



Ingrid Lofgren, Managing Attorney
Education Stability Project
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
lofgreni@publicjustice.org

House Bill 12: Juvenile Sex Offender Registry - Qualifying Offenses and Access
Hearing before the House Judiciary Committee
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Position: UNFAVORABLE

The Public Justice Center (PJC) is a nonprofit legal services organization which advocates for social justice, and economic and racial equity in Maryland, including by upholding the rights of historically excluded and underserved students through individual representation, community outreach, and systemic advocacy.

House Bill 12 expands the reach of the nonpublic juvenile sex offender registry by removing the 14-year-old age limit and requires a young person to remain on the registry until 18 years of age, even when the court terminates jurisdiction. HB 12 would also add additional nonviolent offenses that would require registry, impacting the right of a child as young as 10 years old to attend in-person school pursuant to Md. Code, Crim. Pro. § 11-722(c).

PJC strongly opposes HB 12 because it would expand the number of children on the nonpublic juvenile sex offender registry and thereby prohibit them from in-person school attendance pursuant to Md. Code, Crim. Pro. § 11-722(c). HB 12 denies a child the right to receive in-person instruction, even when a court has determined based on extensive information about the incidence and the child, that the child is safe to be in the community. Maryland courts and the Department of Juvenile Services routinely assess whether a child with a charge, such as a felony sex offense, is dangerous. A child deemed by a court to pose a danger to their classmates would not be allowed to return to the community. A court is better able to assess the risks posed by a child under its jurisdiction than a school administrator, or indeed the Legislature. HB 12 impedes the court's powers and runs afoul of the juvenile court's fundamental purpose—rehabilitation. Such a consequential deprivation of a child's fundamental right to education, which is guaranteed by the Maryland Constitution, is unwarranted given other mechanisms to ensure safety in schools.

During the 2024 legislative session, the Maryland legislature passed a provision in HB 814 that now prohibits in-person attendance in public schools for students placed on the nonpublic juvenile sex offender registry. There is no evidence to suggest that creating a wider ban will increase school safety—in fact, years of research has confirmed that treatment works for children with a sex offense. The recidivism rate is extremely low, below 3%, for offenses that are sexual in nature, making the need for a blanket ban on all children adjudicated of sex

offense unreasonable.¹ Further research shows that juvenile registries disproportionately impact children of color, children with disabilities and LGBTQ+ youth.²

House Bill 12 is not compatible with the requirements of federal law, including the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973. Under the law, a child's home is deemed the most restrictive setting for education, and HB 12 would restrict every child with a disability and an IEP on the registry to their home, significantly impacting their ability to access a free and public education. The reality is that virtual instruction is often inferior and not appropriate as a long-term placement, even for students without disabilities. There are no regulations that govern virtual instruction or guarantee families have access to the internet. Virtual instruction may leave a child unattended, without adult support, with no structure and isolated from peer interaction

Education is the number one protective factor in preventing youth from recidivism. Relegating children to instruction in their homes, perhaps for years, denies them the opportunity to interact with peers, participate in school-related activities, benefit from free breakfast and lunch programs, and all the other pro-social benefits that schools provide. Our communities are not safer when children are denied the structure, support services and guidance that schools provide.

For these reasons, PJC strongly opposes HB 12.

For more information, please contact:

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¹ Caldwell, M., Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*, 22(4), 414-426 (2016), <http://dx.doi.org/10.1037/law0000094>.

² See Riya Saha Shah, et al, Young People Caught in the Net of Sex Offender Registries, ABA Litigation Section (July 14, 2022),

<https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/summer2022-young-people-caught-in-the-net-of-sex-offender-registries/>

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