

MONTGOMERY COUNTY BOARD OF EDUCATION  
Rockville, Maryland

February 9, 2021

MEMORANDUM

To: Members of the Board of Education

From: Danielle M. Susskind, Coordinator, Legislative Affairs

Subject: Recommended Positions on Education Legislation

The purpose of this memorandum is to provide information regarding proposed legislation that could impact Montgomery County Public Schools (MCPS). These bills have been analyzed to determine any impact on MCPS, as well as whether or not they are consistent with the legislative annual priorities (hereafter platform) that were adopted by the Board of Education on November 10, 2020. Attachment A provides the recommended positions on the bills not covered by the platform that may require a position from the Board. Attachment B provides a list of bills that are covered under the platform and for which no action is necessary. Attachment C provides bills that are included for your information and do not require a position.

Each bill is listed below with a hyperlink to the bill text. To access the text online, right click each hyperlink (bill number).

***Bills with Recommended Positions*** (Attachment A)

<a href="#">HB0550</a>	Montgomery County – Education – School Site Council Pilot Program MC21-21
<a href="#">SB0371/HB0716</a>	Special Education - Individualized Education Programs - Educational Evaluations
<a href="#">HB0461</a>	Public Schools - Student Attendance - Excused Absences for Mental Health Needs
<a href="#">HB0496</a>	Primary and Secondary Education - Mental Health Services - Expansion (Counselors Not Cops Act)
<a href="#">HB0629</a>	County Boards of Education – Student Member – Voting
<a href="#">SB0548/HB0771</a>	Public Schools - Centers for Disease Control and Prevention Surveys – Revisions
* <a href="#">SB0225/HB0370</a>	Education - Public and Nonpublic Schools - Seizure Action Plans (Brynleigh's Act)
* <a href="#">SB0300</a>	Special Education - Learning Continuity Plan - Requirement

\*Bill is returning for further consideration

***Bills Covered Under the Platform*** (Attachment B)

*Learning*

[HB0609](#) Public and Nonpublic Schools - Bronchodilator Availability and Use - Policy (Bronchodilator Rescue Inhaler Law)

*Respect*

[SB0105/](#)[HB0289](#) Peace Orders - Workplace Violence

[HB0566](#) County Boards of Education - Virtual Schools - Requirement

[SB0464/](#)[HB0651](#) Education – Educational Interpreter – Certification Requirements

*Relationships*

[SB0409/](#)[HB0713](#) County Boards of Education – Therapy Dogs – Policy for Handling and Use in Schools

[SB0567/](#)[HB0731](#) Telehealth Services – Expansion

*Excellence*

[HB0521](#) Criminal Procedure – Registered Sex Offenders – Entry Onto School Property (Predator-Free Schools Act)

[SB0665/](#)[HB0715](#) Public Schools - Self-Contained Special Education Classrooms - Use of Video Recording Devices

***Bills for Information Only*** (Attachment C)

[SB0448/](#)[HB0072](#) County Boards of Education - Student Transportation - Vehicles

[SB0437/](#)[HB0359](#) Maryland Longitudinal Data System - Student Data - Pregnant and Parenting Students

[HB0522](#) Public Schools - School Resource Officers - Prohibited Conduct

[SB0486/](#)[HB0581](#) Labor and Employment - Employment Standards During an Emergency (Maryland Essential Workers' Protection Act)

[HB0608](#) Early Childhood Education - Child Care Provider Support Grant Program (The Child Care Provider Support Act)

[HB0700](#)

Education - Disruption of School Activities - Repeal of Prohibition

[SB0431](#)

Maryland Sign Language Interpreter Act

I will continue to monitor the proposed legislation and bring you recommended positions on additional bills that will impact the MCPS.

Attachments

DMS:dms

**HB0550**      **Montgomery County – Education – School Site Council Pilot Program MC21-21**

**Sponsor**      Montgomery County Delegation

**Committee**    *Ways and Means*

**Synopsis**

For the purpose of establishing the School Site Council Pilot Program in Montgomery County; providing for the purpose of the Program; requiring each public school in Montgomery County to establish a school site council; providing for the membership and purpose of the school site council; requiring each public school in Montgomery County to create a School Plan for Student Achievement; providing for the purpose and content of the Plan; requiring a school site council to conduct a certain needs assessment and a certain process before developing the Plan; establishing a certain process and time frame for submission, review, and approval of the Plan; authorizing a Plan to serve as a certain school improvement plan under certain circumstances; authorizing a school site council to be used to satisfy certain federal stakeholder requirements; requiring the Montgomery County Board of Education to adopt certain policies; defining certain terms; and generally relating to the Montgomery County School Site Council Pilot Program.

**Analysis**

The proposal mirrors an existing structure called Instructional Leadership Teams (ILT). According to the Montgomery County Education Association (MCEA) previous negotiated agreements, the instructional leadership team comprising administrators, staff development teacher, reading specialist (ES), team/resource teachers/content specialists, the elected faculty representative, the MCEA representative, elected supporting services representative (non-certificated staff), and any academic/focus teachers. Collectively, the ILT analyzes data to develop school improvement goals and meet to monitor/evaluate progress and strategies to meet the goals. Team/department leaders/content specialists, content specialists, and resource teachers are paid a stipend to participate on the ILT. The School Site Council is the current ILT.

**Position: Oppose**

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**SB0371**      **Special Education - Individualized Education Programs - Educational Evaluations**  
**HB0716**

**Sponsor**      Senator Peters;  
                    Delegate Griffith

**Committee**    *Education, Health, and Environmental Affairs*  
                    *Ways and Means*

**Synopsis**

Altering the circumstances under which a parent may request an independent educational evaluation of a child with a disability at public expense to include a parent who submits a certain request to a local school system and the local school system does not respond within 30 days after the date the request was received or, on approval and under certain circumstances, the educational evaluation meeting does not occur within 60 days after the date the request was received.

