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POSITION ON PROPOSED LEGISLATION

**BILL: HB 137 – Public Schools - Children Charged with a Crime of Violence
Prohibition on In-Person Attendance (School Safety Act of 2025)**

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: January 23, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 137 (HB 137), which provides for a blanket prohibition of in-person attendance at a public school for children who are charged with a crime of violence, as well as later adjudicated of such crime.¹ House Bill 137 is not necessary as the reportable offense provision in Maryland law already allows schools to make individualized determinations regarding safety for students charged with serious crimes, including crimes of violence. Moreover, HB 137 is a misguided bill which violates federal law, puts students at academic risk, would disproportionately impact Black students and students with disabilities, and would not create safer schools and communities.

Most alarming is that under HB 137 students will be **permanently banned from in-person school** if they are later adjudicated for the offense, regardless of the student's age or whether the student has completed any court ordered treatment or supervision requirements. Such a draconian and punitive consequence is in direct conflict with and undermines the very purpose of the juvenile court which is to rehabilitate.²

House Bill 137 is unnecessary and in conflict with current law. House Bill 137 imposes a blanket exclusion, even though Maryland law already mandates timely communication between schools and law enforcement when a student is arrested for a reportable offense, including all crimes of violence.³ Under current law, school systems must evaluate whether a student arrested for a reportable offense presents an ongoing, imminent threat of serious harm. If such a threat is identified, the student may be removed from the regular school program and attend an alternative school program which can be an in-person program. Maryland's reportable offense statute and regulations also provide the necessary due process protections by considering individual case situations and providing adequate notice and an appeal process regarding any determination that changes a student's school placement. The reportable offense

¹ See Md. Code, Crim. Law § 14-101 for a listing of offenses which constitute a "crime of violence."

² See MD Code, Courts and Judicial Proceedings, § 3-8A-02.

³ Md. Ann. Code, Educ. § 7-303; COMAR 13A.08.01.17.

statute was amended in 2022 and the Maryland State Board of Education just issued new regulations in July 2024 and additional guidance and support from the Department of Education on the reportable offense process is forthcoming.

House Bill 137 takes away individualized decision-making at the local level while imposing consequential administrative and financial burdens on school districts. The current reportable offense process allows school systems, who know their students and their students' needs, to make individualized determinations regarding whether a student's presence in school poses imminent threat of serious harm. This decision-making process occurs after the Department of Juvenile Services and/or court have determined that the student is safe to be in the community.⁴ School systems do not take the reportable offense decision process lightly and are required to investigate and make individualized determination about any safety threat. *See T.R. and B.J. v. Caroline County Bd. of Educ.*, MSBE Op. No. 20-06 (2020). The goal is to ensure safety, while limiting the disruption to a student's academic progress and protecting the student's rights. House Bill 137 unnecessarily removes decision-making authority from school districts by establishing a blanket rule for removal, requiring alternative programming for students who districts would otherwise permit to stay in their school program with a safety plan in place. A review of the current reportable offense data from 2023-24 school year, shows that out of the 1,637 reportable offense incidents, school systems determined that only 143 students needed to be removed from their school placement due to safety concerns while in school.⁵ Yet, if enacted HB 137 would have denied in-person education to over 1,500 students who were charged with a crime of violence in 2023.⁶

House Bill 137 will negatively impact students and worsen educational gaps. During the pandemic, Maryland's students endured over two years of disrupted learning due to virtual education, and many students are still trying to catch up. Placing students, many of whom are already struggling academically, in a virtual environment with limited structure or in-person support will increase their risk of failure. Indeed, based on our experience with clients placed in a virtual setting, the likelihood of failure and dropping out of school is almost certain. It is also instructive to consider the requirements that school systems set for students who voluntarily seek a virtual school program, including a record of high grades and good attendance. In fact, failing grades is a basis to remove students from the virtual program. The students involved in the youth legal system are often at greater risk for court involvement because of their academic struggles. These students need more services not less, including in-person instruction with high quality teachers, with emotional behavior supports, and credit recovery

⁴ There are multiple levels of court review and DJS uses objective assessment tools during every stage of the process. *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).

⁵ *See* Maryland State Department of Education, Reportable Offenses Data: Maryland Public Schools, School Year 2023-2024 (Dec. 30, 2024), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(i\)_2024.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(i)_2024.pdf).

⁶ *See* Maryland Department of Juvenile Services Data Resource Guide: Fiscal Year Fiscal Year 2023, 38-39 (Dec. 2023), https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf.

opportunities. HB 137 misses the mark by isolating students who are often most in need of academic and support services.

House Bill 137 violates the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act. Forcing students out of in-person learning prevents them from accessing the specific accommodations and modifications to which they are entitled. IDEA and Section 504 mandate that students with disabilities be educated 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. In fact, under Maryland law, the instructional setting for the provision of educational services to a student with a disability who has been removed from school using the discipline process, which the reportable offense process incorporates, may not be a student's home.⁷

Requiring school removal under HB 137 will have a disproportionate impact on Black students and students with disabilities. House Bill 137 will disproportionately impact Black children, who are already overrepresented at every stage of the youth legal system, as well as negatively impact students with disabilities. During the 2023-24 school year, Black students represented 69% of the reportable offense cases but only represented 33% of the statewide student population, while students with disabilities represented 39% of students arrested for reportable offenses, but are only 13% of the statewide student population.⁸ Introducing additional consequences, such as automatic school removal, will only deepen these disparities and exacerbate the already damaging school-to-prison pipeline.

House Bill 137 will create economic strain on families. Forcing students to learn virtually without the proper resources, such as reliable Wi-Fi or internet access, disproportionately impacts lower-income households. Parents may be forced to miss work or make other financial sacrifices to accommodate their children's education at home, further destabilizing families. Students required to participate in virtual education also lose access to essential resources, such as free lunch, that are available in school.

Communities are not made safer by excluding students from school. Removing students from the structure of school and leaving them unsupervised at home can exacerbate mental health issues and hinder emotional and social development. School provides essential support for students' growth, and depriving them of this resource can have lasting negative consequences. In fact, juvenile courts generally require school attendance when allowing a young person to receive supervision in the community. HB 137 unnecessarily undercuts the understanding that education is the number one protective factor for students involved in the legal system to reduce recidivism.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 137.

⁷ COMAR 13a.05.01.10.

⁸ See Maryland State Department of Education, *Reportable Offenses Data: Maryland Public Schools, School Year 2023-2024* (Dec. 30, 2024), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(j\)_2024.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(j)_2024.pdf).

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