

HOUSE WAYS and MEANS COMMITTEE

HOUSE BILL 68: STUDENT PROTECTION ACT OF 2025

January 23, 2025

Position: Oppose

Disability Rights Maryland (DRM) is Maryland's designated Protection & Advocacy agency. DRM is federally mandated to advance the civil rights of people with disabilities. As the state's protection and advocacy agency, DRM **strongly opposes HB 68**, which seeks to prohibit students suspected of crimes of violence from attending public school in person until they are no longer identified as suspects. This bill is fundamentally flawed as it violates the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), while also disregarding due process and the presumption that people are innocent until proven guilty.

Violation of the IDEA's mandates: Free Appropriate Public Education (FAPE) and Least Restrictive Environment (LRE)

Under IDEA, students with disabilities are guaranteed access to a **free appropriate public education (FAPE)** in the **least restrictive environment (LRE)**. HB 68 imposes automatic exclusions based on a student's status as a suspect without any consideration of the individual's disability-related needs or behavior, violating federal mandates:

1. **Individualized Education Program (IEP):** Decisions about a student's placement must be made by an Individualized Education Program (IEP) team and must be based on the student's unique needs. HB 68 bypasses this process entirely, denying students their right to an individualized determination of the most appropriate educational setting to meet their needs.
2. **Manifestation Determination Review (MDR):** The IDEA requires schools to conduct an MDR before changing the placement of a student with disabilities for disciplinary reasons. This review ensures that the student is not punished for behavior that was a manifestation of the student's disability. HB 68 bypasses this critical safeguard, potentially penalizing students on the basis of disability.

Violation of Section 504 and ADA: Discrimination and Failure to Provide Reasonable Accommodations

Section 504 and the ADA prohibit discrimination against individuals with disabilities in public education. By excluding students solely based on their status as suspects, HB 68 disproportionately impacts students with disabilities, who are already overrepresented in school disciplinary and criminal justice referrals. This exclusionary policy violates their rights in several ways:

1. **Discrimination Based on Disability:** Many behaviors associated with disabilities, such as impulsivity, difficulty regulating emotions, or misreading social cues, could be misinterpreted as

criminal conduct. HB 68 disproportionately impacts students with conditions such as ADHD, autism, or emotional disabilities.

2. **Denial of Reasonable Accommodations:** Students with disabilities often rely on in-person supports and services—speech therapy, occupational therapy, counseling, and specialized instruction—to access their education. Removing them from school potentially denies these essential services, impeding their academic and social development.
3. **Inadequate Alternative Education Options:** The bill’s requirement for alternative education does not guarantee the quality or accessibility of these services, particularly for students with disabilities. Virtual learning and home instruction have consistently been shown to be inadequate substitutes, especially for students who need hands-on support.

Denial of Due Process and Presumption of Innocence

HB 68 violates foundational principles of due process and justice:

1. **Presumption of Innocence:** The bill penalizes students based on allegations rather than proven conduct. This undermines the legal principle that individuals are innocent until proven guilty. Students who are later cleared of suspicion would still face the stigma and harm of exclusion from school.
2. **No Opportunity for Justification or Excuse Defenses:** The bill fails to consider whether the alleged behavior was justified or excused due to circumstances such as self-defense. This blanket policy disregards individual context and nuance.
3. **Lack of Procedural Safeguards:** HB 68 does not provide students or their families with mechanisms to appeal or challenge their exclusion. There is no timeline for resolution or reintegration into the school environment, leaving students in limbo and without recourse.

Exacerbation of Disparities for Students with Disabilities

- **Overrepresentation in Discipline:** From July 2022 to June 2023, when charged with a crime of violence, students with disabilities faced a disproportionate impact, accounting for 466 of the reported incidents.¹ This represents a rate 259% higher than that of their peers without disabilities.

Conclusion: Harmful, Unnecessary, and Unlawful

HB 68 is a harmful and unnecessary policy that contradicts federal laws, denies students their right to education, and undermines the principles of fairness and justice. The existing reportable offense statute already provides schools with the tools to assess safety concerns and make individualized decisions about students. This bill duplicates existing safeguards while creating additional barriers for students, particularly those with disabilities.

¹ Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2023* (December 2023) https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf. In FY 23, DJS received 1277 complaints for Black children alleging crimes of violence and 328 Black children charged with crimes of violence were found delinquent and placed in juvenile detention or placed on probation. That same year, DJS received 284 complaints for white children alleging crimes of violence and only 50 of them were found delinquent and placed in juvenile detention or placed on probation.

We urge the Maryland General Assembly to oppose HB 68 and prioritize equitable, evidence-based approaches to school safety.