**Analysis**

- The proposed legislation expands the rights of parents to request Independent Educational Evaluations (IEEs) beyond the scope of current federal regulations. It has the potential to significantly increase the number of IEE requests received by Montgomery County Public Schools (MCPS) resulting in increased costs to fund the private assessments and or increased cost associated with potential litigation to address inappropriate requests for IEEs.
- MCPS has had an average of 17.5 IEE requests during the past four school years. Each year, the number of requests has increased, and MCPS currently has 15 requests for the 2020–2021 school year in the first semester alone. The average cost of an IEE is \$2,550 depending on the type and number of assessments required. If an additional 50 IEEs were granted given the expanded rational SB0371 provides, it would result in an estimated additional cost of \$127,000.
- Conversely, if MCPS determined that the assessments were legally defensible, the federal regulations require MCPS to file for a due process hearing. A due process hearing on an IEE typically covers two to three days and has three to four witnesses. MCPS incurs fees associated with hiring outside counsel, paying substitute teacher costs for MCPS witnesses, and paying additional fees if unsuccessful at a hearing. The estimated cost of litigation for each case using outside counsel is \$200,000 per case. The estimated cost of litigation using internal resources in addition to the cost of providing substitute staff members to cover the hearing dates is \$100,000 per case. The fiscal note reflects the cost of litigation associated with five cases contracting with outside counsel and five cases litigated using internal resources.

**Position: Support with Amendment (Staff to provide amendment language at the February 23, 2020, Board of Education Meeting)**

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**HB0461      Public Schools - Student Attendance - Excused Absences for Mental Health Needs**

**Sponsor**      Delegate Washington

**Committee**    *Ways and Means*

**Synopsis**

Providing that absences from school for mental health needs are lawful absences under certain circumstances; requiring a county board of education to excuse at least 1 day of absence in each quarter of each school year for a student's mental health needs; and prohibiting a county board from requiring a note from a physician to excuse a student's absence for mental health needs.

**Analysis**

- Under MCPS Regulation JEA-RA, *Student Attendance*, parents, and eligible students, are already permitted to receive an excused absence for an absence due to sickness, including mental health issues, by submitting a note to school staff members.
- Doctor’s notes are not required for single-day absences, as articulated by the bill, and are only required for extended periods of absence.

**Position: No Position**

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**HB0496      Primary and Secondary Education - Mental Health Services - Expansion  
(Counselors Not Cops Act)**

**Sponsor**      Delegate Wilkins

**Committee**    *Ways and Means*

**Synopsis**

Altering the membership of the School Safety Subcabinet Advisory Board; requiring the Governor, beginning in Fiscal Year 2023, to include in the annual budget bill an appropriation of \$10,000,000 to the Safe Schools Fund to be used for certain purposes related to expanding the availability of school-based mental health services; etc.

**Analysis**

HB0496 would:

- Alter the membership of the School Safety Subcabinet Advisory Board, as well as require a chair be appointed;
- Require the Maryland Center for School Safety to collect data on school security employees;
- Include appropriations in the state budget and Safe Schools Fund to allow for grants to expand mental health, restorative justice, and trauma-informed services;
- Encourage the hiring of professionals to reflect the diversity of the student population;
- Offer grants to school systems to provide these additional mental health, restorative justice, and trauma-informed services.

School systems would be required to report to the state data on the number of mental health professionals that are employed, duties, school assignments, and caseloads. This includes the number of Community and Trauma-Informed Schools and the number of students that those schools serve. In addition, HB0496 states that school systems would be required to detail the actions taken to achieve caseloads recommended by national mental health professional boards [e.g., the National Association of School Psychologists (NASP), American School Counselors Association (ASCA)] and report that they have hired sufficient personnel to achieve those caseloads.

The first part of HB0496 regarding the make-up of the advisory board would have little impact on MCPS. The bill also requests information on the number of Community and Trauma-Informed schools in MCPS and how many students those schools serve. The bill does not provide a standard or definition of what constitutes a community or trauma-informed school. While this does not have a fiscal impact, it would involve staffing to assess compliance with this standard and to report requested data to the state. However, the staffing recommendations in the latter part of the bill would have significant implications for MCPS and students.

School-based mental health professionals in MCPS have been advocating for the hiring of sufficient staff members to achieve the ratios recommended by the professional organizations in order to provide adequate mental health, academic, and behavioral support to students, faculty, and schools. This is especially important at this time, given the increased mental health needs of all individuals, adults and children, as a result of the prolonged response and isolation that has resulted from COVID-19. This does not include the increased mental health needs of all individuals that may result from job losses, caring for sick family members, or the deaths that many in the county and state have experienced.

HB0496 would request an additional \$10,000,000 be added to the state budget to provide grants to school districts to implement the recommendations. This would not cover MCPS' costs alone for implementing the recommended ratios. Requested amendment to the bill is to increase funding to school districts to implement HB0496 appropriately to provide much-needed services to students.

**Position: Support with Amendment**

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**HB0629 County Boards of Education – Student Member – Voting**

**Sponsor** Delegate Novotny

**Committee** *Ways and Means*

**Synopsis**

Prohibiting student members of a county board of education from casting a deciding vote on issues before the county board.

**Analysis**

HB0087 (2016) Montgomery County Board of Education - Student Member - Voting MC 11-16

- Authorizing the student member of the Montgomery County Board of Education to attend an executive session of the Board of Education that relates to a specified matter; and authorizing the student member of the Montgomery County Board of Education to vote on specified matters.
- This bill passed in the House on February 25, 2016 (Y: 131; N:8)
- The bill passed in the Senate on March 26, 2016 (Y:39; N:4).
- It was enacted under Article II, Section 17© of the Maryland Constitution – Chapter 716.
- Montgomery County Student Member of the Board of Education (SMOB) had a full vote beginning July 1, 2016

*Attachment A: Positions on Proposed Legislation*  
*2-9-21*

As noted above, legislation passed in 2016 authorizing the SMOB a full vote.

