



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, 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>1</sup> 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.

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>

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.

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, especially as we continue implementing the Blueprint for Maryland’s Future.

**For these reasons, we urge a favorable report on House Bill 1114.**

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<sup>1</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>2</sup> *In re Nahif A.*, 123 M.D. App. 193, 206 (Md. Ct. Spec. App. 1998).