



Montgomery County Commission on Juvenile Justice

February 2, 2022

Senator Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee
2 West
Miller Senate Office Building
Annapolis, MD 21401

Re: Support for Senate Bill 119

Dear Chair Pinsky:

The Montgomery County Commission on Juvenile Justice (MC CJJ) is writing in strong support of SB 119 – Education – Crimes on School Grounds – Application.

MC CJJ was established to advise the Montgomery County Executive, County Council, and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members that include the Child Welfare Services Program, the Montgomery County State's Attorney's Office, the Office of the Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

The MC CJJ strongly supports Maryland Senate Bill 119 because it will help to end the criminalization of misbehavior in schools that should not be treated as a crime. Maryland's legal system contains many laws that unnecessarily bring young people, and disproportionately youth of color, to the attention of the justice system. Most often, this is for behaviors that are either typical adolescent behaviors or a reflection of how we have marginalized large segments of Maryland's youth. Most young people's contact with the system results from someone labeling typical adolescent behavior, or behavior stemming from trauma, abuse, neglect, or poverty, as "criminal" conduct – instead of seeing that behavior as an indicator of a need for support to help that young person thrive. Referring youth to the justice system for these behaviors is ineffective, harmful, and a poor use of scarce financial resources.

According to school-based arrest data published by the Maryland State Department of Education, there were 917 school-based arrests of students for disruptive behavior, one-third of which were middle or elementary school students, between school year 2017-2018 and school year 2019-

2020.¹ According to the Data Resource Guide published by the Maryland Department of Juvenile Services for fiscal year 2019, there were 1700 referrals to the Maryland Department of Juvenile Services involving complaints about young people disturbing school activities or personnel. While there are no additional details about the nature of these arrests and referrals, the law is so broad that youth can currently be charged with a crime for behaviors that are developmentally typical of adolescents and that should be handled by school officials as a disciplinary matter, such as talking back, refusing to follow directions, or making an impulsive statement that is not associated with – and that does not result in – harm to anyone. Not only that, students are not exempt from being charged with this crime because they have “behavior problems,” which means that the law can be used to criminalize youth with learning disabilities, intellectual disabilities, physical disabilities, and other types of disabilities.² Finally, the term “disturbing” is vague and, therefore, highly discretionary and susceptible to disparate application to youth of color. For example, in school year 2019, Black students accounted for 54 percent of the school-based arrests for disruption in Maryland schools, but only 33 percent of the enrollment.

This part of the Maryland Education Code also runs directly counter to the goals of promoting academic achievement and success, as arresting young people for typical adolescent behavior and referring them to the juvenile justice system is associated with worse educational outcomes. Studies show that school-based arrests, which are typically accompanied by suspensions from school, put students at greater risk of poor academic performance, dropping out, and subsequent behavioral problems. We also know that any contact with the juvenile justice system puts a child at risk of later involvement with the adult criminal justice system.³

Maryland education regulations clearly provide that youth should not be referred to the juvenile justice systems for matters that traditionally have been handled through the school’s disciplinary process.⁴ In fact, Maryland State education law and policy reflect the philosophy that school discipline needs to promote positive behavior and be restorative, rehabilitative, and educational.⁵ Arresting children or simply making referrals to DJS for misbehavior that is typical of adolescents is both harmful to young people and contrary to good education policy.

¹Maryland State Department of Education (MSDE), Maryland Public Schools Arrest Data, School Year 2019-2020, Maryland Public Schools Arrest Data, School Year 2018-2019, Maryland Public Schools Arrest Data, School Year 2017-2018, <http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>

² See, for example, In Re Nahif A., reported in the Court of Special Appeals of Maryland, No. 1560 (September Term, 1997), <https://law.justia.com/cases/maryland/court-of-special-appeals/1998/1560s97.html>

³Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School-to-Prison Pipeline in Montgomery County, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 96-97; <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20with%20CAO%20Response%2020166.pdf>

⁴ Code of Maryland Regulations, 13a.08.01.15, <http://www.dsd.state.md.us/comar/comarhtml/13a/13a.08.01.15.htm>

⁵Code of Maryland Regulations 13A.08.01.11, <http://www.dsd.state.md.us/comar/comarhtml/13a/13a.08.01.11.htm>; Code of Maryland, 7-306 (d)(2)(iii), <https://law.justia.com/codes/maryland/2019/education/division-ii/title-7/subtitle-3/sect-7-306/>



For these reasons, we strongly urge you to support this bill and thank you for your consideration.
Sincerely,



Chris Jennison, Chair
Montgomery County Commission on Juvenile Justice

Tracey Friedlander

Tracey Friedlander, Vice-Chair
Montgomery County Commission on Juvenile Justice

Cc: Senator Cheryl C. Kagan
Vice Chair, Education, Health, and Environmental Affairs Committee

