
MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

WAYS AND MEANS COMMITTEE

HOUSE BILL 1114

EDUCATION – PROHIBITED BEHAVIOR ON SCHOOL GROUNDS AND PROPERTY – APPLICATION

POSITION: SUPPORT

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 HB 1114**, which would amend Maryland Education Code § 26-101 to no longer criminalize students for school disruption.

Sec. 26-101 is overly broad because it criminalizes a wide range of behaviors, many of which are based on the subjective interpretations by school officials and school police officers. For instance, the statute criminalizes “willful disturbance” of schools. Any number of communications and behaviors – such as words, tone of voice, attitudes, refusals, or defiance – can be interpreted as “willful disturbance.” Thus, a child who is misunderstood or agitated is at risk of being criminalized.

The same is true of a “threat,” which is also criminalized in § 26-101. This is problematic because in the school context a perceived “threat” may not be a threat at all. It can be an expression, word, or action that is consistent with normal adolescent behavior. It can also be that the school official or school police officer, clouded by biases attached to race, gender, or disability, perceives a student to present or express a “threat” that may actually be a moment of frustration or an inability to express a feeling.

The subjective interpretations of childhood behaviors by school officials and school police officers drive and exacerbate the criminalization of Black children and children with disabilities in schools in Maryland. For nearly the past decade, disruption/disrespect has consistently been one of the most common reasons students are arrested at school, accounting for hundreds of student arrests each year.¹ In the 2018-19 school year – the last full year of in-person instruction before the COVID-19 pandemic – 57% of students arrested for disruption in Maryland schools

¹ MARYLAND STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA, SCHOOL YEAR 2018-19, 12-13, <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>

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were Black, and more Black girls were arrested for disruption than white boys.² Research has shown that “[t]he terms ‘threat,’ ‘harm,’ and ‘disruption’ are subjective terms that are more often applied to the behavior of Black girls.”³ Likewise, “[w]hat is perceived as a threat when committed by a Black student is commonly not considered a threat when committed by a white student.”⁴ For years, this law has been an avenue for discrimination because, whether intentional or not, it has resulted in more Black children being subject to arrest, exacerbating racial disparities in courts and the classroom.

Notably, just last week, the federal Fourth Circuit District Court struck down a South Carolina law that made it unlawful to interfere with or disturb students or teachers at a school, or act disorderly, finding the law to be unconstitutional. That court asked an important question that we will ask here: how does this statute objectively distinguish criminally disorderly or disruptive childhood behavior from garden-variety childhood behavior? Sec. 26-101 does not answer that question. Not only is the law overly punitive, discriminatory, and vague: is it ripe for a constitutional challenge in federal court.⁵

Sec. 26-101 detracts from the urgency of implementing alternatives to criminalization for behaviors and needs that are best addressed by recognizing biases, understanding youth brain development, and providing supports to students, such as counseling and behavioral health services, that keep them in school and away from the criminal legal system. Therefore, amending § 26-101 to exempt students is a necessary step to moving away from laws, policies, and practices that have criminalized children in Maryland’s schools, and moving *toward* the resources and practices that support students, better address behaviors, and improve long-term outcomes.

For these reasons, CRSD strongly supports House Bill 1114.

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² *Id.* at 130.

³ THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., THURGOOD MARSHALL INSTITUTE, OUR GIRLS, OUR FUTURE: INVESTING IN OPPORTUNITY & REDUCING RELIANCE ON THE CRIMINAL JUSTICE SYSTEM IN MARYLAND 14 (2018), https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf.

⁴ Jennifer Martin & Julia Smith, *Subjective Discipline and the Social Control of Black Girls in Pipeline Schools*, 13 J. URB. LEARNING, TEACHING AND RESEARCH 63, 64 (2017) (citation omitted), <https://files.eric.ed.gov/fulltext/EJ1149866.pdf>

⁵ *Kenny v. Wilson*, 2023 WL 4711450, 54 (USCA4. Feb. 22, 2023).

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CRSD Members

ACLU of Maryland

The Choice Program at UMBC

Disability Rights Maryland

League of Women Voters Maryland

Maryland Office of the Public Defender

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