

Testimony *In Opposition to HB 68 (Unfavorable)*

Public Schools – Children Suspected of a Crime of Violence – Prohibition on In-Person Attendance (School Protection Act of 2025)

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

From: Claire Martinson, Student Attorney*, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201

Date: January 21, 2024

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 68 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 68 seeks to take two drastic steps: 1) automatically remove a child suspected of a “crime of violence” (as defined under Md. Crim. § 14-101) from their public school; and 2) only allow the excluded child to return to in-person instruction if (and once) the investigation is complete, and the child is no longer a suspect. This bill is misguided because it removes a child from public school for an unspecified length of time and subjects the child to all the negative impacts of removal and exclusion solely because of identification as a suspect in a crime of violence. As per this bill, a mere allegation would remove and exclude a child from school without any due process, without any consideration of the child’s individualized circumstances, without any consideration of the potential harms of removal on the child, and without any consideration to the safety of other students or staff at the child’s school.

This bill, along with HB 137, is focused on eviscerating due process and automatically banishing children from school based on a charge of a crime of violence (HB 137) or mere suspicion. These bills differ to the slightest degree, and both ignore 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 student’s educational interests with the school’s need for safety for all students and staff. Under the law, when a student 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 student presents a safety risk, and if so, develop a plan for the student that meets the needs of both the student and the school.¹

Importantly in 2022, the General Assembly amended the reportable offense law to apply the existing due process protections owed to students facing extended suspension and expulsions to

¹ COMAR 13A.08.01.17.C (2), (3).

students facing exclusion because of a reportable offense.² Through this amendment, the General Assembly made clear that removing or excluding students from their regular school program for a reportable offense has the same weight and impact as removing students 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.

In addition, both bills aim to eviscerate state³ and federal⁴ due process in the education context. Maryland law is clear that a reportable offense charge cannot be the sole basis for a student's removal.⁵ Even more so, an investigation of a reportable offense should not be the only basis for automatic removal. Moreover, it is simply unfair to remove a child who has merely been suspected of a crime, particularly without due process.

In seeking to automatically exclude a child suspected of 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 student remains at their home to receive instruction. These alternative programs are simply inadequate to provide students 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 students 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

² MD. CODE ANN, EDUC. § 7-303(H).

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\(f\) 2023.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(f) 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>.

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.

In addition, this bill, if passed, would exacerbate the overcriminalization of Maryland's Black youth, who disproportionately interact with law enforcement in Maryland, and are overrepresented at each stage of the youth legal system. Black children are also disproportionately pushed out of school via suspension and expulsion. In the 2023-24 school year, Black students and White students each comprised 32.5% of the total enrollment in Maryland's public schools.¹³ However, Black students represented nearly 57% of suspensions and expulsions,¹⁴ while White students represented only 20% of suspensions and expulsions.¹⁵ HB 68, if passed, would worsen these racial gaps that plague educational access, opportunity, and achievement in Maryland.

Low-Income students 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."¹⁶ These tools include access to technology and reliable internet, and stable and supportive living conditions. Many low-income students 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 students and their peers – gaps that cannot be closed if and when the child is permitted to return to school. Therefore, this bill would deprive children that are most in need of accessing school resources.

As with HB 137, HB 68 is unnecessary to promote school safety and is harmful to children and families. For these reasons, we ask for an unfavorable report on HB 68.

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*

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.

¹³ MARYLAND STATE DEPARTMENT OF EDUCATION, ENROLLMENT BY RACE/ETHNICITY AND GENDER AND NUMBER OF SCHOOLS, MARYLAND PUBLIC SCHOOLS, SEPTEMBER 30, 2023, 1 (Jan. 2024), https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20222023Student/2023_Enrollment_ByRace_Ethnicity_Gender.pdf

¹⁴ MARYLAND STATE DEPARTMENT OF EDUCATION, DIVISION OF ASSESSMENT, ACCOUNTABILITY, PERFORMANCE REPORTING & RESEARCH, SUSPENSIONS, EXPULSIONS, AND HEALTH RELATED EXCLUSIONS, 2023-24, 11 (Dec. 2024), <https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20232024Student/2024-Student-Suspension-Expulsion-Publication-A.pdf>

¹⁵ *Id.*

¹⁶ 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/impactssofaronlinelearning>.