- The Montgomery County Board of Education ensures that the full voting right is reflected in the Board of Education Operations Handbook.  
(<https://www.montgomeryschoolsmd.org/boe/about/handbook.aspx>)

The SMOB:

- Is a well-established position in Montgomery County
  - First included student representation in 1978
  - Authors resolutions to the Board of Education
  - Has served as a committee chair
- Has a history of previous voting rights:
  - First limited vote was established in 1989 (Ms. Allison Serino, 1989-1990 SMOB)
  - First vote on the budget was established in 1993 (Ms. Carrie Baker, 1993-1994 SMOB)
- Represents the district's most impacted stakeholder, the students, thus elevating student voice during deliberation and decision making
- Best knows the impact of board decisions and changes to programs and policies and the lived experience of a student

**Position: Oppose**

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**SB0548      Public Schools - Centers for Disease Control and Prevention Surveys –**  
**HB0771      Revisions**

**Sponsor**      Senator Augustine  
                    Delegate Queen

**Committee**    *Education, Health, and Environmental Affairs*  
                    *Ways and Means*

**Synopsis**

Requiring the Maryland State Department of Education (MSDE) to establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Survey/Youth Tobacco Survey to public middle school and high school students in the State; repealing the authority of the Department to omit a certain amount of survey questions under certain circumstances; requiring the Department to include in the survey certain tiers and questions related to adverse childhood experiences and positive childhood experiences; etc.

**Analysis**

- This Bill proposes revisions to the Prevention Youth Risk Behavior Survey
- It proposes that MSDE cannot remove questions related to positive and adverse childhood experiences.



- Furthermore, within 6 months, the Centers for Disease Control and Control will report state and county-level summary and trend data related to positive and adverse childhood experiences.

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**SB0225      Education - Public and Nonpublic Schools - Seizure Action Plans (Brynleigh's Act)**  
**HB0370**

**Sponsors**      Senators Young and Feldman;  
                         Delegate Kerr

**Committees**    *Education, Health, and Environmental Affairs*  
                         *Ways and Means and Health and Government Operations*

**Synopsis**

For the purpose of requiring a county board of education and authorizing a nonpublic school, beginning in a certain school year, to require a certain number of school employees at the school to be trained in recognizing the signs and symptoms of a seizure, administering first aid, administering seizure medication, and performing certain nerve stimulation; authorizing a certain registered nurse to serve as a certain trained school employee; establishing that certain training may count toward the renewal of a professional certificate; requiring a public school, beginning in a certain school year, to provide annual training to school personnel with direct contact and supervision of students on recognizing the signs and symptoms of, and administering first aid for, a seizure; requiring the training program for school personnel to be fully consistent with training programs and guidelines developed by a certain epilepsy foundation; requiring the parent or guardian of a student diagnosed with a seizure disorder to collaborate with school personnel to create a seizure action plan; requiring the State Board of Education to adopt regulations establishing procedures for the development and content of a seizure action plan; specifying where a seizure action plan shall be retained and to whom the plan shall be distributed; requiring the parent or guardian of a student diagnosed with a seizure disorder to provide the school with a certain written authorization, a certain written statement from the student's health care practitioner, and the prescribed medication in a certain form; providing that a certain written authorization is effective for a certain school year and may be renewed under certain circumstances; providing for a certain immunity; requiring a public school and authorizing a nonpublic school, beginning in a certain school year, to provide a certain age-appropriate seizure education program to all students with a certain frequency; establishing that a schoolwide seizure education program satisfies a certain requirement; defining a certain term; and generally relating to responding to seizure symptoms and emergencies in schools in the State.

**Analysis**

- (2020) In MCPS, approximately 500 MCPS students have been diagnosed with a seizure disorder. At least 140 students have a seizure disorder that require daily medication or as needed medication administration at school.
- MCPS' current practices are in alignment with HB0675's requirement that staff members who are responsible for the daily care of students with seizures learn about the students' Individualized Health Care Plan and what to do in an emergency. Current practices

include the development of an Individual Health Care Plan for any student with a medical need, including seizure disorders. Staff members who work with the affected students are trained on the student's individual health care needs and how to identify signs and symptoms that might indicate a more serious concern.

**MCPS Concerns:**

- Unlike with previous legislation on anaphylaxis, opioid overdoses, and diabetes, there is much variation in treatment protocols for students with a seizure disorder. Training two staff members general seizure awareness and how to administer medication does not take into account that several students with a seizure disorder may attend a school and each student could have a different treatment regimen and different medications. A staff member with no medical background would be significantly challenged if called upon to administer medication to an unfamiliar student.
- MCPS respectfully requests the following amendments:

**Position: Support with Amendments**

• **Amendment Language**

- Include funding in HB0675 to **address the cost of training thousands** of staff members will alleviate the costs associated with this bill (i.e., for developing and implementing trainings, cost of training hourly employees).
- **Reconsider language on training at least two staff members** per school on seizure awareness and medication administration. There is the potential for there to be many factors (and combinations of factors) that would make it irresponsible for a non healthcare professional to be expected to administer seizure medication to an unfamiliar student. This sets the stage for medication to be inadvertently administered to the wrong student.
- With previous bills related to health awareness training, MCPS also requested that language be included so that **staff members could not be required to be one of the two staff members trained** on seizure disorders and how to administer medication. If this part of the bill remains, it is especially important that staff members not be required to administer medications. Some seizure medication, for example, must be administered per rectum as an enema. This is a much more intrusive task than volunteering to administer an epinephrine autoinjector in the event of an emergency.

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**SB0300**      **Special Education – Learning Continuity Plan – Requirement**

**Sponsor**      Senator Peters

**Committee**    *Education, Health, and Environmental Affairs*

**Synopsis**

For the purpose of requiring an individualized education program to include a learning continuity plan to be implemented for certain students during emergency conditions beginning on a certain date; requiring an individualized education program team to develop a learning continuity plan at certain times

and to consider certain risks for a certain purpose; providing for the contents of a learning continuity plan; authorizing a local school system to provide certain services by certain learning models; specifying that the provision of services under a learning continuity plan does not alter a child's educational placement for a certain purpose; requiring an individualized education program team to periodically update a learning continuity plan; requiring a local school system to develop a certain learning continuity plan for certain students on or before a certain date; defining certain terms; and generally relating to learning continuity plans for students receiving special education.

