

SB-512 Prohibited Behavior Testimony.pdf

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Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Favor of SB-512, Prohibited Behavior on School Grounds

Mr. Chair, Madame Vice Chair, and members of the Education, Energy & the Environment Committee:

As it currently stands in law, a public-school student can be arrested for “disrupting school,” even if no other crime has been committed in MD. This means if the teacher decides to involve law enforcement, the student in question could be handcuffed and taken to the local police station.

This concept of legal ramifications for a routine disciplinary issue is not only disproportional, but feeds into the serious ongoing social issue of what social scientists call the “school-to-prison-pipeline.” This phenomenon can be defined as a collection of policies and systems which funnel students out of schools, increasing the likelihood of criminal behavior and probability of future imprisonment.

The school-to-prison pipeline disproportionately affects students of color due to implicit bias in the classroom. According to researchers at Yale, implicit bias in teachers cause them to see black students as misbehaving more than white students, even when exhibiting the same behavior. This pattern stretches back to even pre-school students, showing the impact this racial bias has on students during early childhood education.

That said, when misbehavior is criminalized, the outcomes of that bias have serious consequences. This racialized aspect of the school-to-prison-pipeline, combined with the criminalization of routine disciplinary issues, funnels students of color into the juvenile justice system even more than they already are, contributing to crime and the prison population.

These students who are misbehaving need guidance and support from school staff, not the cold chill of a jail cell and a mark on their criminal record. This is why I have introduced SB-512, to make the, often redundant and unnecessary, charge of “disrupting school” not apply to students. In doing so, it helps prevent implicit bias from ruining a child’s future for something that should not be criminalized in the first place.

This bill would protect the future of the next generation from being needlessly put on the path toward a life of crime and have the schools deal with simple misbehavior instead of law enforcement.

It is for these reasons that I respectfully request a favorable committee report.

CRSD SB 512 testimony and fact-sheet.2024.pdf

Uploaded by: Alyssa Fieo

Position: FAV

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

**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.¹ 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.² 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.”³ 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.”⁴ 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.⁵ 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.

For more information contact:

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Public Justice Center

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¹ 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.

² Maryland Department of Juvenile Services, Data Resource Guide Fiscal Year 2023 at 235, https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf.

³ 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.

⁴ 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>

⁵ 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

MAJR Testimony

Uploaded by: Bill Carlson

Position: FAV

SUPPORT SB512 Prohibited Behavior on School Grounds and Property - Application

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



To: Chair Brian Feldman and Education, Energy, and Environment Committee
From: Jennifer Zito and Bill Carlson, MAJR Executive Committee
Date: February 26, 2024

The Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) support SB512 to reduce the "School-to-prison pipeline" by applying normal in-school disciplinary actions when students misbehave on their own school grounds (or while attending a sponsored event at an away school), rather than treating such actions as a crime as they are in current law.

The report of the Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, an 18-month study established by HB1287 (2017), found that (pg. 27) "the criminalization of relatively trivial student behavior ... which might be a minor fistfight or something far less serious ... criminalized many children, especially youth of color, and contributed to the school-to-prison pipeline". SB512 fixes what is a prime example of the over-criminalization of certain behaviors by children.

The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan, all-volunteer organization of nearly 2000 Marylanders who advocate for sensible, evidence-based legislative and policy changes in Maryland's correctional practices. MAJR thanks you for the opportunity to provide input on this important legislation and urges the committee to give SB512 a favorable report.

YEJ_Testimony In Support of SB512 (Favorable).pdf

Uploaded by: Catherine Scott

Position: FAV

**Testimony *in Support of Senate Bill 512 (Favorable)*
Education - Prohibited Behavior on School Grounds and Property - Application**

To: Senator Brian Feldman, Chair, and members of the Education, Energy,
and the Environment Committee

From: Catherine Scott, Student Attorney, Youth, Education and Justice Clinic,
University of Maryland Francis King Carey School of Law, 500 W.
Baltimore Street, Baltimore, MD 21201 (admitted to practice pursuant to
Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: February 27, 2024

The Youth, Education, and Justice Clinic at the University of Maryland Carey School of Law represents children excluded from school through suspension, expulsion, or other means. The Clinic aims to keep children in school and prevent them from being criminalized. The Clinic supports Senate Bill 512, which would exempt students at the educational institutions they attend and students who are participating in or attending a sporting event or extracurricular activity at another school from the offenses set forth in Section 26-101 of Maryland Education Code.

Section 26-101 is overly broad, particularly as it applies to schoolchildren. This section criminalizes a wide range of student behaviors, many of which are based on the subjective interpretations of school officials and school resource officers (SROs). For instance, the statute criminalizes “willful[] disturb[ance]” of schools. However, the notion of “disturbance” is exceedingly broad, vague, and subjective. Any number of communications and behaviors —such as words, tone of voice, attitudes, refusals, or defiance—can be interpreted as willful disturbance. While one teacher may have a high threshold for behavior that may constitute a “disruption,” another teacher may not. Thus, a child who is misunderstood, misinterpreted, or agitated is at risk of being criminalized, depending on who responds.

Section 26-101 also criminalizes “threats.” However, as applied to schoolchildren, the very notion of a threat is often based on subjective interpretations by school officials and SROs. This is particularly problematic because in the school context, a perceived “threat” may not be a threat at all, but rather an expression, word, or action that is consistent with normal adolescent behavior. Under Section 26-101, any number of words, non-verbal behaviors, and other expressive conduct—perceived or actual—have been criminalized.

In addition, because Section 26-101 criminalizes subjective offenses, it exacerbates the criminalization of Black students and students with disabilities. It is widely known that Black students and students with disabilities are disciplined at disproportionately high

rates in Maryland.¹ However, Section 26-101 goes even further because it extends this disproportionality to charged offenses, which is particularly concerning because students who interact with the juvenile and criminal legal systems have a higher likelihood of dropping out of school, among other lifelong consequences.²

The disproportionate impact of Section 26-101 on Black students is in part a result of the statute’s focus on subjective offenses. Vague terms like “threat,” “harm,” and “disruption” are “more often used to describe the behavior of Black girls.”³ Similarly, behavior that is perceived as threatening when committed by a Black student is generally not perceived as threatening when committed by a White student.⁴ A school official or SRO, clouded by implicit biases attached to race, gender, disability, and the intersection thereof, may perceive a “threat” that is actually a moment of frustration, an inability to express an emotion, a childish attempt at humor, or something else. Put simply, whether a student “is scolded or arrested turns on the whims” of the school official or SRO who is responding to the behavior,⁵ and this discretion results in large disparities.

