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POSITION ON PROPOSED LEGISLATION

BILL: HB 68 – 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 68 (HB 68), which provides for a blanket prohibition of in-person school attendance for children who are being investigated for a crime of violence.¹ House Bill 68 is a dangerous and flawed bill that would jeopardize ongoing criminal investigations, violate federal law, and put students at academic risk. Despite its intention, HB 68 would not create safer schools and communities. House Bill 68 is also not necessary as the reportable offense provision in Maryland's Education Article already requires law enforcement to notify school systems of an arrest for a crime of violence and allows schools to make individualized determinations regarding safety if a student is ultimately charged with a serious crime. More specifically, HB 68:

- **Violates the presumption of innocence and infringes on fundamental Constitutional due process protections.** Altering a student's right to their education based solely on suspicion is an overreach of government authority, eroding the rights of students and parents.
- **Is unnecessary.** Maryland law already mandates prompt communication between schools and law enforcement when a student is arrested for a reportable offense.² All crimes of violence are reportable offenses. Under current law, school systems are obligated to assess whether a student arrested for a reportable offense poses an ongoing imminent threat of serious harm. If such a threat is determined, the student may be removed from the regular school program. In 2022, the legislature updated the reportable offense process and the Maryland State Department of Education issued final regulations in July 2024. House Bill 68 conflicts with the reportable offense process and would take the individual decision making out of the hands of school system officials who are committed to ensuring that a student's education is not unnecessarily disrupted.

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

² Md. Ann. Code, Educ. § 7-303; COMAR 13A.08.01.17.

- **Jeopardizes ongoing investigations.** Investigations require confidentiality and the control of information. Requiring law enforcement to share discreet and sensitive information with school officials creates opportunities for compromised investigations and leaked information. The proposed legislation also lacks any clear mechanism for law enforcement to notify school officials about students under investigation.
- **Places an unsustainable burden on both law enforcement and school systems and will be costly.** This mandate diverts critical resources away from essential investigative work, hindering law enforcement's ability to effectively perform its duties. Additionally, the responsibility for tracking the status of investigations and creating alternative educational programs for students under investigation imposes an unworkable and significant administrative burden and financial strain on school systems, further taxing already limited resources.
- **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 they are entitled to. IDEA mandates 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 contradicts this federal requirement and could lead to significant legal costs for the state resulting from litigation.
- **Makes communities less safe.** Involuntarily 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.
- **Negatively impacts students and worsens educational gaps.** Maryland's students have already endured over two years of disrupted learning due to virtual education, and many are struggling to catch up. A law removing more students only widens these educational gaps.
- **Creates 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, 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.

- **Permanently bans students** who are later charged or adjudicated for the crime from ever returning to in-person school, as the bill only permits a return to in-person school for students who are no longer identified as suspects.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 68.

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

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