### **Analysis**

- Federal and state laws outline the necessary requirements that each Individualized Education Program (IEP) or Section 504 of the *Rehabilitation Act of 1973* (Section 504) team is required to adhere to when conducting annual reviews. On average, a meeting may take 45 minutes to 2 hours. This new requirement to add development, discussion, and documentation of a continuity of learning plan as part of the annual review process would place an undue burden on school-based teams. This proposed legislation has the potential to increase school staff members' workloads to develop an annual continuity of learning plan that may never need to be implemented because an emergency event does not occur. Additionally, it places an undue burden on parents/guardians with increased times to participate in IEP or 504 meetings.
- The broad scope of this bill which includes natural disasters, medical emergencies, and strikes in pupil transportation services provided 5 by a non-school entity, makes the ability of the IEP or Section 504 team to proactively plan for the continuity of learning impossible, as teams cannot predict the circumstances that would permit a specific service delivery model.
- The emergency circumstances dictate recovery efforts and teams would not have this information for programming purposes until an emergency event occurs. For example, when Hurricane Katrina demolished school buildings in Louisiana, many students received in-person educational services in other states. This differs significantly from the COVID-19 pandemic when school buildings were not accessible due to safety concerns, and the determination of where a Maryland school district could provide in-person, hybrid, or virtual instruction depended on specific guidance from their local county/city health and safety agencies.
- There also may be instances where the student's specific health, safety, or educational needs require a specific service delivery model which the team would be unable to anticipate when the continuity of learning plan is developed. This could mean that school buildings remain open, but the student cannot attend school based upon the recommendations of their private healthcare provider. The obligation of the school district to provide a free appropriate public education remains, yet the team would not know how to create the continuity of learning plan until they receive this specific information. In the guidance provided by the U.S. Department of Education related to the COVID-19 closures, it states: If a student who has an individualized education program (IEP) through the Individuals with *Disabilities Education Act*, or is receiving services under Section 504, is required or advised to stay home by public health authorities or school officials for an extended period of time because of COVID-19, provision should be made to maintain education services. This also applies if the student is absent from school as advised by the student's treating physician, consistent with school policy and documentation requirements. During such absences, if the school is open and serving other students, the school must ensure that the student continues to receive a free appropriate public education (FAPE), consistent with protecting the health and safety of the student and those providing that education to the student. The existing guidance from the Maryland State Department of Education (MSDE) is sufficient

to address how IEP and Section 504 teams need to create continuity of learning plans. Specifically, Technical Assistance Bulletin, 20-03, Providing Continuity of Learning to Students with Disabilities during COVID-19 (issued May 2020, revised October 2020), requires each local school district “to develop a systemwide Continuity of Learning Plan to address the continued education of students during this period of extended school closure.” It further provides three options for development of such plans: (1) implementation of the IEP as written through virtual instruction; (2) amendment to the IEP with parent agreement outside of the IEP; and (3) revision through an IEP team meeting. This guidance does not require the team to develop a Continuity of Learning plan as part of an annual review process. It provides flexibility to teams to work collaboratively with parents/guardians when an emergency situation occurs so the parents/guardians’ input is considered and the plan can be implemented seamlessly.

- This proposed legislation may result in additional litigation from parents/guardians. If the continuity of learning plan becomes a part of the annual review process and the parent/guardian does not agree with the continuity of learning plan they may exercise their procedural safeguards by filing for mediation and/or due process hearing. As with any decision of the IEP or Section 504 team, parents/guardians may exercise these rights when there is a disagreement. The cost of litigating (which includes attorney’s fees, substitute coverage for witnesses, and labor hours) continuity of learning plans that may never take effect if an emergency situation does not occur, outweighs the benefits of having an anticipatory plan. Under the current MSDE guidance, the parent/guardian has the right to request a meeting if they do not agree to an amendment without a meeting to attempt to resolve the issue, and then they may exercise their procedural safeguards. As MCPS followed this guidance during the COVID-19 closures, we had very few requests for mediation and/or due process hearings where parents/guardians disagreed with the continuity of learning plan.

Although MCPS has been able to provide the necessary technology to support the transition to virtual learning due to the COVID-19 emergency closures, additional technology costs would be incurred to upgrade existing equipment on a five-year rotating basis. Additionally, as enrollment increases each year, new equipment would need to be purchased to support newly enrolled students with accessing any type of virtual or blended instruction. There are costs associated with students with disabilities who are unable to access online instruction based upon their disability. For these students, the costs of materials and labor associated with printing paper versions of instructional materials would be incurred. As referenced above, there is a possibility that litigation costs could increase with this process. Lastly, the time spent on developing a continuity of learning plan that might never be implemented would increase, including labor costs for gathering data, drafting the plan, and discussion during a meeting.

**Position: Oppose**

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*Learning*

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**HB0609      Public and Nonpublic Schools - Bronchodilator Availability and Use - Policy  
(Bronchodilator Rescue Inhaler Law)**

**Sponsor**      Delegate Boyce

**Committee**    *Ways and Means*

**Synopsis**

Requiring each county board of education and authorizing nonpublic schools in the State to establish a policy to authorize certain school personnel to administer bronchodilators to certain students under certain circumstances; prohibiting a school nurse or certain school personnel from administering a bronchodilator to a prekindergarten student unless the student has received a certain diagnosis and has a certain prescription; requiring a certain policy to include certain information; etc.

**Analysis**

Legislative Intent:

- House Bill Bronchodilator Availability and Use Policy would require each county board of education authorize schools to stock bronchodilators for students in Kindergarten through Grade 12 (prekindergarten students are prohibited in this legislation) and to train school personnel to administer bronchodilators to students in the case of a respiratory emergency.
- This bill is similar in scope and language to Senate Bill 621 Epinephrine Availability and Use which required schools to authorize the availability of epinephrine autoinjectors in schools, effective July 1, 2012.

