

CHAPTER 323

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 15-1273

BY REPRESENTATIVE(S) Lawrence, Hamner, Kagan, Pettersen, Williams, Windholz, Young, Mitsch Bush, Rosenthal;
also SENATOR(S) Newell, Kerr, Merrifield, Todd.

AN ACT

CONCERNING ADDITIONAL COMPREHENSIVE REPORTING REQUIREMENTS FOR SCHOOL DISCIPLINE REPORTS, AND, IN CONNECTION THEREWITH, REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly determines and declares that:

(a) In 2011, the general assembly created a task force to study and assess practices and statutes concerning zero tolerance practices in schools and the interaction of school discipline practices with the juvenile justice system;

(b) The following year, as a result of the work of this task force, the general assembly passed House Bill 12-1345, which contained requirements for law enforcement agencies and district attorneys to annually report contacts with students. The purpose of this data was to discover the extent to which minor offenses committed by students in schools result in contact with law enforcement agencies and, ultimately, entrance into the criminal justice system.

(c) Only seventy-four out of two hundred forty-six, or thirty percent, of law enforcement agencies and only six out of twenty-two, or twenty-seven percent, of district attorneys have complied with these reporting requirements;

(d) Due to inconsistent data collection methods and procedures, even the limited data currently collected from law enforcement agencies and district attorneys cannot be used since it is unreliable and not submitted in such a way that permits statewide comparison; and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(e) A number of additional problems with school discipline reports have arisen, including:

(I) Schools are not required to separately report instances of sexual assault in school safety reports and, as a result, they report sexual assault in the ambiguous "other" category; and

(II) Despite the legalization of marijuana in the state, schools do not separate marijuana-related incidents from general drug-related incidents that occur on school property, in school vehicles, or at school activities or sanctioned events.

(2) Therefore, it is the intent of the general assembly to ensure that high-level, consistent, and easily accessible school safety data is available to parents and other interested parties by:

(a) Ensuring that school reporting requirements reflect important and relevant issues such as sexual assault and marijuana-related incidents; and

(b) Implementing a new data collection method that is less burdensome for law enforcement agencies and that permits a relevant, reliable, and in-depth statewide analysis.

SECTION 2. In Colorado Revised Statutes, 22-32-109.1, **amend** (1) (a) (V), (1) (b.5), (1) (f), (2) introductory portion, (2) (b) introductory portion, (2) (b) (IV) introductory portion, (2) (b) (IV) (C), (2) (b) (VII), (2) (b) (VIII), (2) (c) (II), (3) introductory portion, and (3) (c); and **add** (1) (e.5), (2) (b) (IV) (C.5), (2) (b) (IX), and (11) as follows:

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions - repeal.
 (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(V) Referral to a law enforcement; ~~agency~~; or

(b.5) "Community partners" means, collectively, local fire departments, state and local law enforcement, ~~agencies~~; local 911 agencies, interoperable communications providers, the safe2tell program described in section 24-31-606, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, local or regional homeland security personnel, and school resource officers.

(e.5) "LAW ENFORCEMENT" INCLUDES ANY LAW ENFORCEMENT AGENCY, LAW ENFORCEMENT OFFICER, OR SCHOOL RESOURCE OFFICER.

(f) (I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and a law enforcement ~~agency~~, ~~which communication~~ THAT:

(A) Is initiated by the school administrator, teacher, or other school employee; and

(B) Concerns behavior by a student that the school administrator, teacher, or other school employee believes may constitute a violation of the school conduct and discipline code or a criminal or delinquent offense and for which the school administrator, teacher, or other school employee requests an investigation or other involvement by a law enforcement ~~agency~~.

(II) "Referral to law enforcement" does not include:

(A) Contact with a law enforcement ~~agency~~ that is made for the purpose of education, prevention, or intervention regarding a student's behavior; ~~or~~

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and a law enforcement ~~officer~~; ~~OR~~

(C) ANY INCIDENT OR COMMUNICATION THAT IS INITIATED BY LAW ENFORCEMENT.

