

March 25, 2024

The Honorable Delegates Vanessa E. Atterbeary & Luke Clippinger  
Maryland General Assembly  
Ways and Means Committee & House Judiciary Committee

**Written Testimony re SB 1145 (Salling) – Public and Nonpublic Schools – Child Sex Offenders – Prohibition on In-Person Attendance – OPPOSE**

Chairman Atterbeary, Chairman Clippinger and Honorable Members of the Committee:

Juvenile Law Center joins the several national and local organizations expressing opposition to Senate Bill 1145—and its cross-filed counterpart House Bill 1493—which excludes children from in-person attendance at school if the child has been adjudicated delinquent of an offense sexual in nature. We write separately to provide additional information about the harm of measures such as this to youth and the constitutional framework under which these provisions must be analyzed.

**Juvenile Law Center** fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

Recognizing the critical developmental differences between youth and adults, Juvenile Law Center works to ensure that laws, policies, and practices affecting youth provide children with the protection and services they need to become healthy and productive adults. Core to this work is ensuring that all youth involved in the legal system are successfully reintegrated into their communities, efforts that are hindered when youth are labeled and stigmatized as sex offenders. Juvenile Law Center has been involved in state and federal litigation on youth sex offender registration issues as well as efforts to reform juvenile sex offender registration laws in California, Delaware, Illinois, Indiana, Kansas, Louisiana, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Washington, Wisconsin, West Virginia, and at the federal level.

As the letter from national and local groups sets forth, SB 1145 has several constitutional deficiencies related to due process and federal IDEA law. Additionally, this measure, much like measures that require registration as a sex offender, raises additional constitutional concerns related to the imposition of punishment. Several state courts have found youth registration and provisions attendant to registering youth as sex offenders unconstitutionally punitive under the Eighth Amendment and the Ex Post Facto Clause of the Fourteenth Amendment.<sup>1</sup> The punitive nature and harm of youth registration likewise contravenes the rehabilitative purposes of the juvenile court system.

Measures like SB 1145 are based on the false presumption that it will deter or prevent future sex offenses. It will not. And importantly, far from making communities safer, SB 1145 carries harsh collateral consequences, perpetrating the precise harms that it is intended to mitigate.

SB 1145 rests on several presumptions about the dangerousness of youth who commit sex offenses. However, research shows these presumptions are false.

- Individuals who commit sexual offenses in childhood are highly unlikely to commit a subsequent sex offense. Study after study confirms that sex offense recidivism among youth is exceptionally low.<sup>2</sup>
- Youth who commit sex offenses are no different from youth who engage in non-sexual delinquent behavior.<sup>3</sup> Multiple studies confirm that children who commit sexual offenses are motivated by impulsivity and sexual curiosity, not predatory, paraphilic, or psychopathic characteristics.<sup>4</sup> With maturation, a better understanding of sexuality, and decreased impulsivity, these behaviors stop.
- The severity of a youth's offense is not predictive of re-offense. A study comparing sexual recidivism rates of children assigned to three groups based on the severity of their offenses found no significant difference in the recidivism rates of the three groups.<sup>5</sup>

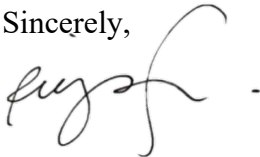
SB 1145 does not aid law enforcement or the public in identifying future sex offenders or preventing future sex offenses and therefore does not promote public safety. Additionally, measures that reveal a child's registration status or label a child a sex offender will impose immense harm to the child and their family. Under Maryland law, children are required to register as sex offenders if they were 14 years old and adjudicated delinquent of certain enumerated sexual offenses. *See* Md. Code. § 11-704.1(b). The registry is not available to the public, and children are removed from registration when the juvenile court no longer has jurisdiction of them. *Id.* at (c) and (d). Yet, SB 1145 will impose additional and harsher punishments to individuals who the juvenile court has already deemed no longer need to be monitored. If enacted, SB 1145 would make an individual's status of adjudication for a sexual offense more publicly accessible because it will have a real-life day-to-day consequence of

excluding the child from school and all that school attendance includes – participation in sports, clubs, music, etc. Moreover, the increased punishment of being excluded from school will potentially last longer than the child’s registration if the child is discharged from court supervision but still of school age. Research on the effects of youth registration is instructive.