Concerns and Rationale:

- While bronchodilators generally are considered safe to use with children, caution is recommended when using them in individuals with coronary artery disease, history of arrhythmias, hypertension, hyperthyroidism, seizure disorders, and diabetes. The most common side effects of bronchodilator use is tachycardia, dizziness, tremors, headache, and vomiting.
- Bronchodilators may interact with epinephrine and exacerbate agitation and arrhythmia. Non healthcare professionals would need to be trained specifically on bronchodilator and epinephrine interactions and contraindications since both would be available for use by school personnel in the case of an emergency.
- The school community health nurse and school health room technician have access to a student's medical records and would have a physician's recommendation to administer bronchodilators that had been prescribed for individual use.
- This information is not available to non-healthcare professionals who may use the bronchodilator in a perceived emergency. In an emergency, will non-healthcare professionals be able to refer back to training to recognize the signs of asthma and respiratory distress and to administer bronchodilators.
- Montgomery County Public Schools (MCPS) has students with diagnosed seizure disorders and diabetes and non-healthcare professionals would not have access to this information. In addition, MCPS has students with undiagnosed diabetes.

## *Attachment B: Platform Positions on Proposed Legislation*

- Bronchodilators are effective only when used correctly and with younger children, that can be a challenge. The use of a spacer is helpful for children who have trouble coordinating the plunge of the canister with the inhalation. If a bronchodilator canister is to be used with multiple children (one bronchodilator usually contains 200 metered doses), a spacer is required to prevent cross-contamination. The bronchodilator plastic mouthpiece also must be washed after each use (washing is recommended regardless because the newer propellants tend to be stickier and may clog the inhaler) to be safe for the next child.

### Additional Concerns During the COVID-19 Pandemic

- There is conflicting information on the use of the same bronchodilator canister among multiple individuals. Bronchodilator inhalers already are in short supply because they are the preferred means of administering albuterol as they minimize the risk of aerosolization which could spread COVID-19. A National Institutes of Health study stated that reusing inhalers is a questionable practice but that some hospitals had successfully been able to implement protocols to minimize risk and cross-contamination. It is recommended that stringent disinfection procedures be employed using disinfectants approved by the Centers for Disease Control and Prevention (CDC) to kill the coronavirus be used between each use. Other documents have outright recommended that bronchodilators not be used among multiple individuals. Regardless of the literature, public perception also is a concern and parents/guardians may be unwilling to authorize the use of a school bronchodilator for their child.
- The costs could be significant.

MCPS has concerns with more and more staff members, who are not healthcare professionals, being tasked with administering more and more medications without adequate knowledge of a student's medical history, including current medications and current diagnoses which may interact negatively or be contraindicated. MCPS proposes an amendment to indicate that school staff members may not be required to take on the responsibility of administering bronchodilators but may volunteer to be a staff member designated to administer bronchodilators. The proposed legislation also states the county Board of Education will authorize school community health nurses (SCHNs) to administer bronchodilators. In MCPS, SCHNs work for the Montgomery County Department of Health and Human Services, and not the school system. The county Board cannot authorize employees of another county organization to perform these tasks so this language also needs to be amended in the proposed legislation.

An albuterol bronchodilator costs, on average, approximately \$50 per device. The cost of 25 disposable spacers is approximately \$100. To supply all schools locations with some replacement inhalers, including the Lathrop E. Smith Center and the three Blair G. Ewing sites, would cost approximately \$10,900 for the bronchodilators and \$21,800 for the spacers (assuming one packet of spacers per site). In addition, each site would need a CDC-approved disinfectant to clean the canister and actuator between each use. One bottle of disinfectant costs \$169 for a total of \$36,842 across all sites. This is the best case scenario.

If MCPS were to follow recommended practices of not using an albuterol bronchodilator with multiple individuals, even with strict disinfectant protocols between each use, each school site would need to have two bronchodilators on hand for use in an emergency for a cost of \$21,800. In addition, MCPS would need to stock replacement bronchodilators, each time an inhaler is used with a student.

*Attachment B: Platform Positions on Proposed Legislation*

In addition, training would require approximately 15 minutes of staff member time to complete general overview training. Additional staff members who are designated to administer bronchodilators would have to complete another 30 minutes of training. It is estimated that training costs for MCPS would be \$180,000–\$200,000.

**Position: Oppose**

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*Respect*

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**SB0105      Peace Orders - Workplace Violence**  
**HB0289**

**Sponsors**      Senator Sydnor;  
                         Delegate Atterbeary

**Committees**    *Judicial Proceedings*  
                         *Judiciary*

**Synopsis**

For the purpose of making certain provisions of law relating to the filing, issuance, and modification of certain peace orders and to the shielding of certain court records of certain peace order proceedings apply to certain peace orders filed by certain employers on the basis of certain acts committed against certain employees under certain circumstances; requiring an employer to notify an employee before an employer files a certain petition; providing certain immunity from certain liability to a certain employer under certain circumstances; prohibiting an employer from retaliating against an employee under certain circumstances; making certain conforming changes; defining certain terms; providing for the application of a certain provision of this Act; and generally relating to peace orders.

**Analysis**

This bill authorizes an employer to request a peace order on behalf of an employee. The bill text with this addition appears to be the only change to the current law on peace orders. This bill will increase workplace safety for staff who may be reluctant to seek a peace order on their own. It also will enhance workplace safety for staff who work with the person who maybe involved in a domestic situation.

**Position: Support**

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**HB0566      County Boards of Education - Virtual Schools - Requirement**

**Sponsor**      Delegate Long

**Committee**    *Ways and Means*

**Synopsis**

Requiring a county board of education, beginning in the 2021-2022 school year, in coordination with the State Department of Education, to establish virtual schools to provide students with an alternative to

traditional classroom instruction; and requiring certain virtual schools to provide instruction to students in each grade level.

**Analysis**

- Montgomery County Public Schools (MCPS) recognizes the benefits of a virtual school to support students who are interested in continuing their education online.
- MCPS is in the process of developing a digital learning academy for students beginning in fall 2021 that would align with the legislation’s requirement.
- While this is an important priority for our school system, it may not be what is best for all school systems. Legislation that mandates blanket, unfunded actions of local districts, makes us pause.
- While we support the goal, we believe opposition to this legislation aligns with our platform of local control.

**Position: Oppose**

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**SB0464      Education – Educational Interpreter – Certification Requirements**  
**HB0651**

**Sponsors**      Senator West  
                         Delegate Qi

**Committees**    *Education, Health, and Environmental Affairs*  
                         *Ways and Means*

**Synopsis**

Requiring the State Board of Education and the Professional Standards and Teacher Education Board to develop certain rules and regulations for the certification of educational interpreters on or before July 1, 2022; providing that certain individuals who are deaf or hard of hearing may not be denied the right to receive certain credentials or a contract for work for which the individual is otherwise qualified because the individual is deaf or hard of hearing; etc.

