

**TESTIMONY IN OPPOSITION TO SENATE BILL 386
PRIMARY AND SECONDARY EDUCATION – DEFINITION AND NOTIFICATION OF
REPORTABLE OFFENSE – ALTERATIONS
POSITION: UNFAVORABLE**

To: Senator Brian J. Feldman, Chair
Senator Cheryl C. Kagan, Vice-Chair
Education, Energy, and the Environment Committee

From : Kristy McMullen, Student Attorney, Youth Education and Justice Clinic, University of Maryland Francis King Carey School of Law (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission the Bar)

Date: February 10, 2025

The Youth, Education, and Justice Clinic (“the clinic”) at the University of Maryland Francis King Carey School of Law represents students who have been excluded from school via suspensions, expulsions, and other means, as well as individuals serving life sentences for crimes committed as children or young adults. The clinic strives to keep children in school, ensuring their access to the education they need and deserve. The clinic requests an unfavorable report on Senate Bill 386, which seeks to expand the definition of reportable offenses by removing the requirement that the offense take place off of school property. Thus, “[t]he bill would require law enforcement to report arrests of students for . . . reportable offenses regardless of where they occurred”¹ The bill further seeks to add a requirement that the Department of Juvenile Services (DJS) report to school superintendents and principals’ decisions to 1) propose an informal adjustment for the child accused of a reportable offense; and 2) deny authorization to file a formal petition for the offense.

Enacting SB 386 is unnecessary, duplicative of existing law, and would retreat from recent clarification of Maryland law regarding the essence of reportable offenses. Maryland Educational Code § 7-303² defines “reportable offenses” as those that occurred off of school premises and *not* at an event sponsored by the school. Thus, these are offenses that are completely separate and distinct from offenses that occur *on* school property or at a school-sponsored event. Maryland law mandates that when a student is arrested for a reportable offense, the superintendent of their school system, their school principal, and their school security officer be notified.³ The reportable offenses law balances a child’s educational well-being with the school’s need for safety for all students and staff.⁴

¹ Maryland General Assembly, Department of Legislative Services, Racial Equity Impact Note, SB 386, 2025 Session, at 1 (hereafter “Racial Equity Impact Note”).

² MD. CODE ANN, EDUC. § 7-303 (a)(6)(i)-(iii).

³ *Id.* at (b)(1)(i)-(iii).

⁴ *See generally* COMAR 13A.08.01.17.

Thus, a reportable offense, at its, core, occurs off school grounds and is separate from any school activity. Because it is separate and distinct from school property or activity, law enforcement must report the offense to the child’s school. However, SB 386 seeks to meld all offenses together, regardless of whether they occurred on school grounds or off school grounds. SB 386 aims to broaden reportable offenses to include those that occur *in* school or at a school-sponsored event. Thus, law enforcement would be required to report to schools those offenses that occurred *at* schools as well as school-sponsored events, even though, as the Racial Equity Impact Statement for SB 386 explains, “school officials are likely involved in the initiation of arrests that occur on school grounds are at school sponsored events.”⁵

Indeed, all offenses that occur on school grounds and school-sponsored events are covered by Maryland laws specific to school discipline. These laws spell out the procedures and processes that follow and respond to offenses that occur on school grounds.⁶ Importantly, those laws detail the due process protections afforded to students in school discipline matters and calls for excluding students from school upon a finding that their return would pose an “imminent threat to other students or staff.”⁷ The point here is that Maryland law is very clear: it sets forth processes and procedures that must be followed for offenses that occur off school grounds (and that constitute “reportable offenses”) as well as processes and procedures that must be followed for offenses that occur on school grounds. While the overarching interests—ensuring due process and balancing the child’s educational well-being with school safety—are the same with offenses that occur off school grounds and on school grounds, there are different considerations at play. Maryland law recognizes and understands these different considerations. Indeed, only three years ago, in 2022, the Maryland General Assembly clarified the essence of a reportable offense: it “is an offense that occurred off school premises and did not occur at an event sponsored by the school.”⁸ Therefore, the changes that SB 386 seek are unnecessary.

Further, SB 386 aims to require DJS to notify the superintendent and school principal of DJS intake officer decisions to informally adjust a reportable offense charge and deny authorization to file a formal petition. Simply put, these are decisions *not* to forward the matter to the Office of the State’s Attorney. Enacting this requirement would place additional burdens on DJS. More pointedly, it appears to run afoul of the confidentiality requirements detailed in the Courts and Judicial Proceedings article of the Maryland Code.⁹ Notwithstanding these concerns, if

⁵ Racial Equity Impact Statement, *supra* note 1, at 1.

⁶ *See generally* COMAR 13A.08.01.11.

⁷ COMAR 13A.08.01.11(B)(2)(a) (expulsions) and 13A.08.01.11(B)(3)(a)(i) (extended suspensions).

⁸ Racial Equity Impact Statement, *supra* note 1, at 2.

⁹ *See* MD. CODE CTS. & JUD. PROCEEDINGS §3-8A-27(b)(1) (“A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §§ 7-303 and 22-309 of the Education Article.”). In this context, Maryland Educational Code § 7-303 requires law enforcement to notify the local superintendent, school principal, and school security officer of a child’s arrest for a reportable offense, § 7-303(b)(1)(i)-(iii), and the State’s Attorney to “promptly notify” the superintendent or principal “of the disposition of the reportable offense.” *Id.* at (c).

Maryland law were to require DJS to inform the superintendent and school principal of these decisions to informally adjust or *not* file a formal petition, certainly the school should be required to have the student remain in school or accept the student's return to school immediately.

In sum, SB 386 is unnecessary. For this reason, as well as the reasons set forth above, the Youth, Education, and Justice Clinic opposes SB 386. We ask for an unfavorable report.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law, and not on behalf of the School of Law or the University of Maryland, Baltimore.