



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 386 - Primary and Secondary Education - Definition and Notification of Reportable Offense - Alterations

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 12, 2025

The Maryland Office of the Public Defender (MOPD) respectfully requests that the Committee issue an unfavorable report on Senate Bill 386, which seeks to change the definition of “reportable offense” in Maryland Code, Education Article, § 7-303 and to require the Maryland Department of Juvenile Services (DJS) to report information on charges that are not formalized. MOPD opposes this bill as it is unnecessary and fails to understand the purpose of the reportable offense provision.

Senate Bill 386 would expand the definition of reportable offense to include all offenses whether they occurred on school grounds or at a school function, as well as in the community. In 2022, the Maryland General Assembly passed HB 146 which made clear that a reportable offense means that the behavior occurred off school premises and did not occur at a school event. That legislation gave the necessary guidance to school systems and to law enforcement regarding its statutory reporting requirement. It serves no purpose to revisit the definition at this time. All offenses that occur on school grounds or at a school event have consequences through the school discipline process and school systems already have the authority to remove the students who pose an imminent safety risk through suspension or expulsion. *See* COMAR 13A.08.01.11. Due process protections are afforded to students under those provisions. By merging school-based offenses with community offenses, SB 386 guts the purpose of the reportable offense process which is designed to share information about alleged student conduct related to certain offenses that occurred in the community. School systems cannot evade the requirements *and protections* of the school discipline

laws and regulations regarding school-based conduct by relying instead on the reportable offense process.

Senate Bill 386 would also require DJS to report what happens at the DJS intake process if the case is proposed for an “informal adjustment” or if a petition on the charge is denied. This level of information-sharing would compromise the confidentiality requirement found in Maryland Code, Courts and Judicial Proceedings, § 3-8A-27.¹ Further, while the MOPD acknowledges the value of schools being informed when a student’s charge is informally resolved or a petition is not authorized, the bill fails to address the implications of this information sharing or any presumptions that should accompany it. In fact, there should be a presumption that a student whose case was informally adjusted or not petitioned should remain in or return to their regular school program.

In 2022, the Maryland General Assembly passed legislation in response to concerns about the misuse or overuse of school removal for students arrested for a reportable offense. That legislation clarified the process to ensure that students had due process protections and that there would not be a misuse of removals based on court involvement. In July 2024, the Maryland State Board of Education issued regulations which provide more guidance on how the reportable offense process is to work, and require the timely reporting by law enforcement and notice of disposition by the States Attorney’s Office. On January 28, 2025, the Maryland State Board of Education voted to adopt an additional regulatory change which will require the sharing of information by school systems. Given the robust process outlined in the regulations pursuant to Maryland Code, Education, § 7-303, additional legislative action as set forth in SB 386, is not necessary, will create confusion, and could undermine the protections guaranteed to students under the school discipline code.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 386.

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

Authored by: Alyssa Fieo, Education Attorney/Assistant Public Defender

alyssa.fieo@maryland.gov

Abbie Flanagan, Education Attorney/Assistant Public Defender

abbie.flanagan1@maryland.gov

¹ In fact, there exists a 1984 Attorney General Opinion stating that records maintained by the Maryland Department of Juvenile Services are confidential records within the meaning of the juvenile confidentiality statute. See 69 Md. Op. Atty. Gen. 165 (Md.A.G.), 1984 WL 247024. It should be noted that both the name of the Department and the locations of various provisions cited in the Opinion have changed since its issuance in 1984.