



## TESTIMONY IN OPPOSITION TO SENATE BILL 78

**TO:** Members of the Senate Judicial Proceedings Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law

**DATE:** January 24, 2025

The University of Baltimore School of Law's Center for Criminal Justice Reform is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center strongly opposes Senate Bill 78.

Senate Bill 78 makes a bad policy worse. First, Senate Bill 78 would broaden the conduct that would require youth to register on a sex offender registry and would bar more youth from attending in-person education in Maryland K-12 Schools.

Senate Bill 78's sweeping language fails to recognize that children may engage in behavior that can be inappropriate but that should, nonetheless, not result in the loss of educational opportunities. Under SB 78, two children conspiring to slap the butt of a classmate would satisfy the elements of a sexual offense in the third degree and would constitute grounds for a juvenile adjudication and a subsequent prohibition from attending school.<sup>1</sup> Similarly, a 16-year-old who clumsily "pantsed"<sup>2</sup> a 12-year-old and brushed his buttocks could be barred from attending school by SB 78. Sadly, it is not uncommon for children to become involved in the criminal justice system for childish behavior.

Moreover, this type of behavior would not only bar youth from school, it could also result in them being placed on a sex offender registry. For example, Maryland Criminal Code § 3-307(a)(3) "prohibits engaging in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim." Maryland defines sexual contact as "intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party."<sup>3</sup> Therefore, SB 78 could result in an 18-year-old individual who slaps the buttocks of a 13-year-old youth being convicted of a felony, being required to register as a sex offender, and it could

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<sup>1</sup> See Md. Criminal Code 3-307(a) A person may not... engage in sexual contact with another without the consent of the other; and...commit the crime while aided and abetted by another. See also Md. Code Ann., Crim. Law § 3-301(e)(1) "Sexual contact", as used in §§ 3-307, 3-308, and 3-314 of this subtitle, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party."

<sup>2</sup> Merriam Webster Dictionary describes "pants" as "to yank down the pants of (someone) as a prank or joke" See <https://www.merriam-webster.com/dictionary/pants>.

<sup>3</sup> Md. Code Ann., Crim. Law § 3-301(e)(1)

prohibit that 18-year-old individual from attending a public school or a non-public school that receives state funds.

While such behaviors should be addressed, they are widespread among youth and representative of youth's impulsivity, immaturity, and sexual experimentation. Because youth of these ages regularly interact as peers at school and in the community, SB 78 threatens to ensnare children from all communities on harmful, ineffective registries and deprive them of an education and the types of services that children receive at school.

Second, SB 78 will not make students, schools, or communities safer. No studies exist that find an association between youth sex offender and notification policies with reduced sexual reoffending.<sup>4</sup> Beyond simply failing to protect children, SB 78 will impose real harm on youth. Youth on registries are at increased risk of being *arrested* in the future for non-violent offenses due to stigmatization and heightened surveillance. Notably, these youth are *not* at higher risk of being convicted of those future offenses.

The collateral consequences for youth required to register and who are excluded from school are significant and harmful to both to those youth and our communities. Mental health service providers who treat youth report that youth on registries are “more likely to experience mental health problems,” “more likely to experience harassment and unfair treatment,” “more likely to experience school problems” and are more likely to experience housing instability.<sup>5</sup>

Third, SB 78 will divert already limited state funds towards ineffective and costly measures at the expense of proven sexual abuse prevention interventions. Keeping Maryland children safe is of paramount importance. And our state's 2025 budget crisis is well documented and a source of great concern and attention from the Maryland General Assembly this year. Preventing young people from attending school and obtaining gainful employment associated with education attainment does not make us safer or address our state's fiscal concerns.

The R Street Institute, a center-right think tank, conducted a national study concerning the social benefits and costs of youth sex offender registration and notification. R Street researchers found that requiring registration for offenses committed as youth has net economic costs ranging \$40 million to \$1 billion annually<sup>6</sup> Similarly, they found that notification requirements for youth

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<sup>4</sup> See e.g., Letourneau, Bandyopadhyay, Sinha, & Armstrong. The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153 (2009); Caldwell, M. F., & Dickenson, C. (2009). Sex offense registration and recidivism risk in juvenile sexual offenders. *Behavioral Sciences and the Law*, 27, 941-956.

<sup>5</sup> Harris, A. J., Walfield, S., Shields, R., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 28, 770-790.

<sup>6</sup> Belzer, R. B. (2015). *THE COSTS AND BENEFITS OF SUBJECTING JUVENILES TO SEX-OFFENDER REGISTRATION AND NOTIFICATION* (Vol. R STREET POLICY STUDY NO. 41). R. Street Institute . Retrieved January 24, 2025, from <https://www.rstreet.org/wp-content/uploads/2018/04/RSTREET41-1.pdf>. at 2.

sexual offenses result in “costs per-year that range from \$10 billion to \$40 billion.”<sup>7</sup> These costs are imposed on individuals who have not engaged in any prohibited sexual conduct: “About three-fourths of these costs are borne by sex offenders’ neighbors.”<sup>8</sup> Maryland cannot afford to waste money on fear-driven policies that do not protect children or communities, especially when there is a robust body of research that shows that “(1) adolescents adjudicated for sexual offenses are remarkably responsive to treatment services, and (2) advances in appropriate treatment programming have produced methods that are highly effective at reducing future risk of illegal sexual and nonsexual behavior.”<sup>9</sup>

For these reasons, we urge an unfavorable report on Senate Bill 78.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Letourneau, Elizabeth, Testimony in Opposition to House Bill 1493/Senate Bill 1145 – Public and Nonpublic Schools - Child Sex Offenders - Prohibition on In-Person Attendance, 2024 Maryland General Assembly, available at [https://mgaleg.maryland.gov/cmte\\_testimony/2024/wam/1vqXNOv1vk7UQLkksY7qH9KNpnkhGt2b2.pdf](https://mgaleg.maryland.gov/cmte_testimony/2024/wam/1vqXNOv1vk7UQLkksY7qH9KNpnkhGt2b2.pdf).