

OPPOSE HB 758 / SB 927 - School Assault Reduction and Prevention Act

In 2022, the Maryland General Assembly overwhelmingly passed the 2022 Juvenile Jurisdiction Act (JJA) that prevented charging of 10 year olds with offense except an offense classified as a “crime of violence” under Md.Code, Criminal Law Art., sec. 14-101.

HB 758 / SB 927 seeks to work around the JJA to authorize charging 10 year olds by re-classifying a simple assault against any school employee or contractor to become a “crime of violence.” While such an amendment might be understandable if the alleged assault involved a firearm or caused serious injury, a huge increase in penalties for a simple assault – which may not even involve physical contact – is very troubling. Such a change of law would be misguided and harmful to children for a number of reasons:

First, legislators should consider the most common circumstances for a child’s simple assault against a school employee. Most commonly, students will get into a fight with another student; an adult intervenes and is punched, often by accident. Another common incident could involve a teacher disciplining a child who, in emotional distress, gets angry and aggressively swings at a teacher. Neither actual physical contact, nor injury, is not required for a “assault” to occur under Maryland law. Traditionally, a student’s assault that does not cause any significant injury would be dealt with as a disciplinary incident and not by the police.

HB 758 / SB 927, however, would permit police to file charges to bring a child to juvenile court. Md.Code, CJP Art., sec. 3-8A-03. Related to the JJA, Maryland school regulations also make such a “crime of violence” an offense reportable to police to expedite this charging process. COMAR 13A.08.01.17. Thus, creating a police-report and charges could cause lifetime harm to a fourth-grade student who lost his or her temper on one occasion.

Taking Anne Arundel County’s Student Handbook as an example of further consequences, the child’s removal from the school is authorized for a crime of violence and an IEP (individual educational program) hearing may be required—in effect, causing substantial delays— before the child returns to the school. A student with a “crime of violence” charge also might be ineligible to participate in an alternate dispute resolution program known as “Teen Court.” The interruption of a fourth-grader’s education for a lengthy period of time, as well as the stigma of suspension, also could cause longterm harm to such a child.

Finally, while children 13 and under still would be retained in juvenile court, HB 758/SB927 also could apply to a child 14 years old or older whose case was transferred to adult court. If such a child was convicted on a second incident (not unrealistic for a child with emotional difficulties), under HB 758/SB 927, he or she could receive a mandatory sentence of 10 years in adult prison without the possibility of parole.

For all these reasons, Maryland Alliance for Justice Reform (MAJR- www.ma4jr.org) urges an unfavorable report on HB 758 / SB 927.

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Please note: This testimony is submitted for MAJR and not for the Md. Judiciary or any other unit of state government.