Furthermore, without the exceptions proposed in this bill, the current statute could face constitutional challenges. Notably, in February 2023, the United States Court of Appeals for the Fourth Circuit affirmed a decision that found a South Carolina law similar to Section 26-101 to be unconstitutional.⁶ The South Carolina law made it a crime for students to act “disorderly” or “act in an obnoxious manner”⁷ in or near a school, language that echoes Section 26-101’s prohibition on “willfully disturb[ing] . . . activities, administration, or classes.” The Fourth Circuit explained that the South Carolina law was unconstitutionally vague because it did not give students a fair warning of what behavior was prohibited.⁸ Section 26-101’s language is similarly vague, as “willful[] disturb[ance]” and “threat” are not defined and thus open to widely varying interpretations. The Fourth Circuit also recognized that criminalizing subjective behaviors “generates starkly disparate outcomes” for Black students and declared that

¹ MARYLAND STATE DEP’T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY, OUT-OF-SCHOOL SUSPENSIONS AND EXPULSIONS 2021 – 2022 1 (Black students and students with disabilities constituted approximately 60% percent and 27%, respectively, of students suspended and expelled in the 2021-22 school year), https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Student_Suspensions_BySchool_OutOfSchool.pdf; Johanna Lacoe and Mikia Manley, *Disproportionality in school discipline: An assessment in Maryland through 2018*, REG’S EDUC. LAB’Y MID-ATLANTIC 1 (Sep. 2019), <https://files.eric.ed.gov/fulltext/ED598820.pdf>.

² *E.g.*, JUSTICE POLICY INSTITUTE, EDUCATION UNDER ARREST: THE CASE AGAINST POLICE IN SCHOOLS 18 (Nov. 2011) (“Reduced educational achievement and employment are both significant negative outcomes of involving youth in the justice system.”), https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf.

³ 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.

⁴ 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>.

⁵ *Carolina Youth Action Project v. Wilson*, No. 21-2166, 2023 WL 2147305, at *8 (4th Cir. Feb. 22, 2023).

⁶ *Id.*

⁷ *Id.* at *1.

⁸ *Id.* at *12.

“[t]he Constitution prohibits this type of inequitable, freewheeling approach.”⁹ Thus, exempting the classes of schoolchildren set forth in SB 512 avoids these constitutional issues, which are inherent in the existing 26-101.

Finally, exempting the classes of schoolchildren set forth in SB 512 would help address the urgent need for new and healthier approaches to school discipline. Student misbehavior is most often a cry for help—with academics, with navigating overwhelming emotions, or with processing the trauma that too many Maryland students experience daily. A healthier approach to school discipline responds to this call by (1) recognizing biases, (2) understanding brain development and the behaviors that are consistent with normal adolescent development, and (3) providing supports to students, such as counseling and behavioral health services, that help them manage their behaviors and emotions. SB 512 gives the General Assembly a chance to move away from the laws and policies that criminalize children, and towards the practices and resources that support students, better address behaviors, and improve long-term outcomes for Maryland children.

For these reasons, the Clinic asks for a favorable report on SB 512.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

⁹ *Id.* at *8.

SB0512_Prohibited_Behavior_on_School_Grounds_MLC_F

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0512
EDUCATION - PROHIBITED BEHAVIOR ON SCHOOL GROUNDS AND PROPERTY -
APPLICATION**

Bill Sponsor: Senator Washington

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0512 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

A student who is physically attacked on school property or at a school activity needs to be able to protect themselves. AND the student should not be disciplined for doing so afterwards. This legislation is important as more assaults and weapons are reported at schools. An investigation by the school administration into the event, as required by this legislation, will prevent misuse of this law, and likely clear the student victim of wrongdoing.

Our coalition believes the statutes that pertain to self-defense should also apply to children and adolescents. We support this bill and recommend a **FAVORABLE** report in committee.

2024 SB 512 OPD testimony.pdf

Uploaded by: Erin Seagears

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 512 Education-Prohibited Behavior on School Grounds & Property

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 28, 2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 512, which will clarify the original intent of Maryland Code, Education Article §26-101 prohibiting disruptions of school operations and will help keep children out of the juvenile and criminal justice system. As public defenders, we represent children charged in juvenile and adult court, many for incidents that occurred at school. Senate Bill 512 is a critical step toward decriminalizing behavior that often constitutes typical childhood and adolescent behavior which is better addressed through school discipline procedures and behavior supports and interventions and not through the criminal and juvenile justice system.

According to the Maryland Commission on the School-to-Prison Pipeline and Restorative Practices' December 2018 report, "[t]he most common arrests in school are simple assault...and the vague category of 'disorderly conduct,' which could be a temper tantrum, cursing, or talking back to a teacher. In other words, '**children develop arrest records for acting like children.**'"¹ Senate Bill 512 would prevent these types of traumatic and unnecessary arrests and prosecutions and would be an important step to curb the school-to-prison pipeline which disproportionately impacts Black students and students with disabilities.²

¹ Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, *Final Report and Collaborative Action Plan* (December 20, 2018), at 26,

<http://marylandpublicschools.org/stateboard/Documents/AEEBB/CommissionSchoolPrisonPipeline.pdf>.

² Maryland Advisory Committee to the U.S. Commission on Civil Rights, *Disparities in School Discipline in Maryland* (Oct. 2019), at 10, <https://www.usccr.gov/files/pubs/2020/01-14-MD-SAC-School-Discipline-Report.pdf>.

Maryland Code, Education Article §26-101 is an unnecessary, overbroad, and vague statute that is currently being used to criminalize children’s behavior at school. Under this provision, law enforcement currently charge students of behavior that is typical given their adolescent development, with the dire consequence of pulling students unnecessarily into the juvenile and criminal justice system. Senate Bill 512 is a commonsense correction that clarifies the original intent of the statute and appropriately excludes students at their home school and students attending extracurricular events at another school from being charged with disturbing school operations. Passing this bill will go a long way to stem the flow of students into the school-to-prison pipeline.

