

SB0078.pdf

Uploaded by: Brooke Wentz

Position: FAV

Brooke Wentz

Regarding SB0078 Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

January 24, 2024

My name is Brooke Wentz and I am a concerned resident of Maryland, a public school teacher, and a mother of three. I am testifying out of concern of students, teachers and staff in our Maryland public schools. Recently, it has come to light that administrators, teachers and staff are not privy to information when it comes to juvenile sex offenders and other criminals in our schools.

As a teacher, this means that a new student could be placed in my class (either at the beginning or throughout the school year) that has committed a sex offense and no one, not even the administrators, teachers, or parents would know about it. This has horrifying implications for safety in our schools. This means that the safety of both students and staff is currently at risk every day. In this way, we have placed the privacy of the criminal above the safety of our children.

I would like to ask that you vote for this bill to require juvenile sex offenders to be placed on a juvenile sex offender registry. As a teacher and parent, I would prefer that these students learn virtually. It is 2025 and we have the means for virtual learning for violent students. It is time we take violent offenders out of our schools.

Thank you Senator Salling for sponsoring this very important bill for the safety of Maryland's students and school staff. Your thoughtful consideration for the safety of our children is greatly appreciated.

SB 78 FAVORABLE testimony WCBOE 1-28-25.pdf

Uploaded by: Jamie Brown

Position: FAV



BILL: Senate Bill 78
TITLE: Juvenile Child Sex Offenders – Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance
HEARING DATE: January 28, 2025
POSITION: SUPPORT
COMMITTEE: Judicial Proceedings
CONTACT: Ms. Ilissa Ramm, Chief Legal Counsel, 301-766-2919

Washington County Board of Education supports Senate Bill 78 to expand protections for all students and staff by addressing juvenile sex offenders and sex offender notification requirements to its educational system.

State law already prohibits those students that are on the juvenile sex offender registry from attending school in-person and enumerates the locations, other than a public school, where such students may receive meaningful access to their education. However, there currently is no mechanism for notifying schools of students who are on the juvenile sex offender registry. Senate Bill 78 addresses a crucial gap in ensuring safety and fairness within our education system. It seeks to expand protections for all students and staff in schools by prohibiting in-person attendance for students that are convicted or adjudicated delinquent of rape or a sexual offense that, if committed by an adult, would constitute a felony and expands the list of reportable offenses.

The issue is not access to education but, more importantly, keeping all students and staff safe while providing a safe and secure educational environment. Currently, school staff must rely on the reportable offense procedures to determine if a student poses a risk to the education environment when charged with specific crimes. The crimes this bill seeks to include are inherently dangerous by their very nature. However, without an effective and appropriate reporting mechanism to schools, the previously enacted law, which seeks to keep violent juvenile sex offenders out of schools, does not provide the safety protections it had intended. SB 78 requires notification to schools of juvenile sex offenders, ensuring that schools have the information necessary to maintain a safe and secure educational environment.

Senate Bill 78 reflects a commitment to safety and rehabilitation by establishing notifications to local school systems to keep violent offenders out of schools while ensuring education options for the specific needs of affected students. It also ensures justice and educational opportunities for all students. Students adjudicated delinquent or convicted for serious sexual offenses will continue to receive education through alternative means while protecting the education environment for students and staff.

Most importantly, by prohibiting in-person attendance for juveniles convicted of serious sexual offenses, SB 78 prioritizes the safety and well-being of staff, students, and the education environment. The presence of students in-person with histories of serious offenses or the presence of students likely to reoffend can cause significant disruptions, anxiety, and potential harm to others within the school environment.

Washington County Board of Education supports Senate Bill 78 because it ensures a safe and secure education environment while balancing the need for accountability, rehabilitation, and access to meaningful education.

Washington County Board of Education fully supports Senate Bill 78 and requests the Judicial Proceedings Committee to issue a favorable report.

Thank you.

Cc: Washington County Board of Education Members
Washington County Delegation to the Maryland General Assembly
Dr. David T. Sovine, Superintendent
Dr. Jennifer Webster, Associate Superintendent for Administration and Leadership
Dr. Gary Willow, Associate Superintendent for Curriculum and Instruction
Mr. Jeffrey Proulx, Chief Operating Officer
Ms. Ilissa Ramm, Chief Legal Counsel
Mr. Steve Edwards, Deputy Communications Officer
Mr. Brian Dulay, Director of Governmental Relations, Maryland Association of Boards of Education
Ms. Mary Pat Fannon, Executive Director, Public School Superintendents' Association of Maryland

SB0078 Juvenile Sex Offender.pdf

Uploaded by: laura wade

Position: FAV

SB0078 – Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

POSITION – Favorable

Honorable Members of the Judicial Proceedings Committee,

I am writing to express my support for Senate Bill 0078, which addresses a critical safety concern in our educational system by prohibiting juvenile sex offenders from attending school in person.

The primary concern with allowing juvenile sex offenders back into school settings is the potential risk they pose to other students. Schools should be safe havens for learning, not places where students or parents have to worry about the presence of individuals with a history of sexual offenses. This bill addresses this concern by ensuring schools remain safe environments for all students.

A recent event highlighted by Fox45 News, where a juvenile offender was attending Patterson High School, underscores the urgency of this legislation. This bill would prevent such situations from recurring, thereby protecting students from potential harm.

While Maryland law already prohibits adult sex offenders from attending schools in person, this protection has not been extended to juvenile offenders. SB0078 corrects this oversight by including juveniles, thereby ensuring that all sex offenders, regardless of age, are subject to similar restrictions when it comes to school attendance.

The legislation also recognizes the need for alternative educational options for these juveniles, such as virtual learning, which aligns with the state's commitment to education while still prioritizing student safety.

The passage of this bill would restore and maintain public trust in our educational systems. Parents, educators, and the community at large expect and deserve assurance that schools are doing everything possible to keep children safe. This bill sends a clear message that Maryland takes the safety of its students seriously.

The bill does not deny education to these juveniles but instead requires alternative educational paths. This approach recognizes the rehabilitative aspect of juvenile justice while ensuring that the educational environment remains secure for other students.

In conclusion, Senate Bill 0078 is an essential piece of legislation that addresses the safety and security of Maryland's students. It aligns with the state's responsibility to protect its youth while still providing educational opportunities for all. I strongly encourage you to vote in favor of this bill to ensure our schools are safe, secure, and conducive to learning.

Sincerely,

Laura Wade
115 Holy Cross Road
Street, Maryland 21154

FAV SB 0078.pdf

Uploaded by: Suzie Scott

Position: FAV



Moms for Liberty Maryland Legislative Committee requests a favorable report for SB 0078.

We agree with State School Superintendent Dr. Carey Wright when she said, “Parents deserve to have students safe at school. Students can’t learn if they don’t feel safe.”

We applaud the action of the 2024 General Assembly in passing HB 814, but unfortunately, that law is just the first step towards achieving school safety. SB 0078 is necessary to ensure our schools are truly safe environments where learning can occur. It will expand the acts for which a minor adjudicated delinquent is required to register with the juvenile sex offender registry. Passing this bill will make certain that juvenile sex offenders are not able to attend school in person with innocent children.

Sex offenders do not belong in school. Unfortunately, people in positions of power can sometimes make bad decisions. Passing SB 0078 will protect innocents from bad decisions made by judges or other persons by strengthening protections in the law.

This legislation represents a forward-thinking approach to the crisis of school safety. Passage of this bill is vital to protecting innocents.

Moms for Liberty Maryland Legislative Committee urges favorable report for SB 0078.

Written Testimony for SB 78_ Juvenile Child Sex O

Uploaded by: Trudy Tibbals

Position: FAV

Written Testimony for SB 78: Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance: Please VOTE YES on this bill.

Dear Judicial Proceedings Committee:

This bill reads: "...IF A CHILD HAS BEEN **CONVICTED OR ADJUDICATED DELINQUENT** OF RAPE OR A SEXUAL OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A FELONY, THE CHILD IS PROHIBITED FROM IN-PERSON ATTENDANCE AT A PUBLIC SCHOOL OR A NONPUBLIC SCHOOL THAT RECEIVES STATE FUNDS. EACH LOCAL SCHOOL SYSTEM SHALL PROVIDE ALTERNATIVE EDUCATIONAL OPTIONS FOR CHILDREN PROHIBITED FROM IN-PERSON ATTENDANCE UNDER SUBSECTION (A) OF THIS SECTION..."

I agree with this bill and the reason it was sponsored: the safety of our children. Our first and foremost "job" as a parent is to protect our children. This bill will help all parents do this. I do not feel that my child(ren) or anyone else's child(ren) would be safe attending school with another child that has been charged with a crime of violence. It would mean that the State has enough evidence to bring charges against that child for a violent crime. This is not a circumstance where someone is simply saying that a child did something. This is a case where there is actual evidence that a child has committed an act of violence against another person. It is incumbent upon us as a society, and as a community, to keep all children safe while they are attending school.

Please **VOTE YES** on this bill so that it helps keep all of our children safe from violence!!

Thank you.

