

HOUSE BILL 1546

F1, E3

0lr3223

By: **Delegates Atterbeary, Bartlett, Cardin, D.M. Davis, W. Fisher, J. Lewis, Lierman, Lopez, Luedtke, Moon, Shetty, and Washington**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Reportable Offenses – Alterations**

3 FOR the purpose of altering the definition of “reportable offense” for the purpose of certain
4 provisions of law that relate to the arrest of a student; altering a certain notification
5 requirement to authorize the State’s Attorney to notify the local superintendent of
6 schools, school principal, and school security officer if the arrest of a student results
7 in a certain petition or criminal charges for a reportable offense or an offense related
8 to membership in a criminal gang; requiring the Department of Public Safety and
9 Correctional Services or the Department of Juvenile Services to provide certain
10 notice of the disposition of certain reportable offenses under certain circumstances;
11 limiting the transmittal of certain information to the time period when a certain
12 child is under certain supervision; requiring certain regulations to ensure that
13 certain information is used only when needed and after review by a student support
14 team; requiring a school to convene a certain student support team meeting under
15 certain circumstances; establishing certain requirements and procedures for a
16 student support team meeting and subsequent determinations and actions;
17 providing for certain appeals; requiring the State Department of Education to report
18 annually to the Governor and the General Assembly certain information regarding
19 notifications of reportable offenses; and generally relating to arrests of students and
20 reportable offenses.

21 BY repealing and reenacting, with amendments,
22 Article – Education
23 Section 7–303
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2019 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Education

7–303.

(a) (1) In this section the following words have the meanings indicated.

(2) “Criminal gang” has the meaning stated in § 9–801 of the Criminal Law Article.

(3) “Law enforcement agency” means the law enforcement agencies listed in § 3–101(e) of the Public Safety Article.

(4) “Local school system” means the schools and school programs under the supervision of the local superintendent.

(5) “Local superintendent” means:

(i) The county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator; or

(ii) The superintendent of schools for the:

1. Archdiocese of Baltimore;

2. Archdiocese of Washington; and

3. Catholic Diocese of Wilmington.

(6) “Reportable offense” means **ANY OF THE FOLLOWING OFFENSES IF THE OFFENSE IS ALLEGED TO HAVE OCCURRED OFF SCHOOL PROPERTY AND NOT AT AN EVENT SPONSORED BY THE LOCAL SCHOOL SYSTEM:**

(i) A crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) Any of the offenses enumerated in § 3–8A–03(d)(4) of the Courts Article;

(iii) A violation of § 4–101, § 4–102, § 4–203, or § 4–204 of the Criminal Law Article;

(iv) A violation of [§ 5–602, § 5–603, § 5–604, § 5–605, § 5–606, § 5–607, § 5–608, § 5–608.1, § 5–609,] § 5–612, § 5–613, § 5–614, § 5–617, § 5–618, § 5–627, or § 5–628 of the Criminal Law Article;

(v) A violation of § 4–503, § 9–504, or § 9–505 of the Criminal Law Article;

(vi) A violation of § 6–102, § 6–103, § 6–104, or § 6–105 of the Criminal Law Article;

(vii) A violation of § 9–802 or § 9–803 of the Criminal Law Article;

(viii) A violation of § 3–203 of the Criminal Law Article **THAT RESULTS IN AN ACTUAL INJURY**;

(ix) A violation of § 6–301 of the Criminal Law Article;

(x) A violation of § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

[(xi) A violation of § 7–105 of the Criminal Law Article;]

[(xii)] **(XI)** A violation of § 6–202 of the Criminal Law Article; or

[(xiii)] **(XII)** A violation of § 10–606 of the Criminal Law Article.

(7) “School principal” means the principal of the public or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.

(8) (i) “School security officer” includes a school principal, another school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(ii) “School security officer” does not include a teacher.

(9) “Student” means an individual enrolled in a public school system or nonpublic school in the State who is 5 years of age or older and under 22 years of age.

(b) If **THE ARREST OF** a student [is arrested] **RESULTS IN A PETITION FILED IN A JUVENILE COURT OR CRIMINAL CHARGES FILED IN A COURT EXERCISING CRIMINAL JURISDICTION OVER A CHILD** for a reportable offense or an offense that is related to the student’s membership in a criminal gang, the [law enforcement agency making the arrest:

(1) Shall] **STATE’S ATTORNEY MAY** notify the following individuals of the arrest and the charges within 24 hours of the arrest or as soon as practicable:

[(i)] **(1)** The local superintendent;

[(ii)] **(2)** The school principal; and

1 [(iii)] **(3)** For a school that has a school security officer, the school
2 security officer[; and

3 (2) May notify the State's Attorney of the arrest and charges].

