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POSITION ON PROPOSED LEGISLATION

BILL: HB 1310 Baltimore City Coordinated Youth Violence Review and Response Team

FROM: Maryland Office of the Public Defender, joined by Maryland ACLU

POSITION: Unfavorable

DATE: March 25, 2024

The Maryland Office of the Public Defender and ACLU respectfully submit this testimony and asks for an unfavorable report from the committee.

House Bill 1310 creates the Baltimore City Coordinated Youth Violence Review and Response Team (hereinafter “Team”). The purposes and goals of the teams are broadly defined, and while MOPD appreciates the focus on services and protective resources for children, the way the bill is drafted, even with amendments is overly ambiguous and lacks sufficient privacy protections for children. The Team’s purposes are:

- Review cases of youth identified as high risk of imminent harm;
- Identify root causes and patterns within and across public systems that hinder upstream prevention of violence against youth;
- Provide recommendations based on identified factors that hinder upstream prevention of violence against youth for quality and performance improvement;
- Facilitate coordination and collaboration among entities involved in providing services to youth at high risk of imminent harm; and
- Create specific safety plans using wraparound supports for the youth identified as high risk of imminent harm and the youth’s family and community, while protecting individual privacy rights as required by law.

Although many of these purposes are positive, they are extremely broad and have no clear definition or boundary. The bill does not clarify what may qualify as “hinder upstream prevention of violence.” There are no guardrails or clarifications as to what qualifies the *Team* to create specific safety plans. There is no requirement to ensure the plans are evidence based implementation and culturally competent services. There is no clarity on whether these plans are voluntary, and what impact failing to participate or complete the programs may have on a child. House Bill 1310 assembles a team of participants to perform duties independent of any voluntary interaction with the *Team*.

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The *Team* deals with “youth at risk of imminent harm.” But what is that? House Bill 1310 defines it as:

“Youth” means any person under the age of 21 years who:

- 1) Resides in Baltimore City;
- 2) Attends or graduated from an elementary or secondary school in Baltimore City;
or
- 3) Participates in or graduated from any youth program in Baltimore City.

“Youth at risk of imminent harm” means a youth at least 7 years old and under the age of 22 who is:

- 1) a victim of gun violence;
- 2) a witness to gun violence; or
- 3) a family member of a victim of gun violence.

House Bill 1310 fails to define the terms “victim of gun violence” or “witness to gun violence” or “family member.” House Bill 1310 places no time limits on these terms. Thus, a person who has a cousin who is a victim of gun violence 7 years ago may fall under the gaze of the *Team* without requesting the *Team*’s assistance. House Bill 1310 would likely apply to all youth in Baltimore as the definitions provided are extremely broad and subject to interpretation.

Using the phrase “risk of imminent harm” is over paternal and harmful. The word ‘imminent’ means: likely to occur at any moment; impending. Youth who have been victims or witnesses to gun violence are not necessarily at risk of imminent harm. This overly paternal labeling of youth will permit the *Team* to involve itself with those who would prefer to be left alone under the guise of rescuing youth who would be harmed otherwise. A better and more accurate description might be “youth exposed to gun violence.”

House Bill 1310 allows the *Team* to access a wide array of sensitive and confidential records without a court order, subpoena or waiver from the youth or their parent including:

- Police Records.
- Law enforcement investigative information.
- Information relevant to an incident involving law enforcement that involves a youth at high risk of imminent harm.
- Medical examiner investigative information.
- Parole and probation information and records.
- Information and records of a social services agency, if the agency provided services to an individual whose interaction with law enforcement during a youth incident is being reviewed by the review and response team.
- Substance Abuse treatment records.
- Personally identifiable information and records maintained by a state or local government agency.

- Student records.

House Bill 1310 provides some protections regarding the *Team*'s data collection, but the protections are insufficient. Once the *Team* identifies a youth through self-referral or otherwise, the *Team* cannot collect records unless it gets consent from 1) the parent; or 2) the youth if they are an emancipated minor or 18 years old (*i.e.*, a legal adult). However, the *Team* can also collect information on a non-consenting youth if there are "emergency health and safety circumstances that justify proceeding without the consent required" and all other requirements of law are satisfied. House Bill 1310 does not define an "emergency health and safety circumstance." Thus, the *Team* can collect information on anyone – without consent from parent or youth – if the *Team* declares an emergency. Considering House Bill 1310 labels these youth as being at "imminent risk," it is likely that most, if not all, of these youth would fall under the broad category of "emergency health and safety circumstance." The 'emergency' requirement is likely to erode any consent requirements.

House Bill 1310 provides no method for record destruction, no judicial review, and no clear standards for decision-making. There is not a delineated procedure for who decides if a youth is a witness to gun violence. There is not a clear metric for how much information is necessary to declare an "emergency health and safety issue." Is a majority vote required? Must it be unanimous? House Bill 1310 answers none of these questions. Given the wide net House Bill 1310 casts, significant guardrails must be installed. The current guardrails are insufficient because most of what the *Team* does is private and not subject to the Open Meetings Act.

The Baltimore City Mayor's Office is free to offer services to constituents. Those constituents can provide medical and educational waivers if necessary and may also provide whatever information they choose in a voluntary and open dialogue with the *Team*. Court records can also be sought through existing legal channels and juvenile court records can be divulged with a court order. Although House Bill 1310 has good intentions, it will result in the collection of sensitive information with or without consent. House Bill 1310 infringes on the right to privacy enjoyed by all Marylanders and sets a dangerous precedent for future agencies who would seek to invade the private lives of youth under the premise of providing assistance.

For these reasons, the Maryland Office of the Public Defender and ACLU urge this Committee to issue an unfavorable report on HB 1310.



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