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POSITION ON PROPOSED LEGISLATION

BILL: SB75 – PARENTAL ACCOUNTABILITY ACT

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: January 24, 2025

The Maryland Office of the Public Defender (OPD) respectfully urges the Committee to issue an unfavorable report on Senate Bill 0075.

Senate Bill 75 would require the juvenile court to order probation for a child found to have committed certain delinquent acts or a child adjudicated to be a child in need of supervision because of habitual truancy. Specifically, SB 75 would require probation of such a child to include the adoption of a treatment service plan, require the child and the child's family to use certain services; and mandate a parent, guardian, or custodian to participate in a treatment service plan. We strongly oppose SB 0075 because the Juvenile Court already has authority to control the conduct of the parties before it. This bill is unnecessary as there are other statutory protections in place to allow for addressing remedy such conduct, and it will likely cause significant harm to families and children already facing systemic challenges.

The goal of Juvenile Court is to give children and parents the treatment and resources they need to stop cycles of delinquent behavior, end abuse and neglect and provide medical care so that the children have the opportunity to become productive citizens, rather than graduate to adult criminal court or suffer chronic, life-threatening abuse and neglect. In addition, the juvenile justice system seeks to hold parents of children entering the system accountable and responsible for remedying the circumstances that led their children to enter into the system. (See Md. Code, Courts and Judicial Proceedings § 3-8A-02)

Senate Bill 0075 on its face is duplicative of statutes already codified governing conduct of the parties. Pursuant to MD Code, Courts and Judicial Proceedings, § 3-8A-26, the Juvenile Court may make an appropriate order directing, restraining, or otherwise controlling the conduct of a person who is properly before the court. A party to the case includes a child who is the subject of a petition or a peace order request, the child's parent, guardian, or custodian, the petitioner and an adult who is charged under § 3-8A-30 of this subtitle. (See Md. Code, Courts and Judicial Proceedings, § 3-8A-01 (v)). Thus, parents are already subject to orders of the Juvenile Court. Here, the Court has broad authority to inquire as to any conduct of a party, seek remedies to the conduct, hold show cause or contempt hearings, and/or order a parent, custodian, or otherwise to participate in services or

treatment when necessary. In fact, the Court makes inquiries as necessary and frequently issues such orders when there is a need to do so.

As for treatment service plans, Md. Code, Courts and Judicial Proceedings § 3-8A-20.1 already codifies an outline for treatment services plans, implementations, and failures, which is applied to delinquent children, children in need of supervision, and/or children in need of assistance. Parents whose children are committed to the Department of Human Services are required to have a case worker assigned whose responsibility is to create a service plan with the family, which allows for the parents, guardians, or custodian of the child to participate in rehabilitative services that are in “the best interest of the child and their family”, pursuant to the Court’s order.

Should SB 75 be adopted, the law would be expanded to eliminate judicial discretion and instead mandate additional processes and penalties for parents. We must remember that parents, custodians, and guardians also have due process rights. The parent, guardian, or custodian will now require independent representation because of their legal exposure and risk of contempt charges. This will be costly. For example, by virtue of OPD's representation of the children in delinquency proceedings, OPD cannot provide direct representation to the parent, guardian, or custodian and will have to appoint private counsel from its panel list. Based on the time estimated for a low misdemeanor under the national standards for public defense, parent representation is expected to require an average of 13.8 hours per case. At the \$60/hour rate generally provided to panel attorneys, this would total over \$552,000 in panel fees. This is separate and apart from representation of Child in Needs of Services or Truancy cases.

Additionally, the bill would have to set in provisions that require the Department of Juvenile Services to remedy any barriers that would prevent parents from being able to participate in ordered services. For instance, if a parent has multiple children and lacks child care, the court should make sure such a barrier is addressed and eliminated so that the parent could participate. Many times, when parents are ordered to participate in services, issues like their work schedules, the lack of services available in the evening, transportation, lack of insurance, lack of child care etc. are not accounted for. Parents are often asked to miss work and forego pay to abide by the court order. This often puts their jobs and thereby their family’s stability in jeopardy in order to fulfill a court order. Rather than remedying troubles that a child is facing at home, economic instability or job insecurity will only compound existing challenges.

At the same time, this bill does not address the lack of available resources. There are often wait lists for services such as family and individual therapy, which could be ordered. There are also a limited number of parenting classes that specifically address parents of older youth with behavioral, mental health or delinquency issues. These are all things that need to be considered when passing this bill.

Furthermore, SB75 does not differentiate between a child in the custody of their parents and a child who is in the custody of the Department of Social Services. While this bill seeks for a court to order a parent to participate in a treatment plan for a child in Juvenile Court; it does not clarify to the court who the “parent” is if the child is in the care and custody of the Department of Social Services. Because parents have very little control over a child who is not in their custody, they should not be held responsible when that child is before the court. This absence of clarity is merely another reason this bill should not be enacted into law.

The direct consequence of issuing a court order for parents or guardians to participate in a treatment program has many legal ramifications. It appears that the intent of the bill is to provide treatment to children whether they are legally adjudicated or not and to include their family members, specifically

guardians and parents. However, when a court issues an order it has great weight and it must be followed. If an order is not followed the Court has the authority to enforce the order. Thus, if the parent fails to follow an order, they will be summoned to court or have a writ issued for a hearing and the hearing is titled a contempt hearing. Such a hearing shifts the focus from helping the family and the child and to addressing a contempt order. This is analogous to child support contempts or truancy hearings where the adult is held responsible often for situations often outside of their control. These situations usually arise due to the surrounding lack of resources. To actually ensure parents are involved and invested in the well-being of their family and children, which is the true issue this bill is trying to address, we must focus on resources, wrap around services, and limiting unnecessary court hearings that create significant strain on the time, resources, and energy of oft-over-burdened families who appear before our Juvenile Courts.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB75

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

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