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Position: FAV

JOHNNY RAY SALLING
Legislative District 6
Baltimore County

Budget and Taxation Committee
Public Safety, Transportation,
and Environment Subcommittee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Judicial Proceedings Committee
Senator William C. Smith, Jr
Senator Jeff Waldstreicher
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

To the Chair, Vice Chair, and esteemed Members of the Judicial Proceedings Committee:

I express my gratitude to Committee for permitting me to address Senate Bill 1145, titled Public and Nonpublic Schools - Child Sex Offenders - Prohibition on In-Person Attendance. This bill holds significant implications for the safety and well-being of our children within Maryland's educational institutions.

Senate Bill 1145 seeks to address a critical gap in our current system by prohibiting any juvenile convicted of a sex offense that would constitute a felony if committed by an adult from attending public school. Instead, the bill mandates that such individuals seek alternative means of public education. This measure is essential for ensuring the safety and security of our school environments.

The urgency of this legislation was underscored during a recent meeting I had with two concerned mothers whose toddler daughters were sexually assaulted by a student within the Baltimore County Public School system. Shockingly, despite the severity of the situation, the school administration refused to take action to remove the offender until a news story was published on television.

Given the gravity of the issue, and the imperative to protect our children, urge you to prioritize the expedited review and passage of Senate Bill 1145, demonstrating our unwavering commitment to the safety and well-being of our children. Delaying action on this bill could pose risks to the safety of our children, and it is crucial that we act swiftly and decisively. Thank you for your attention to this urgent matter. I am hopeful for your support in ensuring a favorable report on this bill.

Sincerely,

A handwritten signature in red ink that reads "Johnny Ray Salling".

Senator Johnny Ray Salling

Tibbals_ SUPPORT SB 1145_HB1493_ Public and Nonpu

Uploaded by: Trudy Tibbals

Position: FAV

SB 1145: Public and Nonpublic Schools - Child Sex Offenders -
Prohibition on In-Person Attendance: Please SUPPORT this bill!!

Dear Judicial Proceedings Committee Chair Smith, Vice chair Waldstreicher, and all other esteemed Committee Members:

Please SUPPORT this very common sense bill!!

The bill reads: “...**Synopsis: Prohibiting a child from in-person attendance at a public school or a nonpublic school that receives State funds if the child has been convicted or adjudicated delinquent of rape or other sexual offenses; and requiring each local school system to provide alternative educational options for children prohibited from in-person attendance under the Act.**

The body of the bill reads as follows: “...IF A CHILD HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT OF RAPE OR A SEXUAL OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A FELONY, THE CHILD IS PROHIBITED FROM IN-PERSON ATTENDANCE AT A PUBLIC SCHOOL OR A NONPUBLIC SCHOOL THAT RECEIVES STATE FUNDS...”

I think the direct quotes from this bill say it all. We have a responsibility to keep the school children in this state safe. Safety should be our primary goal for all children!! Unsafe children, or children that feel unsafe, will not be able to learn!!

Even though some people may argue that our primary responsibility to our school children is to teach them, I would respectfully disagree. We must keep our school children SAFE first. Once our school children are safe, they will be able to learn. They will not have that anxiety from being uncertain about their safety clouding their minds, and their minds will be free to learn.

Unfortunately, in today's world, it is a reality that some school aged young adults will be convicted of rape or sexual assaults. We cannot allow these young adults convicted of such heinous crimes to be around our other school children, due to the threat to the safety of our school children that this would cause.

We can also hope that with the wording in this bill that those young adults convicted of such offenses would be entitled to “alternative educational options”, that those convicted young adults could use these options to turn their lives around.

I think we owe it to every child to PASS this bill that is a win-win for all children!!

Thank you for your courtesy and cooperation in SUPPORTING this bill!!

Trudy Tibbals

A Very Concerned Mother and Maryland resident

CRSD SB1145 Testimony_3.13.24.docx.pdf

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Position: UNF

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

**JUDICIAL PROCEEDINGS COMMITTEE
SENATE BILL 1145
PUBLIC and NONPUBLIC SCHOOLS – CHILD SEX OFFENDERS – PROHIBITION
ON IN-PERSON ATTENDANCE**

MARCH 13, 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. 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 opposes SB 1145**, which would prohibit a youth from attending a public school in-person if they have been convicted or adjudicated as a juvenile sex offender.

SB 1145 is unnecessary and likely harmful to students. There are already a number of protections in place. For one, a child who is adjudicated, by definition, is under the jurisdiction of the juvenile court, and is being supervised by the Court and the Department of Juvenile Services. It also means they are receiving treatment either in an out-of-home placement or in the community.

Second, courts routinely assess whether a youth is dangerous. A court is much better able to assess the risks posed by a child under its jurisdiction than can a school administrator. A child deemed by a court to pose a danger to his classmates would not be allowed to be in the community.

In addition, there are significant reporting requirements under the “reportable offense” statute, [Md. Code, Educ. § 7-303](#). When an offense is considered “a reportable offense”, which includes a sexual offense, law enforcement is required to notify the school system of the arrest “within 24 hours” or “as soon as practicable.” The school system must then follow the school discipline procedures and determine if allowing the student to attend school would cause “imminent threat of serious harm to other students or staff.” This process provides appropriate and necessary due process protections and allows a school system to consider the facts and circumstances related to a student’s specific situation, while also ensuring the safety of the school community.