The History of the Current Statute

The Court of Appeals summarized the history of the statute in *In re Jason W.*, 378 Md. 596 (2003) (Washington County):

“In 1970, through the enactment of a new section 123A to Art. 27, the criminal provisions were strengthened, largely as the result of the recent outbreak of riots and organized disturbances on college campuses and in some of the secondary public schools. The broadening and focused application of trespass, disorderly conduct, or school disturbance laws was then a national phenomenon. See Sheldon R. Shapiro, *Participation of Student in Demonstration on or near Campus as Warranting Imposition of Criminal Liability for Breach of Peace, Disorderly Conduct, Trespass, Unlawful Assembly, or Similar Offense*, 32 ALR 3d 551 (1970). ...[C]ontemporary press reports reveal that the bill was a response to a wave of rioting, violent racial confrontations, and vandalism at high schools in Prince George's County and Annapolis. *Id.* at 601-602.

“When the 1970 Act was pending before the Legislature, some concern was expressed about its breadth. Debate in the Judiciary Committee of the House of Delegates was extensive, and the fear was raised that, if read literally, the Act “could be applied to a kindergarten pupil throwing a temper tantrum.” See

Baltimore Sun, April 1, 1970 at C24, *supra*. Clearly, however, that was not its intent.” *Id.* at 603.

The Misuse of Section 26-101

Despite the legislature’s concern at the time of enactment that Maryland Code, Education Article §26-101 would be used against children for acting as children, it was passed. And soon the cases bore out that reality. Jason W. was one such child, charged under the statute for graffiti-ing a wall. The Court of Appeals reversed, saying that the words “disturb or otherwise willfully prevent” cannot be read too broadly, because of the nature of schools:

“[a] typical public school deals on a daily basis with hundreds—perhaps thousands—of pupils in varying age ranges and with a variety of needs, problems, and abilities, scores of teachers, also with varying needs, problems, and abilities, and a host of other employees, visitors, and occasional trespassers. The “orderly conduct of the activities, administration, or classes” takes into account and includes within it conduct or circumstances that may momentarily divert attention from the planned classroom activity and that may require some intervention by a school official. Disruptions of one kind or another no doubt occur every day in the schools, most of which, **we assume, are routinely dealt with in the school setting by principals, assistant principals, pupil personnel workers, guidance counselors, school psychologists, and others, as part of their jobs and as an aspect of school administration.** Although, undoubtedly, some conduct is serious or disruptive enough to warrant not only school discipline but criminal, juvenile, or mental health intervention as well, there is a level of disturbance that is simply part of the school activity, that is intended to be dealt with the context of school administration, and that is necessarily outside the ambit of Education Code § 26–101(a).” (Emphasis added). *Id.* at 604-605.

Despite this explanation that the statute was not meant to be used for the thousands of instances that momentarily disrupt the school day that are part of the administration of education, cases since *Jason W.* continue to revolve around the prosecution of run-of-the-mill school disruption:

- *In re J.W.*, 2021 WL 943806 (Charles County): A 17 year old came into a classroom looking for a folder, and when he was upset that he could not find it said jokingly “I’m going to blow up the classroom.” He was disciplined at school and prosecuted for disturbing school activities and threats of mass violence. The courts found that this was a joking and exaggerated “sophomoric attempt at humor” and not even perceived to be a true threat by the witnesses, and therefore not a crime.
- *In re N.H.*, 2018 WL 3602960 (Wicomico County): A high school girl who was convicted of disturbing school activities and making threats on school property for saying to a girl who she accused of previously stealing her cell phone “I’m going to take [your phone] because you stole mine, you’re dead and going to pay.”
- *In re Ryan H.*, 2016 WL 3220636 (Wicomico County): A 17 year old junior who was hit with an orange by another student, and the two fought. Ryan was taken to the principal’s office and became agitated and upset, and said he “would F up” the principal. The principal and another teacher testified that they did not believe these were real threats, but a manifestation of Ryan’s adolescent frustration.
- *In re A.S.*, 2016 WL 3002470 (Wicomico County): A middle school student who was found involved for disrupting school operations for a school fight, which was reversed.
- *In re Micah M.*, 2016 WL 1733272 (Wicomico County): A 15 year old boy where the principal asked Micah at least three times to take the hood of his sweatshirt off of his head. Micah refused, yelling and cursing at the principal and school resource officer. Micah walked away from the adults, and was charged with disorderly conduct and disrupting school operations. The appellate court reversed, saying “This situation, therefore, was a school administrative response, and the State failed to produce sufficient evidence to demonstrate that Appellant disturbed the normal operation of the school.
- *In re Terrelle A.*, 2016 WL 689004 (Wicomico County): a 14 year old boy prosecuted for cursing at the assistant principal in the hallway while students were changing classes. The appellate court reversed.
- *In re Qoyasha D.*, 2015 WL 5944257 (Wicomico County): a 14 year old boy who had a special education plan (IEP) for an emotional disability, who was prosecuted for disrupting school activities for walking out of class without permission, which is a behavior noted in his IEP. Qoyasha was pepper sprayed and handcuffed by the school police officer.

And anecdotally, public defenders across the state continue to see this statute abused, and

used to pull children into the school to prison pipeline just for being kids. We have seen charges for cursing, roaming the hallways, throwing or tossing various things, including a water bottle, a gummy bear, Cheerios, or accidentally hitting a teacher. Many of our clients have disabilities and these types of impulsive behaviors are often related to a student's disability.

Notably, in February 2023, the United States Court of Appeals for the Fourth Circuit affirmed a holding by the United States District Court of South Carolina that South Carolina's disturbing school operation law was unconstitutionally vague as applied to students in *Carolina Youth Action Project; D.S. by and through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). The court noted that "the terms 'disorderly,' 'boisterous,' 'obscene,' and 'profane' do not explain the law's scope or limit the discretion of those charged with enforcing it." The court went further to say "unless South Carolina intended to criminalize many childish shenanigans...the vagueness that dooms the disorderly conduct law is not 'uncertainty about the normal meaning' of the law's terms but what acts of adolescent mischief are 'covered by the law and what are not.' ...Lacking any meaningful standards, the record confirms that officers deploy a glorified smell test to determine whether a student's disorder is disorderly enough to be criminal." *Id.* at 783-784. Maryland's disturbing school operations statute may contain the same deficits as South Carolina's statute, and in our clients' experience it has been applied arbitrarily and inappropriately to typical adolescent behavior. Moreover, in Maryland, the vast majority of charges are not even petitioned. In FY 23, 83% of the charges for "disrupting school" resolved without being petitioned. And when "disturbing schools" is the only charge, zero cases went forward.³ That tells us that the disturbing school charge is being misused against our children.

³ Data provided by the Maryland Department of Juvenile Services on Nov. 30, 2023 in response to a request pursuant to the Maryland Public Information Act, Md. Code Gen. Prov. §§ 4-101-4-601.