Trudy Tibbals
Mother of 3 and Maryland resident

WRITTEN TESTIMONY.pdf

Uploaded by: johnny salling

Position: FWA

JOHNNY RAY SALLING
Legislative District 6
Baltimore County

Budget and Taxation Committee

Public Safety, Transportation,
and Environment Subcommittee



James Senate Office Building
11 Bladen Street, Room 321
Annapolis, Maryland 21401
410-841-3587 • 301-858-3587
800-492-7122 Ext. 3587
JohnnyRay.Salling@senate.state.md.us

THE SENATE OF MARYLAND ANNAPOLIS, MARYLAND 21401

January 28, 2025

Judicial Proceedings Committee
Senator William C. Smith, Jr.
Senator Jeff Waldstreicher
2 Miller East
Annapolis, MD 21401

To the Chair, Vice Chair, and esteemed Members of the Judicial Proceedings Committee:

I express my gratitude to the Committee for permitting me to address Senate Bill 78, titled Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance. This bill holds significant implications for the safety and well-being of our children within Maryland's educational institutions.

Last Session's Juvenile Justice Bill included the prohibition from attending public school of any juvenile convicted of a sex offense that would constitute a felony if committed by an adult. This bill address a critical oversight left by that bill.

This bill would add the following sections to the Reportable Offenses and prohibition of in-person attendance:

- A person may not engage in sexual contact with another if the victim is a substantially cognitively impaired, a mentally incapacitated, or a physically helpless individual.
- A person engage 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.

I have added two amendments to this bill. The first ensures that once a juvenile sex offender is put on the juvenile sex offender registry, they will not be able to be removed before their 21st birthday. The other amendment requires that the victim or their families must be notified immediately once a juvenile sex offender has been removed from the registry.

The urgency of this legislation was underscored during a meeting I had last year with two concerned mothers whose toddler daughters were sexually assaulted by a student within the Baltimore County Public School system. Adding these two subsections would be specifically applicable to their cases.

Given the gravity of the issue, and the imperative to protect our children, urge you to prioritize the expedited review and passage of Senate Bill 78 demonstrating our unwavering commitment to the safety and well-being of our children.

Thank you for your time to allow me to testify and I am hopeful for your support in ensuring a favorable report on this bill.

A handwritten signature in blue ink, reading "Johnny Ray Salling".

Senator Johnny Ray Salling

SB 78 OPD testimony_opposed.pdf

Uploaded by: Alyssa Fieo

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 78 - Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: January 28, 2025

The Maryland Office of the Public Defender (OPD) respectfully urges the Committee to issue an unfavorable report on Senate Bill 78, which aims to expand the juvenile sex offender registry and the list of reportable offenses and prohibit a child from in-person attendance at a public school or a nonpublic school that receives State funds if the child has been convicted or adjudicated delinquent of a felony sex offense. We strongly oppose SB 78 because it would violate students' due process rights and the rights of students with disabilities, it is unnecessary, and it will likely cause significant harm to students. Additionally, SB 78 would have a chilling effect on the reporting of sexual offenses and subsequent sex offender treatment when families discover that when they attempt to seek help it will mean that their child will be precluded from attending in person school or participating in school-based activities ever again.

Senate Bill 78 is unnecessary and is overly broad. During the 2024 legislative session, the legislature already took the extreme step of prohibiting children on the nonpublic juvenile sex offender registry from attending public schools in person. *See* Md. Code, Crim. Pro. § 11-722. Senate Bill 78 goes significantly further by permanently banning, from all public and nonpublic schools that receive state funding, children who have been found involved in a felony sex offense, regardless of the child's age or completion of treatment. This is an incredibly broad and extreme deprivation that is not supported by the research or facts around safety. Additionally, SB 78 is unnecessary because of Maryland's reportable offense law.¹ Under Maryland's current reportable offense law, schools are obligated to assess whether a child presents an ongoing, imminent threat of serious harm if they have a reportable offense charge which occurred in the community. If such

¹ *See* Md. Code, Educ. § 7-303.

a threat is identified, the child may be removed from their regular school program or a safety plan can be developed. Along with this existing framework which provides for individualized safety assessments, as well as the current prohibition for children on the juvenile sex offender registry from attending school, SB 78 is unnecessary and overly broad.

Senate Bill 78 is based on a fundamental misunderstanding of the level of scrutiny that both the Department of Juvenile Services (DJS) and the courts engage in before a student is permitted to return to or remain in the community after an arrest and/or disposition of a sex offense charge. With the court's oversight, a child found involved in a sex offense is generally required to receive treatment either in an out-of-home placement or in the community. Additionally, if a child is before the courts for a sex offense charge, the courts routinely assess the public safety risks associated with keeping a child accused of committing a sex offense in the community and have the authority to detain children who pose a risk. There are multiple levels of court review and an objective assessment tool used is during every stage of the process.² In addition to these safeguards, the court is required to consider reasonable protections, such as a no contact order, for the safety of victims if a student is released pending adjudication.³ In effect, the court makes a determination about whether a student poses an "imminent threat" to a person or specific geographic location, including the neighborhood and school. The court does so with uniquely detailed information about the child and the case. In many situations students are safer with supervision, court involvement, and the provision of treatment and services to the youth. As discussed below, education and access to education further ensures a child is less of a safety threat; thus, if a court with all the information makes the decision that a child can be safely in school they should generally be permitted to return to their regular school program. The reportable offense process provides an additional layer of review at the school level. Moreover, the likelihood of a youth under a court's jurisdiction, under supervision, and receiving sex offender treatment in the community, offending at school where they are under the supervision of administrators, teachers, and staff is extremely low.

A blanket in-person ban for all children who have an adjudicated sex offense does not make schools safer. Senate Bill 78 is contrary to decades of peer reviewed research that has shown the following to be true: (1) Youth who sexually offend are vastly different from adult sex offenders, (2) Sexual recidivism rates for youth who sexually offend are extremely low⁴, even without treatment, (3) Youth reported, adjudicated, or convicted for sexual crimes are highly responsive to

² See Maryland Department of Juvenile Services Data Resource Guide: Fiscal Year 2023, 33, (Dec. 2023), https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf (describing the various objective assessment tools used to evaluate risk and safety when determining whether a young person should be detained or not and what level of services they may need).

³ Md. Code, Cts. & Jud. Pro § 3-8A-15(j).

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

proven treatments, and (4) Isolating these youth from typical educational and other prosocial settings is harmful to them, leads to more delinquent behavior, and does not improve community safety.⁵ Regarding recidivism, for example, one study that evaluated the sexual recidivism rate among the entire population of male youth adjudicated for sex crimes in South Carolina found an extremely low recidivism rate of 2.75% during an average nine year follow up period.⁶

We are aware of no other state in the nation that has a law even remotely like the one proposed by Senate Bill 78.

Senate Bill 78 does not provide adequate due process. Creating a blanket prohibition of in-person attendance, as SB 78 proposes, raises significant due process concerns. Senate Bill 78 provides no process to evaluate whether a student poses a threat which warrants an exclusion, there is no ability to appeal, and most notably, there is no review process or end date for the exclusion. The Supreme Court held in *Goss v. Lopez*⁷ that students have a property interest in education which cannot be denied without adequate due process. Senate Bill 78 fails to provide that constitutionally protected due process. In contrast, the reportable offense statute described above, Md. Code, Educ. § 7-303, provides a level of due process which is required before the right to full education services in a student's regular school program can be denied.

This bill will cause a chilling effect on reporting and access to treatment. Many sexual offenses committed by children take place within families. Parents or guardians who would otherwise seek help will be reluctant to report such offenses and pursue treatment for their child once they realize the impact on school and school-based activities under this bill.

Senate Bill 78 will negatively impact the possibility of resolving cases through plea agreements. In practice, many juvenile sex offense cases end in plea agreements. Plea agreements allow the respondent to access immediate and effective treatment, while sparing victims (often also children) from testifying in open court. Due to the extreme consequences under SB 78, it is likely that there will be far fewer plea agreements. Defense attorneys and their clients will insist upon taking every one of these cases to trial. This will be damaging to families, will negate the many benefits of plea agreements in these cases, and will result in a great many more unnecessary trials.

Senate Bill 78 violates the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act. Dictating the placement of a student with disabilities through the

⁵ See the written testimony of Prof. Elizabeth Letourneau, Johns Hopkins Bloomberg School of Public Health.

⁶ Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010). Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? *Criminal Justice and Behavior*, 37, 553-569.

⁷ 419 U.S. 565 (1975).

Criminal Code would run afoul of the requirements of federal law, the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act. These acts require that the individualized placement decision of a student with a disability be determined by the IEP or 504 team and that the student receive a free appropriate public education in the least restrictive environment. Requiring students to receive education in a home setting—the most restrictive environment—directly conflicts with this federal requirement and could lead to significant legal costs resulting from litigation and the possible loss of federal funds due to noncompliance. There are no in-person alternatives provided under SB 78 leaving children with disabilities relegated to an overly restrictive home setting which is contrary to the least restrictive environment mandate under federal law.

Communities are not made safer when children are left unsupervised at home which will occur under SB 78. Removing students from school and leaving them isolated and unsupervised at home can exacerbate mental health challenges and hinder their emotional and social development. School provides essential structure and support, and depriving students of this environment can lead to lasting negative consequences. Senate Bill 78 will create significant economic strain on families, particularly low-income households. Requiring students to participate in virtual learning without the proper resources—such as reliable Wi-Fi or internet access—places an undue burden on families, forcing parents to miss work or make other financial sacrifices to accommodate their children’s education. Additionally, children removed from school would lose access to essential resources, such as free breakfast and lunch, exacerbating food insecurity for many families.

