

## Judicial Proceedings Senate Bill 744- Juvenile Law Reform

**Date: February 9, 2024**

**Position: Oppose**

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. CRSD is committed to the fair and equitable treatment of ALL students, including pregnant or parenting students, regardless of race, ethnicity, gender, gender identity, sexual orientation, disability, religion, and socio-economic status, and reducing barriers to learning for ALL students. CRSD is dedicated to dismantling the school-to-prison pipeline. The proposed legislation will increase the court's jurisdiction over young people and dramatically expand detention and probation. These changes will further ensnare Maryland's students in the youth legal system, separating them from community-based public school systems that are best suited to provide instruction.

We are alarmed by SB 744's expansion of court jurisdiction over youth as young as 10 years old. As a reminder, the Juvenile Justice Reform Council recommended that Maryland have a minimal age of jurisdiction due to the growing body of evidence that "found that pre-teens have diminished neurocognitive capacity to be held culpable for their actions; likewise they have little ability to understand delinquency charges against them, their rights and role in an adversarial system, and the role of adults in this system."<sup>1</sup> The Council recognized that behavior of younger children should be handled by the welfare and mental health systems, not the courts. Moreover, the Juvenile Services Education Program (JSEP), which operates the education programs in Department of Juvenile Services (DJS) facilities, cannot realistically meet the educational needs of youth under 13 years of age who might be detained under this bill. Middle school students currently in DJS facilities struggle to get appropriate education services. There is no consistent direct instruction and students are generally grouped in classes by housing unit, rather than by age, grade level, or even course, making effective access to the grade appropriate curriculum difficult.

We also strongly oppose the provision that allows for a violation of probation for "two or more unexcused failures to appear at a treatment program ordered by the court." *See* SB 744 , page 10, Line 26-27. This severe provision fails to recognize the many variables that affect children's participation in services such as transportation. Children must rely on adults in their lives to help carry out much that may be ordered by the court. Senate Bill 744 fails to recognize this reality while increasing the risk of detention unnecessarily.

CRSD recognizes that schools provide the greatest protective factor for healthy adolescent development. Judge Steven Teske, the presiding juvenile court judge in Clayton County, Georgia, explained the connection at a United States Senate subcommittee hearing on school discipline in 2012: "[I]t should come to no one's surprise that the more students we arrested, suspended, and expelled from our school

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<sup>1</sup> Juvenile Justice Reform Council Final Report 17 (January 2021), <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

system, the juvenile crime rate in the community significantly increased. These kids lost one of the greatest protective buffers against delinquency—school connectedness.”<sup>2</sup>

We need policies that promote greater connection to public schools, not fewer. It is in young people, families, and communities’ best interest to keep students in their regular community-based schools and on track for a successful future. As the Council of State Governments Justice Center recently observed, “Multiple studies have shown that an arrest and/or court involvement has a substantial negative impact on young people’s school attendance, grade retention, high school completion, and even college enrollment.”<sup>3</sup>

Students who are entangled in the youth legal system face barriers to completing their education while they are held in facilities (and once they are released). This may be why the majority of youth – 66 percent – do not return to school after release from secure custody.<sup>4</sup> Our current educational system often does a poor job of enabling youth to return to school after placement into detention or correctional facilities.<sup>5</sup> Simply put, we lose too many students. Therefore, Maryland’s juvenile justice system should continue to limit its jurisdiction rather than pull more and even younger children into a system that can be traumatizing and does not meet the needs of students, the majority of whom have a disability or a mental health diagnosis.<sup>6</sup>

We urge the Maryland General Assembly to reject the impulse to dismantle gains made under the Juvenile Justice Reform Act. Instead, we demand public policies that ensure age-appropriate educational support and services that can improve long term outcomes for Maryland’s public school students. Ultimately, this will make everyone safer.

For these reasons, CRSD urges an unfavorable report on SB 744.

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<sup>2</sup> The Hon. Steven Teske, Testimony before the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights, Subcommittee Hearing on “Ending the School to Prison Pipeline” 2 (Dec. 12, 2012), <https://www.judiciary.senate.gov/imo/media/doc/12-12-12TeskeTestimony.pdf>.

<sup>3</sup> *Rethinking the Role of the Juvenile Justice System: Improving Youth’s School Attendance and Educational Outcomes*, The Council of State Governments Justice Center, September 16, 2020, <https://csgjusticecenter.org/publications/rethinking-the-role-of-the-juvenile-justice-system-improving-youths-school-attendance-and-educational-outcomes/>;

<sup>4</sup> National Juvenile Justice Network, *Improving Educational Opportunities For Youth In The Juvenile Justice System* (2016), <https://www.njjn.org/our-work/improving-education-for-youth-in-juvenile-justice-snapshot>; Federal Interagency Reentry Council, *Reentry MythBuster About Youth Access to Education Upon Reentry: Youth Involved in the Juvenile Justice System Face Many Barriers that Reduce their Access to Education* (2017), <https://www.jjeducationblueprint.org/examples/reentry-mythbuster-about-youth-access-education-upon-reentry-youth-involved-juvenile>.

<sup>5</sup> *Id.*; Suitts, S., Dunn, K., & Sabree, N., *Just Learning: The Imperative to Transform Juvenile Justice Systems Into Effective Educational Systems*, Southern Education Foundation (2014), <https://southerneducation.org/publications/justlearning/>; Mozaffar, N., Burdick, K., McInerney, M., Moon, K., Dunn, K., Burke, S.C., & Goldstein, N.E., *Credit Overdue: How States Can Mitigate Academic Credit Transfer Problems For Youth In The Juvenile Justice System*. Juvenile Law Center (2020).

<sup>6</sup> See National Disability Rights Network, *Probation referral: A Model for Diversion of Children and Youth with Disabilities from the Juvenile Justice System* 7 (2019), (“Prevalence studies have found that 65-70 percent of youth in the justice system meet the criteria for a disability, a rate that is more than three times higher than that of the general population.”), [https://www.ndrn.org/wp-content/uploads/2019/10/Probation\\_Referral\\_Report\\_FINAL\\_w\\_Appendices.pdf](https://www.ndrn.org/wp-content/uploads/2019/10/Probation_Referral_Report_FINAL_w_Appendices.pdf).

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