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*Legislative District 43*  
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Education, Health, and  
Environmental Affairs Committee

*Chair*  
Joint Committee on Ending  
Homelessness

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



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SB 119 – EDUCATION – CRIMES ON SCHOOL GROUNDS – APPLICATION

TESTIMONY OF SENATOR MARY WASHINGTON

March 24, 2022

Chair Atterberry, Vice Chair Washington, and Members of the Ways and Means Committee,

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". The signature is fluid and cursive, with the first name "Mary" being the most prominent.

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