

**Testimony Concerning House Bill 620
Primary and Secondary Education – Reportable Offense – Alterations
Position: Favorable**

To: Delegate Vanessa E. Atterbeary, Chair
Delegate Jheanelle K. Wilkins, Vice Chair
Members of the Ways and Means Committee

From: Monique L. Dixon, Executive Director and Michael Pinard, Faculty Director, Gibson-Banks Center for Race and the Law

Date: February 21, 2025

On behalf of the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center”) at the University of Maryland Francis King Carey School of Law,¹ we appreciate the opportunity to submit testimony in support of House Bill 620 (HB 620), which would change the definition of reportable offenses to involve only a crime of violence as defined by Maryland Code, Criminal Law § 14-101. The bill is consistent with the goal of the reportable offenses law - to provide school officials with information about the arrests of students for serious crimes for educational programming and school safety purposes. Additionally, limiting reportable offenses to the most serious offenses may help to ensure that all students have equal access to educational opportunities without regard to race and/or other characteristics protected by federal nondiscrimination laws. Therefore, we urge you to issue a favorable report for HB 620.

The Gibson-Banks Center works collaboratively to transform institutions and systems of racial inequality, marginalization, and oppression. Through education and engagement, advocacy, and research, the Center examines and addresses racial inequality, including the intersection of race with sex or disability, and promotes racial justice in a variety of issue areas, including education and the youth and criminal legal systems.

HB 620 advances the goal of Maryland’s reportable offenses law.

The goal of Maryland’s reportable offenses law is not to punish students; rather, it provides school officials with student arrest information that they must use: to determine whether

¹ This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law or the University of Maryland, Baltimore.

a student’s presence at school presents an “imminent threat of serious harm to other students or staff[;]”² and if so, to adjust the student’s regular education program accordingly.³ Specifically, Section 7-303 of the Maryland education article requires law enforcement agencies to timely and confidentially notify school officials of the arrest of and charge(s) filed against students for a reportable offense, including crimes of violence, that occur off school grounds and not at a school-sponsored event.⁴ Upon receipt of this information, the school principal, in consultation with appropriate school staff, must consider whether the student’s in-person school attendance presents a safety risk.⁵

If the school principal believes the student presents a safety risk, then the principal must immediately work with the student, the student’s parent or guardian, and the student’s attorney (if the student has legal representation) to develop a plan that both provides for appropriate educational programming and services for the student and maintains a safe learning environment for all students.⁶ This plan may include removing the student from a regular school program, but only after an individualized educational and safety assessment is performed.⁷ Notably, this assessment is required because Maryland law makes clear that a reportable offense cannot be the *sole* basis for excluding a student from traditional in-person education.⁸

By limiting reportable offenses to crimes of violence only, HB 620 would require law enforcement agencies to report to schools student arrests for only the most serious crimes, allowing more students to remain in school and learning in a safe environment. Section 14-101 of the Maryland Criminal Law Code defines crime of violence as a list of 26 serious offenses, including arson, armed carjacking, assault, manslaughter, murder, rape, sex offenses, and use of a firearm in the commission of a felony, to name a few.

HB 620 may help students arrested for reportable offenses to have equal access to educational opportunities without regard to race and/or other characteristics protected by federal nondiscrimination laws.

Maryland education officials have a legal obligation to maintain safe schools and ensure that all students have equal access to educational opportunities. These responsibilities are not mutually exclusive. The Gibson-Banks Center is concerned, however, that the implementation of the current reportable offenses law may have resulted in a disproportionate number of Black

² Code of Maryland Regulations (COMAR) 13A.08.01.17.D.(1).

³ Carey M. Wright, Ed.D., State Superintendent of Schools, Maryland State Department of Education, Memorandum to Members of the State Board of Education dated October 22, 2024, 1 (stating “[t]he intent of the reportable offense law is not to “punish” the student, but instead to provide the LEA with information that may impact the safety dynamics within the school community.”), <https://www.marylandpublicschools.org/about/Documents/Regulations/Emergency/COMAR-13A.08.01.17F-Confidentiality-Information-Retention-Documents-a.pdf>.

⁴ MD. CODE ANN, EDUC. §7-303(b).

⁵ See, COMAR 13A.08.01.17.C(2).

⁶ See, COMAR 13A.08.01.17.C(3) – (5).

⁷ See, COMAR 13A.08.01.17.D.

