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POSITION ON PROPOSED LEGISLATION

BILL: HB 198 – School Systems – Reportable Offenses – Alterations

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 11, 2026

The Maryland Office of the Public Defender (MOPD) respectfully requests that the Committee issue an unfavorable report on House Bill 198 (HB 198), which would require law enforcement to notify the State’s Attorney’s Office of every case in which a student is a “suspect” in an investigation for a crime of violence or felony; and would permit the State’s Attorney’s Office to notify the school system of a student’s “suspect” status. MOPD strongly opposes HB 198 as it is not necessary, does not make schools safer, and fundamentally violates basic due process rights. House Bill 198 would also cause significant disruption, placing students at academic risk, and would disproportionately harm Black students and students with disabilities.

House Bill 198 violates the presumption of innocence and infringes on fundamental constitutional due process protections. Under Maryland law, law enforcement may take a youth into custody only upon a determination of probable cause or pursuant to an arrest warrant issued by a court after such a finding. Under the existing reportable offense law, law enforcement may notify a school system only when a student has been charged with an offense subject to Maryland Code, Education § 7-303. House Bill 198 would dramatically expand this framework by authorizing State’s Attorneys to notify schools based solely on a student’s status **as a suspect** in a felony or crime of violence - triggering the reportable offense process without probable cause, arrest, or judicial involvement.

Rather than evaluating whether law enforcement is meeting its obligations under the current law, HB 198 imposes an additional notice requirement tied to a student’s unproven and preliminary suspect status, raising serious due process concerns.

House Bill 198 fails to address the implications of sharing information regarding a student’s suspect status - or the presumptions that inevitably follow - it is presumed that school systems would be permitted to remove students based on this notification from the State’s Attorney’s Office despite the absence of a formal arrest or charge. Pursuant to HB 198, school systems could potentially remove a student from their school placement based on the student’s status as a “suspect” without

any due process protections. The status of “suspect” does not require a probable cause required for an arrest, it does not require a formal issuance of charges, and it does not require any of the constitutionally afforded protections in a juvenile proceeding following an arrest. Absent any real due process altering a student’s right to their education based solely on mere police suspicion is an overreach of government authority, erodes the rights of students and parents, and must be rejected.

Sharing this type of information prior to a determination of probable cause and a formal arrest or charge also has the potential to irreparably damage a student’s reputation. The bias that attaches due to the initial suspicion can have lasting negative consequences. In *Goss v. Lopez*,¹ the U.S. Supreme Court recognized that students have a property interest in education and a liberty interest in their reputation - interests that cannot be denied without adequate due process.

House Bill 198 has the very real potential of jeopardizing ongoing investigations.

Investigations require confidentiality and the control of information. Allowing the State’s Attorney’s Office to share discreet and incomplete investigative information with school officials creates opportunities for compromised investigations and unauthorized disclosures. A student subject to a school removal under the reportable offense statute has a right to know why the school system is seeking removal, which would necessarily require informing the student that they are the subject of an ongoing investigation.

House Bill 198 will disproportionately harm on Black students and students with disabilities, putting more students at risk of academic failure. Maryland has a long history of implementing school discipline policies and procedures which disproportionately impact Black students.² House Bill 198 is yet another effort to exclude students from their regular educational environment and will disproportionately impact Black children - who are already overrepresented at every stage of the youth legal system - as well as students with disabilities. During the 2024-25 school year, Black students represented 64% of the reportable offense cases but only represented 37% of the statewide student population, while students with disabilities represented 32% of students arrested for reportable offenses, but are only 14% of the statewide student population.³

Sending children home or placing them in alternative schools based on a belief that they “may” have committed a crime jeopardizes any chance of success for students who may already be struggling academically. These actions further increase the risk of academic failure and exacerbate longstanding and well-documented educational inequities. House Bill 198 should therefore be rejected.

¹ 419 U.S. 565 (1975).

² See Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, *Final Report and Collaborative Action Plan* (December, 20, 2018), 23 - 25, <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>.

³ See Maryland State Department of Education, *Reportable Offenses Data: Maryland Public Schools, School Year 2024-2025* (Dec. 30, 2025), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(j\)_2025.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(j)_2025.pdf)

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 198.

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

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