

TO: The Honorable Delegate Vanessa Atterbeary, Chair and The Honorable Delegate Jhaeanelle Wilkins, Vice Chair, House Ways and Means Committee

FROM: Elizabeth Letourneau, Professor and Director, Moore Center for the Prevention of Child Sexual Abuse, Bloomberg School of Public Health, Johns Hopkins University

DATE: March 21, 2024

RE: **Testimony in Opposition to House Bill 1493/Senate Bill 1145 – Public and Nonpublic Schools - Child Sex Offenders - Prohibition on In-Person Attendance**

My name is Elizabeth Letourneau, Professor of Mental Health and Director of the Moore Center for the Prevention of Child Sexual Abuse at the Bloomberg School of Public Health, Johns Hopkins University. I am writing in strong opposition to **House Bill 1493/Senate Bill 1145 – Public and Nonpublic Schools - Child Sex Offenders - Prohibition on In-Person Attendance**. The views expressed are my own and do not necessarily reflect the views of Johns Hopkins University.

House Bill 1493/Senate Bill 1145 seeks to bar some children from attending in-person education in Maryland K-12 Schools. Specifically, HB 1493/SB 1145 would bar children adjudicated or convicted of crimes of a sexual nature from attending regular in-person public schools. I am a nationally and internationally recognized expert on child sexual abuse prevention whose work is published in more than 120 research-based articles and chapters in leading journals and high-impact books. I am a professor with tenure in the Department of Mental Health and founding director of the Moore Center for the Prevention of Child Sexual Abuse, Bloomberg School of Public Health, Johns Hopkins University, and the 2022 recipient of the Lifetime Significant Achievement Award from the Association for the Treatment and Prevention of Sexual Abuse. I have served as a governor-appointed member of the Maryland State Council on Child Abuse and Neglect, on the National Academy of Sciences' Forum on Global Violence Prevention, as an advisor to the Centers for Disease Control and Prevention, and as a member of the World Health Organization Group to develop guidelines for responding to the sexual abuse of children and adolescents. My research on juvenile sex offender registration and notification policies was cited in the American Law Institute's Revised Model Penal Code, which recommends ending these harmful policies. I currently advise the European Commission in its efforts to enhance the prevention of child sexual abuse across all 27 member states. I am involved dozens of other national and international research and policy initiatives aimed at ending child sexual abuse. I am also the proud mother of two children who attended Baltimore City Public Schools in grades K-12.

In my professional opinion, this bill is misguided and does not reflect best practices or the latest research. Exclusionary discipline as a blanket policy barring an entire class of children from in-person public school will not improve the safety of other children; rather, such a policy is certain to reduce the safety and well-being of affected children.

Children who engage in harmful and illegal sexual behavior include children characterized by ignorance of sexual concepts, norms, and laws; immaturity and impulsivity; inadequate adult supervision; sexual victimization (e.g., traumatized children reacting to their own victimization); sexual curiosity and experimentation gone awry; and more generalized aggressive or delinquent behavior. They include children imitating what they've been exposed to on the internet or in

social media; misinterpreting what they believed was mutual interest; imitating what is normative in their own families; youth attracted to the thrill of rule violation; socially isolated youth who turn to younger children as substitutes for agemates; youth with serious mental illness; youth responding to peer pressure; youth preoccupied by sex; youth under the influence of drugs or alcohol; and youth with incipient sexual deviance problems.^{1,2,3}

Despite this diversity, decades of research clearly and incontrovertibly document that children adjudicated or convicted of sex crimes are (I) unlikely to reoffend, (II) amenable to community-based treatment and (III) further documents the serious harms of sex crime-specific policies when applied to children and youth.

