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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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**EDUCATION, ENEDRY, AND THE ENVIRONMENT  
SENATE BILL 512  
EDUCATION – PROHIBITED BEHAVIOR  
ON SCHOOL GROUNDS AND PROPERTY – APPLICATION**

**February 28, 2024**

**POSITION: SUPPORT**

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 512**, which would amend Maryland Code, Education Article § 26-101 to no longer criminalize students for school disruption.

Section 26-101 is overly broad because it criminalizes a wide range of behaviors, many of which are based on the subjective interpretations by 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 and adolescent behaviors by school officials and school police officers drive and exacerbate the criminalization of Black children and children with disabilities in schools in Maryland. For nearly the past decade, disruption/disrespect has consistently been one of the most common reasons students are arrested at school, accounting for

hundreds of student arrests each year.<sup>1</sup> In Fiscal Year 2023, the Maryland Department of Juvenile Services (DJS) received 858 referrals for “disrupting school operations,” with 82.4% of those referred being youth of color.<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> The data bears this out: in Fiscal Year 2023, Black children were 5.5 times more likely than white children to be referred to DJS for “disrupting school.” For years, this law has been an avenue for discrimination because, whether intentional or not, it has resulted in more Black children being subject to arrest, exacerbating racial disparities in courts and the classroom.

It is important to note that the “disturbing school” charge is wholly unnecessary. It is a “kitchen sink” charge, meaning it gets thrown in alongside the primary charges in a complaint. Zero complaints where “disturbing school” was the only offense charged during Fiscal Year 2023 resulted in formal charges.<sup>5</sup> This means § 26-101 charges are exclusively used to leverage more severe punishment against children.

Section 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, behavioral health services, and special education interventions, that keep them in school and away from the criminal legal system. Therefore, amending § 26-101 to exempt students is a necessary step to moving away from laws, policies, and practices that have criminalized children in Maryland’s schools, and moving *toward* the resources and practices that support students, better address behaviors, and improve long-term outcomes.

**For these reasons, CRSD strongly supports Senate Bill 512.**

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<sup>1</sup> Maryland State Dep’t of Educ., Maryland Public Schools Arrest Data, <https://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>; additional 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.

<sup>2</sup> Maryland Department of Juvenile Services, Data Resource Guide Fiscal Year 2023 at 235, [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2023.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf).

<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>

<sup>5</sup> 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.

## **CRSD Members**

Maryland Office of the Public Defender

Public Justice Center, Education Stability Project

Progressive Maryland

Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law

Maryland Developmental Disabilities Council

League of Women Voters of Maryland

Project HEAL (Health, Education, Advocacy, and Law) at Kennedy Krieger Institute

Free State Justice

ACLU of Maryland

Disability Right Maryland

## 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 to any other provisions of criminal law; students could still be charged with assault, threats, property destruction, or other crimes that may occur in schools