



**Testimony for the House Ways and Means and Judiciary Committees
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**HB 1607 Education - Juvenile Services Education Programs - Management and
Operation**

FAVORABLE

The ACLU of Maryland supports HB 1607, which would establish a Workgroup on Establishing an Independent School Board for the Juvenile Services Education System (JSES), with certain oversight and reporting functions.

Maryland's Constitution requires "a thorough and efficient System of Free Public Schools"¹ Moreover, education is a fundamental human right. The United States has made numerous domestic and international commitments to ensuring the human right to education, and while there is no federal constitutional right, nearly every State Constitution in the United States recognizes the right to an education.²

The failure to meet this commitment in public schools is exacerbated by the lack of quality educational programs in juvenile facilities. Children in juvenile facilities have significant educational needs. They are typically below grade level in test scores and commonly have a history of school failure, with an estimated 75% of children in juvenile facilities failing one or more courses and 40-50% who have been retained in at least one grade.³

In 2007, the U.S. Government Accountability Office (GAO) found a "pattern or practice of civil rights violations" in juvenile facilities, including inadequate education in some facilities. The GAO also noted that a lack of coordination with state education agencies has resulted in facilities continuing to operate even though education quality is poor and children are unable to transfer education

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¹ Md. Const. Art. VIII, Sec. 1.

² Roni Reed, "Education and the State Constitution: Alternatives for Suspended and Expelled Students," *Cornell Law Review*, Vol. 81, p. 582; Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race or national origin in federally funded education programs, and Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex; Title II of the Americans with Disabilities Act of 1990 prohibits discrimination based on disability and the Individuals with Disabilities Education Improvement Act of 2004 ensures educational services for students with disabilities. See Office of Civil Rights, U.S. Department of Education. <http://www.ed.gov/about/offices/list/ocr/know.html>.

³ R. M. Foley, "Academic characteristics of incarcerated youth and correctional educational programs," *Journal of Emotional and Behavioral Disorders*, Vol. 9, 2001, pp. 248-259.

credits to schools within their communities when they are released from custody.⁴ HB 1607 responds to exactly this need by piloting a model for oversight of education for children in the juvenile justice system by local boards of education.

Finally, failure to provide adequate education has subjected many jurisdictions to legal challenges—over the last quarter of a century, there has been class action litigation in more than 22 states, the District of Columbia, and Puerto Rico alleging that inadequate education for children with disabilities in juvenile facilities violate children’s statutory rights to education services.⁵ In this respect, HB 1607 presents a vehicle for Maryland to get ahead of this challenge and begin making the necessary improvements before being forced by the hand of the law.

For the foregoing reasons, we urge a favorable report on HB 1607.

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⁴ Government Accountability Office, “Residential Facilities: Improved Data and Enhanced Oversight Would Help safeguard the Well-Being of Youth with Behavioral and Emotional Challenges” (GAO-08-146T), 2007. <http://www.gao.gov/new.items/d08346.pdf>.

⁵ P.E. Leone and S. Meisel, “Improving education services for students in detention and confinement facilities,” *Children's Legal Rights Journal*, Vol. 17 (1), 1997, pp. 2-12.