**Analysis**

This bill specifies “educational interpreter” as an individual who provides sign language interpreting services in an educational setting (Grades kindergarten (K)–12). This bill requires that qualifications, regulations, and standards are established for certification of educational interpreters. This bill stipulates certification renewal requirements, including professional development hours. This bill requires that certification of educational interpreters is achieved by a certain date (July 1, 2027). MCPS has a long history of providing high-quality interpretation services to students who are deaf or hard of hearing, with both certified and noncertified interpreters. It is not anticipated that merely by meeting certification requirements, students will receive better services than those currently provided. Observation and evaluation by the supervisor current interpreters are better indications of quality than certification status.

Currently, sign language interpreters are not subject to certification requirements to work in a school setting. MCPS employs 36.5 Full-time Equivalent (FTE) sign language interpreters; currently only 3.0 FTEs are certified. MCPS is the largest public school employer of educational interpreters in the state



and has a long history of providing qualified sign language interpreters to students who are deaf or hard of hearing in educational settings Grades K–12.

- MCPS recognizes that continuous improvement and professional development is necessary and valued for all staff positions.
- Currently, MCPS is experiencing a severe shortage of interpreters to provide the appropriate services critical to providing access to communication and instruction. If certification becomes a requirement for a school setting, it is anticipated that it will be more challenging to attract and retain interpreters. Once certified, MCPS will increasingly be competing with private sector agencies in hiring interpreters and MCPS will experience an even greater shortage.
- It is anticipated that once a current interpreter becomes certified, they may be enticed to leave MCPS for private agency employment at a significantly higher rate of pay.
- With a greater shortage of interpreters, MCPS will need to hire a greater number private agency contractors at a significantly higher rate of pay than current MCPS hourly rates to meet students' needs and comply with special education mandates.
- MCPS employs cued speech transliterators as well as sign language interpreters, both under the same job classification and bargaining unit; this proposed bill only includes sign language interpreters. MCPS will be required to increase salaries for cued speech transliterators to maintain pay parity with interpreters.

Proposed Amendment:

- Newly hired interpreters not meeting the certification requirements will be considered provisional and will be granted two years to meet the requirements.
- The state will establish an oversight entity and provide fiscal support for this statewide mandate.
- The state will include fiscal support to increase MCPS budget for certified interpreters' salaries.

**Position: Support with Amendment**

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*Relationships*

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**SB0409**      **County Boards of Education – Therapy Dogs – Policy for Handling and Use in**  
**HB0713**      **Schools**

**Sponsors**      Senator Kramer;  
                         Delegate Guyton

**Committees**      *Education, Health, and Environmental Affairs*  
                         *Ways and Means*

**Synopsis**

Requiring a county board of education to allow the use of therapy dogs in public schools in the county; requiring each therapy dog used in a public school to be accompanied by a handler; and requiring each county board to adopt a policy with certain guidelines for the use and handling of therapy dogs in public schools in the county.

## Analysis

- SB0409 would require each school district to develop a policy to allow the use of therapy dogs in all schools in the county. Therapy dogs have been shown to effectively support students' emotional needs on a daily basis and during highly emotional situations, including the death of a student or staff member. The therapeutic effect of such animals has been witnessed first-hand in MCPS.
- MCPS Regulation ACG-RC, *Service Animals in Schools*, was developed in 2014 to comply with federal regulation (28 C.F.R. 35-136) which requires that public entities modify policies, practices and procedures to permit the use of a service animal by an individual with a disability. MSDE technical bulletin (#29, July 2011), benchmarked guidelines from Virginia, and advocacy materials were used to develop MCPS Regulation ACG-RC to comply with the federal regulation. The American Kennel Club and the Alliance for Therapy Dogs also provide good resources on this topic.
- Recommend the Board support the legislation with amendments directing the Administration to develop a model policy that includes requirements such as, but not limited to:
  - how to determine if an animal qualifies as a service animal;
  - requirements for the animal, such as training and handler controls;
  - arrangements for care of the animal during the school day;
  - liability for any harm or injury caused by the animal to other students, staff, visitors, and/or property; and
  - removal or exclusion of a service animal.

Therapy dogs also must remain in a confined space due to concerns about allergies for students and staff members.

In order to address requests for service animals, MCPS has developed other specific regulations to address animals on MCPS property:

Regulation, ECJ-RA, *Animals on School Grounds*, located at:

<https://www.montgomeryschoolsmd.org/departments/policy/pdf/ecjra.pdf>;

EBK-RA, *Reporting and Caring for an Animal Bite*, located at:

<https://www.montgomeryschoolsmd.org/departments/policy/pdf/ebkra.pdf>; and

Regulation ECJ-RB, *Animals in the Classroom*, located at:

<https://www.montgomeryschoolsmd.org/departments/policy/pdf/ecjrb.pdf>.

These regulations were created in accordance with the requirements of the Americans with Disabilities Act Amendments Act (ADAAA), federal guidance, and local laws/ordinances (Montgomery County Code, Chapter 5, Article II, §5-203 (a)(2), (a)(6),(a)(7) and §5-203(c), Public Nuisances and Other Violations; Rockville City Code, Chapter 3, Article III, §3-21(6), Animal Nuisances). Additionally, MCPS follows the guidance from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Frequently Asked Questions about Service Animals and the ADA, located at:

[https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html).

It should be noted that the ADA guidance ([https://www.ada.gov/regs2010/service\\_animal\\_qa.html](https://www.ada.gov/regs2010/service_animal_qa.html)) indicates that support and/or therapy dogs are not included in the definition of service animals.

**Position: Support with Amendment**

**SB0567      Telehealth Services - Expansion**  
**HB0731**

**Sponsors**      The President (By Request - Administration);  
The Speaker (By Request - Administration)

**Committees**    *Finance*  
*Health and Government Operations*

**Synopsis**

Altering the health care services the Maryland Medical Assistance Program is required to provide through telehealth; altering the circumstances under which the Program is required to provide health care services through telehealth; altering a provision of law requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse certain health care services provided through telehealth to require reimbursement to be provided in a certain manner and at a certain rate; etc.