(2) **Safe school plan.** In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, EACH SCHOOL DISTRICT BOARD OF EDUCATION OR INSTITUTE CHARTER SCHOOL BOARD FOR A CHARTER SCHOOL AUTHORIZED BY THE CHARTER SCHOOL INSTITUTE SHALL, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, ~~each school district board of education shall~~ adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, ~~agencies~~, and community partners. The plan, at a minimum, ~~shall~~ MUST include the following:

(b) **Safe school reporting requirements.** A policy whereby the principal of each public school in a school district ~~shall~~ IS REQUIRED TO submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of ~~such~~ THE school district concerning the learning environment in the school during that school year. The board of education of the school district ~~annually~~ shall ANNUALLY compile the reports from every school in the district and ~~shall~~ submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report ~~shall be made available to~~ MUST BE EASILY ACCESSIBLE BY the general public THROUGH A LINK ON THE DEPARTMENT OF EDUCATION'S WEB SITE HOMEPAGE. ~~Such~~ THE report ~~shall~~ MUST include, but need not be limited to, the following specific information for the preceding school year:

(IV) The number of conduct and discipline code violations. Each ~~of which~~ ~~violations shall~~ VIOLATION MUST be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the

following types of violations:

(C) Use, possession, or sale of a drug or controlled substance, OTHER THAN MARIJUANA, on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C.5) THE UNLAWFUL USE, POSSESSION, OR SALE OF MARIJUANA ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT;

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school; ~~and~~

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs; AND

(IX) THE NUMBER OF ACTS OF SEXUAL VIOLENCE ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT. ANY INFORMATION PROVIDED AS A PART OF THIS SUBPARAGRAPH (IX) FOR THE SAFE SCHOOL REPORTING REQUIREMENTS MUST BE REPORTED AS AGGREGATE DATA AND MUST NOT INCLUDE ANY PERSONALLY IDENTIFYING INFORMATION. FOR THE PURPOSES OF THIS SUBPARAGRAPH (IX), "SEXUAL VIOLENCE" MEANS A PHYSICAL SEXUAL ACT PERPETRATED AGAINST A PERSON'S WILL OR WHERE A PERSON IS INCAPABLE OF GIVING CONSENT.

(c) **Internet safety plan.** (II) Each school district is encouraged to structure the internet safety plan so as to incorporate the internet safety topics into the teaching of the regular classroom curricula, rather than isolating the topics as a separate class. Each school district is encouraged to use available internet safety curricula resources, including but not limited to materials available through nonprofit internet safety foundations that are endorsed by the federal government. Each school district is also encouraged to work with ~~the~~ local law enforcement ~~agencies~~ for the jurisdiction in which the school district is located in developing the internet safety curricula, especially with regard to topics that address personal safety on the internet, internet predator identification, privacy issues, and homeland security issues. Each school district is also encouraged to collaborate with parents and teachers in developing the internet safety curricula, including collaborating with district and statewide organizations that represent parents and teachers.

(3) **Agreements with state agencies.** Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement, ~~officials~~, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the

following provisions:

(c) The school administration shall report the incident to the district attorney or ~~the appropriate local law enforcement, agency or officer, who~~ WHICH shall, upon receiving such report, investigate the incident to determine the appropriateness of filing criminal charges or initiating delinquency proceedings.

(11) (a) **Review of reporting requirements.** DURING THE 2020 REGULAR LEGISLATIVE SESSION, THE EDUCATION AND JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ARE ENCOURAGED TO FORMALLY REVIEW THE REPORTS RECEIVED FROM THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO SECTION 24-33.5-503 (1) (bb), C.R.S. THE COMMITTEE MEMBERS ARE ENCOURAGED TO CONSIDER WHETHER TO:

(I) CONTINUE TO REQUIRE LAW ENFORCEMENT OFFICERS AND DISTRICT ATTORNEYS TO SUBMIT DATA TO THE DIVISION OF CRIMINAL JUSTICE; OR

(II) INTRODUCE LEGISLATION TO REPEAL SUCH REPORTING REQUIREMENTS.