Senate Bill 78 denies children the number one protective factor in preventing youth from recidivism: education. Relegating children to an indefinite placement in a virtual school program or home and hospital instruction (which requires only 6 hours a week of instruction)⁸ further isolates a student and precludes critical educational opportunities that go beyond course subjects. During the pandemic, we learned that virtual instruction was challenging for children, especially for children with disabilities or other educational challenges, and created an ongoing mental health crisis.

Senate Bill 78 is a misguided effort that would not ensure safety in our schools; yet would have an enduring detrimental impact on children. Since recent legislation expanded the juvenile court’s jurisdiction to include 10-12 year olds charged with a sex offense in the 3rd degree,⁹ the imposition of SB 78 would prohibit such young children from attending in-person public school until graduation. The legislature expanded juvenile jurisdiction to children as young as 10 in these cases

⁸ COMAR 13A.03.05.01.

⁹ See Md. Code, Cts. & Jud. Pro § 3-8A-03(a)(1)(ii).

because it thought it important for courts to be involved. Yet, SB 78 takes the court completely out of the picture and mandates a draconian non-discretionary "one size fits all" policy. Such a consequence would be damaging to that young child and to our communities. Senate Bill 78 violates the rights of students on many levels, is not supported by the extensive research by experts, attempts to address a safety concern that does not exist, and is not necessary as the reportable offense statute already allows for a change in a student's placement if an ongoing threat exists.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 78.

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

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

alyssa.fieo@maryland.gov

Stephen Bergman, Supervising Attorney, Juvenile Protection Division

stephen.bergman@maryland.gov

SB78 opposition letter Georgetown Law JJI & Gault

Uploaded by: Amy Borrer

Position: UNF



January 24, 2025

Senate Judicial Proceedings Committee
Senator William C. Smith, Jr.
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Letter In Opposition to SB 78 (Salling) – Juvenile Child Sex Offenders – Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

Chairman Smith and Honorable Members of the Committee:

SB 78 is another in a long line of purported public safety bills that are based in willful ignorance of decades of research about young people, that stoke fear from parents' genuine concerns about their children's safety at school, and that are facially tough on crime but proven to ultimately harm public safety.

The facts are this:

1. Youth who are adjudicated for a sexually oriented offense are extraordinarily unlikely to commit a subsequent sex offense.¹
2. Placing children on sex offender registries makes them vulnerable to becoming victims of sexual predation by adults.²
3. Placing children on sex offender registries ostracizes them from the community, supports, and services they need to develop into thriving adults.³

¹ Michael Caldwell, et al., [Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism](#), 54 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 197, 198 (2010); Michael F. Caldwell, [Sexual Offense Adjudication and Recidivism Among Juvenile Offenders](#), 19 SEXUAL ABUSE 107 (2007); Michael F. Caldwell et al., [An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism](#), 14 PSYCH., PUB. POL'Y, & L. 89 (2008); Michael P. Hagan et al., [Eight-Year Comparative Analysis of Adolescent Rapists, Adolescent Child Molesters, Other Adolescent Delinquents, and the General Population](#), 45 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 314 (2001); Franklin E. Zimring et al., [Investigating the Continuity of Sex offending: Evidence from the Second Philadelphia Birth Cohort](#), 26 JUSTICE Q. 58 (2009); Franklin E. Zimring et al., [Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?](#), 6 CRIMINOLOGY & PUB. POL'Y 507 (2007).

² Elizabeth J. Letourneau et al., [Effects of Juvenile Sex Offender Registration on Adolescent Well-Being: An Empirical Examination](#), PSYCH. PUB. POL'Y & L. 10 (Nov. 27, 2017).

³ Judith V. Becker, [What We Know About the Characteristics and Treatment of Adolescents Who Have Committed Sexual Offenses](#), 3 CHILD MALTREATMENT 317, 317 (1998).

4. To be successful, young people need support from parents and other adults; connections with peers; opportunities to participate in sports and other extracurricular activities; counseling; and family, community, spiritual, or other mentorship opportunities.⁴

By prohibiting children adjudicated for sexual offenses from attending in-person school, SB 78 would cut off those children's access to positive adults, connections with peers, counseling, and opportunities to engage in positive behaviors. We are aware of no other state that has gone as far as SB 78 would take Maryland in prohibiting children from returning to school and reengaging in ways that promote both positive youth development and public safety.

The best way to ensure public safety is to support the positive, healthy development of *all* young people, including – and especially – those involved in the juvenile court system. But rather than investing in children, families, communities, and true public safety, SB 78 ignores what we know will actually improve public safety and chooses instead to engage in fearmongering and make Maryland and its children and communities less safe.

We hope the Senate Judicial Proceedings Committee will see SB 78 for what it is and choose instead to invest in a Maryland in which children, families, and communities are truly safe.

Respectfully,

Kristin Henning
Director, Juvenile Justice Clinic & Initiative
Georgetown Law

Mary Ann Scali
Executive Director
The Gault Center

One of the first law school-based clinics specializing in children's issues, the Georgetown Law Juvenile Justice Clinic and Initiative educates law students and represents youth accused of crime, while also exploring and advancing new policies and programs to assist young people and to train youth defenders across the nation.

The Gault Center is a national nonprofit dedicated to promoting justice for all children by ensuring excellence in youth defense. The Gault Center has worked for 25 years to strengthen children's legal protections and access to counsel through youth defense assessments, training, technical assistance, and policy reform efforts in every state. We also work to minimize the harmful effects that juvenile legal system involvement has on youth, families, and communities and the disproportionate harms the system causes to Black, Latine, and Native/Indigenous youth.

⁴ See [Research Overview on Positive Youth Development](#), The Gault Center (2024); [Key Developmental Needs of Adolescence](#), UCLA Center for the Developing Adolescent (2024).

SB78 Families Advocating

Uploaded by: Brenda Jones

Position: UNF

Unfavorable Response to SB78 Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses.

SB78 is attempting to make two unique changes to laws regarding juveniles convicted of more serious sex offenses. The first regarding CR 11-704 would add a new qualifying offense requiring registration: a four-year age gap between the offender and victim.

The second change proposed in the Bill, addition of new section ED 7-312 has almost no connection to the first beyond its relation to a delinquent youth. It states that "a child" will be prohibited from attending school in-person if they commit a sexual offense that, **if committed by an adult**, would be a felony.

The sponsors must not be aware of the incredibly broad range of sex offenses that are felonies in Maryland. Some of the provisions captured by this language specifically apply to **adult individuals** who are at or above a certain age (18 or 21) who commit a sexual offense **against a minor**. As currently worded, for example, a 13-year-old girl awkwardly tries to fondle a 14-year-old boy at a party. Should the girl be eliminated from in-person school because the offense would be a felony if committed by a 21-year-old? What about a 14-year-old who sends a nude, provocative picture of themselves to a classmate. That is distribution of child pornography (a felony) which would exclude the 14-year-old from school.

Further, there is no provision in this bill for **any end to this banishment** from school, based on some sort of review of the young person's progress toward rehabilitation. Young people are generally amenable to treatment, and many do go on to lead successful and law-abiding lives. Rather than cast out an entire group based on a very broad and confusing standard, it would make much more sense to ensure that a clear process is in place to alert school administrators to repeated encounters with the justice system which indicate harmful and risky behavior and provide guidelines for appropriate measures in various situations, up to and including alternative educational opportunities.

We urge the committee to return an unfavorable vote for SB78.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries

Letourneau Testimony Against SB 78_Submitted Janua

Uploaded by: Elizabeth Letourneau

Position: UNF

TO: Senator William C. Smith, Jr. (Chair) and Senator Jeff Waldstreicher (Vice Chair) and Members of the Judicial Proceedings Committee

FROM: Elizabeth Letourneau, Moore Family Professor and Director, Moore Center for the Prevention of Child Sexual Abuse, Bloomberg School of Public Health, Johns Hopkins University

DATE: January 23, 2025

RE: **Testimony in Opposition to Senate Bill 78 Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance**

My name is Elizabeth Letourneau. I am the Moore Family Professor of Mental Health and Director of the Moore Center for the Prevention of Child Sexual Abuse at the Bloomberg School of Public Health, Johns Hopkins University. I am writing in strong opposition to **Senate Bill 78 Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance**. The views expressed are my own and do not necessarily reflect the views of Johns Hopkins University.

