
MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

SENATE JUDICIAL PROCEEDINGS COMMITTEE SENATE BILL 853: JUVENILE LAW—JUVENILE JUSTICE REFORM

MARCH 3, 2021

POSITION: Favorable

The Maryland Coalition to Reform School Discipline (CRSD) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. **CRSD strongly supports Senate Bill 853, a historic bill which will fundamentally reshape the juvenile legal system in Maryland.**

[Maryland was recently ranked among the worst states in the nation when it comes to protecting the human rights of kids in our justice system.](#) The way we treat young people in the criminal legal system is a large contributing factor for why [Maryland leads the nation in incarcerating young black men.](#) The Juvenile Justice Reform Bill is an important first step to right these wrongs. The JJR bill will institute major reform to four main areas: (1) raising the minimum age of juvenile court jurisdiction to 13; (2) banning the use of juvenile jails and youth prisons for low level offenses; (3) limiting the length of juvenile probation; (4) making it easier to divert kids out of the system. Not only will the JJR bill ensure that Maryland has an effective youth legal system that is fair and improves the odds that young people who come into contact with the system will make a successful transition to adulthood, but it will break a critical link in the school-to-prison pipeline.

Currently, Most Violations of Student Codes of Conduct Could Also Be Characterized as Violations of Criminal Law; Thus, Students—Oftentimes Young Children—are Routinely Arrested and Prosecuted for Routine Childhood and Adolescent Misbehavior. For example:

- A run-of-the-mill schoolyard fight or a physical tantrum can be charged for assault, a crime under Md. Crim. 3-201;
- If a student takes another’s backpack, headphones, homework, phone, bike, or any property – no matter its value – he or she could be charged for theft, a crime under Md. Crim. 7-104. If a student pushes another student first, he or she could be charged for robbery, a crime *and* a felony under Md. Crim. 3-402;
- Horseplay or any other disruptive activity could be charged as disorderly conduct, a crime under Md. Crim. 10-201, or willful disturbance of school activities, a crime under Md. Educ. 26-101(a);
- Purposefully coloring on or tearing up another student’s papers or any property belonging to another person could be charged as malicious destruction of property, a crime under Md. Crim. 6-301;
- A student who enters campus when he or she is serving a suspension or a student who enters a school building after hours when school is closed could be charged for trespass, a crime under Md. Crim. 6-409;

- A student who buys cigarettes or vaping products for another student who is under 21 could be charged with distribution of tobacco to a minor, a crime under Md. Crim. 10-107;
- Underage drinking could be charged as a crime under Md. Crim. 10-114;
- A student who possesses under 10 grams of marijuana cannot be charged with a crime but they can be arrested and referred to court for legal proceedings under Md. Crim. 5-601.

Indeed, nearly [70% of the 3,141 school-based arrests in Maryland in 2018-19](#) were for physical altercations without weapons, disruption, theft, property destruction, trespass, and similar conduct, while the remainder were primarily for drug offenses, including simple possession. The data is even more disturbing for elementary and middle school students: of the 1,098 elementary and middle school students arrested in Maryland public schools, nearly 84% were arrested for the minor, adolescent behaviors listed above. The JJR bill makes two important changes to the current law to remedy this issue. First, the bill limits juvenile court jurisdiction to “delinquent acts” that are *not* traditionally subject to school discipline or committed in school. Second, the bill raises the minimum age of juvenile court to 13, with exceptions for kids age 10-12 who are alleged to have committed the most serious crimes. **This means that kids will not be prosecuted for behavior that is in line with normal adolescent development, and instead will be treated as kids.**

Today, One-in-Three Children Removed from their Communities are Sent to Youth Jails and Prisons for Technical Violations of Probation. “[T]ime spent moving through criminal case processing (i.e., arrest, detention, prosecution, and probation) is time lost from the educational process.”¹ When children bounce between their community and confinement, there is often a lack of “up-to-date or complete academic documentation, and personal histories, leading to delays in educational placement, misinformation, misinterpretation of youth needs, obstructing reintegration efforts. In some cases credits earned within the institutional setting are not transferable to the original school setting, ...causing educationally at-risk youth to fall even further behind, further increasing the likelihood of dropping out.”² While these risks are always present, sending children to youth prisons and jails is particularly problematic when it is only based on a technical violation of probation such as a suspension or expulsion from school, which disproportionately impacts students of color and students with disabilities. Research has proven that nonresidential, community-based services are more likely to improve outcomes for low and medium-risk youth. By banning out of home placements for low level offenses, kids will experience the continuity of care and support that is essential for their educational and rehabilitative growth.

While this written testimony only touches on a few components of the Juvenile Justice Reform bill, we wholeheartedly support all of the recommendations from the Maryland Juvenile Justice Reform Council.

For these reasons, CRSD strongly supports Senate Bill 853.

¹ David S. Kirk & Robert J. Sampson. “Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood.” *SOCIOL. EDUC.* 2013 January 1; 88(1): 42. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192649/pdf/nihms611904.pdf>.

² Gregory J. Benner, et.al. *Strengthening Education in Short-Term Juvenile Detention Centers: Final Technical Report.* Office of Justice Programs, September 2017. Available at <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/251118.pdf>.

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