hallways; accidentally hitting a staff member with a belt when ordered to take it off in a non-public school; a fourth grader taking a cupcake from a girl’s birthday tray when she wouldn’t give him one; a special education teacher pressing charges against a kid who threw an empty plastic trashcan during school ruckus that “almost” hit her. Over 90% of these students are Black, and a substantial percentage have IEPs or 504 plans.
- In Wicomico and Dorchester counties, veteran public defenders see students of color and students with disabilities disproportionately charged with this offense. Most of the students with disabilities have a behavior plan which the schools are not implementing at the time of the alleged offense, giving rise to the “disruption” in the first place.

- In Queen Anne's, Kent, and Caroline counties, our public defenders see this charge with kids who are struggling in school behaviorally or are students of color.
- In Anne Arundel County, children have been prosecuted for disturbing school operations for throwing a gummy bear at another student, tossing a water bottle at a trash can but accidentally hitting a teacher, and throwing Cheerios in the classroom.
- In Charles County a 9<sup>th</sup> grade Black special education student was charged with Disturbing School Operations and Disorderly Conduct for roaming the school halls instead of remaining in the office, and using profanity while filming the principal and school police officer following him. He was physically pushed by the officer, handcuffed, and prosecuted despite DJS closing the case.

### ***The Data***

The data from the Maryland State Department of Education and the Department of Juvenile Services supports what we know from these individual cases: students of color and students with disabilities are disproportionately arrested and charged under §26-101.

The disparities for non-white children begin with school-based arrests based on §26-101: despite representing only 33% of students enrolled in Maryland's public schools,<sup>2</sup> 57% of students arrested for disruption in the 2018-2019 school year were Black.<sup>3</sup> Similarly, 69% of children arrested for making threats to adults were non-white students, as were 55% of those arrested for threats to other students.<sup>4</sup> Children with disabilities are also disproportionately charged: students with Individual Education Programs (IEP), one of two special education classifications, are only 12% of the student population in Maryland yet they receive 23% of school-based arrests.<sup>5</sup>

The data from the 2019-2020 school year is just as bleak, even though the school year was significantly disrupted by the start of the COVID-19 pandemic: 54% of students arrested for disruption were Black; 75% of students arrested for threats to adults were Black; and 52% of students arrested for threats to other students were Black.<sup>6</sup> In Fiscal

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<sup>2</sup> Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>.

<sup>3</sup> Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2019-20*, available at <https://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20192020.pdf>

Year 2020, the Department of Juvenile Services received 1,259 such referrals, with 82% of those referred for an intake hearing being youth of color.<sup>7</sup>

§26-101 is also disparately applied across the state, thus subjecting children attending one school to arrest for normal adolescent behavior while those attending schools in a neighboring district can continue to behave like children. From the Department of Juvenile Services' 2020 data, these counties accounted for a disproportionately large percentage of referrals for disturbing school activities<sup>8</sup>:

<b>County/Jurisdiction</b>	<b>% of Youth Population Age 11-17</b>	<b>% of All Referrals for Disturbing School Op.</b>
Anne Arundel County	9.3%	14.5%
Baltimore County	13.6%	17%
Eastern Shore	7.56%	27%
	**Wicomico County: 1.99%	**11.4%

### ***Use of the Criminal Code***

Disturbing school operations is a vague catch-all term that, because of its vagueness, is disproportionately used to criminalize students of color and students with disabilities for typical adolescent behavior. However, when conduct arises to criminal behavior, youth can still be charged with any relevant part of the criminal code. Though not an exhaustive list, some examples include:

- A school fight can be charged as assault, a crime under Md. Crim. § 3-203;
- A student who commits a sexual offense against another student can be charged under any relevant charge under Md. Crim. § 3-301 *et seq.*, the chapter of the criminal code on sexual crimes;
- A student who makes a bomb threat or threatens other violence at school could be charged with Md. Crim. § 3-1001, threats of crimes of violence; and
- A student who possesses a firearm at school can be prosecuted for possession of a handgun under Title 4 of the Maryland Criminal Law, and pursuant to Md. Crim. § 4-102 for possession of a Deadly Weapon on School Grounds.

As it stands now, Maryland Education Code §26-101 is often used as a vague catchall charge for kids being kids, when there is no actual crime being committed. An important part of learning – especially for students with disabilities – is making mistakes and learning from those experiences. While the behavior of a student may be disruptive, and children will say things while frustrated, these are all normal adolescent behavior. We urge the

<sup>7</sup> Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2020* at 252, available at [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2020.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf).