Senate Bill 78 seeks to bar some children from attending in-person education in Maryland K-12 Schools. Specifically, SB 78 would bar children adjudicated or convicted of felony-level crimes of a sexual nature from in-person school attendance. This bill also expands the list of offenses for which children would be required to register on the juvenile sex offense registry. I am a nationally and internationally recognized expert on child sexual abuse prevention whose work is published in more than 120 research-based articles and chapters in leading journals and high-impact books. I am an endowed professor with tenure in the Department of Mental Health and founding director of the Moore Center for the Prevention of Child Sexual Abuse, Bloomberg School of Public Health, Johns Hopkins University, and the 2022 recipient of the Lifetime Significant Achievement Award from the Association for the Treatment and Prevention of Sexual Abuse. I currently advise the World Bank's International Financial Corporation on responding to child sexual abuse, and previously served as a governor-appointed member of the Maryland State Council on Child Abuse and Neglect, on the National Academy of Sciences' Forum on Global Violence Prevention, as an advisor to the Centers for Disease Control and Prevention, and as a member of the World Health Organization Group to develop guidelines for responding to the sexual abuse of children and adolescents. My research on juvenile sex offender registration and notification policies was cited in the American Law Institute's Revised Model Penal Code, which recommends ending these harmful policies and in MI, OH, and PA state supreme court rulings. I currently advise the European Commission in its efforts to enhance the prevention of child sexual abuse across all 27 member states. I am involved dozens of other national and international research and policy initiatives aimed at ending child sexual abuse. I am also the proud mother of two children who attended Baltimore City Public Schools in grades K-12.

In my professional opinion, this bill is misguided and does not reflect best practices or the latest research. Exclusionary discipline as a blanket policy barring an entire class of children from in-person public school will not improve the safety of other children; rather, such a policy is certain to reduce the safety and well-being of affected children, as sex offender registration has already been shown to do.

Children who engage in harmful and illegal sexual behavior include children characterized by ignorance of sexual concepts, norms, and laws; immaturity and impulsivity; inadequate adult supervision; sexual victimization (e.g., traumatized children reacting to their own victimization); sexual curiosity and experimentation gone awry; and more generalized aggressive or delinquent behavior. They include children imitating what they've been exposed to on the internet or in social media; misinterpreting what they believed was mutual interest; imitating what is normative in their own families; youth attracted to the thrill of rule violation; socially isolated youth who turn to younger children as substitutes for agemates; youth with serious mental illness; youth responding to peer pressure; youth preoccupied by sex; youth under the influence of drugs or alcohol; and youth with incipient sexual deviance problems.^{1,2,3}

Despite this diversity, decades of research clearly and incontrovertibly document that children adjudicated or convicted of sex crimes are (I) unlikely to reoffend, (II) amenable to community-based treatment and (III) further documents the serious harms of sex crime-specific policies when applied to children and youth.

I. Sexual Recidivism Rates for Youth who Sexually Offend are Extremely Low.

Extensive research conducted over the last several decades by myself and others has established that adolescent sexual misconduct does not reflect stable internal traits in the youth but emerges from developmental issues and temporary situational factors. As a group, youth adjudicated or convicted of sex crimes pose a very low risk to sexually reoffend, and that risk diminishes rapidly post-adjudication.⁴ The most extensive evaluation of youth sexual recidivism rates reviewed 106 studies involving 33,783 youth and found an average sexual recidivism rate of 4.92% over an average 5-year follow-up.⁵ This study also documented a 73% decline in adolescent sexual recidivism over the past 30 years and found that **recidivism rates were below 3% across studies published in the most recent decade.**

Likewise, our research evaluating the recidivism rates of the entire population of male youth adjudicated for sex crimes in South Carolina found a 2.75% recidivism rate across an average 9-year follow-up.⁶

Adolescents who sexually abuse have more in common with adolescents who engage in other types of criminal behavior than with adult sex offenders. The major difference between these

¹ Chaffin, M. (2008). Our minds are made up—Don't confuse us with the facts: Commentary on policies concerning children with sexual behavior problems and juvenile sex offenders. *Child Maltreatment*, 13, 110–121. <http://dx.doi.org/10.1177/1077559508314510>

² Seto, MC & Lalumière, M (2020). What is so Special about Male Adolescent Sexual Offending? A Review and Test of Explanations Through Meta-analysis, 136 *Psychological Bulletin* 526-575.

³ Letourneau, E. J., Schaeffer, C. M., Bradshaw, C. P., & *Feder, K. A. (2017). Preventing the onset of child sexual abuse by targeting young adolescents with universal prevention programming. *Child Maltreatment*, 22, 100-111.

⁴ Caldwell, MC & Caldwell, B. (2022). The Age of Redemption for Adolescents Who Were Adjudicated for Sexual Misconduct. *Psychology, Public Policy, and Law*, 28(2), 167-178. <https://doi.org/10.1037/law0000343>.

⁵ Caldwell, M. (2016). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*, 22(4), 414–426. <http://dx.doi.org/10.1037/law0000094>

⁶ Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010). Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? *Criminal Justice and Behavior*, 37, 553-569.

teens and other teens is that they are more likely to themselves have been sexually abused.⁷ Youth with sex crime adjudications are no more likely to sustain new sex crime charges or convictions than youth with assault adjudications or youth with robbery adjudications.⁸ That is, the sexual reoffense rates of these three groups of children who have committed different types of harm did not differ in a meaningful or statistically significant manner. Distinguishing between youth likely to sexually reoffend or not involves more than simply knowing that a youth has a history of such offending.

II. Youth Convicted of Sex Crimes are Responsive to Proven Treatments.

Studies show 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. The effectiveness of treatment of adolescents adjudicated for sexual offenses has been studied using meta-analytic methods to combine the results of several other studies of treatment effectiveness to determine the overall effect of treatment. A limitation of this approach is the steady improvement in treatment approaches over recent decades, which means that studies that include older treatment methods likely underestimate the impact of more recent proven methods.

- An early review published in 2006 examined results from 9 studies with a combined sample of 2,986 youth adjudicated for sexual misconduct. Every study yielded positive effects and the overall results indicated that treatment reduced the risk of sexual recidivism by more than 60%.⁹ Other early studies reported similar positive results for treatment effectiveness.^{10,11}
- More recently, Silovsky and colleagues recently extended their intervention for child problem sexual behavior to adolescents with illegal sexual behavior. In a study involving 301 youth and their caregivers, their intervention called Problem Sexual Behavior - Cognitive Behavioral Therapy ("PSBCBT") resulted in significant reductions in sexually abusive behaviors and in non-sexual harmful behaviors and trauma symptoms.¹²
- Borduin and his colleagues reported the results of a randomized clinical trial of a family-based community treatment compared to the usual community services. The youth were followed for an average of 9 years following treatment. The rate of new sexual offenses was six times lower among the treated youth.¹³
- In a similar study, my colleagues and I reported the results of a randomized clinical trial of Multisystemic Therapy ("MST") provided to a group of 67 youth and their families compared to a group of 60 youth treated in the usual services. Both the youth and their

⁷ Seto, MC & Lalumière, M (2020). What is so Special about Male Adolescent Sexual Offending? A Review and Test of Explanations Through Meta-analysis, 136 *Psychological Bulletin* 526-575.

⁸ Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009b). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

⁹ Reitzel & Carbonell, The Effectiveness of Sexual Offender Treatment for Juveniles as Measured by Recidivism: A Meta-analysis, 18 *Sexual Abuse: A Journal of Research and Treatment*, 401 (2006).

¹⁰ St. Amand, Bard & Silovsky, Meta- Analysis of Treatment for Child Sexual Behavior Problems: Practice Elements and Outcomes, 13 *Child Maltreatment*, 145 (2008).

¹¹ Walker, McGovern, Poey & Otis, Treatment Effectiveness for Male Adolescent Sexual Offenders: A Meta-analysis and Review, 13 *Journal of Child Sexual Abuse*, 281 (2004).

¹² Silovsky, Hunger & Taylor, Impact of Early Intervention for Youth with Problematic Sexual Behaviors and their Caregivers, 25(1) *Journal of Sexual Aggression*, 4 (2019).

¹³ Borduin, Schaeffer & Heiblum, A Randomized Clinical Trial of Multisystemic Therapy With Juvenile Sexual Offenders: Effects on Youth Social Ecology and Criminal Activity, 77 *Journal of Consulting and Clinical Psychology* 26 (2009).

caregivers reported that problematic sexual behaviors declined as much as ten times more in the treatment group. In addition, the treatment group significantly improved with respect to substance abuse problems, mental health symptoms, and general delinquency and required significantly fewer costly out-of-home placements.¹⁴

- A long-term follow-up of 50 youth from the MST condition of that study revealed lower odds of future criminal activity more than 10 years post-treatment.¹⁵
- In addition to their clinical effectiveness, both PSB-CBT and MST have been found to be cost effective treatments for youth.^{16,17}

III. Sex crime specific policies fail to improve public safety and are associated with severe harm to youth.

My colleagues and I, as well as other researchers, have studied the effects of sex crime specific policies as applied to children and youth adjudicated or convicted of sex crimes. *Without exception we fail to find any public safety enhancing effects of these policies.* Specifically examining juvenile sex offender registration and notification policies, all available research fails to find an association with reduce sexual or violent reoffending, or with deterrence of first-time sex crimes. These studies include five that examine the impact of federal and state youth registration policies on sexual and violent recidivism^{18, 19, 20, 21, 22} and three that examine the

¹⁴ Letourneau, Henggeler, Borduin, Schewe, McCart, et al., Multisystemic Therapy for Juvenile Sex Offenders: 1-year Results from a Randomized Effectiveness Trial, 23 Journal of Family Psychology, 89 (2009).