**Analysis**

The bill is lifting restrictions within a pilot program that has to do with mental health supports. Since we had already received guidance from MSDE that permitted telehealth services during virtual instruction, we do not see where this change to allow greater flexibility to health care providers (including occupational therapists, physical therapists, and speech/language pathologists) through the Department of Health Medical Assistance Program would alter or impact public schools.

**Position: Support**

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*Excellence*

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**HB0521      Criminal Procedure – Registered Sex Offenders – Entry Onto School Property**  
**(Predator-Free Schools Act)**

**Sponsor**      Delegate Mangione

**Committee**    *Judiciary*

**Synopsis**

Providing that a certain law prohibiting a registered sex offender from entering onto real property used for public or nonpublic elementary or secondary education applies to a student who is a registered sex offender and has been convicted of a sexually violent crime; requiring a county board of education to develop and adopt a policy that enables a certain student to continue receiving a certain education in a certain location; requiring the State Board of Education to adopt certain guidelines and a model policy; etc.

**Analysis**

This bill prohibits a student if convicted of a sexually violent crime and is on the sex offender registry list from entering on public or nonpublic school property and also requires a county board of education to continue to provide an education to these students in a location other school system property

If a local school system is aware of a student who had been adjudicated and is on the sex offender registry and does not implement a safety plan for other students, they could be liable if the student offender committed a sexual offence on school property.

Currently, adults who are on the sex offender registry and prohibited from coming on to school property in less they have been given permission by a school official.

**Position: Support**

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**SB0665      Public Schools - Self-Contained Special Education Classrooms - Use of Video**  
**HB0715      Recording Devices**

**Sponsors**      Senator Peters  
                         Delegate Guyton

**Committees**    *Education, Health, and Environmental Affairs*  
                         *Ways and Means*

**Synopsis**

Requiring each county board of education, beginning in the 2021-2022 school year, to install at least one video recording device in each self-contained special education classroom; requiring video recording devices to record self-contained special education classrooms and exclusion areas during school hours and during any time that the classroom or exclusion area is in use; prohibiting the use of a video recording device in bathrooms or in areas that students use to change clothing; etc.

**Analysis**

- Montgomery County Public Schools (MCPS) does not generally permit student recordings in the classroom to protect student privacy rights, the integrity of the teaching and learning environment, and to comply with state and federal laws.
- Specifically, MCPS Regulation ABA-RB, *School Visitors*, section (C)(1)(e) states: To facilitate implementation of federal and state law regarding students with disabilities, parents/guardians who wish to create an audio recording of an Individualized Education Program (IEP) team meeting will be permitted to do so. Video recordings are not permitted unless this prohibition denies the parent’s/guardian’s access to their rights under state and federal law.
- MCPS Regulation ABA-RB was revised in response to the October 11, 2016, Maryland State Department of Education, RE: Review and Update Policies Regarding Use of Audio/Video Recording Devices letter. In that letter, each local school system was asked to review their local recording policy, if one exists, and update the policy to address audio and video recording as necessary.
- Other than audio recordings of IEP team meetings, MCPS does not permit audio recordings at school, including video recordings.

*Attachment B: Platform Positions on Proposed Legislation*

- Under the Maryland wiretapping law, recordings of conversations (including video recordings) are only permitted when all of the parties to the communication have given prior consent. See Annotated Code of Maryland, Courts and Judicial Proceedings, Article, Section I 0-402. This proposed bill directly contradicts the requirement of existing Maryland laws.
- This proposed bill would usurp the rights of classroom teachers, related services providers, paraeducators, and other school staff members under these existing Maryland wiretapping laws to decline being video recorded.
- Since classroom instruction is inherently interactive and all students in the classroom may participate in the discussion at any time, student recording of classroom instruction has the potential to impede the privacy of any and all students within a classroom, discourage other students' robust engagement in classroom activities, expose information contained in other students' educational records, and violate state and federal law.
- Under the Family Educational Rights and Privacy Act, MCPS would be required to obtain permission from all parents/guardians prior to any video recordings. This process would be burdensome and may result in parents/guardians revoking services if they refuse permission for their child to be video recorded in the special education classroom.
- The US Department of Education (DOE) has consistently determined that video recordings may constitute educational records. In other words, a photo or video of a student is an education record, subject to specific exclusions, when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. (20 U.S.C. 1232g(a)(4)(A); 34 CFR § 99.3.
- In the classroom setting, the recording would qualify as the educational record of multiple students. US DOE guidance has required redaction/segregation from local educational agencies if doing so can reasonably be accomplished without destroying the meaning of the record. Otherwise, the entirety of the video recording must be disclosed. This proposed bill would incur additional staff hours to complete redactions, and if redactions were not possible, MCPS would be placed in a position of being legally required to show confidential information about other students in the classroom to individual parents.
- This proposed bill also creates inequity between special education classrooms and general education classrooms, by affording additional access to educational records, i.e., video recordings, to parents/guardians of students with disabilities.

**Position: Oppose**

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**SB0448**      **County Boards of Education - Student Transportation - Vehicles**  
**HB0072**

**Sponsors**      Senator Edwards  
                         Delegate Anderton

**Committees**    *Education, Health, and Environmental Affairs*  
                         *Ways and Means*

**Synopsis**

For the purpose of authorizing a county board of education to provide transportation to and from school for certain students using a vehicle other than a certain type of school vehicle under certain circumstances; requiring the State Department of Education, in consultation with county boards of education and the Motor Vehicle Administration, to adopt certain regulations; altering a certain definition; and generally relating to vehicles for student transportation and county boards of education.

**Analysis**

School buses are the safest form of surface transportation. Though current COMAR 13A.06.07.11.C: General Standards, allows the transport of students in other vehicles in certain circumstances, MCPS plans to continue transporting students in school buses only, except in circumstances currently allowed and only when absolutely necessary.

