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## POSITION ON PROPOSED LEGISLATION

**BILL: SB 107, Criminal Law – Distribution of Students’ Personal Information – Prohibition**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: January 23, 2026**

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The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on SB 107.

SB 107 seeks to protect children and students, while creating a law that could be used to prosecute those same children and students for protected speech and for routine conduct in the age of social media. This well-intentioned bill is written in a way that can be easily weaponized.

The Maryland Office of the Public Defender opposes the bill as the statute is currently drafted because it is overbroad and criminalizes too wide a swath of conduct. A simple amendment to Grace’s Law would achieve the purpose of expanding its protections to high school and college students.

As written, under SB 107, a person could be prosecuted for publishing a student’s name or uploading a student’s photo online, if someone *accuses* them of doing so to intentionally or recklessly cause the student harm, including emotional and economic harm.

The statute as currently drafted could result in the prosecution of children or students in the following scenarios because the conduct meets the *actus reus* requirement of the offense:

- A child who posts a photo of a friend on Instagram or Snapchat without the permission of the friend’s parent.
- A college student who posts online about a sexual assault experience and names her assailant, who is a fellow student at her school.

- A college student who posts online a negative review of a teacher’s assistant, who is also enrolled in the same school, using their name.

Imagine a scenario where a student is running for president of student government. The candidate openly encourages the establishment of whites-only student groups and argues that student associations based on national origins other than American should be prohibited. A fellow student posts a video on their personal social media page, using the candidate’s name and photo and comparing the student candidate’s positions to segregationists. This law would enable the student candidate to file *criminal charges* against the social media poster for intentionally or recklessly causing serious emotional distress. The use of the student government candidate’s name or photo alone would bring the complained conduct under the ambit of this statute, even if the poster had a viable defense to raise at trial.

While the statute has a *mens rea* requirement the State must prove at trial—that the person intended to cause harm or had a reckless disregard that they would—such a requirement does not prevent *prosecution*. And with citizen complaints in Maryland, the State’s Attorney’s Office is not a wholly protective factor (even if one believes that they would otherwise be, which is a jurisdiction-specific determination.)

See, Dylan Segelbaum, *Maryland lets anyone file for criminal charges— and innocent people pay the price*, The Baltimore Banner, December 23, 2025, available at: <https://www.thebanner.com/community/criminal-justice/maryland-district-court-commissioner-criminal-charges-BA2UCV6K75BKVPHQPQCWVP7PIDQ/> (Last accessed January 23, 2026).

Prosecution, even when one has a viable defense, carries destructive collateral consequences. The trauma and embarrassment of an arrest, the fear of appearing in court, the impact on a student’s ability to attend class or work, the violence of detention centers, the cost of an attorney—all take a toll on someone accused of violating the law, even if they did not in fact break any law and even if their conduct has an affirmative defense available.

The desire to discourage or penalize doxxing is a valiant public policy goal. Keeping children and students safe always is. But exposing those same children and students to potential prosecution for a wide swath of innocent and constitutionally-protected conduct does not achieve that goal.

Should the General Assembly wish to expand Grace’s Law to protect secondary and post-secondary students, Md. Code, Crim. L. § 3-805 (“Grace’s Law”) could be expanded to apply to “secondary, post-secondary students, and minors” where the statute currently reads “minors.” Expanding protections to students does not require passing an additional overbroad bill that places people engaged in innocent and protected conduct at risk of prosecution—even initiated by abusers themselves.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 107.**

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