4 (c) [The State's Attorney shall promptly notify either the local superintendent or
5 the school principal of the disposition of the] **IF A reportable offense [required to be] IS**
6 **reported under subsection (b) of this section, PROMPT NOTICE OF THE DISPOSITION OF**
7 **THE REPORTABLE OFFENSE SHALL BE PROVIDED TO THE LOCAL SUPERINTENDENT**
8 **OR THE SCHOOL PRINCIPAL BY:**

9 **(1) IF THE CASE PROCEEDS UNDER CRIMINAL JURISDICTION, THE**
10 **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; OR**

11 **(2) IF THE CASE PROCEEDS IN A JUVENILE COURT, THE DEPARTMENT**
12 **OF JUVENILE SERVICES.**

13 (d) Except by order of a juvenile court or other court upon good cause shown, the
14 information obtained by an individual pursuant to subsections (b) and (c) of this section:

15 (1) Is confidential and may not be redisclosed by subpoena or otherwise
16 except as provided pursuant to subsections (e) and (f) of this section; and

17 (2) May not be made part of the student's permanent educational record.

18 (e) (1) Notwithstanding the provisions of subsection (d) of this section, nothing
19 shall prohibit a local superintendent or school principal from transmitting the information
20 obtained pursuant to subsections (b) and (c) of this section as a confidential file to the local
21 superintendent of another public school system in the State or another nonpublic school in
22 the State in which the student has enrolled or been transferred in order to carry out the
23 purposes of this section if [the]:

24 **(I) THE** disposition of the reportable offense was a conviction or an
25 adjudication of delinquency **AND THE CHILD IS UNDER THE SUPERVISION OF THE**
26 **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE**
27 **DEPARTMENT OF JUVENILE SERVICES; or [the]**

28 **(II) THE** criminal charge or delinquency petition is still pending.

29 (2) A local superintendent or school principal who transmits information
30 about a student under this subsection shall include in the transmittal information
31 regarding any educational programming and related services provided to the student.

32 (f) The State Board shall adopt regulations to ensure that information obtained
33 by a local superintendent, a school principal, or a school security officer under subsections

1 (b), (c), and (e) of this section is:

2 (1) Used **ONLY WHEN NEEDED, AND AFTER REVIEW BY A STUDENT**
3 **SUPPORT TEAM**, to provide appropriate educational programming and related services to
4 the student and to maintain a safe and secure school environment for students and school
5 personnel;

6 (2) Transmitted only to school personnel of the school in which the student
7 is enrolled as necessary to carry out the purposes set forth in item (1) of this subsection;
8 and

9 (3) Destroyed when the student graduates or otherwise permanently
10 leaves school or turns 22 years old, whichever occurs first.

11 **(G) (1) ON NOTIFICATION THAT A STUDENT HAS BEEN CHARGED WITH A**
12 **REPORTABLE OFFENSE, A SCHOOL IMMEDIATELY SHALL CONVENE A STUDENT**
13 **SUPPORT TEAM MEETING TO DETERMINE WHETHER ANY CHANGE MUST BE MADE TO**
14 **THE STUDENT'S EDUCATIONAL PROGRAMMING AND THE NATURE OF ANY CHANGE.**

15 **(2) THE SCHOOL SHALL INVITE THE STUDENT AND THE STUDENT'S**
16 **PARENT OR GUARDIAN TO PARTICIPATE IN THE MEETING AND SHARE INPUT TO**
17 **INFORM THE SUPPORT TEAM'S DECISION.**

18 **(3) IF THE STUDENT HAS AN INDIVIDUALIZED EDUCATION PROGRAM**
19 **OR A § 504 PLAN, THE SCHOOL SHALL INVITE THE APPLICABLE TEAM TO**
20 **PARTICIPATE IN THE MEETING AND SHARE INPUT TO INFORM THE SUPPORT TEAM'S**
21 **DECISION.**

22 **(4) THE STUDENT MAY NOT BE ASKED ANY QUESTIONS THAT RELATE**
23 **TO THE ALLEGED REPORTABLE OFFENSE UNLESS THE STUDENT'S COUNSEL IS**
24 **PRESENT AT THE MEETING.**

25 **(5) THE STUDENT SUPPORT TEAM SHALL CONSIDER ALL OPTIONS**
26 **FOR MAINTAINING THE STUDENT'S REGULAR PROGRAM WHILE MITIGATING ANY**
27 **RISK ASSOCIATED WITH THE STUDENT'S ALLEGED INVOLVEMENT IN A REPORTABLE**
28 **OFFENSE, INCLUDING:**

29 **(I) THE PROVISION OF COUNSELING, BEHAVIORAL SUPPORTS,**
30 **OR OTHER SERVICES;**

31 **(II) RESTRICTIONS WITHIN THE SCHOOL BUILDING;**

32 **(III) INCREASED SUPERVISION; AND**

(IV) A MODIFIED SCHEDULE.