⁸ See, COMAR 13A.08.01.17.D(2).

students, boys, and students with disabilities being removed from school.⁹ HB 620 may help to ensure that all students, particularly students arrested for reportable offenses, have equal access to educational program.

Federal civil rights laws prohibit discrimination based on race, color, or national origin,¹⁰ sex,¹¹ or disability¹² under any program or activity that receives federal financial assistance. State and local school systems and schools that receive federal funds must comply with these nondiscrimination laws. For example, school systems and schools must carry out student removals from education programs for disciplinary/safety purposes in a nondiscriminatory manner.¹³

Data reported by Maryland school districts about the number of students arrested for reportable offenses that occurred off school grounds show that Black students, students of two or more races, boys, and students with disabilities were overrepresented. Specifically, during the 2023-24 school year

- Black students and students of two or more races comprised 65% and 9% of students arrested for reportable offenses incidents¹⁴ even though they represented only 33% and 5% of the statewide student population that school year.¹⁵

⁹ As explained below, statewide data about student removals from school for reportable offenses are not disaggregated by race, sex, or disability. But the overrepresentation of students of color, boys, and students with disabilities who are arrested for reportable offenses off school grounds is concerning and suggests that these disparities may also be present among students who are removed from school. *See, infra* notes 10-20 and accompanying text.

¹⁰ *See*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.* (stating “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”).

¹¹ *See*, Title IX of the Education Amendments of 1972, 20 U.S.C § 1681, *et seq.* (stating “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”).

¹² *See*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (stating “[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”). *See also*, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134 (prohibiting disability discrimination by State and local governments, regardless of whether they receive federal funds).

¹³ *See generally*, Office for Civil Rights, U.S. Department of Education and Civil Rights Division, U.S. Department of Justice, *Resource on Confronting Racial Discrimination in Student Discipline* (May 26, 2023), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>. *See also*, Office for Civil Rights, U.S. Department of Education, *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973, 27-32* (July 19, 2022), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-discipline-guidance.pdf>.

¹⁴ *See*, Maryland State Department of Education, *Reportable Offenses Data: Maryland Public Schools, School Year 2023-2024, 10 & 18* (December 30, 2024), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(j\)_2024.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(j)_2024.pdf), [hereafter, *School Year 2023-2024 Reportable Offenses Data*].

¹⁵ *See*, Maryland State Department of Education, *Maryland State 2023-2024 School Report Card, Demographics/ Enrollment* (2024), <https://reportcard.msde.maryland.gov/Graphs/#/Demographics/Enrollment/3/17/6/99/XXXX/2024>, [hereafter, *Maryland State 2023-2024 School Report Card*].

- Boys represented 73% of students arrested for reportable offenses incidents,¹⁶ but 51% of the statewide student population.¹⁷
- Students with disabilities represented 39% of students arrested for reportable offenses incidents,¹⁸ but 13% of the statewide student population.¹⁹

Some schools or school districts removed students from or changed their regular school program after determining that they presented an immediate safety risk to students or staff.²⁰ Again, as detailed above, these school removals were based on individualized assessments that considered the interests of the individual student and the school.

Although data on student arrests for reportable offenses committed off school grounds that resulted in removal from or a change of students' regular education program are not disaggregated by race, sex, or disability, the overrepresentation of students of color, boys, and students with disabilities who were arrested off school grounds is concerning and suggests that these disparities may also appear among students removed from school due to reportable offenses. And, while the overrepresentation of certain student groups alone does not violate federal nondiscrimination laws, these statistics should cause Maryland school officials to examine student arrests that resulted in the removal of students to ensure that schools are complying with their nondiscrimination obligations.

HB 620 would limit reportable offenses to crimes of violence only, which may in turn reduce the number of student arrests reported and the disproportionate number of students of color, boys and students with disabilities whose schools receive arrests notifications for reportable offenses.

For the above reasons, we urge the Ways and Means Committee to issue a favorable report for HB 620.

¹⁶ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 14, at 10 & 19.

¹⁷ *Maryland State 2023-2024 School Report Card*, *supra* note 15.

¹⁸ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 14, at 10 & 20.

¹⁹ Maryland State Department of Education, *Maryland State 2023-2024 School Report Card, Demographics/Enrollment, Student Group Populations* (2024), <https://reportcard.msde.maryland.gov/Graphs/#/Demographics/StudentPopulation/1/1/99/XXXX/2024>.

²⁰ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 14, at 23-25.