I. Sexual Recidivism Rates for Youth who Sexually Offend are Extremely Low.

Extensive research conducted over the last several decades by myself and others has established that adolescent sexual misconduct does not reflect stable internal traits in the youth but emerges from developmental issues and temporary situational factors. As a group, youth adjudicated or convicted of sex crimes pose a very low risk to sexually reoffend, and that risk diminishes rapidly post-adjudication.⁴ The most extensive review of youth sexual recidivism rates reviewed 106 studies involving 33,783 youth and found an average sexual recidivism rate of 4.92% over an average 5-year follow-up.⁵ This study also documented a 73% decline in adolescent sexual recidivism over the past 30 years and found that recidivism rates were below 3% across studies published in the most recent decade.

Likewise, our research evaluating the recidivism rates of the entire population of male youth adjudicated for sex crimes in South Carolina found a 2.75% recidivism rate across an average 9-year follow-up.⁶

Adolescents who sexually abuse have more in common with other adolescents who engage in other types of criminal behavior than with adult sex offenders. The major difference between these teens and other teens is that they are more likely to themselves have been sexually abused.⁷ We, too, found that youth with sex crime adjudications were no more likely to sustain new sex crime charges or convictions than youth with assault adjudications or youth with

¹ Chaffin, M. (2008). Our minds are made up—Don't confuse us with the facts: Commentary on policies concerning children with sexual behavior problems and juvenile sex offenders. *Child Maltreatment*, 13, 110–121. <http://dx.doi.org/10.1177/1077559508314510>

² Seto, MC & Lalumière, M (2020). What is so Special about Male Adolescent Sexual Offending? A Review and Test of Explanations Through Meta-analysis, 136 *Psychological Bulletin* 526-575.

³ Letourneau, E. J., Schaeffer, C. M., Bradshaw, C. P., & *Feder, K. A. (2017). Preventing the onset of child sexual abuse by targeting young adolescents with universal prevention programming. *Child Maltreatment*, 22, 100-111.

⁴ Caldwell, MC & Caldwell, B. (2022). The Age of Redemption for Adolescents Who Were Adjudicated for Sexual Misconduct. *Psychology, Public Policy, and Law*, 28(2), 167-178. <https://doi.org/10.1037/law0000343>.

⁵ Caldwell, M. (2016). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*, 22(4), 414–426. <http://dx.doi.org/10.1037/law0000094>

⁶ Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010). Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? *Criminal Justice and Behavior*, 37, 553-569.

⁷ Seto, MC & Lalumière, M (2020). What is so Special about Male Adolescent Sexual Offending? A Review and Test of Explanations Through Meta-analysis, 136 *Psychological Bulletin* 526-575.

robbery adjudications.⁸ That is, the sexual reoffense rates of these three groups did not differ in a meaningful or statistically significant manner. Distinguishing between youth likely to sexually reoffend or not involves more than simply knowing that a youth has a history of such offending.

II. Youth Convicted of Sex Crimes are Responsive to Proven Treatments.

Studies show that (1) adolescents adjudicated for sexual offenses are remarkably responsive to treatment services, and (2) advances in appropriate treatment programming have produced methods that are highly effective at reducing future risk of illegal sexual and nonsexual behavior. The effectiveness of treatment of adolescents adjudicated for sexual offenses has been studied using meta-analytic methods to combine the results of several other studies of treatment effectiveness to determine the overall effect of treatment. A limitation of this approach is the steady improvement in treatment approaches over recent decades, which means that studies that include older treatment methods likely underestimate the impact of more recent proven methods.

- An early review published in 2006 examined results from 9 studies with a combined sample of 2,986 youth adjudicated for sexual misconduct. Every study yielded positive effects and the overall results indicated that treatment reduced the risk of sexual recidivism by more than 60%.⁹ Other early studies reported similar positive results for treatment effectiveness.^{10,11}
- More recently, Silovsky and colleagues recently extended their intervention for child problem sexual behavior to adolescents with illegal sexual behavior. In a study involving 301 youth and their caregivers, their intervention called Problem Sexual Behavior - Cognitive Behavioral Therapy ("PSBCBT") resulted in significant reductions in sexually abusive behaviors and in non-sexual harmful behaviors and trauma symptoms.¹²
- Borduin and his colleagues reported the results of a randomized clinical trial of a family-based community treatment compared to the usual community services. The youth were followed for an average of 9 years following treatment. The rate of new sexual offenses was six times lower among the treated youth.¹³
- In a similar study, my colleagues and I reported the results of a randomized clinical trial of Multisystemic Therapy ("MST") provided to a group of 67 youth and their families compared to a group of 60 youth treated in the usual services. Both the youth and their caregivers reported that problematic sexual behaviors declined as much as ten times more in the treatment group. In addition, the treatment group significantly improved with