<sup>8</sup> See Data Resource Guide FY 2020, at 245, 252.



committee to end this punitive practice of criminalizing kids for being kids by ensuring that students can no longer be prosecuted under Maryland Education Code §26-101.

\* \* \*

For these reasons, the Maryland Office of the Public Defender respectfully urges a favorable report on House Bill 84/Senate Bill 119.

*For further information please contact Michele Hall, Assistant Public Defender and subject matter expert, at [michele.hall@maryland.gov](mailto:michele.hall@maryland.gov) or Krystal Williams, Director, Government Relations Division, at [krystal.williams@maryland.gov](mailto:krystal.williams@maryland.gov) or by phone at 443-908-0241.*

# **Monisha Cherayil\_Public Justice Center\_Support\_SB1**

Uploaded by: Monisha Cherayil

Position: FAV



**Monisha Cherayil, Attorney**  
Public Justice Center  
201 North Charles Street, Suite 1200  
Baltimore, Maryland 21201  
410-625-9409, ext. 234  
cherayilm@publicjustice.org

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**SB 119 – Education – Crimes on School Grounds – Application**  
**Hearing before the Senate Education, Health and Environmental Affairs Committee**  
**February 3, 2022**  
**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.<sup>1</sup> That year, over 57% of students arrested in Maryland

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<sup>1</sup> 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/MarylandPublicSchoolsArrestDataSY20182019.pdf>

*The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*

schools for disruption were Black, and more Black girls were arrested for disruption than White males.<sup>2</sup> 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.”<sup>3</sup> 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.”<sup>4</sup>

§ 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.

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<sup>2</sup> *Id.* at 130.

<sup>3</sup> 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](https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf).

<sup>4</sup> 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>

# **HB 84\_SB 119 Testimony.pdf**

Uploaded by: Ongisa Ichile-Mckenzie

Position: FAV

To: Maryland General Assembly  
From: Ongisa Ichile-Mckenzie, Director, Southern Marylanders for Racial Equality  
Re: HB 84/ SB 119  
Date 01/17/2021

I'm writing this testimony to you today, appropriately on Martin Luther King, Jr. Day, as a parent of a student, a teen with an IEP and a 504 plan. I write as a former teacher who has taught students in crisis. I also write as a community advocate who's tired of the children in my area being pushed into the system of court dates, lawyers, charges, detention, and all those other scary things- just for being a human child. I was a teacher before I was a mom. I've taught mostly Black/Latinx students in Atlanta, DC, and Silver Spring, and over the years, I had several students who came to school bearing trauma. Some things they had been through are things some adults on this call could hardly bear. I've taught students who arrive sleepy and cranky from working or taking care of siblings. I've overlooked outbursts because I know the student is witnessing or experiencing domestic abuse. Maybe they're being bullied online or in person. And I've referred them to counseling or social workers. I've had kids who have tried to interrupt the whole class every time they were asked to read aloud because they struggled with reading. At times kids seek any attention they can get because they haven't learned healthy ways to get the support they need. They throw tantrums, they curse, yell, wander, throw things. It's my own son, who I advocated for to have a yellow folder to indicate he needed to walk out into the hall and take a break when he was frustrated. It was in his plan! But according to the law in question, my son could have thrown his backpack on the floor and be charged with a misdemeanor? Really though, the scariest fact is that this "disturbance" is all up to the staff's discretion. Do they see a child having a meltdown? Or do they see a criminal who needs to be arrested and charged? The statistics you've heard make it very clear. Black/Brown kids aren't given the benefit of the doubt here. DO most parents out there even realize their kids could be charged with a misdemeanor for "being disruptive in school?" And in this pandemic reality, we will need even MORE therapeutic support for our children's behaviors. We're already at 1700 referrals a year!

This statute must be repealed because it gives school staff license to criminalize literally any behavior that a child does to say "please, pay attention to me." Please vote in favor of HB 84 and SB 119.

Sincerely,



Ongisa Ichile-Mckenzie  
Director, Southern Marylanders for Racial Equality

## **MPA testimony 2022 - Support - SB119 - Education –**

Uploaded by: Pat Savage

Position: FAV



10480 Little Patuxent Parkway, Ste 910, Columbia, MD 21044. Office 410-992-4258. Fax: 410-992-7732. [www.marylandpsychology.org](http://www.marylandpsychology.org)

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Senator Paul Pinsky, Chair

Senate Education, Health and Environmental Affairs Committee

2 West, Miller Senate Office Building

Annapolis, MD 21401

**Bill: Senate Bill 119 – Education – Crimes on School Grounds - Application**

**Position: Support**

Dear Chairman Pinsky, Vice Chair Washington, and Members of the Committee:

The Maryland Psychological Association (MPA), which represents over 1,000 doctoral-level psychologists from throughout the state, is writing in **SUPPORT of Senate Bill 119 – Education – Crimes on School Grounds - Application.**

Psychologists are acutely aware of the relationship between student behavior and student mental health. Many students who exhibit disruptive behavior in school are in fact communicating their mental and emotional distress in the only way they know how. SB 119 would remove school disruption from the short list of criminal offenses that are specific to schools and are typically enforced in schools. It is unconscionable that these students can be arrested and charged with a criminal offense – and that disproportionate numbers of these students are from minority populations and/or have disabilities.

SB 119 will help us to break the “school-to-prison” pipeline which derails the lives of too many Maryland students. Research does suggest that punishment often accelerates the development of more fixed patterns of socially deviant behavior in these students, while treatment offers the opportunity to disrupt this developmental trajectory. Schools need better and more humane, student-centered discipline procedures, integrated with comprehensive systems of emotional and behavioral support for these troubled students

For these reasons, we urge a favorable report on SB 119. If we can provide any additional information or be of any assistance, please do not hesitate to contact the MPA Executive Director, Stefanie Reeves, MA, CAE at 410-992-4258 or [exec@marylandpsychology.org](mailto:exec@marylandpsychology.org).

Respectfully submitted,

Sincerely,

*Linda McGhee*

Linda McGhee, Psy.D., J.D.  
President

*R. Patrick Savage, Jr.*

R. Patrick Savage, Jr., Ph.D.  
Chair, MPA Legislative Committee

cc: Richard Bloch, Esq., Counsel for Maryland Psychological Association  
Barbara Brocato & Dan Shattuck, MPA Government Affairs



# **Testimony In Support of SB 119 - HB 84 - EHE - Rev**

Uploaded by: Rich Ceruolo

Position: FAV



February 1, 2022

Maryland Senate  
11 Bladen St.  
Annapolis, MD. 21401

**In Support of SB 119: Education – Crimes on School Grounds - Application**

Members of the Maryland Senate's EHE Committee.

We are an organization of military and non-military families with over 1300 members and fully support revising the state's education regulations around student conduct in schools and on school grounds.

Too often children with disabilities have their behavior misinterpreted as something other than communication to those around them. Sometimes teens act in ways that adults do not deem as being appropriate, and that leaves the door open to misinterpretation of those behaviors by school personnel.

These typical teen student behaviors are sometimes viewed through a criminal lens by school staff members, teachers, administrators and SROs. But school rules do not apply to all settings or environments that a student travels within. Only on school grounds, or while attending school sponsored events. Therefore, students should not be subjected to school discipline for events that transpire off of their school's property. Punitive school discipline policies can threaten to take students off their educational track, and as a consequence limit the student's future hopes of a successful career.

We trust that these changes will help to further support all Maryland students. The future success and health of all of our students depends on many necessary improvements and supports being in place, during these unusual times, as we begin the long tasks related to implementing the Blueprint for Maryland's Future. Thank you all for supporting the education, health and wellbeing of all Anne Arundel County students.

Please support Senate Bill 119 and return a favorable report. Thank you for your time, and for considering our testimony today.

Mr. Richard Ceruolo  
[richceruolo@gmail.com](mailto:richceruolo@gmail.com)  
Parent, Lead Advocate and Director of Public Policy  
Parent Advocacy Consortium  
<https://www.facebook.com/groups/ParentAdvocacyConsortium>

## **2\_3 PMD Testimony.pdf**

Uploaded by: Sharity Bannerman

Position: FAV



# PROGRESSIVE MARYLAND

P.O. Box 6988 Largo, MD 20792  
www.ProgressiveMaryland.org  
Contact@ProgressiveMaryland.org  
Facebook.com/ProgressiveMaryland  
@Progressive\_MD

February 1, 2022

## TESTIMONY IN SUPPORT OF:

Decriminalizing Disruption: HB 84/SB 119

Dear Honorable Senators and Delegates of EHEA:

My name is Sharity Bannerman and I am a member of Progressive Maryland and Co-Chair of PM Justice Task Force. As a former teacher, I have a heart for our young people—their overall well-being: body, heart, mind, soul, and spirit. One of the things that disproportionately plagues our youth is the school-to-prison pipeline, which is evident in our state.