¹⁵ Sheerin, Borduin, Brown, & Letourneau (2020). An evaluation of mechanisms of change in Multisystemic Therapy for juvenile justice-involved youths a decade following treatment. Journal of Marital and Family Therapy, 47(1), 208-219.

¹⁶ Aos, Leib, Mayfield, Miller & Pennucci, Benefits and Costs of Prevention and Early Intervention Programs for Youth, Washington State Institute for Public Policy (2004).

¹⁷ Dopp, Munday, Silovsky, Hunter, & Slemaker (2020). Economic value of community-based services for problematic sexual behaviors in youth: A mixed-method cost-effectiveness analysis. Child Abuse & Neglect, 105, 104043. <https://doi.org/10.1016/j.chiabu.2019.104043>.

¹⁸ Letourneau & Armstrong, Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders, 20 Sexual Abuse: A Journal of Research and Treatment, 393-408 (2008).

¹⁹ Letourneau, Bandyopadhyay, Sinha, & Armstrong. The influence of sex offender registration on juvenile sexual recidivism. Criminal Justice Policy Review, 20, 136-153 (2009).

²⁰ Batistini, A. B., Hunt, E., Present-Koller, J., & DeMatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy, and Law*, 17, 451-474.

²¹ Caldwell, M. F., & Dickenson, C. (2009). Sex offense registration and recidivism risk in juvenile sexual offenders. *Behavioral Sciences and the Law*, 27, 941-956.

²² Caldwell, M. F., Ziemke, M. H., & Vitacco, M. J. (2008). An examination of the sex offender registration and notification act as applied to juveniles. *Psychology, Public Policy, and Law*, 14, 89-114.

impact of these policies on deterrence.^{23,24,25} **One of the studies failing to find a positive impact of juvenile registration relied upon data from Maryland.²⁶**

In summary, the entire available body of published research fails to support any public safety effect of registration and notification on sexual recidivism or on first-time sex crimes. We can expect the same poor outcomes for exclusionary discipline laws that ban in-person school for this entire class of children and youth.

In addition to failing to improve public safety in any way, there is a growing and harrowing evidence base that sex crime specific policies that target children are associated with significant harmful consequences, including increased risk of unwarranted charges; increased risk for mental health problems and problems with peers, school, and with living instability; and increased risk for suicide attempts and for sexual assault victimization.

Registered children are more visible to law enforcement and the public, which makes them more likely to be arrested. My colleagues and I found that one state's registration and notification policy was associated with increased risk of new charges but – crucially- not of new convictions.²⁷ Specifically, among youth adjudicated for sex crimes, registered youth were significantly more likely than nonregistered youth to be charged with relatively minor misdemeanor offenses (e.g., public order offenses). Although it is possible that the burdens related to registration actually increase youth misbehavior, it is more likely that this increase in charges for low-level delinquent behavior reflects a surveillance or scarlet letter effect.

Children and youth who are barred from attending in-person school may also be more susceptible to a similar surveillance/scarlet letter effect as they will likely spend more time out of school and unsupervised. Moreover, treating these children differently from all or most other children adjudicated for other types of offenses and keeping them separated from their classmates and peers is likely to inculcate a sense of self as "delinquent" even when they are law abiding. Ample evidence indicates that youth who view themselves as delinquent or outside the societal mainstream are less likely to change patterns of offending behavior. Policies that promote youth's concepts of themselves as irredeemable sex offenders will likely interrupt the development of a healthy self-identity as a valued member of society.^{28,29}

²³ Letourneau, Bandyopadhyay, Armstrong & Sinha, Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? 37 Criminal Justice and Behavior, 553-569 (2010)

²⁴ Sandler, Letourneau, Vandiver, Shields & Chaffin, Juvenile Sexual Crime Reporting Rates are not Influenced by Juvenile Sex Offender Registration Policies. 23 Psychology, Public Policy and the Law, 131 (2017).

²⁵ Letourneau, E. J., Shields, R. T., Nair, R., Kahn, G., Sandler, J. C., & Vandiver, D. M. (2019). Juvenile registration and notification policies fail to prevent first-time sexual offenses: An extension of findings to two new states. *Criminal Justice Policy Review*, 30, 1109-1123.

²⁶ Letourneau, E. J., Shields, R. T., Nair, R., Kahn, G., Sandler, J. C., & Vandiver, D. M. (2019). Juvenile registration and notification policies fail to prevent first-time sexual offenses: An extension of findings to two new states. *Criminal Justice Policy Review*, 30, 1109-1123.

²⁷ Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

²⁸ Chaffin, Our Minds are Made Up - Don't Confuse us with the Facts: Commentary on Policies Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders, 13 Child Maltreatment, 110-121 (2008).

²⁹ Letourneau, E. J., & Caldwell, M. F. (2013). Expensive, harmful policies that don't work or how juvenile sexual offending is addressed in the U.S. *International Journal of Behavioral Consultation and Therapy*, 8, 25-31.

My colleagues and I surveyed 265 front-line practitioners from 48 states who provided mental health services to youth adjudicated or reported for sexual offending. These providers believed that youth who had offended sexually and were subjected to registration or notification were much more likely than youth who had offended sexually but were not registered to experience negative mental health outcomes, harassment from peers *and adults*, difficulty in school, and trouble maintaining stable housing. All of these effects - increased depression and anxiety, verbal and physical harassment, problems concentrating in school, and frequent disruptions caused by having to change schools and caregivers - are known to negatively impact the educational attainment of adolescents.³⁰ Again, we can comfortably predict similarly awful outcomes for children and youth excluded from in-person schooling.

Even more troubling are the results from our evaluation of the collateral consequences of registration on youth. We surveyed 251 male youth ages 12-17 years, all of whom were in treatment for problem sexual behavior. Compared to unregistered youth who were matched with registered youth in terms of age, race, and severity of offense, registered youth were four times more likely to report *having attempted suicide* in the past 30 days, five times more likely to report *having been approached by an adult for sex* in the past year, and twice as likely to report *having been sexually assaulted* in the past year.³¹

Again, we can reasonably predict that children and youth who are barred from in-person education will be at similar increased risk for suicide attempts and suicidality and increased risk for abuse and neglect at the hands of adults, because regular schools provide a safe haven in which to nurture children. This includes children who have caused harm to others. Perhaps to some policy makers, these consequences may seem well-deserved for children and youth convicted of sexual crimes. But accrual of “social capital” as evidenced by social connectedness and mental well-being is associated with desistance from crime by sexual and nonsexual offenders.^{32,33} It is also frankly astonishing that a bill to exclude children and youth from regular in-person schooling has been advanced on the heels of mounting evidence that online education was harmful to children and youth during the pandemic.³⁴ In addition, this bill is out of alignment with HB725, which calls for “discipline that is ‘rehabilitative, restorative, and educational’ and attempts to move schools away from exclusionary discipline responses (e.g., suspension, expulsion).

We also note the unintended collateral consequences that sex crime specific policies have on family members. Most children and youth who commit sexual offenses do so against children or teens in their families or circle of friends. Blanket policies such as that proposed often have the effect of broadcasting that a child or youth is a sex offender, which will also affect the child who

³⁰ 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.

³¹ Letourneau, E. J., Harris, A. J., Shields, R. T., Walfield, S. M., Ruzicka, A. E., Buckman, C., *Kahn, G. D., & Nair, R. (2018). Effects of juvenile sex offender registration on adolescent well-being: An empirical examination. *Psychology, Public Policy, and Law*, 24, 105-117.

³² Kruttschnitt, C., Uggen, C., & Shelton, K. (2000). Predictors of desistance among sex offenders: The interaction of formal and informal social controls. *Justice Quarterly*, 17, 61-87.

³³ Fox, K. J. (2016). Civic commitment: Promoting desistance through community integration. *Punishment & Society*, 18, 68-94).

³⁴ Fahle, Kane, Patterson, Reardon, Staiger, & Stuart (2023). School district and community factors associated with learning loss during the COVID-19 pandemic.

https://cepr.harvard.edu/sites/hwpi.harvard.edu/files/cepr/files/explaining_covid_losses_5.23.pdf

has been victimized -- in essence notifying the entire school community of their victimization. This unintended consequence can add harm to the victim's experience and can put families in the untenable position of trying to protect both children (that is, the one who offended and the one who was offended against) from community backlash.

In conclusion, children and youth thrive in school and the vast majority of those who have offended sexually can be safely taught in public schools. Blanket policies that treat all children and youth adjudicated or convicted of certain crimes as irredeemable harm many and serve none. Many schools have successfully implemented strategies that ensure the health and safety of children who have been harmed, which can include transfers and treatment for youth who caused harm. Children and adolescents – all children and adolescents - thrive when provided appropriately monitored access to educational, social, sporting, recreational, cultural and religious activities with peers. Policies that remove children from in-person school remove access to these developmentally critical opportunities. Moreover, what is often overlooked is the fact that the collateral damage to the parents and siblings of a banned child or youth is likely to be enormous.

SB 78 CCJR Unfavorable.pdf

Uploaded by: Heather Warnken

Position: UNF



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.¹ Similarly, a 16-year-old who clumsily "pantsed"² 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."³ 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

¹ 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."

² 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>.

³ 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.⁴ 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.⁵

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 annually⁶ Similarly, they found that notification requirements for youth

⁴ 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.