(b) THIS SUBSECTION (11) IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 3. In Colorado Revised Statutes, 22-32-146, **amend** (4) introductory portion; and **add** (5) as follows:

22-32-146. School use of on-site peace officers as school resource officers.

(4) Commencing August 1, 2013, and continuing ~~each August 1 thereafter~~ THROUGH AUGUST 1, 2014, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. FAILURE TO SUBMIT A TIMELY REPORT TO THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO THIS SUBSECTION (4) DOES NOT RELIEVE A LAW ENFORCEMENT AGENCY OF ITS RESPONSIBILITY TO FILE THE REPORT REQUIRED BY THIS SUBSECTION (4). A LAW ENFORCEMENT AGENCY THAT HAS FAILED TO FILE A TIMELY REPORT SHALL FILE ALL SUCH REPORTS WITH THE DIVISION OF CRIMINAL JUSTICE NO LATER THAN AUGUST 15, 2015. Each such report ~~shall~~ MUST include, at a minimum, the following information: ~~relating to the preceding twelve months:~~

(5) (a) ON OR BEFORE AUGUST 1, 2015, EACH LAW ENFORCEMENT AGENCY THAT IS ACTING OR HAS ACTED IN ITS OFFICIAL CAPACITY ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE, IN THE FORMATS DEVELOPED BY THE DIVISION IN CONJUNCTION WITH LOCAL LAW ENFORCEMENT AGENCIES, THE INFORMATION REQUIRED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5) THAT IS RELATED TO ALL STUDENT TICKETS, SUMMONS, OR ARRESTS THAT OCCURRED DURING THE 2014-15 ACADEMIC YEAR, EXCLUDING INCIDENTS THAT OCCURRED DURING THE SUMMER OF 2014, AT A PUBLIC ELEMENTARY SCHOOL, MIDDLE OR JUNIOR HIGH SCHOOL, OR HIGH SCHOOL; IN A SCHOOL VEHICLE; OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT.

(b) ON OR BEFORE AUGUST 1, 2016, AND EVERY AUGUST 1 THEREAFTER, EACH LAW ENFORCEMENT AGENCY THAT IS ACTING OR HAS ACTED IN ITS OFFICIAL CAPACITY ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE, IN FORMATS DEVELOPED BY THE DIVISION IN CONJUNCTION WITH LOCAL LAW ENFORCEMENT AGENCIES, THE INFORMATION REQUIRED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5) THAT IS RELATED TO ALL STUDENT TICKETS, SUMMONS, OR ARRESTS THAT OCCURRED FOR THE PREVIOUS ACADEMIC YEAR, INCLUDING INCIDENTS THAT OCCURRED DURING THE PREVIOUS SUMMER MONTHS, AT A PUBLIC ELEMENTARY SCHOOL, MIDDLE OR JUNIOR HIGH SCHOOL, OR HIGH SCHOOL; IN A SCHOOL VEHICLE; OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT.

(c) FOR EACH REPORT REQUIRED PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (5), THE LAW ENFORCEMENT AGENCY SHALL REPORT:

(I) THE STUDENT'S FULL NAME;

(II) THE STUDENT'S DATE OF BIRTH;

(III) THE STUDENT'S RACE, ETHNICITY, AND GENDER;

(IV) THE NAME OF THE SCHOOL WHERE THE INCIDENT OCCURRED OR THE NAME OF THE SCHOOL THAT OPERATED THE VEHICLE OR HELD THE ACTIVITY OR EVENT;

(V) THE DATE OF THE ARREST OR TAKING OF A STUDENT INTO CUSTODY;

(VI) THE DATE OF THE ISSUANCE OF THE SUMMONS OR TICKET;