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 either typical adolescent behaviors or a reflection of how we have marginalized large segments of Maryland's youth. Most young people's contact with the system results from someone labeling typical adolescent behavior, or behavior stemming from trauma, abuse, neglect, or poverty, as "criminal" conduct – instead of seeing that behavior as an indicator of a need for support to help that young person thrive. Referring youth to the justice system for these behaviors is ineffective, harmful, and a poor use of scarce financial resources.

In Fiscal Year 2019, the Maryland Department of Juvenile Services (DJS) received 1,700 referrals for young people charged with disturbing school activities or personnel.<sup>1</sup> While there are no additional details about the nature of these referrals, the law is so broad that youth can currently be charged with a crime for behaviors that should be handled within a school or school district, such as talking back, refusing to follow directions, or making an impulsive statement that is not associated with – and that does not result in – harm to anyone. 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 disabilities, intellectual disabilities, physical disabilities, and other types of disabilities.

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<sup>1</sup> 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\\_FY2019.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf)



# PROGRESSIVE MARYLAND

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Finally, the term “disturbing” is vague and, therefore, highly discretionary and susceptible to disparate application to youth of color: **in Fiscal Year 2020, 82% of referrals to DJS for this reason were for youth of color.**<sup>2</sup>

**This law has become a part of Maryland’s school-to-prison pipeline. It must be amended to ensure that it does not continue to be part of that pipeline.**

It is for these reasons that I am encouraging you to vote in support of HB 84/SB 119. Please help to ensure children are protected from the criminal system and have the chance to pursue their dreams and become productive citizens in our community.

I appreciate your time, service, and consideration.

Sincerely,

Sharity Bannerman, Esq.  
723 Parev Way, Upper Marlboro, MD 20774

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<sup>2</sup> Maryland Department of Juvenile Services, Data Resource Guide: Fiscal Year 2020, pg. 252 (December 2020), available at [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2020.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf).

# **SB119\_MSEA\_Lamb\_FWA.pdf**

Uploaded by: Lauren Lamb

Position: FWA

**Testimony in Support with Amendments to  
Education – Crimes on School Grounds – Application**

**Education, Health, and Environmental Affairs**

**2/3/2022**

**1:00 p.m.**

**Lauren Lamb  
Government Relations**

The Maryland State Education Association supports Senate Bill 199 with amendments that would exempt students from the provisions in Education 26-101(a) that relate to conduct that is more akin to being an adolescent rather than being criminal.

MSEA represents 76,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students for the careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

As drafted, MSEA believes the legislation exempts students from responsibility for too many offenses, including molestation and bodily harm. As such, we believe an amendment that more simply exempts students from criminal charges for the items currently enumerated in 26-101(a) would be the appropriate course of action. Such an amendment would maintain the shared goal of eliminating punitive discipline that contributes to the school-to prison-pipeline, including the criminalization of disruptive behavior in adolescence, which continues to be disproportionately applied to Black and Brown students and students with disabilities.

This bill can be amended to rightfully remove students from a provision of law that can be used to criminalize children for behavior that should not be considered criminal. We hope to continue working with the sponsor and the committee to identify amended language that can accomplish this goal while also ensuring that harmful and offensive acts/threats of bodily harm are not tolerated by students or any other person on school grounds.

# **SB119 Crimes on School Grounds 2.3.22.pdf**

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Position: INFO





## SB119 EDUCATION – CRIMES ON SCHOOL GROUNDS – APPLICATION

February 3, 2022

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

### LETTER OF INFORMATION

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

Anne Arundel County Public Schools (AACPS) is submitting a letter of information on **SB119 Education – Crimes on School Grounds – Application**. This bill repeals a provision of law prohibiting a person from willfully disturbing or otherwise willfully preventing the orderly conduct of activities, administration, or classes of any institution of elementary, secondary, or higher education.

Safety in public schools remains increasingly important to local boards of education as school-related security incidents and threats in Maryland and throughout the nation have increased over the years. Accordingly, AACPS supports legislation and program initiatives that contribute to the safety and well-being of students in school and in the community. Unfortunately, schools face potential security threats from trespassers, unruly individuals, and other potential situations that can cause disruption to the normal and orderly operations of a school.

We appreciate the sponsors amending the bill this year to specifically exclude students. By clarifying the application of this section of Education Article, a person who is not a student and enters a school and willfully disturbs the ongoing education being conducted would still be subject to a charge and penalty under the law. While this new language is incredibly helpful, we find the provision in the legislation which would include students who are “**CURRENTLY ON EXCLUSIONARY DISCIPLINE**” troublesome as we believe that this language creates safety concerns. As such, we urge the Committee to strike this language from the proposed legislation.

Thank you for consideration of this information regarding SB119.