The Disproportionate Impact on Student of Color and Students with Disabilities

The data from the Maryland State Department of Education and the Department of Juvenile Services (DJS) supports what we know from these individual cases: students of color and students with disabilities are disproportionately arrested and charged under Section 26-101.

The disparities for non-white children begin with school-based arrests. Despite representing only 33% of students enrolled in Maryland’s public schools,⁴ 61% of students arrested in school during the 2021-22 school year were Black.⁵ Children with disabilities are also disproportionately charged: students with Individual Education Programs (IEP), one of two special education classifications, are only 12% of the student population in Maryland yet they received 28.2% of school-based arrests. Adding students with 504 plans who need accommodations for a disability, means that over 44% of school based arrests impact students with some type of disability.⁶

The data from DJS is just as bleak. In Fiscal Year 2020, DJS received 1,259 referrals for “disturbing school,” with 82% of those referred for an intake hearing being youth of color.⁷ In Fiscal Year 2022, DJS received 836 such referrals, with 84% of those referred for an intake hearing being youth of color.⁸ And, in Fiscal Year 2023, DJS received 858 referrals, with 82.4% of those referred being youth of color.⁹ Even as the overall number of referrals fluctuates, the racial disparities remain the same.

Section 26-101 is also disparately applied across the state, thus subjecting children attending one

⁴ Maryland State Dep’t of Educ., *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2021*, https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Enrollment_ByRace_Ethnicity_Gender_Publication_Accessible.pdf.

⁵ Maryland State Dep’t of Educ., *Maryland Public Schools Arrest Data: School Year 2021-22*, <https://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20212022.pdf>.

⁶ *Id.*

⁷ Maryland Dep’t of Juvenile Services, *Data Resource Guide Fiscal Year 2020* at 252, https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

⁸ Maryland Dep’t of Juvenile Services, *Data Resource Guide Fiscal Year 2022* at 242, https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf.

⁹ Maryland Dep’t of Juvenile Services, *Data Resource Guide Fiscal Year 2023* at 235, https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf.

school to arrest for normal adolescent behavior while those attending schools in a neighboring district can continue to behave like children. For example, based on the data from DJS for FY 2023, Anne Arundel County accounted for 26% of all the referrals for disturbing school operations statewide and Wicomico County’s petitions for disturbing school operations accounted for 23%.¹⁰ Yet, other counties, such as Montgomery and Howard Counties, had zero petitions for disturbing school operations.

“Disturbing school operations” is a vague catch-all term that, because of its vagueness, is disproportionately used to criminalize students of color and students with disabilities for typical adolescent behavior. However, when conduct arises to criminal behavior, youth can still be charged with any relevant part of the criminal code, including assault for a school fight under Md. Crim. § 3-203.

School Systems Have Tools to Address Disruption without Charging Students

Maryland’s school systems have specific discipline procedures that can be utilized if a student is disturbing school without having to expose students to the juvenile justice system. The Maryland Guidelines for a State Code of Discipline outlines possible responses to behavior that constitutes “disruption.”¹¹ School administrators can refer students to the student support team to identify additional supports. Students with behavior challenges can be evaluated using a functional behavior assessment and a behavior plan can be developed. School teams can also utilize the many interventions and supports available for students with disabilities through the IEP team or 504 process.¹² Maryland State Department of Education has long promoted Positive Behavior Interventions and Supports (PBIS), which provides a multi-tiered system of support to students.

¹⁰ *Id.* at 235-38. Wicomico County’s petitions for disturbing school operations is particularly alarming as Wicomico County Public Schools had been under a settlement agreement with the U.S. Department of Justice regarding its overuse of school-based arrests and suspensions. See Civil Rights Division, U.S. Dep’t of Justice, *Wicomico County Public School District - Settlement Agreement* (2017), <https://www.justice.gov/crt/case-document/wicomico-county-public-school-district-settlement-agreement>.

¹¹ The Maryland Guidelines for a State Code of Discipline, adopted July 22, 2014, available at

<https://marylandpublicschools.org/about/Documents/DSFSS/SSSP/MDGuidelinesforStateCodeDiscipline08072014.pdf>

¹² See Maryland State Dep’t of Educ., *School Discipline Basics & Integrating Supports: A Focus on Students with Disabilities* (Nov. 2020), <https://marylandpublicschools.org/programs/Documents/Special-Ed/MITP/about/SchoolDisciplineBasics.pdf>.

Maryland's Blueprint also recognizes the need for additional student support through its community schools initiative. These tools and strategies are available to school systems to promote the development and well-being of all its students. It is time for law enforcement, including school resources officers, to stop charging students and employ more evidence-based and restorative practices that actually create safer schools and improve the climate for all.

We urge the committee to end this punitive practice of criminalizing children by ensuring that students can no longer be prosecuted under Maryland Code, Education Article §26-101.

* * *

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 512.

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

SB 512 - Favorable.pdf

Uploaded by: Kenzie Funk

Position: FAV



**Testimony in SUPPORT of
Senate Bill 512: Education – Prohibited Behavior on School Grounds and Property – Application**

Education, Energy, and the Environment Committee

Position: Favorable

February 28, 2024

At Strong Schools Maryland, we advocate for the faithful implementation of the Blueprint for Maryland's Future. As a result, Strong Schools Maryland is dedicated to serving our Maryland student population and continuing to work to amplify youth voices. An integral aspect of supporting students involves protecting them from possible criminalization and/or discrimination. Senate Bill 512 proposes that specific prohibitions and penalizations for "disruptive" behavior not apply to students within the school.

Over-policing in the public education system has historically criminalized marginalized student groups such as Black and Brown children, students with disabilities, and Indigenous students.¹ To illustrate, according to research published by New York University, Black and Brown children have been historically and are currently being pushed out of schools, arrested, and face physical violence at a disproportionate rate despite the fact that these students do not misbehave any more than their white counterparts.² In Maryland specifically, students of color comprised 78% of our total number of suspensions and expulsions during the 2022-2023 school year.³ This over policing, penalizing, and prohibiting specific behavior has only further contributed to the school to prison pipeline and does real harm to many of our students and families.

We urge the committee to consider how, in addition to addressing racial and educational inequities, Senate Bill 512 represents a significant step towards meeting the behavioral needs of our students. By moving towards restorative practices, this bill states that punitive measures may not (and are often not) the most effective approach in addressing student behavior.