⁸ Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009b). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

⁹ Reitzel & Carbonell, The Effectiveness of Sexual Offender Treatment for Juveniles as Measured by Recidivism: A Meta-analysis, 18 *Sexual Abuse: A Journal of Research and Treatment*, 401 (2006).

¹⁰ St. Amand, Bard & Silovsky, Meta- Analysis of Treatment for Child Sexual Behavior Problems: Practice Elements and Outcomes, 13 *Child Maltreatment*, 145 (2008).

¹¹ Walker, McGovern, Poey & Otis, Treatment Effectiveness for Male Adolescent Sexual Offenders: A Meta-analysis and Review, 13 *Journal of Child Sexual Abuse*, 281 (2004).

¹² Silovsky, Hunger & Taylor, Impact of Early Intervention for Youth with Problematic Sexual Behaviors and their Caregivers, 25(1) *Journal of Sexual Aggression*, 4 (2019).

¹³ Borduin, Schaeffer & Heiblum, A Randomized Clinical Trial of Multisystemic Therapy With Juvenile Sexual Offenders: Effects on Youth Social Ecology and Criminal Activity, 77 *Journal of Consulting and Clinical Psychology* 26 (2009).

respect to substance abuse problems, mental health symptoms, and general delinquency and required significantly fewer costly out-of-home placements.¹⁴

- A long-term follow-up of 50 youth from the MST condition of that study revealed lower odds of future criminal activity more than 10 years post-treatment.¹⁵
- In addition to their clinical effectiveness, both PSB-CBT and MST have been found to be cost effective treatments for youth.^{16,17}

III. Sex crime specific policies fail to improve public safety and are associated with severe harm to youth.

My colleagues and I, as well as other researchers, have studied the effects of sex crime specific policies as applied to children and youth adjudicated or convicted of sex crimes. *Without exception we fail to find any public safety enhancing effects of these policies.* Specifically examining juvenile sex offender registration and notification policies, all available research fails to find an association with reduce sexual or violent reoffending, or with deterrence of first-time sex crimes. These studies include five that examine the impact of federal and state youth registration policies on sexual and violent recidivism^{18, 19, 20, 21, 22} and three that examine the impact of these policies on deterrence.^{23,24,25}

In summary, the entire available body of published research fails to support any public safety effect of registration and notification on sexual recidivism or on first-time sex crimes. We can

¹⁴ Letourneau, Henggeler, Borduin, Schewe, McCart, et al., Multisystemic Therapy for Juvenile Sex Offenders: 1-year Results from a Randomized Effectiveness Trial, 23 *Journal of Family Psychology*, 89 (2009).

¹⁵ Sheerin, Borduin, Brown, & Letourneau (2020). An evaluation of mechanisms of change in Multisystemic Therapy for juvenile justice-involved youths a decade following treatment. *Journal of Marital and Family Therapy*, 47(1), 208-219.

¹⁶ Aos, Leib, Mayfield, Miller & Pennucci, Benefits and Costs of Prevention and Early Intervention Programs for Youth, Washington State Institute for Public Policy (2004).

¹⁷ Dopp, Munday, Silovsky, Hunter, & Slemaker (2020). Economic value of community-based services for problematic sexual behaviors in youth: A mixed-method cost-effectiveness analysis. *Child Abuse & Neglect*, 105, 104043. <https://doi.org/10.1016/j.chiabu.2019.104043>.