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**SB0437**      **Maryland Longitudinal Data System - Student Data - Pregnant and Parenting**  
**HB0359**      **Students**

**Sponsors**      Senators Washington, Hettleman, and Elfreth;  
                         Delegate Guyton

**Committees**    *Education, Health, and Environmental Affairs*  
                         *Ways and Means*

**Synopsis**

Including data on pregnant and parenting students in the data collected, organized, managed, disaggregated, reported on, and analyzed by the Maryland Longitudinal Data System Center; and altering the types of records excluded from the definition of "student data" for purposes of the Maryland Longitudinal Data System.

**Analysis**

Data is not currently collected by MCPS. Data is collected by the Department of Health and Human Services (HHS); however, data is self reported and would be incomplete. Due to low numbers of students, most/all numbers would be suppressed in the public facing longitudinal database.

The school community health nurses work directly with pregnant and parenting students. DHHS has a workgroup that also (used to) meet regularly to ensure students have the medical, mental health, and academic supports to continue with their education, regardless of their decision related to their pregnancy. Thus, most follow-up activity would be the result of DHHS action. MCPS currently supports these students academically.

DHHS provides supports to make sure students can take care of their babies and attend school at the same time.

Final note: MCPS could collect the data from DHHS and submit to the Maryland Longitudinal Database as part of their annual data upload.

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**HB0522      Public Schools - School Resource Officers - Prohibited Conduct**

**Sponsor**      Delegate Washington

**Committee**    *Ways and Means*

**Synopsis**

Prohibiting a school administrator or official or a school safety coordinator from directing a school resource officer to enforce certain discipline-related policies, rules, regulations, or procedures; prohibiting a school resource officer from unilaterally enforcing certain discipline-related policies, rules, regulations, or procedures; and requiring a specialized curriculum for use in training of school resource officers to include training in conduct that is prohibited.

**Analysis**

This bill prohibits school administrators, officials, or a school safety coordinator from directing a school resource officer (SRO) to enforce certain school discipline policies, rules, regulations, or procedures as well as SROs from unilaterally enforcing the same.

Currently, the SRO Memorandum of Understanding (MOU) clearly articulates that school discipline falls solely under the authority and purview of the principal and restricts SROs from being directly involved.

SROs do discuss with principals options to arresting students for minor criminal offenses to determine the best way to handle the situation that would be in the best interest of the student. The SRO often will defer to the principal to handle the situation through the Code of Conduct as opposed to arresting students for minor criminal offenses.

If this bill passes this opportunity to have this type of discussion could be discontinued.

Since our MOU already addresses this issue, we can take a no position or oppose as this bill could drive up student arrests as SROs and principals would be barred from having a discussion as to the best outcome for students.

**SB0486**      **Labor and Employment - Employment Standards During an Emergency**  
**HB0581**      **(Maryland Essential Workers' Protection Act)**

**Sponsors**      Senators Augustine, Young, Hettleman, Zucker, Feldman, Lee, Waldstreicher, Kramer, Rosapepe, Pinsky, Benson, Patterson, Jackson, Ellis, Elfreth, Beidle, King, Carter, Washington, Sydnor, and McCray;  
Delegate D.E. Davis

**Committees**    *Finance*  
                      *Economic Matters*  
                      *Appropriations*

**Synopsis**

Requiring an essential employer to give a written statement regarding certain hazard pay paid to certain essential workers for each pay period; requiring an essential employer to take certain actions related to occupational safety and health during an emergency; authorizing an essential worker to refuse to fulfill a work responsibilities under certain circumstances; prohibiting an essential employer from retaliating or taking other adverse action against an essential worker or other worker for certain actions; etc.

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**HB0608**      **Early Childhood Education - Child Care Provider Support Grant Program**  
                      **(The Child Care Provider Support Act)**

**Sponsor**      Delegate Solomon

**Committee**    *Ways and Means*

**Synopsis**

Establishing the Child Care Provider Support Grant Program to provide funds to eligible grantees to help support the operations of child care centers; requiring the Department of Commerce, in consultation with the State Department of Education, to implement and administer the Grant Program and, in consultation with certain industry leaders or advisory groups, to adopt certain regulations; requiring the Governor to include in the annual budget bill an appropriation of \$25,000,000 for the Grant Program; etc.

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**HB0700**      **Education - Disruption of School Activities - Repeal of Prohibition**

**Sponsor**      Delegate Ruth

**Committee**    *Ways and Means*



**Synopsis**

Repealing a provision of law prohibiting a person from willfully disturbing or otherwise willfully preventing the orderly conduct of activities, administration, or classes of any institution of elementary, secondary, or higher education.

**Analysis**

This bill eliminates the provision that: A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education. It replaces it with this language: A person may not molest or threaten with bodily harm any student, employee, administrator, agent, or any other individual who is lawfully: On the grounds or in the immediate vicinity of any institution of elementary, secondary, or higher education; On a school vehicle; At an activity sponsored by a school that is held off school property; or On property that is owned by a county board and is used for administrative or other purposes.

MCPS safety and security staff leads prefer the original wording vs. that of the current bill, as they believe it provides broader protection for those who are on or come on school property, to impact the safe and orderly operations of schools. It is their belief that the current version is much more narrower and does not give the district and its schools as much protection and support under the law as it only addresses threats of bodily harm.

It's likely that the pushback coming from this law has been inappropriate use of discipline to charge students for minor disruptions they maybe involved in during the academic day. We have not seen this generally within the Montgomery County law enforcement community but it has occurred elsewhere in the state. Further, this is a training issue for law enforcement and State's Attorney's offices to better understand the real intent of the current law as this charge should be used judiciously.

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**SB0431**      **Maryland Sign Language Interpreter Act**

**Sponsors**      Senators King and Guzzone

**Committee**      *Education, Health, and Environmental Affairs*

**Synopsis**

Establishing the State Board of Sign Language Interpreters in the Maryland Department of Labor for purposes of ensuring effective communications for deaf, deaf-blind, and hard of hearing persons and to promote the public welfare by regulating those who provide sign language interpretation services; providing that certain provisions of law do not apply to certain individuals; authorizing the Board to set licensing requirements for sign language interpreters and certain fees; establishing the Sign Language Interpreters Fund; etc.

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