The Blueprint for Maryland's Future envisions a World-Class public school system, emphasizing the importance of a safe, non punitive learning environment. To address this issue, we must deconstruct the rules and regulations that have perpetuated harmful practices, particularly those that result in over penalizing certain student behaviors.

For these reasons, we urge a favorable report on Senate Bill 512.

For more information, contact Kenzie Funk at kenzie@strongschoolsmaryland.org

¹ [Police in Schools Continue to Target Black, Brown, and Indigenous Students with Disabilities](#)

² [The Education Justice Research and Organizing Collaborative](#)

³ [Suspensions By School and Major Offense Category. Maryland Public Schools, 2022 - 2023](#)

2024 02 26 MC CJJ Favorable SB512 FINAL KSR.pdf

Uploaded by: Leslie Frey

Position: FAV



DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commission on Juvenile Justice

Marc Elrich
County Executive

James C. Bridgers, Jr. Ph.D., MBA
Director

February 27, 2024

SB 512 - Favorable

Senator Brian J. Feldman
Chair, Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chairman Feldman:

Thank you for the opportunity to submit written testimony in support of Senate Bill 512 on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ).

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members including: the Child Welfare Services Program, the Montgomery County State's Attorney's Office, the Office of the Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

MC CJJ supports SB 512 which aims to exclude schoolchildren from the criminal prohibitions set forth in Section 26-101 of the Maryland Education Code. The centerpiece of Section 26-101 is the crime of "willful" school disturbance, a vague law that criminalizes any number of actions and communications that are often part of normal adolescent behavior. These are subjective offenses without clear definition to students and are based on the interpretations of school officials and school resource officers. Accordingly, under current law, schoolchildren can be—and are—brought into the juvenile justice system for words, non-verbal expressions, attitudes, frustrations, and bad moments rooted in adolescence or trauma. These actions are then interpreted or otherwise perceived as "disruptions" or "threats" that result in criminal culpability for an otherwise undeserving child.

Subjective offenses, such as the undefined "disruptions" and "threats" criminalized by Section 26-101, disproportionately impact Black schoolchildren (especially Black girls) and students with disabilities. Interpretations of these statutes are informed by explicit and implicit racial and intersectional biases which dictate the use of discretion and result in disparate discipline based on race, socio-economic status, and other factors.¹ According to data compiled by the Maryland Coalition to Reform School Discipline, Black schoolchildren in Maryland are 5.5 times more likely to be referred to the Department of

¹ Cheryal Staats, *Implicit Racial Bias and School Discipline Disparities*, KIRWAN INS., <http://spedfoundations.pbworks.com/w/file/fetch/108996172/bias%20discipline%20Kirwan.pdf> (last visited Feb. 25, 2024).

Juvenile Services (DJS) for “disturbing” schools than White schoolchildren. Similarly, schoolchildren with disabilities are 3.3 times more likely to be referred to DJS than children without.

In addition, a “disturbing school” charge – as applied to schoolchildren – is superfluous because it is essentially always connected to a specific underlying charge, such as assault or harassment. Very rarely is it a stand-alone charge. In fact, as shown by the data compiled by the Maryland Coalition for School Discipline, in FY 2023 *none* of the referrals to DJS for the stand-alone charge of “disturbing schools” led to formal charges. Thus, for several reasons, this crime should not apply to schoolchildren.

We continue to urge the General Assembly, and other stakeholders, to holistically address the needs of juveniles by dedicating resources to their development and rooting out biases in Maryland’s justice system. Excluding schoolchildren from the criminal prohibitions of Section 26-101 would be a positive and significant step.

For these reasons, we request a favorable report on SB 512 and welcome the opportunity to speak about this issue further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Redden".

Kevin Redden, Chair

Montgomery County Commission on Juvenile Justice

SB 512 Written Data Testimony.pdf

Uploaded by: Levi Bradford

Position: FAV



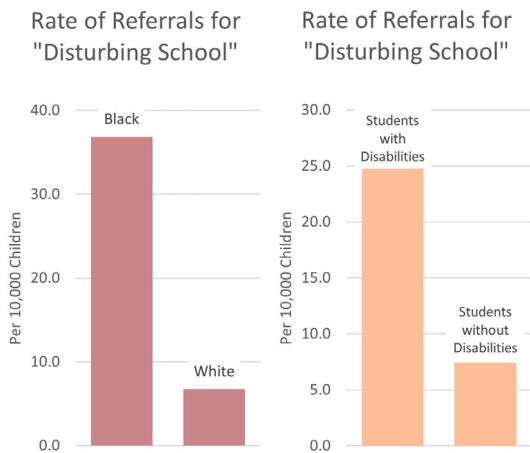
Levi Bradford, Staff Attorney
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Baltimore, Maryland 21201
410-625-9409, ext. 272
bradfordl@publicjustice.org

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.

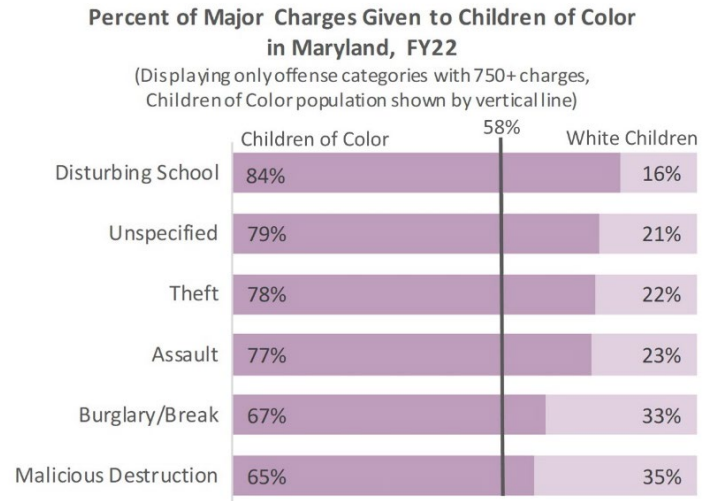
The “disturbing schools charge sits at a unique and concerning intersection of the data. In fiscal year 2022, it was the fourth most racially disparate juvenile offense. That same year, it was the fifth most common juvenile offense referred to DJS. But of those most common offenses, it was the **number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

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

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**



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:

Levi Bradford, Staff Attorney
Education Stability Project
Public Justice Center
410-625-9409, ext. 272
bradfordl@publicjustice.org

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.

