



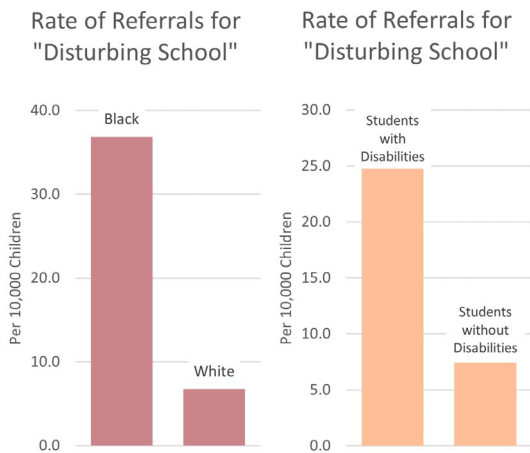
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Senate Bill 512: Education - Prohibited Behavior on School Grounds and Property - Application

Hearing before the Senate Committee on Energy, Education, and the Environment, February 28, 2024

Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit legal services organization which advocates for social justice, and economic and racial equity in Maryland, including by upholding the rights of historically excluded and underserved students through individual representation, community outreach, and systemic advocacy. The PJC's Education Stability Project is committed to making discipline responsive to students' behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. PJC strongly supports SB 512, which decriminalizes the act of disturbing school for a student who attends the school in question.



The disparities based on race and disability-status of the “disturbing school” charge are alarming. Black children are **5.5 times** more likely to be referred to the Department of Juvenile Services for “disturbing schools” than white children. Children with disabilities are **3.3 times** more likely to be referred than children without disabilities.

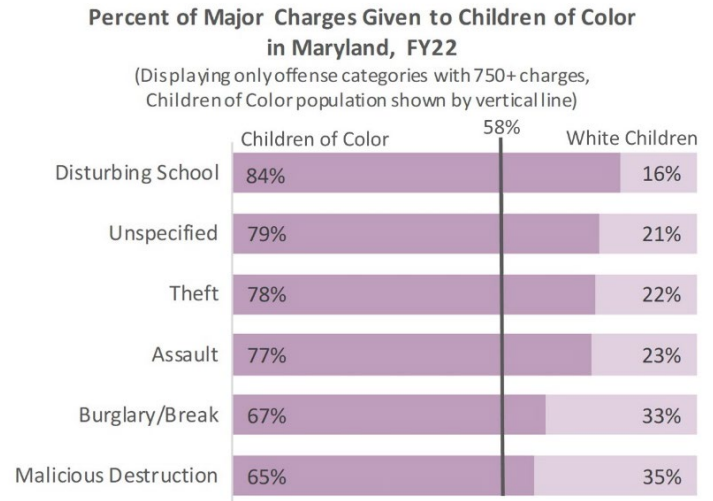
The “disturbing schools charge sits at a unique and concerning intersection of the data. In fiscal year 2022, it was the fourth most racially disparate juvenile offense. That same year, it was the fifth most common juvenile offense referred to DJS. But of those most common offenses, it was the **number one** most racially disparate offense.

One other unique aspect of this charge is that, in fiscal year 23, was never once actually useful. It is a “kitchen sink” charge, meaning it almost exclusively gets charged alongside other, more serious offenses. Last year, not a single referral where “disturbing school” was the only charge was formally filed. The charge that most frequently accompanies “disturbing school” is, by a wide margin, misdemeanor assault. This is already a chargeable offense. If we remove the ability to charge a student with disturbing school, at their own school, prosecutors will not lose the ability to bring a case. The only thing they lose is the ability to leverage one charge against another in a game of pressuring children to accept a deal.

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Additionally, teachers and administrators still have—and should be expected to use—a vast array of strategies to address disruptive behavior that do not include arresting a child. For example, below is a list of interventions included in the Prince George’s County Public Schools student handbook that are available to teachers:

1. Contact parent via telephone, e-mail or text message
2. Conduct a teacher or student conference
3. Correct and provide verbal redirection in the classroom
4. Establish the buddy teacher system (placing a student in temporary time out in another classroom)
5. Develop a daily behavior progress sheet
6. Take time with a student to reflect on the behavior or allow the student to apologize
7. Remove classroom privileges from a student (does not include recess)
8. Reassign the student’s classroom seat
9. **Referral to School Instructional Team (SIT)**
10. **Referral to IEP/504 team (students with disabilities)**
11. **Restorative approaches (affective statements, restorative chat)**
12. **Referral to Professional School Counselor or Mental Health Clinician**
13. **Change in schedule or class**
14. Reprimand by appropriate administrator
15. Parent/guardian notification
16. **Mentoring Program**
17. Revision to IEP/504 plan (for students with disabilities)
18. Loss of privileges
19. **In-school suspension**
20. **Detention**
21. **Referral to Pupil Personnel Worker**
22. Restitution
23. Conflict resolution and community conferencing
24. Assignment of work projects
25. **Referral to community organizations**
26. **Referral to School Psychologist**
27. **Functional Behavioral Assessment (FBA)/Behavioral Intervention Plan**
28. **In-school intervention**
29. Referral to Office of Student Engagement and School Support
30. Referral to Student Support Team (SST)
31. Develop/Revise Functional Behavioral Assessment
32. Assessment/Behavioral Intervention Plan
33. Beautification Project
34. Short-term suspension (1-3 days)
35. Professional school counselor, mental health clinician or school psychologist completes a Suspension Re-Entry Check-In
36. **Community conferencing or mediation**



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37. Referral to IEP/504 team (students with disabilities) for manifestation determination

38. Alternative Programs

39. Suspension Request (long-term 4-10 days)

40. Alternative Administrative Services

41. Alternative educational placement

42. Behavioral Threat Assessment

43. Extended suspension (between 11 and 45 days)

44. Expulsion (45 days or longer; to be considered in most extreme cases)

Any assertion that teachers will be unable to control their classrooms without the ability to have children arrested for this seldom-used charge is categorically false. It is unacceptable for Maryland to continue criminalizing children for acting like children at school. The “disturbing school” charge pushes Black children and children with disabilities further and further along the school-to-prison pipeline and harms our kids.

For these reasons, the PJC strongly supports Senate Bill 512.

For more information contact:

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Data used in graphs drawn from a combination of Department of Juvenile Services Data Resource Guide (<https://djs.maryland.gov/Pages/Data-Resource-Guides.aspx>) and data provided by Department of Juvenile Services to authors in response to a request pursuant to the Maryland Public Information Act, Md. Code Gen. Prov. §§ 4-101-4-601. Received Nov. 30, 2023. Data available upon request.

Support HB 615/SB 512: Amend the Education Code to Stop Criminalizing Student Behavior

HB 615/SB 512 will amend Md. Code Educ. § 26-101, which currently makes it a crime to “willfully disturb or otherwise willfully prevent the orderly conduct” of school, so that the prohibition would no longer apply to students who are enrolled at the school. We must stop criminalizing typical childhood and adolescent behavior.

What is the problem with the current law?

Permits Arrests for Childhood & Adolescent Behavior

By charging students for “disturbing school,” Maryland law criminalizes a wide range of childhood & adolescent behaviors that can and should be addressed by school administrators and school interventions. The law is so broad that it leads to children being arrested for talking back, not returning to their classroom, or refusing to follow directions. Current law **labels typical childhood & adolescent behavior, or behavior stemming from disability, trauma, abuse, neglect, or poverty, as “criminal” conduct – instead of addressing behavior as an indicator that the young person needs support to thrive.** Referring students to the criminal legal system for these behaviors is ineffective, harmful, and a poor use of financial resources.

Hundreds of Children Arrests Each Year

Since 2018, the Maryland Department of Juvenile Services received **more than 6,000 referrals** for children charged with “disturbing school.”

Discriminatory Impact

The term “disturbing” is vague and, therefore, highly discretionary, and susceptible to disparate application. **Black children are 5.5 times more likely to be referred** to DJS for “disturbing schools” than white children. **Children with disabilities are 3.3 times more likely to be referred** than children without disabilities.

Unnecessary, Duplicative, & Harmful

In FY 23, there were zero cases where the “disturbing schools” charge was legally necessary. In nearly all cases, “disturbing schools” was charged alongside more serious charges, like assault. Of referrals where the only charge was “disturbing schools,” zero resulted in formal charges. It is **exclusively used to leverage more severe punishment** against a child.

Black children are

Children with disabilities are

5.5x **3.3x**

more likely to be charged for “disturbing school” than white children

more likely to be charged for “disturbing school” than children without disabilities

What would HB 615/SB 512 do?

- ◆ Students will no longer face criminal charges for normal childhood behaviors that could be perceived or characterized as disrupting school.
- ◆ Schools still have a wide variety of tools to address disruptive behavior:
 - School-based discipline responses**
 - Positive behavior supports**
 - Family engagement**
 - Trauma informed practice**
 - Special education services and other strategies.**
- ◆ Schools can refer students to social service agencies, community-based organizations, or local management boards for additional services instead of charging them with a crime.
- ◆ **HB 615/SB 512** would not change any other provisions of criminal law; students could still be charged with assault, threats, property destruction, or other crimes that may occur in schools.