

HOUSE BILL 146

F1, E3

2lr1204

(PRE-FILED)

By: **Delegates Moon and Atterbeary**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2022

CHAPTER _____

1 AN ACT concerning

2 **Education – Reportable Offenses and Student Discipline – ~~Alterations~~ Children**
3 **With Disabilities and Reporting**

4 FOR the purpose of ~~altering the definition of “reportable offense” to include only offenses~~
5 ~~that occurred off school premises, that did not occur at events sponsored by the~~
6 ~~school, and that involved certain crimes of violence; repealing a requirement that a~~
7 ~~law enforcement agency notify certain individuals if a student was arrested for a~~
8 ~~reportable offense; authorizing the State’s Attorney to notify certain individuals~~
9 ~~about a reportable offense if a student is adjudicated delinquent or convicted of the~~
10 ~~offense; requiring the State’s Attorney to provide a copy of notification of a reportable~~
11 ~~offense to a student’s defense attorney; requiring the State Department of Education~~
12 to issue a report to the Governor and the General Assembly each year that contains
13 certain information related to reportable offenses; clarifying that provisions
14 governing the discipline of students apply regardless of the cause for which a student
15 is being disciplined; requiring that a student’s attorney be invited to participate in
16 disciplinary conferences related to discipline for a reportable offense; prohibiting a
17 principal or county superintendent from asking questions related to a reportable
18 offense of a student unless the student’s attorney is present; requiring each county
19 board of education to report certain information on reportable offenses to the
20 Department on or before a certain date; requiring the Department to issue a certain
21 report to the Governor and the General Assembly on or before a certain date; and
22 generally relating to student discipline and reportable offenses.

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Education
Section ~~7–303~~ and 7–305(g) and (h)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to
Article – Education
Section ~~7–303(j)~~ and 7–305(h)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

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

Article – Education

7–303.

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

~~[(2) “Criminal organization” 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)] (2) “Local school system” means the schools and school programs under the supervision of the local superintendent.~~

~~[(5)] (3) “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)] (4) “Reportable offense” means AN OFFENSE THAT:~~

~~(i) OCCURRED OFF SCHOOL PREMISES;~~

~~(H) DID NOT OCCUR AT AN EVENT SPONSORED BY THE SCHOOL;~~

~~AND~~

~~[(i)] (H) 1. [A] INVOLVED A crime of violence, as defined in § 14-101 of the Criminal Law Article; OR~~

~~[(ii)] 2. [Any] INVOLVED 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;~~

~~(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) A violation of § 6-202 of the Criminal Law Article; or~~

~~(xiii) A violation of § 10-606 of the Criminal Law Article];~~

~~[(7)] (5) "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)] (6) (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.~~

~~“(0) (7) “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 a student is [arrested for] ADJUDICATED DELINQUENT OR CONVICTED OF a reportable offense [or an offense that is related to the student’s membership in a criminal organization, the law enforcement agency making the arrest:~~

~~“(1) Shall] THE STATE’S ATTORNEY MAY notify the following individuals of the [arrest and the charges] ADJUDICATION OR CONVICTION within 24 hours of the [arrest] DISPOSITION OF THE CASE or as soon as practicable:~~

~~“(i) (1) The local superintendent;~~

~~“(ii) (2) The school principal; and~~

~~“(iii) (3) For a school that has a school security officer, the school security officer]; and~~

~~“(2) May notify the State’s Attorney of the arrest and charges];~~

~~“(e) [The State’s Attorney shall promptly notify either the local superintendent or the school principal of the disposition of the reportable offense required to be reported.] IF NOTIFICATION IS PROVIDED under subsection (b) of this section, THE STATE’S ATTORNEY SHALL PROVIDE A COPY OF THE NOTIFICATION TO THE STUDENT’S DEFENSE ATTORNEY.~~

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

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

~~“(2) May not be made part of the student’s permanent educational record.~~

~~“(e) (1) Notwithstanding the provisions of subsection (d) of this section, nothing shall prohibit a local superintendent or school principal from transmitting the information obtained pursuant to [subsections (b) and (c)] SUBSECTION (B) of this section as a confidential file to the local superintendent of another public school system in the State or another nonpublic school in the State in which the student has enrolled or been transferred in order to carry out the purposes of this section [if the disposition of the reportable offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending] IF THE CHILD IS UNDER THE SUPERVISION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES.~~

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

~~(f) The State Board shall adopt regulations to ensure that information obtained by a local superintendent, a school principal, or a school security officer under subsections (b), (c), and (e) of this section is:~~

~~(1) Used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment for students and school personnel;~~

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

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

~~(g) [(1) Except as otherwise provided in paragraph (2) of this subsection, the] THE local superintendent and the school principal shall consider prohibiting a student who is [arrested] **ADJUDICATED DELINQUENT OR CONVICTED** 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) 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) Each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.~~

(J) (1) ON OR BEFORE DECEMBER 30 EACH YEAR, THE DEPARTMENT, IN ACCORDANCE WITH STATE AND FEDERAL PRIVACY LAWS, SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT THAT INCLUDES THE FOLLOWING INFORMATION ABOUT EACH REPORTABLE OFFENSE FOR WHICH A LOCAL SCHOOL RECEIVED INFORMATION UNDER SUBSECTION (B) OF THIS SECTION IN THE PRECEDING SCHOOL YEAR:

(I) THE NATURE OF THE REPORTABLE OFFENSE;

(II) VERIFICATION THAT THE OFFENSE OCCURRED OFF SCHOOL PREMISES;

(III) ACTION TAKEN BY THE LOCAL SCHOOL AND COUNTY BOARD AFTER BEING NOTIFIED OF THE REPORTABLE OFFENSE;

(IV) THE RACE, ETHNICITY, GENDER, AND DISABILITY STATUS OF THE STUDENT ADJUDICATED DELINQUENT OR CONVICTED OF THE REPORTABLE OFFENSE;

(V) THE GRADE OF THE STUDENT ADJUDICATED DELINQUENT OR CONVICTED OF THE REPORTABLE OFFENSE;

(VI) THE REGULAR SCHOOL PROGRAM OF THE STUDENT ADJUDICATED DELINQUENT OR CONVICTED OF THE REPORTABLE OFFENSE;

(VII) WHETHER THE STUDENT'S REGULAR SCHOOL PROGRAM WAS ALTERED AS A RESULT OF THE REPORTABLE OFFENSE; AND

(VIII) IF THE STUDENT WAS REMOVED FROM THE STUDENT'S REGULAR SCHOOL PROGRAM AS A RESULT OF THE REPORTABLE OFFENSE:

1. THE AMOUNT OF TIME DURING WHICH THE STUDENT WAS REMOVED; AND

2. THE STUDENT'S PLACEMENT AND EDUCATIONAL PROGRAMMING DURING THE PERIOD OF REMOVAL.

(2) EACH COUNTY BOARD AND PUBLIC SCHOOL SHALL PROVIDE THE DEPARTMENT WITH ANY INFORMATION NECESSARY TO ISSUE ITS REPORT IN ACCORDANCE WITH THIS SECTION.

7-305.

(g) (1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, OR REMOVAL OR EXCLUSION OF THE CHILD FROM THE CHILD'S REGULAR SCHOOL PROGRAM FOR MORE THAN TEN CONSECUTIVE SCHOOL DAYS FOR A REPORTABLE OFFENSE, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code, INCLUDING THE REQUIREMENTS RELATED TO A MANIFESTATION DETERMINATION.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

(H) (1) THE PROVISIONS OF THIS SECTION APPLY TO A STUDENT REGARDLESS OF THE CAUSE FOR WHICH A STUDENT IS BEING DISCIPLINED, INCLUDING, SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, ANY REMOVAL OR EXCLUSION OF A STUDENT FROM THE STUDENT'S REGULAR SCHOOL PROGRAM ARISING OUT OF A REPORTABLE OFFENSE UNDER § 7-303 OF THIS SUBTITLE.

(2) IF A STUDENT IS REMOVED OR EXCLUDED FROM THE STUDENT'S REGULAR SCHOOL PROGRAM FOR A REPORTABLE OFFENSE UNDER § 7-303 OF THIS SUBTITLE, THE PRINCIPAL OR COUNTY SUPERINTENDENT SHALL INVITE THE STUDENT'S ~~ATTORNEY(S)~~ ATTORNEY, IF THE STUDENT HAS AN ATTORNEY, TO PARTICIPATE IN THE CONFERENCE BETWEEN THE STUDENT OR THE STUDENT'S PARENT OR GUARDIAN AND THE PRINCIPAL OR COUNTY SUPERINTENDENT, AND THE MANIFESTATION DETERMINATION REVIEW, IF APPLICABLE.

(3) A PRINCIPAL OR COUNTY SUPERINTENDENT MAY NOT ASK ANY QUESTIONS OF A STUDENT RELATED TO A REPORTABLE OFFENSE UNDER § 7-303 OF THIS SUBTITLE, UNLESS THE STUDENT'S DEFENSE ATTORNEY IS PRESENT.

(4) IF A STUDENT IS REMOVED OR EXCLUDED FROM THE STUDENT'S REGULAR SCHOOL PROGRAM BASED ON A REPORTABLE OFFENSE, AFTER THE REMOVAL PERIOD, THE STUDENT HAS THE RIGHT TO RETURN TO THE REGULAR SCHOOL PROGRAM THE STUDENT ATTENDED BEFORE THE REMOVAL PERIOD.

[(h)] (I) (1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, “reportable offense” has the meaning stated in § 7–303 of the Education Article.

(b) (1) On or before November 1, 2022, each county board of education, including Baltimore City, shall report to the State Department of Education, in a manner consistent with State and federal privacy law, on students arrested for reportable offenses in public schools in the county for the 2017–2018 through 2021–2022 school years, including:

(i) subject to paragraph (2) of this subsection, the race, ethnicity, disability status, and gender of the student;

(ii) the crime for which the student was arrested; and

(iii) any disciplinary action the school took as a direct result of the reportable offense.

(2) If revealing a student’s race, ethnicity, disability status, or gender would allow for the identification of the student, the county board shall instead report the information listed under paragraph (1)(ii) and (iii) of this subsection for that student, consistent with State and federal privacy law.

(c) On or before January 1, 2023, the State Department of Education shall compile the information it receives under subsection (a) of this section and report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the effects of students arrested for reportable offenses in public schools in the State.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.