SB 512.Repealing crime of students dirupting schoo

Uploaded by: John Woolums

Position: FWA

BILL: Senate Bill 512
TITLE: Education - Crimes on School Grounds - Application
DATE: February 28, 2024
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Education, Energy, and the Environment
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 512, which would repeal a stand-alone provision of the Education Article that criminalizes the behavior of all persons, including current students, on school premises.

Local boards of education place a high priority on providing a safe workplace and learning environment for each student and staff person. MABE also supports a progressive student discipline system that emphasizes in-school responses to student behaviors that provide professional educational and behavioral health supports to affected students. In this light, MABE supports Senate Bill 512 to clarify that A. adults will remain criminally liable for disruptive behavior in schools, and B. students may be subject to criminal liability for these behaviors, but only under other provisions of the Criminal Law Article, not the Education Article. Again, the bill would exclude only students from the criminal charges provided under this section of law.

MABE supports Senate Bill 512 because it would retain the prohibition against non-student conduct contained in the Education Article, which states that “A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.” Enacting Senate Bill 512 would ensure that any person other than a student who enters a school and willfully disturbs the ongoing education being conducted would continue to be subject to a charge and penalty under this provision of the Education Article. To be clear, students would continue to be subject to arrest and conviction for any other applicable crimes contained elsewhere in the Criminal Law statute. In this way, Senate Bill 512 simply, but meaningfully, removes the special crime of school disruption for students from the Education statute.

MABE is requesting an amendment to retain the crime of disrupting the school environment for students attending events at other schools, including higher education students attending elementary and secondary school events and vice versa. Specifically, the requested amendment would strike lines 1 through 4 on page 2 of the bill.

Again, local school systems are committed to each and all of their students becoming college and career ready and ensuring that the appropriate use of school discipline furthers that goal. MABE has adopted the position of supporting the State Board’s initiative to require local boards to reform student discipline policies to:

- Prohibit “zero tolerance” policies;
- Reflect a philosophy that fosters positive behavior;
- Provide continuous education services to all suspended and expelled students; and
- Hold school systems accountable for reducing and eliminating disproportionate impacts of student discipline policies on minority students.

Legislation enacted in 2019 required local boards of education to revise local board policies related to student discipline to provide for restorative practices. This law defines “restorative approaches” as a relationship-focused student discipline model that (1) is preventative and proactive; (2) emphasizes building strong relationships and setting clear behavioral expectations that contribute to the school community well-being; (3) in response to behavior that violates clear behavioral expectations, focuses on accountability for any harm done by the problem behavior; and (4) addresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.

For these reasons, MABE requests a favorable report on Senate Bill 512, with the amendment provided above.

SB 512 - Education - Prohibited Behavior on School

Uploaded by: Mary Pat Fannon

Position: FWA



PSSAM
Public School Superintendents' Association
OF MARYLAND

Mary Pat Fannon, Executive Director
1217 S. Potomac Street
Baltimore, MD 21224
410-935-7281
marypat.fannon@pssam.org

BILL: SB 512

TITLE: Education - Prohibited Behavior on School Grounds and Property - Application

DATE: February 28, 2024

POSITION: Support with Amendments

COMMITTEE: Senate Education, Energy, and the Environment Committee

CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **supports** Senate Bill 512 **with amendments**.

Senate Bill 512 would specify that provisions of law prohibiting and criminally penalizing certain disruptive and threatening behavior on certain school grounds and property do not apply to students who commit offenses at the institution they attend. Additionally, these provisions of law would not apply to students who commit offenses at another institution while participating in or attending a sporting event or other extracurricular program sponsored at that institution. This application would only apply to the following codified provisions:

- “a person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education”;
- “a person may not molest or threaten with bodily harm any student, employee, administrator, agent, or any other individual who is (1) lawfully on the grounds or in the immediate vicinity of any educational institution; (2) on a school vehicle; (3) at an activity sponsored by a school that is held off of school property; or (4) on property that is owned by a local school system and is used for administrative or other purposes”; and
- “a person may not threaten with bodily harm any employee of an educational institution at home by any means, including in person, by telephone, or by electronic mail. This prohibition relates only to the employee’s employment.”

Simply put, this bill requires local systems to implement school-based discipline and consequences for students who disrupt the learning environment under these provisions, rather than criminally charge them. This alteration only applies to students, and only applies to the provisions listed above. This bill would not prohibit students from being charged for other crimes while on school grounds.

Maryland's superintendents place the highest priority on providing a safe workplace and learning environment for all students and staff in local school systems. Furthermore, PSSAM supports a progressive student discipline system that emphasizes in-school responses to student behaviors that provide professional, educational, and behavioral health support to affected members of the school community. Additionally, PSSAM supports this bill in its retention of the prohibition against non-student conduct contained in the Education Article, which states that "a person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education."

Senate Bill 512 would ensure that any person other than a student who enters a school and willfully disturbs the ongoing education being conducted would continue to be subject to a charge and penalty under the law, in addition to any other applicable crimes contained in Maryland's criminal law statutes.

Under current law, any person who violates any of the provisions listed above is guilty of a misdemeanor and, on conviction, is subject to a fine up to \$2,500, imprisonment up to six months, or both. Superintendents are committed to the personal development of all students, a goal furthered by appropriate use of restorative school discipline rather than these criminal penalties. PSSAM strongly believes that this bill furthers this approach.

While PSSAM generally supports the application of this bill, we do raise one concern that can be clarified through amendments. As written, this bill would waive criminal penalties for students of a higher education institution who commit the specified offenses on elementary, middle, or high school grounds. For example, an adult who is enrolled in a local college who commits one of these offenses while attending a sporting event at a local high school could not be criminally charged if this bill were to go into effect. For the safety of all students, PSSAM requests that amendments be added to clarify that students of higher education who commit an offense on K-12 grounds are still subject to criminal penalties. PSSAM believes that the spirit of this bill is not impacted by this amendment, and ultimately, this amendment would serve to ensure that adults could be charged under these provisions of law, regardless of their enrollment in any higher education institution.

For these reasons, PSSAM **supports** Senate Bill 512 with the **amendments** outlined above, and requests a **favorable** committee report.

SB0512 Howard Co BOE Testimony 022824 for EEE - Be

Uploaded by: Staff Howard County

Position: FWA



**Board of Education of Howard County
Testimony Submitted to the Maryland Senate,
Education, Energy, and the Environment Committee
February 28, 2024**



**Board of Education
of Howard County**

Jennifer Swickard Mallo, *Chair*

Yun Lu, Ph.D., *Vice Chair*

Linfeng Chen, Ph.D.

