

# Education Advocacy Coalition

for Students with Disabilities

## SENATE JUDICIAL PROCEEDINGS COMMITTEE

### SENATE BILL 314: JUVENILE LAW – WILLFUL MISCONDUCT OF A MINOR – CIVIL LIABILITY OF A PARENT, GUARDIAN, OR CUSTODIAN (PARENTAL ACCOUNTABILITY ACT)

DATE: FEBRUARY 13, 2024

#### POSITION: OPPOSE

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of nearly 50 organizations and individuals concerned with education policy for students with disabilities in Maryland, provides this testimony in opposition of Senate Bill 314. Senate Bill 314 would establish the joint and several liability of a parent, guardian, or custodian of a minor who commits an act of willful misconduct that results in the death or injury of an individual or damage to property.

The EAC has many concerns about Senate Bill 314. The first is that Senate Bill 314 continues an increasingly punitive trend towards parents for the misconduct of their child, even when the parent does not have physical control over their child.

Furthermore, the EAC is concerned about the limited exceptions to joint and several liability for parents. Senate Bill 314 includes two exceptions to a parent's joint and several liability: (1) when there is evidence that the parent had a protective order against the child at the time of the delinquent act, or (2) when there is evidence that the child owes restitution to the parent. These exceptions are very narrow and do not reflect the reality of when a parent exercises control over their child.

There is no exception within this bill for students with disabilities when the student's willful misconduct is disability related. Many students with disabilities have challenging behaviors that may result in injury to a person or damage to property, and this bill could disproportionately affect the families of students with disabilities. Additionally, Senate Bill 314 does not carve out an exception for when the student's behavior is the result of the student's school's failure to implement a student's individualized education program or behavior intervention plan with fidelity.<sup>1</sup> Senate Bill 314 does not include an exception for when the student is at school and therefore does not account for the fact that when a student is in school, the student is within the control of school staff.

Finally, the EAC is concerned that "willful misconduct" is an ambiguous term and is not defined within Senate Bill 314. The use of such an ambiguous term could allow for judicial discretion in the interpretation of what is "willful misconduct" and thereby, could have a disproportionate impact on students and families of color as well as students and families with disabilities.

**For these reasons, the EAC opposes Senate Bill 314.**

For more information, please contact Annie Carver, EAC legislative affairs chairperson, at [carverar@kennedykrieger.org](mailto:carverar@kennedykrieger.org) or 518-763-4886 with any questions (over).

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<sup>1</sup> See Md. Code. Regs. 13A.08.03.08(D)(2).

Respectfully submitted,

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Rene Averitt-Sanzone, The Parents' Place of Maryland

Elizabeth Benevides, Autism Society of Maryland, co-chairperson

Ellen Callegary, JD

Annie Carver, Tyler Cochran, Mallory Legg, and Maureen van Stone, Project HEAL (Health, Education, Advocacy, and Law) at Kennedy Krieger Institute

Rich Ceruolo, parent

Michelle R. Davis, M.Ed., ABCs for Life Success

Alyssa Fieo, Office of the Public Defender

Marjorie Guldán and Rosemary Kitzinger, Bright Futures LLC

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