

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

HOUSE WAYS AND MEANS COMMITTEE

HOUSE BILL 951: SCHOOL SYSTEMS – REPORTABLE OFFENSES – ALTERATION

DATE: FEBRUARY 25, 2025

POSITION: OPPOSE

The Maryland Coalition to Reform School Discipline (CRSD) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland's public school systems. CRSD is committed to the fair and equitable treatment of ALL students, including pregnant or parenting students, regardless of race, ethnicity, gender, gender identity, sexual orientation, disability, religion, and socio-economic status, and reducing barriers to learning for ALL students.

CRSD opposes House Bill 951, which would require law enforcement officers to disclose when a student is a suspect in an investigation regarding a felony or crime of violence to the State's Attorney and allowing the State's Attorney to disclose that same information to school districts. This provision renders HB 951 plainly unconstitutional as it runs afoul of a defendant's Fifth Amendment right to due process and Sixth Amendment right to a fair trial. Reporting to a school when a student is merely a suspect in a case cuts against the presumption of innocence and exposes a student to the risk of school removal merely for being a suspect. Practically, this provision would substantially interfere with law enforcement investigations by divulging the identity of suspects before probable cause can be determined.

HB 951 would increase the use of reportable offenses which would exacerbate the overuse of school removal, harm overall school flourishing, and perpetuate deeply entrenched racial bias at every level of the reportable offense process.

Maryland law is that students stay in school unless they pose an imminent threat of serious physical harm to others.¹ This bill adds numerous reportable offenses that do not demonstrate whether or not a child is a threat to other students or staff. Under current law, even if these new offenses were reported to schools, they would not be legally allowed to remove students as a disciplinary method due to the legal standard for school removal. The question has to be, do the crimes reported to schools help schools determine whether or not a student poses a risk of serious harm to others? These new reportable offenses introduced by this bill do not.

¹ COMAR 13a.08.01.11(B)(2)(a).

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Research shows that overuse of suspension and other forms of school pushout harm students and the school community at large.² All educators and advocates aim to foster schools where students learn in a safe environment and in community with others. To that end, it is the policy of Maryland’s Board of Education that school removal is a last-resort option that should be limited to the furthest extent possible.³ Overuse of reportable offenses runs counter to this policy goal.

Decades of research shows that, in punitive systems where discretionary decisionmaking is a key facet, those discretionary decisions result in racial bias.⁴ Racial disparities show up in full force in the use of reportable offenses in Maryland beginning even before arrest where Black children are subject to increased police contact, more stops by police, and increased police violence.^{5 6} This leads to Black children being more than 2.5 times more likely to be arrested than white children.⁷ These layers of bias culminate in Black students being 4.1 times more likely to be reported to their school for a reportable offense than white students.⁸ This disparity is greater than that of arrests, suggesting that officers and prosecutors make discretionary decisions to report greater numbers of Black students to their schools for reportable offenses.

The final discretionary step in this process is the decision to remove a child from school, where racial disparities appear yet again, with Black students being 3.0 times more likely to get suspended than white students.⁹ Such disparities cannot be explained by different rates of student

² Daniel J. Losen, *School Discipline What the Research Tells Us: Myths and Facts*, National Education Policy Center (Oct. 5, 2011) (“There is no evidence that frequently suspending disruptive students improves learning. In fact, schools with high suspension rates tend to have lower academic achievement, even after controlling for demographics.”).

³ COMAR 13a.08.01.11(A) (“[School discipline policies shall] . . . Be designed to keep students connected to school . . . and Explain why and how long-term suspensions or expulsions are last-resort options.”)

⁴ Nazgol Ghandnoosh, Ph.D. and Celeste Barry, *One in Five: Racial Disparity in Imprisonment — Causes and Remedies*, The Sentencing Project (Dec. 7, 2023) (showing racial bias present at various discretionary decision points, including parole decisions, sentencing, prosecution, and others)

<https://www.sentencingproject.org/publications/one-in-five-racial-disparity-in-imprisonment-causes-and-remedies/>.

⁵ Douglas Young, Christina Yancey, Sara Betsinger, Jill Farrell, *Disproportionate Minority Contact in the Maryland Juvenile Justice System*, University of Maryland College Park Institute for Governmental Service and Research (January 2011) (“African American youth are particularly subject to disparate levels of contact and are also significantly overrepresented at arrest (2.54), referral to DJS intake (2.44), and the case petitioning stage (1.41)”).

⁶ Emanuella Grinberg, *Racial bias pervasive among Baltimore police, DOJ says*, CNN (Aug. 10, 2016) (“A Justice Department investigation found that the Baltimore Police Department engages in unconstitutional practices that lead to disproportionate rates of stops, searches and arrests of African-Americans, and excessive use of force against juveniles and people with mental health disabilities.”);

⁷ See *supra* note 4.

⁸ MSDE Division of Student Support and Federal Programs and Division of Assessment, Accountability, Performance Reporting & Research, *Reportable Offenses Data: Maryland Public Schools, School Year 2023-2024* (December 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).

⁹ MSDE Division of Assessment, Accountability, Performance Reporting & Research, *Suspensions, Expulsions, and Health Related Exclusions Maryland Public Schools 2023-2024* (December 2024)

<https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20232024Student/2024-Student-Suspension-Expulsion-Publication-A.pdf>.

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misbehavior, as studies have shown that all students misbehave at roughly the same rate.¹⁰ While poverty is correlated with increases in disruption and behavioral disorders, those relationships do not explain the great discipline gap between white and Black children.¹¹ The discipline gap remains even when all other variables are removed. For the same infraction in similar circumstances, a white student is significantly less likely to be disciplined than a Black peer.

This bill is facially unconstitutional by interfering with investigations and allowing disclosure of when a student is merely a suspect in case. Additionally, it expands the reach of the reportable offense statute which will lead to worse outcomes for all students and increased disparities, particularly for Black students.

For these reasons, CRSD **opposes HB 951**.

For more information, please contact:

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CRSD Members:

Public Justice Center
Project HEAL at Kennedy Krieger Institute
ACLU of Maryland
Maryland Office of the Public Defender
League of Women Voters of Maryland
The Choice Program at UMBC
Progressive Maryland
Strong Schools Maryland

¹⁰ *Maryland Commission on the School-to-Prison Pipeline and Restorative Practices Final Report and Collaborative Action Plan* (Dec. 2018),
<https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>.

¹¹ Nathan Barrett et al., *Technical Report: Disparities in Student Discipline by Race and Family Income*, Education Research Alliance for New Orleans (Jan. 2018),
<https://educationresearchalliancenaola.org/files/publications/010418-Barrett-McEachin-Mills-Valant-Disparities-inStudent-Discipline-by-Race-and-Family-Income.pdf>.