Jacky McCoy

Jolene Mosley

Robyn C. Scates, Esq.

Antonia Watts

Lamia Ayaz
Student Member

William J. Barnes
*Acting Superintendent,
Secretary/Treasurer*

SB0512: FAVORABLE WITH AMENDMENTS

Education - Prohibited Behavior on School Grounds and Property – Application

The Board of Education of Howard County (the Board) supports **SB0512 Education - Prohibited Behavior on School Grounds and Property – Application** with amendments to remove exceptions for students other than those attending the school where the incident occurred.

As introduced initially in 2021, prior versions of SB0512 struck the section of the Education Article that places criminal penalties on those who “willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.” This provision currently applies universally to students as well as parents, staff, and visitors. While there are other provisions of the Criminal Law Article that may be applicable in such situations if this section were removed, such as a trespassing violation, this particular statute is necessary for its use in a school setting that relies on an orderly environment to properly carry out the delivery of education to students.

Over the past several years of deliberation on this bill, various iterations have attempted to focus in on the intent to remove current students from the application of the law in order to decriminalize what can otherwise be handled via student discipline – essentially aimed at reducing the school-to-prison pipeline. To that end, the current version of the bill maintains a prohibition on willful disturbances at schools with exclusions specifically for a student currently attending the institution of elementary, secondary, or higher education where the offense occurs or a student currently attending another school who is participating in or attending a sporting event or other extracurricular program sponsored by the institution where the offense occurs.

While the Board supports the intent of SB0512, it should stop short at including only the first exclusionary provision that would achieve the stated purpose of the sponsor, while leaving this important safety and security law in place for use when other individuals disrupt the school environment. Specifically, if a student has been excluded from their school for disciplinary purposes or does not attend the school all-together this statute is the only additional measure school systems have to deter the student from entering the school grounds. Moreover, the feasibility of applying the second provision is questionable as it is often unknown if an individual (who is not a known student of that school) is a student in another jurisdiction or private school. The second exclusion also does not distinguish between grade levels, therefore if a student of a higher education institution commits a disruptive event on elementary, middle, or high school grounds as an adult the bill would waive criminal penalties even if they have no connection to the school where the offense occurred.

With these amendments, we urge a FAVORABLE report of SB0512 from this Committee.

SB 0512 Prohibited Behavior on School Grounds - 20

Uploaded by: Ella Ennis

Position: UNF



Ella Ennis, Legislative Chairman
Maryland Federation of Republican Women
PO Box 6040, Annapolis MD 21401
Email: eee437@comcast.net

The Honorable Brian Feldman, Chair
And Members of the
Education, Energy, and the Environment Committee
Senate of Maryland
Annapolis, Maryland

Re: **SB 0512** – Education – Prohibited Behavior on School Grounds & Property – Application -
UNFAVORABLE

Dear Chairman Feldman and Committee Members,

The intent of documenting disruptive behaviors should be to facilitate interventions that will eliminate future, more serious behaviors, and their consequences. Redefining “reportable offense” and thereby failing to provide behavior modification services at the earliest opportunity is a disservice to our children and counter to our responsibilities as educators, parents, and community members.

Experience has shown that the absence of consequences for bad behaviors leads to more bad behavior, often escalating to more dangerous behavior and criminal activity.

The Maryland Federation of Republican Women opposes SB 0512. Removing penalties for disruptive or threatening behavior at our institutions of elementary, secondary, and higher education is counter-productive. Limiting “Reportable Offense” to apply only to an offense that does not occur at the school the student attends or an event sponsored by that school makes no sense, and threatens the safety and well-being of all – students, faculty, other staff, and the community.

Disruptive and threatening behavior is currently divided into five categories: (1) Attendance, (2) Arson, Fire or Explosives, (3) Dangerous substances, (4) Sex Offenses, (5) Attacks with a weapon, threats or fighting.

While attendance (truancy) can be disruptive to a student’s progress, it does not pose a physical threat to other students and staff. That is not the case with the other behavior categories. Allowing disruptive behavior to shut down or shout down a teacher, a visiting presenter, or another student violates everyone’s First Amendment rights.

Please give **SB 0512** an **UNFAVORABLE** Report.

Sincerely,
Ella Ennis
Legislative Chairman

HB615 and SB0512.pdf

Uploaded by: Lorraine Wilson

Position: UNF

I am disheartened by the efforts to pass Prohibited Behavior on School Grounds and Property-application. While I fully understand the arguments, I disagree. This is the worst possible time to pass this Bill (HB615 cross-filed SB0512) and I oppose it for the following reasons:

As a former teacher, I believe I have more insight into this subject than most. I taught in Prince George's County for 20 years and I believe I know what it is like to face threats of physical danger on a regular basis for myself and for the students who faced this along with me. From my viewpoint, we cannot wait until a student is so out of control that they do harm to themselves or others before we act. In order to send a strong message that certain behaviors will not be tolerated, we (adults) must all be on the same page. It is easy for you and others to make these judgements because you are not there to witness or experience these things. I am talking about the psychological harm that is being done to those who go to school to teach and to learn only to be prohibited by others' behavior to do so. It is not pretty and it is not fun and it makes getting up and going to school more difficult. That is one reason more teachers are leaving. But even if they do, I worry about the students who go to school to learn and are confronted by unruly behavior of others on a daily basis.

Those who favor this Bill speak about the psychological harm that is being done to those to whom it is being applied. What of the victims who experienced real trauma by having these things perpetrated on them day after day, week after week? As a teacher, I cared about all of my students, maybe even a bit more for those who were troubled. I did my best to help them by trying to show them the best way to behave and not get into trouble. I referred students for counseling, but, to tell you the truth, there are not enough counselors in the world for the number of students (and their parents) who have problems and tend to take those problems out on innocent victims. Children who go to school to learn and teachers who go to school to teach, should feel safe in their environment.

I am highly insulted when those defending this Bill use race as a means to push it through. To argue that teachers are misunderstanding students' behavior because of their color is ridiculous. For every child who does exhibit disruptive and threatening behavior, there are many more children of that same color who do not. The color of their skin might be an explanation for why they are frustrated and angry due to things outside of their control (and ours), but it is not a teacher's reason for trying to teach them how to behave and to keep them from interfering with the learning process. I don't believe that most teachers are threatened by a Black student any more than a white student, yet this is another popular argument and one that is both insulting and untrue.