¹⁸ Letourneau & Armstrong, Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders, 20 *Sexual Abuse: A Journal of Research and Treatment*, 393-408 (2008).

¹⁹ Letourneau, Bandyopadhyay, Sinha, & Armstrong. The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153 (2009).

²⁰ Batastini, A. B., Hunt, E., Present-Koller, J., & DeMatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy, and Law*, 17, 451-474.

²¹ Caldwell, M. F., & Dickenson, C. (2009). Sex offense registration and recidivism risk in juvenile sexual offenders. *Behavioral Sciences and the Law*, 27, 941-956.

²² Caldwell, M. F., Ziemke, M. H., & Vitacco, M. J. (2008). An examination of the sex offender registration and notification act as applied to juveniles. *Psychology, Public Policy, and Law*, 14, 89-114.

²³ Letourneau, Bandyopadhyay, Armstrong & Sinha, Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? 37 *Criminal Justice and Behavior*, 553-569 (2010)

²⁴ Sandler, Letourneau, Vandiver, Shields & Chaffin, Juvenile Sexual Crime Reporting Rates are not Influenced by Juvenile Sex Offender Registration Policies. 23 *Psychology, Public Policy and the Law*, 131 (2017).

²⁵ Letourneau, E. J., Shields, R. T., Nair, R., Kahn, G., Sandler, J. C., & Vandiver, D. M. (2019). Juvenile registration and notification policies fail to prevent first-time sexual offenses: An extension of findings to two new states. *Criminal Justice Policy Review*, 30, 1109-1123.

expect the same poor outcomes for exclusionary discipline laws that ban in-person school for this entire class of children and youth.

In addition to failing to improve public safety in any way, there is a growing and harrowing evidence base that sex crime specific policies that target children and youth are associated with significant harmful consequences, including increased risk of unwarranted charges; increased risk for mental health problems and problems with peers, school, and living stability; and increased risk for suicide attempts and for sexual assault victimization.

Registered youth are more visible to law enforcement and the public, which makes them more likely to be arrested. My colleagues and I found that one state's registration and notification policy was associated with increased risk of new charges but – crucially- not of new convictions, particularly for nonviolent offenses.²⁶ Specifically, among youth adjudicated for sex crimes, registered youth were significantly more likely than nonregistered youth to be charged with relatively minor misdemeanor offenses (e.g., public order offenses). Although it is possible that the burdens related to registration actually increase youth misbehavior, it is more likely that this increase in charges for low-level delinquent behavior reflects a surveillance/scarlet letter effect.

Children and youth who are barred from attending in-person school may also be more susceptible to a similar surveillance/scarlet letter effect as they will likely spend more time out of school and unsupervised. Moreover, treating these children differently from all or most other children adjudicated for other types of offenses and keeping them separated from their classmates and peers is likely to inculcate a sense of self as "delinquent" even when they are law abiding. Ample evidence indicates that youth who view themselves as delinquent or outside the societal mainstream are less likely to change patterns of offending behavior. Policies that promote youth's concepts of themselves as irredeemable sex offenders will likely interrupt the development of a healthy self-identity as a valued member of society.^{27,28}

My colleagues and I surveyed 265 front-line practitioners from 48 states who provided mental health services to youth adjudicated or reported for sexual offending. These providers believed that youth who had offended sexually and were subjected to registration or notification were much more likely than youth who had offended sexually but were not registered to experience negative mental health outcomes, harassment from peers *and adults*, difficulty in school, and trouble maintaining stable housing. All of these effects - increased depression and anxiety, verbal and physical harassment, problems concentrating in school, and frequent disruptions caused by having to change schools and caregivers - are known to negatively impact the educational attainment of adolescents.²⁹ Again, we can comfortably predict similarly awful outcomes for children and youth excluded from in-person schooling.