⁵ 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.

⁶ 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.”⁷ 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.”⁸ 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.”⁹

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

⁷ *Id.*

⁸ *Id.*

⁹ 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.

SB 78 FINAL.docx.pdf

Uploaded by: Karalyn Aanenson

Position: UNF

Aruna Miller
Lt. GovernorWes Moore
GovernorVincent Schiraldi
Secretary

Date: January 28, 2025
Bill Number/Title: SB 78 - Juvenile Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance
Committee: Judicial Proceedings
DJS Position: Oppose

The Department of Juvenile Services (DJS) opposes SB 78.

SB 78 prohibits a child from attending public or nonpublic school (that receives state funds) if the child has been convicted or adjudicated delinquent of felony rape or sex offense.

School systems are equipped to address student behaviors through a continuum of responses developed to support students and promote safety in the school community. Prohibiting in-person without evaluating supports to mitigate any risk, may result in students being unfairly excluded, stigmatized and penalized.

Research consistently shows that school engagement is a critical protective factor in preventing delinquency. Denying in-person attendance isolates students from a structured, supportive environment, increasing the likelihood of future challenges, including academic failure, behavioral problems, and involvement in the justice system.

For these reasons, DJS requests an unfavorable report on SB 78.

Contact: Kara Aanenson, DJS Director of Legislation Policy and Reform, kara.aanenson@maryland.gov



CRSD SB 78 Testimony_1.28.25.docx.pdf

Uploaded by: Kelly Quinn

Position: UNF

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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.¹ 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). Under 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

¹ 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
CRSDMaryland@gmail.com

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

CJJ opposition to SB-78.pdf

Uploaded by: Leslie Frey

Position: UNF



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

Local Behavioral Health Authority • Behavioral Health and Crisis Services

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.”

EACtestimony2025.SB78.pdf

Uploaded by: Leslie Margolis

Position: UNF

Education Advocacy Coalition

for Students with Disabilities

JUDICIAL PROCEEDINGS AND EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEES

SENATE BILL 78: Juvenile Child Sex Offenders—Juvenile Sex Offender Registry and Prohibition on in-Person Attendance

DATE: January 28, 2025

POSITION: OPPOSE

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of nearly 50 organizations and individuals concerned with education policy for students with disabilities in Maryland, strongly opposes Senate Bill 78, which would deny in-person education to students who have been adjudicated or convicted of rape or a sexual offense that, if committed by an adult, would constitute a felony. In addition to constituting bad policy, the bill raises a host of due process concerns and, for students with disabilities, represents a significant violation of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401 *et seq.*, and corresponding Maryland law. Passage of Senate Bill 78 will likely lead to litigation.

Compelling testimony has been submitted by others explaining the low recidivism rates for children adjudicated for a sex offense and the effectiveness of treatment and of the importance of school attendance for these children and youth. This Committee has also received extensive testimony explaining the safeguards already in place to address safety concerns through the reportable offense statute, Md. Code, Educ. §7-303, and the fact that this bill contains no due process procedures, a fatal flaw, given the United States Supreme Court's 1975 decision in *Goss v. Lopez* that students have a property interest in education that cannot be denied without due process. Senate Bill 78 provides no process for determining if a student actually poses a threat, has no review or appeal process, and no end date for the student's exclusion from in person school attendance. Because these issues have been addressed at length by others who have submitted testimony, the EAC's testimony will focus on Senate Bill 78's violation of the IDEA with respect to students with disabilities.

The IDEA, its implementing regulations, and corresponding Maryland law and regulations mandate that students with disabilities receive a free appropriate public education comprised of specialized instruction, related services, and supplementary aids and services and programmatic modifications and supports. These services and supports are identified and provided through a process that requires consideration of the student's individualized needs as described in the Individualized Education Program (IEP) required for every student receiving special education. One of the most fundamental principles of the IDEA is that each student is an individual whose needs must be evaluated and addressed in an individualized manner. Making assumptions about students based on factors such as their behavior, their identified disability, their mode of communication or other characteristics violates not only the IDEA but

also Section 504 of the Rehabilitation Act, 20 U.S.C. §794 *et seq.* and the Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.*, both of which prohibit discrimination against people with disabilities based on assumptions or beliefs. By imposing a blanket requirement that all children and youth who have been adjudicated or convicted of a sex offense be prohibited from attending in-person public or nonpublic schools, Senate Bill 78 feeds into the most dangerous assumptions about students with disabilities and fails to recognize that each student must be considered as an individual.

Senate Bill 78 also violates the basic requirement of the IDEA and Maryland law that students be educated in the least restrictive environment in which their IEPs can be implemented. These laws presume that students with disabilities will be educated with their nondisabled peers to the maximum extent appropriate, and that unless their IEPs require some other arrangement, they will attend the school they would attend if they did not have a disability. Senate Bill 78 completely ignores this federal mandate by removing students wholesale from their schools, regardless of what their IEPs mandate. The alternative educational options allowed under Senate Bill 78 must align with the options permitted by Section 11-722(E) of the Criminal Procedure Article; these options include home and hospital instruction, attendance at a Regional Institute for Children and Adolescents, virtual instruction, or a nonpublic school if the school permits the student to attend. However, Senate Bill 78 prohibits attendance at a public school or a nonpublic school that receives state funds. Therefore, the RICA schools and the nonpublic schools, which are special education schools receiving a combination of state and local funds, would not be permissible under Senate Bill 78, leaving students with only two options: Home and hospital instruction or virtual education. Home and hospital instruction is a time-limited, highly restrictive mode of instruction intended for students in emotional crisis or students unable to attend school because of a physical illness or condition. Students receiving home and hospital instruction generally receive six hours per week of education from a teacher who may or may not be certified in special education and generally are unable to receive full implementation of their IEPs. Virtual instruction was particularly devastating for many students with disabilities during the Covid-19 pandemic; EAC members currently are grappling with an overuse of virtual instruction by school systems as a way of bypassing the discipline procedures in place for students with disabilities. Passage of Senate Bill 78 would inevitably lead to an increased number of due process hearings and to legal challenges.

For these reasons, the EAC strongly opposes Senate Bill 78. To discuss or if questions, please contact Leslie Seid Margolis, Co-Chairperson, at lesliem@disabilityrightsmd.org or 443-692-2505.

Education Advocacy Coalition testimony in opposition to Senate Bill 78
January 28, 2025
Page Three

Respectfully submitted,

Selene Almazan, Selene Almazan Law, LLC
Rene Averitt-Sanzone, The Parents' Place of Maryland
Linda Barton, MSED, Education Advocate
Beth Benevides, Autism Society of Maryland, EAC Co-Chairperson
Ellen Callegary, Attorney (Retired)
Melanie Carlos, xMinds (Partnership for Extraordinary Minds)
Stephanie Carr, S.L. Carr Education Consultants, LLC
Rich Ceruolo, Parent
Michelle R. Davis, M.Ed., ABCs for Life Success
Alyssa Fieo, Maryland Office of the Public Defender
Lisa Frank and Andrea Bennett, Special Kids Company
Kimberly Glassman and Brian K. Gruber, Law Office of Brian K. Gruber
Beth Ann Hancock, Charting the Course, LLC
Kalman Hettleman, Independent Advocate
Genevieve Hornik, Kendall Eaton, Maureen van Stone, Project HEAL at Kennedy Krieger
Institute
Morgan Durand Horvath, M.Ed., Abilities Network
Ande Kolp, The Arc Maryland
Rachel London, Maryland Developmental Disabilities Council
Leslie Seid Margolis, Disability Rights Maryland, EAC Co-chairperson
Mark B. Martin, Law Offices of Mark B. Martin, P.A.
Monica Martinez, Martinez Advocacy
Sumaiya Olatunde, H2D Counseling
Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center
Ronza Othman, National Federation of the Blind of Maryland
Kate Raab and Nicole Joseph, Law Offices of Nicole Joseph
Jaime E. Seaton, BGS Law, LLC
Karleen Spitulnik and Winifred Winston, Decoding Dyslexia Maryland
Ronnetta Stanley, M.Ed., Loud Voices Together
Wayne Steedman, Steedman Law Group, LLC
Liz Zogby, Maryland Down Syndrome Advocacy Coalition

Written Testimony.SB 78.pdf

Uploaded by: Megan Berger

Position: UNF

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

Local and national civil rights groups are deeply alarmed about the potential passage of Senate Bill (SB) 78. We are writing to request your opposition to this bill, which, if enacted, would prohibit a child from in-person attendance at a public school or a nonpublic school that receives State funds if the child has been convicted or adjudicated delinquent of rape or other sexual offenses. SB 78 would have detrimental impacts on children, raises serious due process concerns, and runs afoul of the rights of students with disabilities under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). We urge you to consider the following points in your decision-making process and oppose this bill:

Violation of IDEA, Section 504, ADA Rights: SB 78 directly contravenes the requirements and principles of the IDEA, which mandate that children with disabilities receive a free appropriate public education (FAPE) in the least restrictive environment (LRE), as well as Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against individuals with disabilities in programs receiving federal financial assistance. Unilaterally excluding these children from in-person schooling without individualized review and due process and requiring them to attend alternative education at home either through virtual learning or home and hospital instruction undermines their fundamental right to education in the least restrictive environment and violates their rights to non-discrimination and reasonable accommodations under Section 504 and the Americans with Disabilities Act.

