

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

To: Delegate Vanessa E. Atterbeary, Chair, and Members of the Ways and Means Committee

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The Youth, Education, and Justice Clinic (“the Clinic”) represents children who have been pushed out of Maryland schools through suspension, expulsion, or other means. We also represent incarcerated individuals serving life sentences for crimes they committed when they were children or young adults. We request an unfavorable report on HB 137, as in-person education is foundational to learning and development and, if passed, this bill would jeopardize children’s educational access, opportunities, and, ultimately, success.

HB 137 seeks to take two drastic steps: 1) automatically remove a child charged with a “crime of violence” (as defined under Md. Crim. § 14-101) from their public school; 2) and only allow the excluded child to return to in-person instruction if (and once) the child is found not delinquent, or the charge is dismissed. However, this bill ignores Maryland’s law on reportable offenses, set forth in Md. Code. Educ. § 7-303 and COMAR 13A.08.01.17. The reportable offenses law balances a child’s educational interests with the school’s need for safety for all students and staff. Under the law, when a child is arrested for a reportable offense, law enforcement officials are required to notify their school district, school principal, and school resource officer. The principal and other staff must then decide whether the child presents a safety risk, and if so, develop a plan for the child that meets the needs of both the child and the school.¹

Importantly in 2022, the General Assembly amended the reportable offense law to apply the existing due process protections owed to children facing extended suspension and expulsions to children facing exclusion because of a reportable offense.² Through this amendment, the General Assembly made clear that removing or excluding a child from their regular school program for a reportable offense has the same weight and impact as removing a child through suspension and expulsion. In essence, the General Assembly recognized the gravity of removing a child from the traditional educational setting because of a reportable offense.

HB 137 is unnecessary because “reportable offenses,” as defined in Md. Code. Educ. § 7-303, include crimes of violence under Md. Crim. § 14-101. This bill is also exceedingly

¹ COMAR 13A.08.01.17.C (2), (3).

² MD. CODE ANN, EDUC. § 7-303(H).

harmful because it aims to exclude children from school *solely* because of a reportable offense charge, without affording any of the foundational due process protections embedded in Maryland³ and federal law,⁴ and without any individualized consideration or evaluation of each child. For these very reasons, Maryland law is clear that a reportable offense charge cannot be the sole basis for a child's removal.⁵ Yet, removing a child solely because of such a charge is exactly what this bill seeks to do.

In seeking to automatically exclude a child charged with a reportable offense from in-person instruction at their public school, this bill calls for providing "alternative education options separate from other children." In the Clinic's experience representing children, the most common option is virtual learning, where the child remains at their home to receive instruction. These alternative programs are simply inadequate to provide children the supports needed for their academic and social development. The data is clear that children who are removed from school for disciplinary reasons are more likely to fall behind academically, fail their classes, repeat a grade, and, ultimately, drop out of school.⁶ Likewise, Maryland students removed from schools following a reportable offense charge have high rates of absenteeism, low standardized test scores, and low GPAs, during their removal period.⁷ In 2022, 47% of Maryland students failed after being removed from schools following a reportable offense.⁸ It is because of these high stakes, and potentially lifelong consequences, that Maryland's reportable offense law *prohibits* removing a child from their "regular school program unless the student presents an imminent threat of serious harm to other students or staff."⁹ It is also why Maryland law provides due process protections for children charged with these offenses, and why schools have discretion to keep them in or remove them from their regular school placement.

The COVID-19 pandemic illustrated the mental health impact of remote learning on children, which "has resulted in long-term social isolation and limitations in interactions with peers."¹⁰ These mental health challenges were accompanied by physical health challenges. Excessive screen time, lack of movement, and decreased engagement in physical activities all contribute to an increased risk of health conditions, such as diabetes.¹¹ Also, children confined to virtual learning stemming from a reportable offense do not have ready access to teachers and are excluded from extracurricular activities. Virtual learning has also been associated with increased loneliness, depression, and anxiety.¹² These effects severely jeopardize the health and well-being of Maryland youth.