(VII) THE ARREST OR INCIDENT REPORT NUMBER AS RECORDED BY THE LAW ENFORCEMENT AGENCY;

(VIII) THE SINGLE MOST SERIOUS OFFENSE FOR WHICH A STUDENT IS ARRESTED, ISSUED A SUMMONS, OR ISSUED A TICKET USING THE NATIONAL CRIME INFORMATION CENTER (NCIC) CRIME CODE;

(IX) THE TYPE OF WEAPON INVOLVED, IF ANY, FOR OFFENSES CLASSIFIED AS GROUP A OFFENSES UNDER THE NATIONAL INCIDENT-BASED REPORTING SYSTEM; AND

(X) THE LAW ENFORCEMENT AGENCY'S ORIGINATING REPORTING IDENTIFIER.

(d) A LAW ENFORCEMENT AGENCY MAY REPORT THE INFORMATION REQUIRED PURSUANT TO THIS SUBSECTION (5) ON A MONTHLY, QUARTERLY, OR ANNUAL BASIS. THE LAW ENFORCEMENT AGENCY SHALL INFORM THE DIVISION OF CRIMINAL JUSTICE OF THE REPORTING SCHEDULE IT WILL FOLLOW.

SECTION 4. In Colorado Revised Statutes, 20-1-113, **amend** (1); and **add** (4) as follows:

20-1-113. Reporting of criminal proceedings involving public school students. (1) On or before August 1, 2013, and ~~on or before each August 1~~

~~thereafter~~ CONTINUING THROUGH AUGUST 1, 2014, the district attorney of each judicial district, or his or her designee, shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., information about offenses alleged to have been committed by a student that have occurred on school grounds, in a school vehicle, or at a school activity or sanctioned event within the judicial district during the preceding twelve months. FAILURE TO SUBMIT A TIMELY REPORT TO THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO THIS SUBSECTION (1) DOES NOT RELIEVE A DISTRICT ATTORNEY OF HIS OR HER RESPONSIBILITY TO FILE THE REPORT REQUIRED BY THIS SUBSECTION (1). A DISTRICT ATTORNEY WHO HAS FAILED TO FILE A TIMELY REPORT SHALL FILE ALL SUCH REPORTS WITH THE DIVISION OF CRIMINAL JUSTICE NO LATER THAN AUGUST 15, 2015.

(4) COMMENCING AUGUST 1, 2015, AND CONTINUING EVERY AUGUST 1 EVERY YEAR THEREAFTER, EACH DISTRICT ATTORNEY SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE THE NAME OF ANY STUDENT WHO WAS GRANTED PRE-FILE JUVENILE OR ADULT DIVERSION FOR A TICKET, SUMMONS, OR OFFENSE THAT OCCURRED AT A PUBLIC ELEMENTARY SCHOOL, MIDDLE OR JUNIOR HIGH SCHOOL, OR HIGH SCHOOL; IN A SCHOOL VEHICLE; OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT. IN ADDITION TO THE FULL NAME OF THE STUDENT, THE DISTRICT ATTORNEY SHALL REPORT THE STUDENT'S DATE OF BIRTH, RACE, ETHNICITY, AND GENDER AND THE ARREST OR INCIDENT REPORT NUMBER, AS RECORDED BY THE ARRESTING LAW ENFORCEMENT AGENCY FOR THE STUDENT.

SECTION 5. In Colorado Revised Statutes, 24-33.5-503, **add** (2) as follows:

24-33.5-503. Duties of division. (2) (a) (I) ON OR BEFORE APRIL 1, 2016, AND EVERY APRIL 1 THEREAFTER, TO COMPILE AND ANALYZE THE DATA REPORTED BY LAW ENFORCEMENT AGENCIES AND PREPARE A REPORT, WITHOUT IDENTIFYING INFORMATION, CONCERNING THE TOTAL NUMBER OF TICKETS, SUMMONS, OR ARRESTS THAT OCCURRED ON SCHOOL GROUNDS, IN SCHOOL VEHICLES, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT AND DESCRIBE THE FINAL DISPOSITION OF THOSE TICKETS, SUMMONS, OR ARRESTS BY REPORTING AGENCY, SCHOOL, AND LOCATION. THE REPORT MUST ANALYZE THE DATA BY RACE, AGE, GENDER, ETHNICITY, AND THE SPECIFIC TYPE OF OFFENSE WITH ALL NATIONAL CRIME INFORMATION CENTER CRIME CODES. THE DIVISION OF CRIMINAL JUSTICE SHALL SUPPORT LAW ENFORCEMENT AGENCIES IN THEIR EFFORTS TO SUBMIT THE REQUIRED DATA, ACTIVELY REACH OUT TO AGENCIES THAT HAVE FAILED TO SUBMIT THE REQUIRED DATA, AND PROVIDE A REASONABLE DEGREE OF TRAINING IF NECESSARY.

(II) THE DIVISION SHALL SUBMIT THE REPORT TO THE EDUCATION AND JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE DIVISION SHALL PROVIDE THE REPORT TO ANY MEMBER OF THE PUBLIC UPON REQUEST, IN A MANNER THAT DOES NOT INCLUDE ANY IDENTIFYING INFORMATION REGARDING ANY STUDENT. IF THE DIVISION PROVIDES THE INFORMATION TO A MEMBER OF THE PUBLIC UPON REQUEST PURSUANT TO THIS PARAGRAPH (a), THE DIVISION MAY CHARGE A FEE TO THE PERSON, WHICH FEE SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS INCURRED BY THE DIVISION IN PROVIDING THE INFORMATION. PROVIDED THAT THE DIVISION ADHERES TO ALL STATE AND FEDERAL PRIVACY AND CONFIDENTIALITY LAWS CONCERNING STUDENT INFORMATION, THE DIVISION SHALL PROVIDE THE UNDERLYING DATA GATHERED BY A LAW ENFORCEMENT AGENCY TO ANY INDEPENDENT RESEARCH OR

COMMUNITY-BASED ORGANIZATION WORKING TO ANALYZE SCHOOL-BASED CRIMINAL BEHAVIOR AND THE RESPONSE TO THAT BEHAVIOR BY THE JUVENILE AND CRIMINAL JUSTICE SYSTEMS.

(III) THE DIVISION SHALL ANNUALLY POST THE REPORT ON ITS WEB SITE.

(b) TO PREPARE A RETROACTIVE REPORT MEETING THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2) USING EXISTING DATA SOURCES FOR THE 2013-14 AND 2014-15 SCHOOL YEARS.

(c) THE DIVISION IS ONLY REQUIRED TO PERFORM THE DUTIES OF THIS SUBSECTION (2) IF EXISTING APPROPRIATIONS OR RESOURCES ARE AVAILABLE.

SECTION 6. In Colorado Revised Statutes, 2-2-1201, **repeal** (8).

SECTION 7. In Session Laws of Colorado 2012, **repeal** section 21 of chapter 188.

SECTION 8. In Session Laws of Colorado 2012, **repeal** section 46 of chapter 188.

SECTION 9. Appropriation. (1) For the 2015-16 state fiscal year, \$73,457 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund and is based on an assumption that the division will require an additional 1.0 FTE. To implement this act, the division may use this appropriation for DCJ administrative services.

(2) The appropriation made in subsection (1) of this section derives from savings generated from the implementation of the provisions of Senate Bill 15-124, enacted in 2015.

SECTION 10. Effective date. (1) Except as specified in subsection (2) of this section, this act takes effect upon passage.

(2) Section 5 of this act takes effect only if:

(a) The net reduction in the appropriations from the general fund made in Senate Bill 15-124 is equal to or greater than the amount of the general fund appropriation made in subsection (1) of section 9 of this act;

(b) Senate Bill 15-124 is enacted and becomes law; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 1, 2015, that the requirement set forth in paragraph (a) of this subsection (2) has been met.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2015