- Registration renders youth vulnerable to sexual predation. A 2017 study reveals that registered children are nearly twice as likely to have experienced an unwanted sexual assault that involved contact or penetration in the past year, when compared to non-registered children who have also engaged in harmful or illegal sexual behaviors. They are also five times more likely to report having been approached by an adult for sex in the past year.<sup>6</sup>
- Registration and public notification about a youth’s registration status put youths’ physical safety in jeopardy. Children on sex offender registries are four times more likely to report a recent suicide attempt than non-registered children who have engaged in harmful or illegal sexual behavior.<sup>7</sup> They also face the danger of vigilante justice: more than fifty percent of registered youth report experiencing violence or threats of violence against themselves or family members that they directly attribute to their registration.<sup>8</sup> Instead of protecting communities, registering youth puts children’s safety at risk.
- Registration exposes youth to stigma. Labeling youth as “sex offenders,” falsely communicates to the world that the youth is untrustworthy, possesses other negative character traits, merits punishment, or is likely to commit crimes in the future.<sup>9</sup> Stigmatization from sex offender labeling frequently translates to real and concrete harm to youthful offenders, including social isolation and ostracism by peers, depriving youth of sources of psychological support at the precise time they most need community acceptance.<sup>10</sup>

For the foregoing reasons, Juvenile Law Center urges your opposition of SB 1145 and its cross-filed counterpart, HB 1493. If we can provide additional information or assistance, please do not hesitate to reach out.

Sincerely,



Riya Saha Shah  
Senior Managing Director



Vic F. Wiener  
Staff Attorney

---

<sup>1</sup> See *In re T.B.*, 489 P.3d 752, 768–69 (Colo. 2021); *In re C.K.*, 182 A.3d 917, 935 (N.J. 2018); *In re C.P.*, 967 N.E.2d 729, 750 (Ohio 2012).

<sup>2</sup> Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 197, 198 (2010), <http://commissiononsexoffenderrecidivism.com/wp-content/uploads/2014/09/Caldwell-Michael-2010-Study-Characteristics-and-recidivism-base-rates-in-juvenile-sex-offender-recidivism.pdf>; Michael F. Caldwell, *Sexual Offense Adjudication and Recidivism Among Juvenile Offenders*, 19 SEXUAL ABUSE 107 (2007); Michael F. Caldwell et al., *An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism*, 14 PSYCH., PUB. POL’Y, & L. 89 (2008); E.M. Driessen, *Characteristics of Youth Referred for Sexual Offenses*, unpublished doctoral dissertation, University of Wisconsin-Milwaukee (2002); Michael P. Hagan et al., *Eight-Year Comparative Analysis of Adolescent Rapists, Adolescent Child Molesters, Other Adolescent Delinquents, and the General Population*, 45 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 314 (2001); Franklin E. Zimring et al., *Investigating the Continuity of Sex offending: Evidence from the Second Philadelphia Birth Cohort*, 26 JUSTICE Q. 58 (2009); Franklin E. Zimring et al., *Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6 CRIMINOLOGY & PUB. POL’Y 507 (2007).

<sup>3</sup> Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 SEXUAL ABUSE 293, 313, 331 (2005); Michael F. Caldwell et al., *An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism*, 14 PSYCH., PUB. POL’Y, & L. 89 (2008), <http://www.ncjfcj.org/sites/default/files/examinationofthesexoffender.pdf>.

<sup>4</sup> Michael F. Caldwell, *What We Do Not Know About Juvenile Sexual Re-Offense Risk*, 7 CHILD MALTREATMENT 291 (2002); Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 SEXUAL ABUSE 293, 331 (2005); Judith Becker & Scotia Hicks, *Juvenile Sexual Offenders: Characteristics, Interventions, & Policy Issues*, 989 ANN. N.Y. ACAD. SCI. 397, 399-400, 406 (2003); Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 197, 197–98 (2010).

<sup>5</sup> Franklin E. Zimring et al., *Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6 CRIMINOLOGY & PUB. POL’Y 507 (2007).

<sup>6</sup> Elizabeth J. Letourneau et al., *Effects of Juvenile Sex Offender Registration on Adolescent Well-Being: An Empirical Examination*, PSYCH. PUB. POL’Y & L. 10 (Nov. 27, 2017).

<sup>7</sup> *Id.* at 10.

<sup>8</sup> HUM. RTS. WATCH, RAISED ON THE REGISTRY 56 (2013), [https://www.hrw.org/sites/default/files/reports/us0513\\_ForUpload\\_1.pdf](https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf).

<sup>9</sup> Akiva M. Lieberman et al., *Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning*, 52 CRIMINOLOGY 345, 349 (2014); PRESTON ELROD & R. SCOTT RYDER, *JUVENILE JUSTICE: A SOCIAL, HISTORICAL, AND LEGAL PERSPECTIVE* 167 (4th ed. 2014).

<sup>10</sup> Judith V. Becker, *What We Know About the Characteristics and Treatment of Adolescents Who Have Committed Sexual Offenses*, 3 CHILD MALTREATMENT 317, 317 (1998).