²⁶ Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

²⁷ Chaffin, Our Minds are Made Up - Don't Confuse us with the Facts: Commentary on Policies Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders, 13 *Child Maltreatment*, 110-121 (2008).

²⁸ Letourneau, E. J., & Caldwell, M. F. (2013). Expensive, harmful policies that don't work or how juvenile sexual offending is addressed in the U.S. *International Journal of Behavioral Consultation and Therapy*, 8, 25-31.

²⁹ Harris, A. J., Walfield, S., Shields, R., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 28, 770-790.

Even more troubling are the results from our evaluation of the collateral consequences of registration on youth. We surveyed 251 male youth ages 12-17 years, all of whom were in treatment for problem sexual behavior. Compared to unregistered youth who were matched with registered youth in terms of age, race, and severity of offense, registered youth were four times more likely to report *having attempted suicide* in the past 30 days, five times more likely to report *having been approached by an adult for sex* in the past year, and twice as likely to report *having sustained a hands-on sexual assault victimization* in the past year.³⁰

Again, we can reasonably predict that children and youth who are barred from in-person education will be at similar increased risk for suicide attempts and suicidality and increased risk for abuse and neglect at the hands of adults, because regular schools provide a safe haven in which to nurture children. This includes children who have caused harm to others. Perhaps to some policy makers, these consequences may seem well-deserved for children and youth convicted of sexual crimes. But accrual of “social capital” as evidenced by social connectedness and mental well-being is associated with desistance from crime by sexual and nonsexual offenders.^{31,32} It is also frankly astonishing that a bill to exclude children and youth from regular in-person schooling has been advanced on the heels of mounting evidence that online education was harmful to children and youth during the pandemic.³³ In addition, this bill is out of alignment with HB725, which calls for “discipline that is ‘rehabilitative, restorative, and educational” and attempts to move schools away from exclusionary discipline responses (e.g., suspension, expulsion).

We also note the unintended collateral consequences that sex crime specific policies have on family members. Most children and youth who commit sexual offenses do so against children or teens in their families or circle of friends. Blanket policies such as that proposed often have the effect of broadcasting that a child or youth is a sex offender, which will also affect the child who has been victimized -- in essence notifying the entire school community of their victimization. This unintended consequence can add harm to the victim's experience and can put families in the untenable position of trying to protect both children (that is, the one who offended and the one who was offended against) from community backlash.

In conclusion, children and youth thrive in school and the vast majority of those who have offended sexually can be safely taught in public schools. Dozens of localities and states have enacted residence, education, and employment restrictions limiting where people registrants may live, work, and play. These effects are especially harmful to youth, who may be unable to return to school or may be removed from school when a parent calls to complain about the presence of a "registered child" in the school. Children and adolescents – all children and adolescents - thrive when provided appropriately monitored access to educational, social, sporting, recreational, cultural and religious activities with peers. Policies that remove children from regular in-person school remove access to these developmentally critical opportunities.

³⁰ Letourneau, E. J., Harris, A. J., Shields, R. T., Walfield, S. M., Ruzicka, A. E., Buckman, C., *Kahn, G. D., & Nair, R. (2018). Effects of juvenile sex offender registration on adolescent well-being: An empirical examination. *Psychology, Public Policy, and Law*, 24, 105-117.

³¹ Kruttschnitt, C., Uggen, C., & Shelton, K. (2000). Predictors of desistance among sex offenders: The interaction of formal and informal social controls. *Justice Quarterly*, 17, 61-87.

³² Fox, K. J. (2016). Civic commitment: Promoting desistance through community integration. *Punishment & Society*, 18, 68-94).

³³ Fahle, Kane, Patterson, Reardon, Staiger, & Stuart (2023). School district and community factors associated with learning loss during the COVID-19 pandemic. https://cepr.harvard.edu/sites/hwpi.harvard.edu/files/cepr/files/explaining_covid_losses_5.23.pdf

Moreover, what is often overlooked is the fact that the collateral damage to the parents and siblings of a banned child or youth is likely to be enormous.