

HOUSE WAYS and MEANS COMMITTEE

HOUSE BILL 137: Public Schools - Children Charged With a Crime of Violence - Prohibition on In-Person Attendance (School Safety Act of 2025)

January 23, 2025

Position: Oppose

Disability Rights Maryland (DRM) is Maryland's designated Protection & Advocacy agency. DRM is federally mandated to advance the civil rights of people with disabilities. As the state's protection and advocacy agency, DRM strongly opposes HB 137, which proposes to prohibit a child from in-person attendance at a public or state-funded nonpublic school if charged with a crime of violence. This bill would have severe repercussions for students, particularly those with disabilities, and would violate their rights under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA). HB 137 also raises significant due process concerns and disregards existing safeguards.

Violation of IDEA and the Right to a Free Appropriate Public Education (FAPE):

1. **Least Restrictive Environment (LRE):** HB 137 disregards IDEA's mandate that children with disabilities must be educated in the least restrictive environment that is able to meet their needs. Exclusion from in-person schooling without an individualized determination contradicts this fundamental principle and risks isolating students with disabilities without justification.
2. **Individualized Education Program (IEP):** The IDEA requires that educational decisions, including changes in placement, be determined by an IEP team, and based on the student's unique needs. HB 137 imposes a blanket exclusion policy, bypassing this individualized process and undermining the authority of the IEP team.

Provision of FAPE: The IDEA guarantees that all students with disabilities are entitled to FAPE, which includes not only academics but also related services like counseling, occupational therapy, and social-emotional supports that are typically delivered in person. Excluding students from in person learning and relegating them to virtual or limited home-based instruction diminishes the quality of education they receive.

Non-Discrimination Under Section 504 and ADA:

HB 137 would also have a discriminatory effect by imposing punitive measures that disproportionately impact students with disabilities. From July 2022 to June 2023, students with disabilities charged with a crime of violence faced a disproportionate impact, accounting for 466 of the reported incidents—a rate 259% higher than their peers without disabilities.¹ Many students with disabilities are already at greater risk of disciplinary or legal actions due to behavioral manifestations of their disabilities. These actions may be directly related to their disabilities, a connection entirely overlooked by HB 137. Federal law prohibits discrimination based on disability in educational programs receiving federal funding, and this bill would contravene these protections by excluding students without providing reasonable accommodations or alternatives.

Due Process Violations:

1. **No Individualized Determination:** The bill fails to include any mechanism for evaluating whether an individual student poses a safety risk or should be excluded. This omission violates fundamental due process principles enshrined in *Goss v. Lopez*² which recognized a student's property interest in education.
2. **Lack of Procedural Protections:** The absence of an appeal process, a defined review period, or a termination point for the period of exclusion denies students the opportunity to contest their removal or rejoin in-person schooling, compounding the harm.

Existing Safeguards Address Safety Concerns: Maryland's current reportable offense statute under Md. Code, Educ. § 7-303 already provides robust mechanisms to address safety concerns. This statute allows for case-by-case evaluations by school staff and alternative placements when necessary, balancing school safety with students' educational rights. Unlike HB 137, these procedures provide a level due process and individualized consideration, reducing the risk of unnecessary harm to students.

Negative Impact on Students: The proposed policy will isolate children, exacerbating mental health concerns, social stigmatization, and academic setbacks. HB 137 denies students access to the single most effective protective factor against recidivism: education. The pandemic has already shown the detrimental effects of prolonged remote learning, which this bill would replicate without cause.

¹ Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2023* (December 2023) https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2023.pdf. In FY 23, DJS received 1277 complaints for Black children alleging crimes of violence and 328 Black children charged with crimes of violence were found delinquent and placed in juvenile detention or placed on probation. That same year, DJS received 284 complaints for white children alleging crimes of violence and only 50 of them were found delinquent and placed in juvenile detention or placed on probation.

² 419 U.S. 565 (1975).

HB 137 represents a sweeping, harmful policy that undermines the rights of students with disabilities, disregards established legal protections, and imposes irreversible harm. We urge you to oppose HB 137 and prioritize equitable, individualized, and lawful approaches to addressing school safety concerns. Thank you for your attention to this critical issue.