Existing Safeguards: Last year, during the 2024 session, the Maryland legislature deliberated this very issue with SB 1145 and ultimately passed the more narrow HB 814 which prohibits in-person instruction in public schools for students placed on the nonpublic juvenile sex offender registry. There is no reason to again debate this redundant and regressive bill. Moreover, Maryland's current reportable offense statute (Md. Code, Educ. § 7-303) and regulations already provide robust safeguards to address safety concerns while ensuring that children with disabilities are not unfairly and illegally deprived of their educational opportunities. The reportable offense statute and regulations allow for case-by-case evaluations and alternative placements if deemed necessary, maintaining a balance between school safety and educational rights.

Due Process Concerns: Creating a blanket prohibition of in-person attendance, as SB 78 proposes, raises significant due process concerns. SB 78 provides no process to evaluate whether a threat actually exists to support exclusion of a student from in-person school, the bill does not build in any opportunity for appeal, and most notably, there is no review process or end date for the exclusion from in-person school attendance. For students with disabilities, who can attend school through their 21st year, a student could be banned from in-person school for a detrimentally significant period of time. As the United States Supreme Court noted in *Goss v. Lopez*, students have a property interest in education which cannot be denied without adequate due process. Since a juvenile court has determined that the students targeted by this bill are safe to be in the community, the Legislature cannot then, by broad sweeping edict, deny education without due process. In contrast, the reportable offense statute discussed above provides a level of due process which is required before the right to full education services in a student's regular school program can be denied.

Risk of Isolation, Harm, and Long-Term Consequences: Lack of in-person school attendance can lead to the isolation of children, depriving them of crucial social interactions, support services, and academic progress. This isolation increases the risk of mental health concerns, hinders their overall development, and creates a stigma for the child regarding their inability to attend in-person school. Excluding children with disabilities from in-person schooling without individualized consideration of their needs and circumstances can have long-lasting detrimental effects on their educational outcomes, social integration, and overall well-being.

Moreover, SB 78 denies children the number one protective factor in preventing youth from recidivism: education. Relegating children to an indefinite placement in a virtual school program or home and hospital instruction (which requires a minimum of six hours a week of instruction and seldom amounts to more than 10 hours a week) isolates students and precludes critical educational opportunities that go beyond course subjects. During the pandemic, we learned that virtual school is an inferior form of education, especially for youth with learning disabilities or other educational deficits, and created an ongoing mental health crisis.

SB 78 is a shocking denial of the most basic rights of a child. We urge you to prioritize the legal rights and educational needs of children and oppose SB 78. Thank you for your attention to this critical matter.

For more information, please contact Megan Berger at Disability Rights Maryland:
megan.berger@disabilityrightsmd.org

Disability Rights Maryland

Maryland Office of the Public Defender

Public Justice Center

Juvenile Law Center

The Advocacy Institute

ACLU of Maryland

National Center for Youth Law

National Disability Rights Network (NDRN)

National Youth Justice Network

Washington Lawyers' Committee for Civil Rights and Urban Affairs

The Legal Aid Justice Center

Council of Parent Attorneys and Advocates

Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law

Disability Rights Arizona

MD Written Testimony - Juvenile Law Center opposit

Uploaded by: Riya Shah

Position: UNF

January 23, 2025

Senate Judicial Proceedings Committee
Senator William C. Smith, Jr.
2 East Miller Senate Office Building
Annapolis, Maryland 21401

**Written Testimony re SB 78 (Salling) – Juvenile Child Sex Offenders – Juvenile
Sex Offender Registry and Prohibition on In-Person School Attendance –
OPPOSE**

Chairman Smith and Honorable Members of the Committee:

Juvenile Law Center joins the several national and local organizations expressing opposition to Senate Bill 78, which expands the scope of offenses that require registration of children as sexual offenders and excludes children from in-person attendance at school if the child has been adjudicated delinquent of an offense sexual in nature. We write separately to provide additional information about the harm of measures such as this to youth and the constitutional framework under which these provisions must be analyzed.

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

Recognizing the critical developmental differences between youth and adults, Juvenile Law Center works to ensure that laws, policies, and practices affecting youth provide children with the protection and services they need to become healthy and productive adults. Core to this work is ensuring that all youth involved in the legal system are successfully reintegrated into their communities, efforts that are hindered when youth are labeled and stigmatized as sex

BOARD OF DIRECTORS

Dr. Tami D. Benton, MD
Chair
Suzanne Meiners-Levy, Esq.
Vice Chair
Gail Chavis
Treasurer
Julia H. Pudlin, Esq.
Secretary

Khaliah Ali
James R. Bell, Esq.
Sixto Cancel
Kathleen Chemicles, ASA
Sacha M. Coupet, PhD, JD
Judge Andre Davis (Retired)
Matthew DeAngelo
Judge Nancy Gertner (Retired)

Abd'Allah Lateef
Sarlene Mingo, MSW
R. Daniel Okonkwo, Esq.
Robert P. Parker, Esq.
Marque Richardson
Dorothy Roberts, JD
Hillary Transue
Sarah Chubb Sauvayre
Eli M. Segal, Esq.

Riya Saha Shah, Esq.
Chief Executive Officer
Marsha L. Levick, Esq.
Chief Legal Officer

offenders. Juvenile Law Center has been involved in state and federal litigation on youth sex offender registration issues as well as efforts to reform juvenile sex offender registration laws in California, Delaware, Illinois, Indiana, Kansas, Louisiana, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Washington, Wisconsin, West Virginia, and at the federal level.

Expanding the scope of offenses for which registration is required will sweep more children into the abyss of consequences attendant to sex offender registration. The harm of registration is uncontroverted.

- Registration renders youth vulnerable to sexual predation. A 2017 study reveals that registered children are nearly twice as likely to have experienced an unwanted sexual assault that involved contact or penetration in the past year, when compared to non-registered children who have also engaged in harmful or illegal sexual behaviors. They are also five times more likely to report having been approached by an adult for sex in the past year.¹
- Registration and public notification about a youth's registration status put youths' physical safety in jeopardy. Children on sex offender registries are four times more likely to report a recent suicide attempt than non-registered children who have engaged in harmful or illegal sexual behavior.² They also face the danger of vigilante justice: more than fifty percent of registered youth report experiencing violence or threats of violence against themselves or family members that they directly attribute to their registration.³ Instead of protecting communities, registering youth puts children's safety at risk.
- Registration exposes youth to stigma. Labeling youth as "sex offenders," falsely communicates to the world that the youth is untrustworthy, possesses other negative character traits, merits punishment, or is likely to commit crimes in the future.⁴ Stigmatization from sex offender labeling frequently translates to real and concrete harm to youthful offenders, including social isolation and ostracism by peers, depriving youth of sources of psychological support at the precise time they most need community acceptance.⁵

SB 78 is based on the false presumption that it will deter or prevent future sex offenses. It will not. And importantly, far from making communities safer, SB 78 carries harsh collateral consequences, perpetrating the precise harms that it is intended to mitigate. SB 78 rests on several presumptions about the dangerousness of youth who commit sex offenses. However, research shows these presumptions are false.

- Individuals who commit sexual offenses in childhood are highly unlikely to commit a subsequent sex offense. Study after study confirms that sex offense recidivism among youth is exceptionally low.⁶
- Youth who commit sex offenses are no different from youth who engage in non-sexual delinquent behavior.⁷ Multiple studies confirm that children who commit sexual offenses are motivated by impulsivity and sexual curiosity, not predatory, paraphilic, or psychopathic characteristics.⁸ With maturation, a better understanding of sexuality, and decreased impulsivity, these behaviors stop.
- The severity of a youth's offense is not predictive of re-offense. A study comparing sexual recidivism rates of children assigned to three groups based on the severity of their offenses found no significant difference in the recidivism rates of the three groups.⁹

SB 78 does not aid law enforcement or the public in identifying future sex offenders or preventing future sex offenses and therefore does not promote public safety. Additionally, measures that reveal a child's registration status or label a child a sex offender will impose immense harm to the child and their family. Under Maryland law, children are required to register as sex offenders if they were 14 years old and adjudicated delinquent of certain enumerated sexual offenses. *See* Md. Code. § 11-704.1(b). The registry is not available to the public, and children are removed from registration when the juvenile court no longer has jurisdiction of them. *Id.* at (c) and (d). Yet, SB 78 will impose additional and harsher punishments to individuals who the juvenile court has already deemed no longer need to be monitored. If enacted, SB 78 would make an individual's status of adjudication for a sexual offense more publicly accessible because it will have a real-life day-to-day consequence of excluding the child from school and all that school attendance includes – participation in sports, clubs, music, etc. Moreover, the increased punishment of being excluded from school will potentially last longer than the child's registration if the child is discharged from court supervision but still of school age.

Finally, as the letter from national and local groups sets forth, SB 78 has several constitutional deficiencies related to due process and federal IDEA law. And we are unaware of a single other state with a comparable harsh law. This measure raises additional constitutional concerns related to the imposition of punishment. Several state courts have found youth registration and provisions attendant to registering youth as sex offenders unconstitutionally punitive under the Eighth Amendment and the Ex Post Facto Clause of the Fourteenth Amendment.¹⁰ The punitive nature and harm of youth registration likewise contravenes the rehabilitative purposes of the juvenile court system.

