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POSITION ON PROPOSED LEGISLATION

BILL: SB 220 – Juveniles – Truancy Reduction Pilot Program – Expansion

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 8, 2023

The Office of the Public Defender opposes Senate Bill 220 (SB 220), which would expand the judiciary’s ability to implement formal truancy courts across Maryland. In 2011, the Truancy Reduction Pilot Program (TRPP), along with two other truancy reduction models in Maryland, were evaluated. It was explicitly noted that “[i]deally, expansion of these programs or their use as models would be predicated on more definitive evidence.”¹ The proposed expansion of formal truancy courts throughout the state appears to come without that additional evidence and research. OPD agrees that young people are more likely to thrive when they attend and are engaged in school; however, we do not believe that involvement in a truancy court is the most effective intervention to achieve that goal and can, in fact, have negative consequences. Research has repeatedly shown that a single court appearance increases the chance that a young person will drop out of school.²

Truancy and attendance issues are often due to a complex array of factors, including unmet or unidentified academic needs, student discipline, lack of appropriate social emotional/behavior support, as well as family issues, poverty, homelessness, transportation issues, safety concerns, trauma, and mental health challenges. OPD represents students with a wide range of academic and mental health needs. Many of our clients have experienced years of school failure; and yet are never referred for an evaluation to determine if they have a disability impacting their ability to access the curriculum. The relationship between school attendance and academic achievement is well documented and students with disabilities are at greater risk for absenteeism.³ Students may express frustration or behavior related to a disability,

¹ Administrative Office of the Courts, *Assessing School Attendance Problems and Truancy Intervention in Maryland: A Synthesis of Evidence from Baltimore County and the Lower Eastern Shore*, at 99; https://www.igsr.umd.edu/applied_research/Pubs/Truancy%20Intervention%20Synthesis%20Report.pdf.

² Am. Civ. Liberties Union, *Bullies in Blue: The Origins and Consequences of School Policing* (2017), https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf; Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 Justice Quarterly 4 (2006).

³ National Center on Education Outcomes, *Students with Disabilities and Chronic Absenteeism, NCEO Brief Number 15, April 2018*; <https://nceo.umn.edu/docs/OnlinePubs/NCEOBrief15.pdf>.

which can lead to school discipline, and ultimately lack of engagement and chronic absenteeism. The disproportionate impact of school discipline on students of color and students with disabilities further contributes to this disengagement.⁴ Even the application of attendance policies can be imposed in ways that lead to a disparate impact on students of color and low income students being referred for court intervention.⁵ Rather than expanding court involvement, OPD urges the state and school systems to focus on evidence-based interventions that are non-punitive and center on prevention, including schoolwide strategies that improve school climate and school engagement, as well as individual student focused interventions, such as special education services and student supports.⁶

Informal truancy programs implementing evidence-based interventions are a more effective and holistic approach to addressing truancy issues. One such program is the Truancy Court Program through the University of Baltimore School of Law’s Center for Children Families and the Court (CFCC) which provides a system to informally address attendance issues by meeting individually with youth and their families and finding creative solutions outside of the courthouse. The program offers family assistance in a variety of ways, including assisting with transportation, homelessness, uniforms, tutoring and mentoring. OPD believes that expanding these types of programs, along with emphasizing other evidence-based best practices to address truancy—such as focusing on individual academic needs, transforming school climate, increasing positive relationship building, reducing common barriers for all students, personalizing early outreach, putting in place caring and engage mentors—are the most effective ways to address truancy concerns.

In addition to the lack of evidence to support the efficacy of court-based truancy programs, the program proposed by SB 220 comes with the risk of specific harms to the youth it intends to serve. While federal law prohibits the incarceration of youth for truancy and other status offenses alone, a child can still be detained for violation of a valid court order. For states that run truancy prevention through the formal court system, this can lead to incarceration or punitive consequences of children for truancy-related reasons.⁷ Establishing a program that operates through the judiciary will only serve to increase the

⁴ See RESEARCH REVIEW: *Understanding Discipline Disparities in Maryland*, at https://ies.ed.gov/ncee/edlabs/regions/midatlantic/app/Docs/Infographics/RELMA_Disproportionality_in_school_discipline_infographic.pdf.

⁵ McNeeley, Clea, and Alemu Besufekad, et. al., *Exploring an Unexamined Source of Racial Disparities in Juvenile Court Involvement: Unexcused Absenteeism Policies in U.S. Schools*, AERA Open, Vol. 7, (2021); https://www.attendanceworks.org/wp-content/uploads/2019/06/Clea_McNeeley_AERA_Open_April_2021.pdf.

⁶ Student supports can include counseling, a functional behavior assessment and behavior intervention plan, tutoring, mentoring, and peer support, among other interventions, including “response to intervention” (RTI) services to address academic needs.

⁷ In 2016, the largest number of out-of-home placements for adjudicated status offenders was for truancy at 24%. See National Center for Juvenile Justice and OJJDP, *Juvenile Court Statistics (2016)*, at 80; <http://ncjj.org/pdf/jcsreports/jcs2016report.pdf>.

likelihood of youth being pulled deeper into the juvenile justice system and divert funding and emphasis away from the evidence-based best practices to address truancy. Maryland should join states like Connecticut which have purposefully ended court involvement in truancy recognizing that juvenile court is not the appropriate venue for addressing this issue and can in fact have negative consequences.⁸

Moreover, an expansion of court involved truancy reduction programs runs counter to what the [Blueprint for Maryland's Future](#) hopes to accomplish through the continued development of community schools which provide a wide array of wraparound services that enhance students' ability to be successful. Community schools work with other agencies and providers to address the barriers to academic success without the threat of court intervention. This model, along with the student-focused services such as increased academic supports, special education services, behavior intervention plans, counseling, social work services, and mentoring programs, are the more holistic and supportive interventions which OPD supports and advocates on a daily basis for our clients. Expanding the judiciary's engagement on this issue is not the answer.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 220.

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

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⁸ Connecticut State Department of Education, *Catalog of Truancy Based Interventions* (2018); https://portal.ct.gov/-/media/SDE/Truancy/TruancyInterventionCatalog_FINAL.pdf.