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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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## SENATE JUDICIAL PROCEEDINGS COMMITTEE SENATE BILL 78

### Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

January 28, 2025

#### POSITION: OPPOSE

The Maryland Coalition to Reform School Discipline (“CRSD”) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public-school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep children on track to graduate. **CRSD strongly opposes SB 78**, which would prohibit a child from attending a public or non-public school in-person if they have been convicted or adjudicated of a felony sex offense.

CRSD opposes the misguided efforts of SB 78 to deny a child the right to receive in-person instruction, particularly after a court, with extensive information about the child and the incident, has determined that the child is safe to be in the community. Such a consequential deprivation of a right to education, guaranteed by the Maryland Constitution, is not warranted here, particularly when there are other processes in place to ensure safety in schools.

First, SB 78 is unnecessary and overly broad. During the 2024 legislative session, the Maryland legislature considered a similar bill and passed a provision that now prohibits in-person attendance in public schools for students placed on the nonpublic juvenile sex offender registry. CRSD vigorously objected to last year’s legislation as it too is harmful. Clearly, there is no need to create an even wider ban on in-person instruction. Such a ban is not supported by any facts to suggest that schools are not safe because another child has been found involved in an offense, whether it be a sex offense or something else.

In addition, there are additional processes under the “reportable offense” statute to ensure safety in our schools. *See* Md. Code, Educ. § 7-303. When an offense is considered “a reportable offense”, which includes serious sexual offenses, law enforcement is required to notify the school system of the arrest “within 24 hours” or “as soon as practicable.” The school system

must then follow the school discipline procedures and determine if allowing the student to attend school would cause “imminent threat of serious harm to other students or staff.” This process provides appropriate and necessary due process protections and allows a school system to consider the facts and circumstances related to a student’s specific situation, while also ensuring the safety of the school community.

Second, courts and the Department of Juvenile Services routinely assess whether a child with a charge, such as a felony sex offense, is dangerous. A court is better able to assess the risks posed by a child under its jurisdiction than can a school administrator, or indeed the Legislature. A child deemed by a court to pose a danger to their classmates would not be allowed to be in the community.

Third, years of research has confirmed that treatment works for children with a sex offense. The recidivism rate is extremely low for offenses that are sexual in nature, making the need for a blanket ban on all children adjudicated of sex offense obsolete.<sup>1</sup> We encourage this Committee to review the testimony of Prof. Elizabeth Letourneau from Johns Hopkins University, which sets forth in detail the extensive research on this issue. Policy must be made based on facts and research, and Prof. Letourneau has presented the facts that the Committee needs to make a sound decision that education is for all and that a blanket ban on in-person instruction is not supported by the research and is not good policy.

Fourth, when a child and their family do not choose a virtual placement, and it is involuntarily imposed, the academic impact is generally negative. The reality is that virtual instruction is often inferior and is not appropriate as a long-term placement. The Covid-19 pandemic is a current example of how our children struggled and were negatively affected academically and emotionally by virtual education. Under the law, children as young as 10 years old could be adjudicated for a sex offense. *See* Md Courts and Judicial Proceedings § 3-8A-03(a)(1)(ii). Unders SB 78, these young children would be forced to remain in their home accessing education via a screen for years. The long term academic, social emotional, and future economic harm would be guaranteed.

Senate Bill 78 would also run afoul of the requirements of federal law and regulations, including the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, which requires eligible children with disabilities to receive a free appropriate public education in the least restrictive environment. Under the law, home is deemed the most restrictive setting, and SB 78 would invite litigation on this issue.

Education is the number one protective factor in preventing youth from recidivism. Relegating children to instruction in their homes, perhaps for years, denies them the opportunity to interact with peers, participate in school-related activities, benefit from free breakfast and lunch

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<sup>1</sup> Caldwell, M., Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*, 22(4), 414-426 (2016), <http://dx.doi.org/10.1037/law0000094>.

programs, and all the other pro-social benefits that schools provide. Our communities are not safer when children are denied the structure and support services that schools provide.

**For these reasons, CRSD strongly opposes Senate Bill 78.**

For more information contact: Maryland Coalition to Reform School Discipline  
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**CRSD Members**

Maryland Office of the Public Defender

The Choice Program at UMBC

Progressive Maryland

Maryland Developmental Disabilities Council

League of Women Voters of MD

Disability Rights Maryland

Project HEAL at Kennedy Krieger Institute

Sarya and Neil Meyerhoff Center for Families, Children and the Courts at the University of Baltimore School of Law

ACLU of Maryland

Public Justice Center