For the foregoing reasons, Juvenile Law Center urges your opposition of SB 78. If I can provide additional information or assistance, please do not hesitate to contact me.

Sincerely,



Riya Saha Shah
Chief Executive Officer

¹ Elizabeth J. Letourneau et al., *Effects of Juvenile Sex Offender Registration on Adolescent Well-Being: An Empirical Examination*, PSYCH. PUB. POL'Y & L. 10 (Nov. 27, 2017).

² *Id.* at 10.

³ HUM. RTS. WATCH, RAISED ON THE REGISTRY 56 (2013), https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

⁴ Akiva M. Lieberman et al., *Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning*, 52 CRIMINOLOGY 345, 349 (2014); PRESTON ELROD & R. SCOTT RYDER, JUVENILE JUSTICE: A SOCIAL, HISTORICAL, AND LEGAL PERSPECTIVE 167 (4th ed. 2014).

⁵ Judith V. Becker, *What We Know About the Characteristics and Treatment of Adolescents Who Have Committed Sexual Offenses*, 3 CHILD MALTREATMENT 317, 317 (1998).

⁶ Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 197, 198 (2010), <http://commissiononsexoffenderrecidivism.com/wp-content/uploads/2014/09/Caldwell-Michael-2010-Study-Characteristics-and-recidivism-base-rates-in-juvenile-sex-offender-recidivism.pdf>; Michael F. Caldwell, *Sexual Offense Adjudication and Recidivism Among Juvenile Offenders*, 19 SEXUAL ABUSE 107 (2007); Michael F. Caldwell et al., *An Examination of the Sex Offender Registration and Notification*

Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism, 14 PSYCH., PUB. POL'Y, & L. 89 (2008); E.M. Driessen, *Characteristics of Youth Referred for Sexual Offenses*, unpublished doctoral dissertation, University of Wisconsin- Milwaukee (2002); Michael P. Hagan et al., *Eight-Year Comparative Analysis of Adolescent Rapists, Adolescent Child Molesters, Other Adolescent Delinquents, and the General Population*, 45 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 314 (2001); Franklin E. Zimring et al., *Investigating the Continuity of Sex offending: Evidence from the Second Philadelphia Birth Cohort*, 26 JUSTICE Q. 58 (2009); Franklin E. Zimring et al., *Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6 CRIMINOLOGY & PUB. POL'Y 507 (2007).

⁷ Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 SEXUAL ABUSE 293, 313, 331 (2005); Michael F. Caldwell et al., *An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism*, 14 PSYCH., PUB. POL'Y, & L. 89 (2008), <http://www.ncjfcj.org/sites/default/files/examinationofthesexoffender.pdf>.

⁸ Michael F. Caldwell, *What We Do Not Know About Juvenile Sexual Re-Offense Risk*, 7 CHILD MALTREATMENT 291 (2002); Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 SEXUAL ABUSE 293, 331 (2005); Judith Becker & Scotia Hicks, *Juvenile Sexual Offenders: Characteristics, Interventions, & Policy Issues*, 989 ANN. N.Y. ACAD. SCI. 397, 399-400, 406 (2003); Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 197, 197-98 (2010).

⁹ Franklin E. Zimring et al., *Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6 CRIMINOLOGY & PUB. POL'Y 507 (2007).

¹⁰ See *In re T.B.*, 489 P.3d 752, 768-69 (Colo. 2021); *In re C.K.*, 182 A.3d 917, 935 (N.J. 2018); *In re C.P.*, 967 N.E.2d 729, 750 (Ohio 2012).

SB 78 - MDH - JPR - LOO (1) (1).pdf

Uploaded by: State of Maryland (MD)

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 28, 2025

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill (SB) 78 – Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance – Letter of Opposition

Dear Chair Smith and Committee Members:

The Maryland Department of Health (Department) respectfully submits this Letter of Opposition on Senate Bill 78 – Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance. SB 78 requires a child adjudicated delinquent to register with the juvenile sex offender registry and supervising authority. Law enforcement and the State's Attorneys must notify schools of certain information when a child is arrested for a specific offense. This legislation will prohibit a child from attending public or non-public schools that receive State funds in person if the child has been convicted.

The MDH Healthcare System operates two Regional Institutes for Children and Adolescents (RICA), the John L. Gildner (JLG) RICA (Rockville) and RICA-Baltimore, which provide residential behavioral services. Multidisciplinary treatment teams provide treatment and educational programs for children adolescents who are experiencing emotional, behavioral, and learning difficulties. Additionally, JLG RICA includes the Facility for Children (FFC) program which provides competency attainment services for adolescents who have been accused of a crime but have been determined to be incompetent to stand trial. Further, MDH has plans to construct a new facility on the grounds of RICA Baltimore to serve this population.

The enactment of this legislation will jeopardize the funding for both facilities for all students who attend school and receive services at the facility. The JLG-RICA facility provides day treatment for 80 elementary to high school-aged children in partnership with Montgomery County Public Schools. The school the students attend is a public school. RICA-Baltimore is a public separate day school where public students are referred. The county of the individual student pays the tuition. This bill could significantly impact the ability of these children to receive critical services including educational services.

Additionally, this bill would negatively impact the adolescents served by removing them from their school setting and placing them in an alternative setting, disrupting their current schooling.

It would remove them from the consistency, routine, and potentially safe space of in-person school attendance and place them in a parallel but new and unfamiliar academic setting.

Thank you for your attention to this critical matter. We respectfully urge you to oppose this legislation and work toward a more balanced and thoughtful approach to addressing the safety needs of adolescents in Maryland's mental health facilities and public schools.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Laura Herrera Scott', written in a cursive style.

Laura Herrera Scott, M.D., M.P.H.
Secretary

SB 78.pdf

Uploaded by: Taylor Dickerson

Position: UNF



PO Box 368 Laurel, MD 20725

410-992-4258

www.marylandpsychology.org

OFFICERS OF THE BOARD

President

David Goode-Cross, Ph.D.

Past President

Brian Corrado, Psy.D.

Secretary

Meghan Mattos, Psy.D.

Treasurer

Andrea Chisolm, Ph.D.

Representatives-at-large

Rachel Singer, Ph.D.

Deborah Williams, Psy.D.

Representative to APA Council

Peter Smith, Psy.D.

COMMITTEE CHAIRS

Communications

Robyn Waxman, Ph.D.

Diversity

Mindy Milstein, Ph.D.

Early Career Psychologist

Alayna Berkowitz, Ph.D.

Educational Affairs

Sarah Crawley, Ph.D.

Ethics

LaShaun Williams, Psy.D.

Legislative

Stephanie Wolf, JD, Ph.D.

Professional Practice

Karin Cleary, Ph.D.

PROFESSIONAL AFFAIRS

OFFICER

Paul C. Berman, Ph.D.

EXECUTIVE DIRECTOR

Taylor Dickerson

January 21, 2025

Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee:

RE: SB 78 - Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition on In-Person School Attendance

Position: OPPOSE

The Maryland Psychological Association, (MPA), which represents over 1,000 doctoral-level psychologists throughout the state, asks the Senate Judicial Proceedings Committee to report UNFAVORABLY on SB 78.

We understand and strongly support the desire and intent behind this bill, which is to provide a safe environment in school for teachers, students, and staff. We are concerned that the bill seems overly punitive and inflexible, in that it does not address how these kids might eventually be integrated, if appropriate, back into regular school environments. We know that schools have mechanisms in place to address both the safety of the larger student population while addressing the educational, social, emotional and psychological needs of children who have acted out in a harmful manner. Additionally, schools have demonstrated the ability to safely reintegrate students who have committed serious offenses, on a case-by-case basis, back into the regular school environment when appropriate.

It is particularly concerning that children as young as 13 might end up on this registry, never to be allowed to return to any contact with normally developing peers in school, despite the very real possibility of effective therapeutic rehabilitation with some students. As the struggle which juvenile sex offenders have with social skills is often a major contributing factor to their offenses, it is of the utmost importance that they gain the experience of socializing with their peers to learn normative behaviors. Segregating juvenile sex offenders with no opportunity to return to school, nor to be exposed to a broader peer group, is a short-sighted approach that can lead to kids dropping out of school, kids forming or seeking membership in gangs, and ultimately feeding the school-to-prison pipeline. This bill appears to offer a short-term and inflexible solution with long-term potential adverse consequences, both for the child offenders as well as for the community.

Thank you for considering our comments on SB 78. If we can be of any further assistance as the Judiciary Committee considers this bill, please do not hesitate to contact MPA's Legislative Chair, Dr. Stephanie Wolf at

mpalegislativcommittee@gmail.com.

Respectfully submitted,

David Goode-Cross, Ph.D.
David Goode-Cross, Ph.D.
President

Stephanie Wolf, JD, Ph.D.
Stephanie Wolf, JD, Ph.D.
Chair, MPA Legislative Committee

cc: Richard Bloch, Esq., Counsel for Maryland Psychological Association
Barbara Brocato & Dan Shattuck, MPA Government Affairs