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Budget and Taxation Committee

Capital Budget Subcommittee
Health and Human Services Subcommittee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 98

Bill Title: County Boards and Public and Nonpublic Prekindergarten Programs and Schools-Discrimination-Prohibition

Hearing Date: January 28, 2021, Judicial Proceedings

Good afternoon Mr. Chair and Members of the Committee:

I write to you today to urge a favorable report on Senate Bill 98: I come before you today to ask for a favorable report on SB 98, the Inclusive Schools Act. This is the fourth year that I have introduced legislation seeking to protect all students from discriminatory practices. The bill before you today is identical to how last year's bill passed the House. The Inclusive Schools Act does three main things:

1) It establishes prohibitions in all public and nonpublic schools that receive state funding that protect against discriminatory actions toward "any person because of the individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability."

2) It requires these schools to have written policies that prohibit discrimination;
and

3) It creates an administrative complaint and remedy process within the Maryland Department of Education (MSDE) by which a student or family member may file a complaint of discrimination and request that MSDE provide a remedy to alleviate the discrimination.

Previous iterations of this legislation had attempted to address concerns about discriminatory practices in nonpublic schools who were receiving state funding, such as the schools who participate in the BOOST voucher program. The Inclusive Schools Act now proposes to prohibit all public schools, as well as non-public schools that take public funds, from discriminating against students and families. Previous iterations also set up a complaint process involving the Commission on Civil Rights and the courts; but based on their feedback two years ago, the bill now creates an administrative remedy that goes through MSDE.

The Maryland Commission on Civil Rights has noted that there are no clear antidiscrimination protections covering sexual orientation or gender identity in

Maryland's public schools. This is because we rely on federal antidiscrimination laws, which do not currently include protections for sexual orientation or gender identity. This is not to say that MSDE does not recognize the importance of these protections as it has developed guidance that clearly states that schools will not discriminate in this manner. However, guidance does not offer the same level of protection that codified antidiscrimination policy does.

There are numerous stories from parents and students both in public schools and non-public schools who have experienced discrimination. Under current law, many of those students are left with no recourse to remedy the discrimination. In cases where they are covered by federal law, their only recourse is to find an attorney and file a lawsuit claiming a violation of their Civil and Constitutional rights. The Inclusive Schools Act creates an accessible process by which students and/or their parents can file a complaint with MSDE; MSDE will determine if a discriminatory act has actually occurred; and then MSDE can work with the student and the school/school board to mediate and find a mutually agreeable remedy. If the parties can't agree, MSDE has the authority to issue a "finding of fact" and order relief from the discriminatory act. If there is still disagreement with MSDE's findings, both parties have the option to file an appeal with the Office of Administrative Hearings. Because the legislation also requires schools/school boards to have written antidiscrimination policies, it is our hope that very few complaints ever reach the point where MSDE is required to intervene. Written policies provide clear guidelines for administrators, educators and support staff and can create school level and county level complaint and remedy processes for students and families to access prior to filing a complaint with MSDE.

The goal of this legislation is to ensure equal protection and fair treatment for all students, and to provide guidance and support for our public schools and qualifying nonpublic schools. Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Cory V. McCray', with a stylized flourish at the end.

Cory V. McCray
State Senator