³ See generally, COMAR 13A.08.01.17.

⁴ See generally, *Goss v. Lopez*, 419 U.S. 561 (1975).

⁵ COMAR 13A.08.01.17.D (2).

⁶ See generally, MELANIE LEUNG-GAGNÉ ET AL., LEARNING POLICY INSTITUTE, PUSHED OUT: TRENDS AND DISPARITIES IN OUT-OF-SCHOOL SUSPENSION (Sept. 30, 2022), <https://learningpolicyinstitute.org/product/crdc-school-suspension-report>.

⁷ MARYLAND STATE DEPARTMENT OF EDUCATION, REPORTABLE OFFENSES DATA: MARYLAND PUBLIC SCHOOLS, SCHOOL YEAR 2022-2023, MSAR #14124, MD. CODE. EDUCATION § 7-303, 26-28 (December 30, 2023), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(j\)_2023.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(j)_2023.pdf) [hereafter, REPORTABLE OFFENSES DATA].

⁸ *Id.* at 27.

⁹ COMAR 13A.08.01.17 D (1).

¹⁰ Anna Rutkowska et al., *Mental Health Conditions Among E-Learning Students During the COVID-19 Pandemic*, 10 FRONTIERS IN PUBLIC HEALTH, at 2 (May 17, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9152265/pdf/fpubh-10-871934.pdf>; See generally, Amy Orben et al., *The Effect of Social Deprivation on Adolescent Development and Mental Health*, 4 LANCET CHILD ADOLESC. HEALTH 634 (2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7292584/pdf/main.pdf>.

¹¹ Jorge Verlenden, PhD, et al., *Association of Children's Mode of School Instruction with Child and Parent Experiences and Well-Being During the COVID-19 Pandemic—COVID Experiences Survey, United States, October 8-November 13, 2020*, 70 Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, at 371 (Mar. 19, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7011a1-H.pdf>.

¹² Rutkowska, *supra* note 10, at 2.

In addition, this bill, if passed, would exacerbate the overcriminalization of Maryland's Black youth, who are disproportionately arrested, referred to the Department of Juvenile Services, and recommended for criminal charges.¹³ Of the 986 students arrested for reportable offenses during the 2022-23 school year, 65% were Black, despite only accounting for 33% of the statewide student population.¹⁴ Ultimately, HB 137, if passed, would worsen these racial gaps that plague educational access, opportunity, and achievement in Maryland.

Low-Income children would also be disproportionately impacted by automatic removal from in-person attendance at their schools. The success of an online or alternate learning experience depends largely on having the "right at-home tools to facilitate a proper learning environment."¹⁵ These tools include access to technology and reliable internet, and stable and supportive living conditions. Many low-income children lack access to the necessary technology, reliable internet, and other resources at home to have a chance of staying on course educationally. Accordingly, this bill, if passed, would also exacerbate the vast educational gaps between low-income children and their peers – gaps that cannot be closed if and when excluded children are permitted to return to school. Therefore, this bill would deprive children who are most in need of accessing school resources.

Overall, HB 137 is unnecessary to promote school safety and harmful to children and families. For these reasons, we ask for an unfavorable report on HB 137.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

** Admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar*

¹³ In 2023, Black youth represented 31% of Maryland's youth population but accounted for 63.5% of intake complaints referred to the Maryland Department of Juvenile Services. GOVERNOR'S OFFICE OF CRIME PREVENTION AND POLICY, MARYLAND'S RACIAL AND ETHNIC DISPARITIES PLAN FOR FEDERAL FISCAL YEAR 2024, 3-4 (undated), https://gocpp.maryland.gov/wp-content/uploads/Final-Draft-FY24-R_ED-Plan.pdf.

¹⁴ REPORTABLE OFFENSES DATA, *supra* note 7, at 15.

¹⁵ Kimberley Falk, *The Impacts of Online Learning on Student Success: The Pros and Cons of Online Individualized Learning* University of California Riverside, Extension Professional Studies (Updated 2025), <https://extension.ucr.edu/features/impacts-onlinelearning>.