

**Testimony Concerning House Bills 137 and 68
The School Safety Act of 2025 and The Student Protection Act of 2025
Position: Unfavorable**

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: January 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 raising concerns about House Bill 137, the School Safety Act of 2025, and House Bill 68, the Student Protection Act of 2025, which would prohibit in-person school attendance of students who are charged with (HB 137) or identified as a suspect in (HB 68) a crime of violence. HB 137 would prohibit in-person school attendance until the student is found not delinquent or the charge is dismissed. HB 68 would prohibit in-person school attendance until the student is no longer identified as a suspect. Both bills require local school systems statewide to provide separate, alternative educational options for these students.

The Gibson-Banks Center respectfully oppose these bills for two reasons. First, they needlessly conflict with current Maryland law, which already requires schools to conduct individualized educational and safety assessments of students who have been arrested for or charged with crimes of violence.² Second, if the bills are implemented, the general prohibition of in-person school attendance of students charged with or suspected of a crime of violence may violate federal civil rights laws that prohibit discrimination based on race, color, or national origin, sex, or disability by recipients of federal financial assistance.³

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.

² See generally, MD. CODE ANN, EDUC. §7-303 and CODE OF MARYLAND REGULATIONS (COMAR) 13A.08.01.17.

³ See *infra* notes 9-12 and accompanying text.

The Gibson-Banks Center works collaboratively to re-imagine and 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 advances racial justice in a variety of issue areas, including the education and criminal legal systems.

House Bills 137 and 68 Needlessly Conflict with State Law

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, and the Maryland General Assembly has already enacted legislation that attempts to balance both legal obligations. Section 7-303 of the Maryland Education Code 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.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 risk to the safety of other students and staff."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

In direct conflict with current state law, HB 137 and HB 68 would require schools to prohibit in-person attendance of students suspected of or charged with a crime of violence, but without conducting the required individualized assessment. Because current law already allows schools to remove a student if the student is determined to be a safety risk, HB 137 and HB 68 are unnecessary and overly broad.

The Implementation of HB 137 and HB 68 May Violate Federal Nondiscrimination Laws

The implementation of HB 137 and HB 68 may result in certain students being denied equal access to educational opportunities in violation of federal nondiscrimination laws. Federal

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).

civil rights laws prohibit discrimination based on race, color, or national origin,⁹ sex,¹⁰ or disability¹¹ 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.¹²

Currently, under the Maryland law, mentioned above, that requires law enforcement agencies to notify schools of students who are arrested for reportable offenses, including crimes of violence, data show that during the 2023-24 school year, Black students, students of two or more races, boys, and students with disabilities were overrepresented among students arrested for reportable offenses incidents. Specifically,

- Black students and students of two or more races comprised 65% and 9% of students arrested for reportable offenses incidents¹³ even though they represented only 33% and 5% of the statewide student population that school year.¹⁴
- Boys represented 73% of students arrested for reportable offenses incidents,¹⁵ but 51% of the statewide student population.¹⁶
- Students with disabilities represented 39% of students arrested for reportable offenses incidents,¹⁷ but 13% of the statewide student population during the 2023-24 school year.¹⁸

⁹ 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.”).

¹⁰ 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.”).

¹¹ 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).

¹² 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>.

¹³ 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*].

¹⁴ See, Maryland State Department of Education, *Maryland State 2023-2024 School Report Card, Demographics* (2024), <https://reportcard.msde.maryland.gov/Graphs/#/Demographics/Enrollment/3/17/6/99/XXXX/2024>, [hereafter, *Maryland State 2023-2024 School Report Card*].

¹⁵ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 13, at 10 & 19.

¹⁶ *Maryland State 2023-2024 School Report Card*, *supra* note 14.

¹⁷ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 13, at 10 & 20.

¹⁸ *Maryland State 2023-2024 School Report Card, Student Group Populations*, *supra* note 14.

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.¹⁹ Again, as detailed above, these exclusions were based on individualized assessments that considered the interests of the individual student and the school.

Although data about the number of reportable offenses incidents that resulted in the alteration to or removal of students from regular school programs are not disaggregated by race, sex, or disability, the overrepresentation of these student groups among students who were arrested for reportable offenses is concerning. And, while the overrepresentation of certain student groups alone does not violate nondiscrimination laws, these statistics should cause Maryland school officials to examine the incidents that resulted in the removal of students to ensure that schools are complying with their nondiscrimination obligations. Thus, by aiming to remove from schools students suspected of or charged with crimes of violence, HB 137 and HB 68, if implemented, could result in similar or worse disparities among student groups that are protected by federal nondiscrimination laws.

For the above reasons, we urge the Ways and Means Committee to issue an unfavorable report for HB 137 and HB 68.

¹⁹ *School Year 2023-2024 Reportable Offenses Data*, *supra* note 13, at 23-25.