



DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commission on Juvenile Justice

Marc Elrich
County Executive

James C. Bridgers, Jr. Ph.D., MBA
Director

February 27, 2024

SB 512 - Favorable

Senator Brian J. Feldman
Chair, Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chairman Feldman:

Thank you for the opportunity to submit written testimony in support of Senate Bill 512 on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ).

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 including: 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.

MC CJJ supports SB 512 which aims to exclude schoolchildren from the criminal prohibitions set forth in Section 26-101 of the Maryland Education Code. The centerpiece of Section 26-101 is the crime of "willful" school disturbance, a vague law that criminalizes any number of actions and communications that are often part of normal adolescent behavior. These are subjective offenses without clear definition to students and are based on the interpretations of school officials and school resource officers. Accordingly, under current law, schoolchildren can be—and are—brought into the juvenile justice system for words, non-verbal expressions, attitudes, frustrations, and bad moments rooted in adolescence or trauma. These actions are then interpreted or otherwise perceived as "disruptions" or "threats" that result in criminal culpability for an otherwise undeserving child.

Subjective offenses, such as the undefined "disruptions" and "threats" criminalized by Section 26-101, disproportionately impact Black schoolchildren (especially Black girls) and students with disabilities. Interpretations of these statutes are informed by explicit and implicit racial and intersectional biases which dictate the use of discretion and result in disparate discipline based on race, socio-economic status, and other factors.¹ According to data compiled by the Maryland Coalition to Reform School Discipline, Black schoolchildren in Maryland are 5.5 times more likely to be referred to the Department of

¹ Cheryal Staats, *Implicit Racial Bias and School Discipline Disparities*, KIRWAN INS., <http://spedfoundations.pbworks.com/w/file/fetch/108996172/bias%20discipline%20Kirwan.pdf> (last visited Feb. 25, 2024).

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Juvenile Services (DJS) for “disturbing” schools than White schoolchildren. Similarly, schoolchildren with disabilities are 3.3 times more likely to be referred to DJS than children without.

In addition, a “disturbing school” charge – as applied to schoolchildren – is superfluous because it is essentially always connected to a specific underlying charge, such as assault or harassment. Very rarely is it a stand-alone charge. In fact, as shown by the data compiled by the Maryland Coalition for School Discipline, in FY 2023 *none* of the referrals to DJS for the stand-alone charge of “disturbing schools” led to formal charges. Thus, for several reasons, this crime should not apply to schoolchildren.

We continue to urge the General Assembly, and other stakeholders, to holistically address the needs of juveniles by dedicating resources to their development and rooting out biases in Maryland’s justice system. Excluding schoolchildren from the criminal prohibitions of Section 26-101 would be a positive and significant step.

For these reasons, we request a favorable report on SB 512 and welcome the opportunity to speak about this issue further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Redden".

Kevin Redden, Chair

Montgomery County Commission on Juvenile Justice