(6) A STUDENT WHO IS CHARGED WITH A REPORTABLE OFFENSE MAY BE REMOVED FROM THE STUDENT'S REGULAR SCHOOL PROGRAM ONLY IF THE STUDENT SUPPORT TEAM DETERMINES, AFTER CONSULTATION WITH THE STUDENT, THE STUDENT'S PARENT OR GUARDIAN, AND, IF APPLICABLE, THE INDIVIDUALIZED EDUCATION PROGRAM OR § 504 PLAN TEAM, THAT THE STUDENT'S PRESENCE IN SCHOOL BEFORE THE RESOLUTION OF THE CHARGES WOULD POSE AN IMMINENT THREAT OF SERIOUS HARM TO OTHER STUDENTS OR STAFF.

(7) IF A STUDENT SUPPORT TEAM DETERMINES THAT A STUDENT MUST BE REMOVED FROM SCHOOL, THE TEAM SHALL:

(I) IN CONSULTATION WITH THE STUDENT, THE STUDENT'S PARENT OR GUARDIAN, AND, IF APPLICABLE, THE INDIVIDUALIZED EDUCATION PROGRAM OR § 504 PLAN TEAM, DEVELOP A PLAN TO PROVIDE COMPARABLE EDUCATIONAL SERVICES AND APPROPRIATE BEHAVIORAL SUPPORT SERVICES TO PROMOTE A SUCCESSFUL RETURN TO THE REGULAR EDUCATIONAL PROGRAM;

(II) IMPLEMENT THE PLAN DEVELOPED UNDER ITEM (I) OF THIS PARAGRAPH WITHIN 5 SCHOOL DAYS AFTER THE STUDENT SUPPORT TEAM MEETING; AND

(III) INFORM THE STUDENT AND THE STUDENT'S PARENT OR GUARDIAN IN WRITING OF THEIR RIGHT TO APPEAL THE DECISION OF THE STUDENT SUPPORT TEAM.

(8) IF A STUDENT SUPPORT TEAM DETERMINES THAT NO CHANGE IN A STUDENT'S EDUCATIONAL PROGRAM IS NECESSARY, THE TEAM SHALL PROVIDE WRITTEN CONFIRMATION OF THE DETERMINATION TO THE STUDENT AND THE STUDENT'S PARENT OR GUARDIAN.

(9) (I) A STUDENT OR THE STUDENT'S PARENT OR GUARDIAN MAY APPEAL A DECISION OF A STUDENT SUPPORT TEAM TO THE LOCAL SUPERINTENDENT OR THE LOCAL SUPERINTENDENT'S DESIGNEE WITHIN 10 SCHOOL DAYS AFTER RECEIVING NOTICE OF THE DECISION.

(II) THE LOCAL SUPERINTENDENT OR DESIGNEE SHALL DECIDE AN APPEAL WITHIN 10 SCHOOL DAYS AFTER THE APPEAL IS FILED.

(III) THE STUDENT OR STUDENT'S PARENT OR GUARDIAN MAY APPEAL A DECISION OF THE LOCAL SUPERINTENDENT OR DESIGNEE TO THE COUNTY BOARD.

(IV) THE COUNTY BOARD SHALL DECIDE AN APPEAL WITHIN 10 SCHOOL DAYS AFTER THE APPEAL IS FILED.

[(g)] (H) (1) Except as otherwise provided in paragraph (2) of this subsection, the local superintendent and the school principal shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(2) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

[(h)] (I) Nothing in this section is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in subsections (b), (c), and (e) of this section.

[(i)] (J) Each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.

(K) ON OR BEFORE DECEMBER 30 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE FOLLOWING INFORMATION REGARDING EACH NOTIFICATION OF A REPORTABLE OFFENSE:

(1) THE SCHOOL SYSTEM THAT RECEIVED THE NOTIFICATION;

(2) THE NATURE OF THE REPORTABLE OFFENSE;

(3) THE ACTION TAKEN BY THE SCHOOL ON RECEIPT OF THE NOTIFICATION;

(4) THE EDUCATIONAL PROGRAMMING PROVIDED TO THE STUDENT;

(5) WHETHER THE STUDENT WAS REMOVED FROM THE REGULAR EDUCATIONAL PROGRAM; AND

(6) IF THE STUDENT WAS REMOVED FROM THE REGULAR EDUCATIONAL PROGRAM:

(I) THE AMOUNT OF TIME THE STUDENT WAS REMOVED;

(II) THE STUDENT'S HOME SCHOOL;

1 **(III) THE STUDENT'S GRADE;**

2 **(IV) THE RACE, ETHNICITY, GENDER, AND DISABILITY STATUS**
3 **OF THE STUDENT; AND**

4 **(V) THE STUDENT'S EDUCATIONAL PLACEMENT DURING THE**
5 **PERIOD OF REMOVAL.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2020.