



## POSITION ON PROPOSED LEGISLATION

BILL: SB 515 Criminal Procedure – Registered Sex Offenders – Entry Onto School Property  
POSITION: Unfavorable  
DATE: February 15, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 515.

Those convicted or accused of sexual offenses are some of the least likely to recidivate, yet already face the most severe and protracted punishments. This is especially problematic for children, who are less able than adults to perceive and understand the long-term consequences of their acts, and whose success in life is largely dependent on their ability to access equal and fair education. Studies show that youth convicted of sexual offenses do not have an elevated risk of committing new sex crimes as compared with other youthful offenders; a 2007 study revealed that just 17 sex offenders were charged with a new sexual offense as compared with 101 non-sex offenders.<sup>1</sup>

Young people who have offended sexually not only have low rates of recidivism, but are also amenable to treatment. A Department of Justice report has noted that multisystemic therapy (MST), a community-based intervention that works with youth, their families, and their schools, has been proven to be particularly effective at reducing recidivism.<sup>2</sup> While concerns about the safety of other students is understandable, research suggests the “school system may actually be a platform to better target risk and protection to not only *reduce likelihood* for harmful sexual behavior within the setting but to also more holistically rehabilitate youthful sexual offenders.”<sup>3</sup> One study found that youth who had committed sexual offenses were less likely to complete treatment when their school placement was disrupted, but were almost four times more likely to successfully complete treatment when they were able to engage in extracurricular activities in school, and were three times more likely to successfully complete treatment when a school representative was involved in their treatment team.<sup>4</sup> Changes in school placement can be particularly stigmatizing and reinforce symptoms of antisociality.<sup>5</sup> In fact, “when an adolescent experiences isolation from peers, this anxious attachment could contribute to feelings of further isolation and alienation, and is related to feelings of inadequacy, especially in the masculine role... Sexual offending

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<sup>1</sup> Sawyer, W. *BJS Fuels Myths About Sex Offense Recidivism, Contradicting Its Own New Data*, Prison Policy Group, June 6, 2019, available at <https://www.prisonpolicy.org/blog/2019/06/06/sexoffenses/>.

<sup>2</sup> Przybylski, R. *The Effectiveness of Treatment for Juveniles Who Sexually Offend*, DOJ Sex Offender Management Assessment and Planning Initiative (2015).

<sup>3</sup> Yoder, J, Hansen, J., Ruch, D., & Hodge, A. *Effects of School-Based Risk and Protective Factors on Treatment Success Among Youth Adjudicated of a Sexual Crime*, *Journal of Child Sexual Abuse*, 25:3, 310-325, at 315, DOI: 10.1080/10538712.2016.1137668 (2016); see also Letourneau, E. J., & Borduin, C. M. *The effective treatment of juveniles who sexually offend: An ethical imperative*. *Ethics & Behavior*, 18(2–3), 286–306. doi:10.1080/10508420802066940 (2008).

<sup>4</sup> *Id.* at 317.

<sup>5</sup> Gasper, J., DeLuca, S., & Estacion, A. *Coming and going: Explaining the effects of residential and school mobility on adolescent delinquency*. *Social Science Research*, 39(3), 459–476. doi:10.1016/j.ssresearch.2009.08.009 (2010).

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may be an attempt to compensate for this inadequacy.”<sup>6</sup> Essentially, the research supports that the protective factors of young offenders developing and maintaining school attachment may mitigate any supposed risks associated with their attendance. Involving school personnel in supporting and monitoring reintegration and involvement in prosocial activities with other youth does more to protect other young people than stigmatizing and ostracizing young offenders.

Experts warn against reactionary legislation to worst-case scenarios when dealing with youthful sexual offenders. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, a Department of Justice program under the purview of the Attorney General, published a report in 2014 on the available research around youthful sex offenders. The second chapter of that report ends with a summary of the research and warning to legislators:

“While research has documented the heterogeneity and differential treatment and supervision needs that exist within the juvenile offender population, policy responses tend to be designed with only the highest risk offenders in mind. **Rather than using a one-size-fits-all approach, legislative initiatives should encourage risk assessment and the application of aggressive strategies and the most intensive interventions only for those offenders who require the greatest level of supervision, treatment and personal restriction.** In this way, both community safety and the successful rehabilitation of youth who offend can be ensured.”<sup>7</sup>

Instead of using risk assessments and reserving the most aggressive strategies for those who require that level of intervention, this bill treats every person required to register as a danger to others at school – disregarding age, offense, or actual risk. This is exactly the one-size-fits-all legislative approach researchers warn against.

Further, the educational plan proposed is expensive, cumbersome, and unrealistic. The bill offers two alternatives to public school education: Home and Hospital Teaching Programs and the Regional Institutes for Children and Adolescents (RICA). The first, Home and Hospital, is a program which sends individual tutors to the homes of students who cannot attend school for medical reasons. Home and Hospital requires both centralized coordination by the school district and individual tutors, presumably paid for by the district where the student resides. Although the fiscal note does not calculate the actual cost of the bill, it notes that Anne Arundel County estimates the cost of Home and Hospital education at \$35,000 per student per school year, more than double the average cost to educate a student in Anne Arundel County.<sup>8</sup>

The second alternative education option offered is unrealistic. There are two RICA facilities in the state – Baltimore and Rockville. RICA Baltimore is a residential treatment facility with admission criteria and

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<sup>6</sup>Leversee, T. “Chapter 2: Etiology and Typologies of Juveniles Who Have Committed Sexual Offenses” *Sex Offender Management Assessment and Planning Initiative*, Department of Justice Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, available at <https://smart.ojp.gov/somapi/chapter-2-etiology-and-typologies-juveniles-who-have-committed-sexual-offenses>, citing Miner, M.H., Robinson, B.E., Knight, R.A., Berg, D., Swinburne Romine, R. & Netland, J. *Understanding sexual perpetration against children: Effects of attachment style, interpersonal involvement, and hypersexuality*, *Sexual Abuse: A Journal of Research and Treatment*, (20)3 at 147 (2010).

<sup>7</sup> *Id.* (emphasis added).

<sup>8</sup> According to the National Center for Educational Statistics, Anne Arundel County spent an average of \$16,789 per student in the 2019-2020 school year. See *District Directory Information*, National Center for Educational Statistics, United States Department of Education Institute for Educational Sciences, [https://nces.ed.gov/ccd/districtsearch/district\\_detail.asp?ID2=2400060](https://nces.ed.gov/ccd/districtsearch/district_detail.asp?ID2=2400060).

limited bedspace. RICA Rockville offers a residential treatment program (with limitations similar to RICA Baltimore) and a day program. The bill does address how students from areas such as Western Maryland, the Eastern Shore, or Southern Maryland would travel to the Rockville location daily for education if they did not meet the admission criteria for the residential programs at either location, nor is there any explanation as to which school district would be responsible for the associated cost of transportation and education. The educational program in Rockville is run by the Montgomery County Public Schools and focuses on re-entry and mainstreaming, an approach which this legislation directly contradicts.<sup>9</sup>

This bill fails to prevent the harm intended and instead of mitigating risks from those convicted of sexual offenses, may very well increase those risks.

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For these reasons, the Maryland Office of the Public Defender respectfully urges an unfavorable report on Senate Bill 515.

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<sup>9</sup> *See Services*, John L. Gildner Regional Institute for Children and Adolescents, available at <https://health.maryland.gov/ilgrica/Pages/Services.aspx> (“Mainstreaming is a primary goal of JLG-RICA’s program. Mainstreaming prepares students for re-entry into their home schools, vocational programs, college, or other areas of continuing education.”).