I once had a child psychologist who told me that pitying a child for their circumstances and allowing them to get away with unruly behavior was one of the worst things you could do to a child. If you really care about these troubled children, as I do, you will want to help them and not give them excuses which will only send them into deeper trouble.

I would like to point out that the school system I worked for had many interventions for handling misbehaviors which were preventative and restorative. As for children with disabilities, there are 504 plans and I.E.P.'s which have built-in accommodations and teachers are strictly required by law to adhere to them. However, give the people who are on the front lines some credit. There comes a time when a teacher or school system has used up all of their interventions to no avail. There comes a time when things are spiraling out of control and someone is about to be hurt. You are asking us in those instances to wait until someone is seriously hurt before we call for help. Of course, not every action or threat warrants this, but we have had enough experience to know when it is time. Please help teachers keep children safe. Let us do our job by doing yours.

Lorraine Wilson

College Park, Maryland

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SB 0512 Prohibited Behavior on School Grounds - 20

Uploaded by: SHARON CARRICK

Position: UNF



Ella Ennis, Legislative Chairman
Maryland Federation of Republican Women
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The Honorable Brian Feldman, Chair
And Members of the
Education, Energy, and the Environment Committee
Senate of Maryland
Annapolis, Maryland

Re: **SB 0512** – Education – Prohibited Behavior on School Grounds & Property – Application -
UNFAVORABLE

Dear Chairman Feldman and Committee Members,

The intent of documenting disruptive behaviors should be to facilitate interventions that will eliminate future, more serious behaviors, and their consequences. Redefining “reportable offense” and thereby failing to provide behavior modification services at the earliest opportunity is a disservice to our children and counter to our responsibilities as educators, parents, and community members.

Experience has shown that the absence of consequences for bad behaviors leads to more bad behavior, often escalating to more dangerous behavior and criminal activity.

The Maryland Federation of Republican Women opposes SB 0512. Removing penalties for disruptive or threatening behavior at our institutions of elementary, secondary, and higher education is counter-productive. Limiting “Reportable Offense” to apply only to an offense that does not occur at the school the student attends or an event sponsored by that school makes no sense, and threatens the safety and well-being of all – students, faculty, other staff, and the community.

Disruptive and threatening behavior is currently divided into five categories: (1) Attendance, (2) Arson, Fire or Explosives, (3) Dangerous substances, (4) Sex Offenses, (5) Attacks with a weapon, threats or fighting.

While attendance (truancy) can be disruptive to a student’s progress, it does not pose a physical threat to other students and staff. That is not the case with the other behavior categories. Allowing disruptive behavior to shut down or shout down a teacher, a visiting presenter, or another student violates everyone’s First Amendment rights.

Please give **SB 0512** an **UNFAVORABLE** Report.

Sincerely,
Ella Ennis
Legislative Chairman

Tibbals_ OPPOSE SB 512_ HB 615_ Education - Prohib

Uploaded by: Trudy Tibbals

Position: UNF

SB/ 512/HB 615: Education - Prohibited Behavior on School Grounds and Property - Application: Please OPPOSE THIS BILL!!

Dear Chair Atterbeary, Vice Chair Wilkins and all other esteemed Committee Members:

I am absolutely dismayed at the wording in this bill. "Specifying that provisions of law prohibiting and penalizing certain disruptive and threatening behavior on certain school grounds and property do not apply to students who commit offenses at the institution they attend or students who commit offenses at another institution while participating in or attending a sporting event or other extracurricular program sponsored at that institution; and generally relating to the application of provisions of law that prohibit and penalize disruptive and threatening behavior on school grounds and properties."

I don't know about all of you on this Committee, but to me, this sounds like you want to pass a law that "does not apply to STUDENTS who commit offenses (I'm guessing the "disruptive and threatening behavior") at school, either the "institution" they attend, OR "at another institution" (school or other school building or property) "while participating in or attending a sporting event or other extracurricular program sponsored at that institution".

It sounds like you do NOT want to hold STUDENTS accountable for "disruptive and threatening behavior"!! How does THAT help anyone?!! How does THAT help all the students in our schools that are the recipients of this "disruptive and threatening behavior"?! How does passing a law that does not apply to STUDENTS for their "disruptive and threatening behavior" help the hard-working teachers and support staff of these learning "institutions"?!

I, as a tax-paying citizen of Maryland, do NOT appreciate the implication that this legislation has toward the SAFETY of all of our students, teachers and support staff!! I pay taxes so that all students who attend and all teachers and support staff that work at these "institutions" should be SAFE at these "institutions"!! There should never be situations in which our students, teachers, and support staff should feel unsafe. I know that this is not reality in way too many of our "institutions". In my county, I know there are plenty of students, teachers and support staff that do NOT feel safe to be in these learning "institutions". I know that there have been daily fights in some of the schools in my county. I know that there have been way too many bullying situations that are very threatening in my county alone. Therefore, we should be employing many more measures to strengthen the safety of our learning "institutions", not making it easier for these threatening behaviors to occur!!

How do minor children react when there are no consequences for their actions? They are much more compelled to commit those dangerous and threatening actions, because they know that they will not “get in trouble”, that nothing negative will happen to them. Anyone with children knows this! It is the very nature of human behavior.

We should be funding to have more SROs (Student Resource Officers) in our learning “institutions”, as research has unequivocally shown that SROs save lives and deescalate dangerous situations than schools that do not have SROs.

We, as a State that cares about our students, teachers and support staff, should be extremely concerned about what will happen if students realize there are no negative consequences for their negative behaviors. Our learning “institutions” will be even more chaotic than they are now!! There will more than likely be a huge increase in “disruptive and threatening behaviors” over what there is even now if legislation like this passes.

It doesn't matter what your politics are. It is very easy to surmise that this legislation is very dangerous to our students, teachers and support staff! We need safe schools! Our students, teachers and support staff DESERVE safe schools!! And this bill will do exactly the opposite of that. This bill is a detriment to our students and our very hard-working teachers and support staff!! All you have to do is look at the state of our nation. There is a huge increase in crime, especially in Maryland. Especially with juveniles committing crimes!! This should concern everyone, no matter what political party you belong to!!

We must keep our learning “institutions” safe for everyone!! That is the very least we, as a society, owe our children, teachers and support personnel!!

I implore all of you to think long and hard before you vote on this bill. This is important, especially to the well-being of our children and those who work to teach and support them!

Please vote to OPPOSE this bill!!! Our children's lives may depend on it!!

Thank you!!

Trudy Tibbals
A Very Concerned Mother and Maryland resident