Education is the number one protective factor in preventing youth from recidivism, especially for youth with learning disabilities or other educational deficits. Dictating a student's placement through the Criminal Code would also run afoul of the requirements of federal law and regulations, including the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, which requires eligible students with disabilities to receive a free appropriate public education in the least restrictive environment.

The proposed provision is duplicative of existing protections and creates numerous other issues outlined above that increase rather than decrease the threat to community safety.

For these reasons, CRSD strongly opposes Senate Bill 1145.

For more information contact: Maryland Coalition to Reform School Discipline
CRSDMaryland@gmail.com

CRSD Members

Disability Rights Maryland

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

The Arc Maryland

The League of Women Voters of Maryland

The Choice Program at UMBC

Camila Reynolds-Dominguez, FreeState Justice

ACLU of Maryland

Public Justice Center, Education Stability Project

Maryland Office of the Public Defender

2024 SB 1145 OPD testimony_ opposed.pdf

Uploaded by: Melissa Rothstein

Position: UNF



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 1145 Public and Nonpublic Schools - Child Sex Offenders Prohibition on In-Person Attendance

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: March 13, 2024

The Maryland Office of the Public Defender (OPD) respectfully urges the Committee to issue an unfavorable report on Senate Bill 1145, which would prohibit a child from in-person attendance at a public school or a nonpublic school that receives State funds if the child has been convicted or adjudicated delinquent of rape or other sexual offenses. We strongly oppose SB 1145 because it would violate students' due process rights, it is not necessary as there are other protections in place, and it will likely cause significant and unnecessary harm to students.

Children who are adjudicated for a sex offense are under the jurisdiction of the court and the Department of Juvenile Services (DJS). With the court's oversight, an adjudicated child is generally receiving treatment either in an out-of-home placement or in the community. Most importantly, courts routinely assess whether it is dangerous for a child charged or adjudicated to be in the community. There are multiple levels of court review and DJS uses objective assessment tools during every stage of the process.¹ The court is also required to consider reasonable protections, such as a no contact order, for the safety of victims if a student is released pending adjudication. Md. Code Ann. Cts. & Jud. Proc. § 3-8A-15(j). In effect, the court, with detailed information about the case, makes a determination about whether a student poses an "imminent

¹ See Maryland Department of Juvenile Services Data Resource Guide: Fiscal Year 2022 at 22-24, available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf (describing the various objective assessment tools used to evaluate risk and safety when determining whether a young person should be detained or not and what level of services a young person may need).

threat” to a person or specific geographic location, including the neighborhood and school. In many situations, with DJS supervision, court involvement, and the provision of services to the youth, students are safer and less of a safety threat and they should be permitted to return to their regular school program. Senate Bill 1145 is based on a fundamental misunderstanding of the level of scrutiny that both DJS and the courts engage in before a student is permitted to return to or remain in the community after an arrest and/or disposition of a charge.

Moreover, the likelihood of a youth under a court’s jurisdiction, supervised by DJS, and receiving services in the community sexually offending at school where they are under the supervision of administrators, teachers, and staff is infinitesimally small. Senate Bill 1145 is based on fear and not supported by data. Mandatory exclusion of students from the education environment and isolating them due to an unfounded fear is not good public policy and will only create additional safety concerns.

In addition to the protections provided by the court and DJS through services and interventions, there are in place significant reporting requirements under the “reportable offense” statute, [Md. Code, Educ. § 7-303](#). When an offense is considered “a reportable offense”, which includes a sexual offense, law enforcement is required to notify the school system of the arrest “within 24 hours” or “as soon as practicable.” The school system must then follow the school discipline procedures and determine if allowing the student to attend school would cause “imminent threat of serious harm to other students or staff.” This process provides appropriate and necessary due process protections and allows a school system to consider the facts and circumstances related to a student’s specific situation, while also ensuring the safety of the school community.

Creating a blanket prohibition of in-person attendance, as SB 1145 proposes, raises significant due process concerns. Senate Bill 1145 provides no process to evaluate whether a threat actually exists based on facts to support a need to exclude a student, there is no ability to appeal, and most notably, there is no review process or end date for the exclusion. As the Supreme Court

noted in *Goss v. Lopez*,² students have a property interest in education which cannot be denied without adequate due process. As a court has determined that a student is safe to be in the community, the Legislature cannot then by broad sweeping edict deny education without due process. In contrast, the reportable offense statute described above, Md. Code, Educ. § 7-303, provides a level of due process which is required before the right to full education services in a student's regular school program can be denied.

In addition, dictating the placement of a student with disabilities through the Criminal Code would run afoul of the requirements of federal law, the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act, which require that students with disabilities receive a free appropriate public education in the least restrictive environment. Senate Bill 1145 also denies children the number one protective factor in preventing youth from recidivism: education. Relegating children to an indefinite placement in a virtual school program or home and hospital instruction (which requires only 6 hours a week of instruction)³ further isolates a student and precludes critical educational opportunities that go beyond course subjects. During the pandemic, we learned that virtual school is an inferior form of education, especially for youth with learning disabilities or other educational deficits, and created an ongoing mental health crisis.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 1145.

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

² 419 U.S. 565 (1975).

³ COMAR 13A.03.05.01.