



DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commission on Juvenile Justice

Marc Elrich
County Executive

James C. Bridgers, Jr. Ph.D., MBA
Director

January 28, 2025

SB 78 -- Unfavorable

Senator Will Smith
Chair, Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Dear Senator Smith:

Thank you for the opportunity to submit written testimony on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ) in opposition to Senate Bill 78.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members that include the Child Welfare Services Program, the Montgomery County State's Attorney's Office, the Office of the Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

SB 78 would prohibit a child from ever again attending a public school or non-public school receiving state funds if they were convicted or adjudicated delinquent of rape or a sexual offense that would be a felony if they were an adult. Instead, it would be up to each local school system to provide unspecified "alternative educational options." We have several significant concerns with this proposed legislation.

SB 78 would upend the processes already in place for balancing concerns about meeting the educational needs of a child adjudicated delinquent and the safety needs of others in determining how and where children who are convicted or adjudicated delinquent of serious offenses such as rape should be educated. Under the existing system, a court would determine whether a child under its supervision is dangerous, whether the child should be subject to a commitment order and receive treatment in an out-of-home placement or whether the child can be released back into the community, perhaps with court-ordered supervision while on probation. If a child is released, Maryland's reportable offense law sets forth the processes by which school systems determine whether or not to keep the child in the traditional school based on the totality of information available to that the school system, including whether the child, if they return to school, would likely pose an imminent threat to other students and staff. This includes the child's school records, information about the crime, meeting with the student and their parents/caretakers, and their knowledge of the resources available to best meet the child's needs in their school system. Importantly, Maryland's reportable offense law sets forth a case-by-case evaluation that protects the due

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process rights of the child while ensuring school safety. The current law understands that circumstances differ child-by-child and that blanket prohibitions undermine law and legitimacy.

Additionally, a disproportionate number of youth in the juvenile justice system have special education needs.¹ This bill would likely violate the rights of students with such disabilities. Pursuant to the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, students with disabilities are entitled to a free appropriate public education (FAPE) in the least restrictive environment (LRE). This may mean providing students with special education and/or other services. Additionally, Section 504 prohibits discrimination against individuals with disabilities in programs receiving federal financial assistance. A blanket removal of these children from school without any individualized review, due process, or guaranty of special education services in the least restrictive setting would likely violate these legal protections.

SB 78 would mandate that children adjudicated for these particular offenses be excluded from their schools, seemingly forever. However, the traditional school setting offers the best opportunities for them to gain the academic and social-emotional skills, and experiences necessary to succeed in school and thereafter. It is also likely that these children have to comply with various court conditions, including school attendance, or have completed court conditions successfully, due to a previous adjudication of delinquency. Consigning these children to what will likely be a poor substitute for a public education will leave them ill equipped to grow and does not benefit these children or public safety. Research has found that education and school attendance can serve as important protective factors against delinquency and involvement in the juvenile justice system and that “they can also have long-term positive effects on employment and desistance from crime (Laub and Sampson, 2001; Lochner and Moretti, 2001).”² By forcing these children out of the public school system, we are setting them – and the communities in which they live – up for failure.

For these reasons, we request an Unfavorable report on SB 78.

Sincerely,

Melissa Goemann Co-Chair

Carlotta Woodward, Co-Chair

Montgomery County Commission on Juvenile Justice

¹Development Services Group, Inc. 2019. “Education for Youth Under Formal Supervision of the Juvenile Justice System.” Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, <https://www.ojjdp.gov/mpg/litreviews/Education-for-Youth-in-the-Juvenile-Justice-System.pdf>

² Development Services Group, “Education for Youth Under Formal Supervision of the Juvenile Justice System.”