



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 374 (Substitute S-5 as passed by the Senate)
Sponsor: Senator Judy K. Emmons
Committee: Education

Date Completed: 9-12-13

RATIONALE

Incidents of school violence, bullying, suicide, and other serious problems may be prevented if someone with knowledge about a possible incident alerts authorities, but many students evidently fear repercussions for being a "snitch". According to a study of 37 incidents of school violence, the United States Secret Service and United States Department of Education found that in 81% of the surveyed incidents, at least one other person had some prior knowledge of the attacker's plan. In 59% of the surveyed incidents, more than one person had prior knowledge. The study also found that bystanders were more likely to come forward if they knew that they would be believed and the report would be kept confidential.

Following the 1999 school shooting in Columbine, Colorado, a program called "Safe2Tell" was developed to provide for anonymous reporting of threats of violence. This approach apparently has proven successful in deterring violence. In 2012, Cadillac Public Schools introduced a similar program, which reportedly has been met with success. Many people believe that Michigan should adopt such a program at a statewide level to encourage students to report threats of school violence and other potentially harmful activities.

CONTENT

The bill would create the "Student Safety Act" to provide for the development and implementation of a program that would allow for confidential reports of potential harm or criminal acts directed at students, school employees, or schools, to a hotline.

Specifically, the bill would do the following:

- **Require the Attorney General to establish the program, to the extent that funds were appropriated for it.**
- **Require the Attorney General to be responsible for the operational and administrative oversight of the program.**
- **Require the program to provide a means to review reported information and to direct reports, and any appropriate analysis of potential threats, to local law enforcement officials and school officials.**
- **Provide that reports or information submitted to the hotline would be confidential, and would have to be maintained as official records of the Michigan Department of State Police (MSP).**
- **Prescribe conditions for the release of information regarding a report or information submitted to the hotline.**
- **Prescribe a misdemeanor penalty for intentional disclosure of information in violation of the Act.**
- **Create the "Student Safety Fund".**
- **Authorize the Attorney General to enter into contracts to secure services for the program, and require a contract to bind vendors to the Act's requirements.**
- **Require an annual report of information that was reported to the hotline, local level responses, Attorney General and MSP costs, an analysis of the program's overall effectiveness, and other information.**

"Hotline" would mean a statewide toll-free telephone line or other means of communication, or a combination of a toll-free telephone number and another means of communication, that transmits voice, text, photographic, and other multimedia messages and information to the State Police, including information forwarded to the MSP through the Attorney General departmental website and information forwarded to the MSP through a contract vendor under the Act.

Program Requirements

The Attorney General, in consultation with the MSP and the Department of Education (DOE), would have to establish the program to the extent that funds were appropriated for that purpose. The Attorney General would have to establish the program through a written memorandum of understanding with the MSP. The memorandum would have to contain provisions to ensure that the Attorney General had access to the information needed for the required annual report.

The program would have to include a hotline for receiving reports and other information from the public regarding potential harm or criminal acts directed at school students, school employees, or schools in the State. The hotline would have to be available 24 hours a day, 365 days a year. The Attorney General could post promotional information about the program on the departmental website.

("School" would mean a public, private, denomination, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through 12, and would include all school property. "School employee" would mean a full-time or part-time employee of a school, school district, or intermediate school district (ISD), including a school administrator, a volunteer with a school, school district, or ISD, or any other person who provides services to a school, school district, or ISD while he or she is on school property. "School property" would mean a building, playing field, or property used for school purposes to impart instruction to school students or used for school purposes, functions, and events, and would include a school bus. "School student" would mean a person who is enrolled as a student in a school. All of

these definitions would apply regardless of whether school was in session.)

The Attorney General would be responsible for the continued operational and administrative oversight of the program. The program would have to provide for a means to 1) review all information submitted through the hotline, and 2) direct hotline information and reports, and any analysis of the potential threat as determined appropriate by the Attorney General or MSP, to local law enforcement officials and school officials. The program also would have to include a means by which responses at the local level would be determined and evaluated for effectiveness. The Attorney General would have to ensure that program personnel were provided appropriate training in crisis management and other matters relevant to the administration and operation of the program.

A report or other information submitted to the hotline would be considered to be a report to the MSP, and would have to be maintained as an official MSP record, subject to the Act's confidentiality requirements.

Confidential Information; Disclosure

Any report or information submitted to the hotline would be both confidential and exempt from the Freedom of Information Act, and could not be released except as provided in the Student Safety Act. This also would apply to any report or information that the MSP forwarded to a local law enforcement official or school official, or that a contract vendor received.

Information regarding a report or information submitted to the hotline, including any identifying information, could be disclosed only under the following circumstances:

- By the Attorney General, MSP, or a contract vendor, and their employees acting in the course of their duties.
- By local law enforcement agencies and schools, and their employees acting in the course of their duties, although they could not disclose information that would identify the person who submitted the report or information to the hotline.

- With the permission of the person or, if the person were a minor, the minor and his or her parents or guardians.
- Pursuant to a court order under the circumstances specified below.

An individual charged with a criminal offense as a result of a report or information submitted to the hotline could petition the court for the disclosure of the report or information, including any identifying information. The county prosecuting attorney and the Attorney General would have to be notified of the petition at least seven days before the hearing on it or as otherwise provided by the court. Both the prosecuting attorney and the Attorney General also would have the right to appear in the proceedings to oppose the petition. If a petition were filed, the court could conduct a hearing, which would have to be in chambers and outside the presence of the petitioner. If the court determined that the information was relevant to the criminal proceedings and was essential to the petitioner's fair trial, the court could order the disclosure of the information, including any identifying information, as it determined appropriate.

In addition, a county prosecuting attorney could petition the court for the disclosure of a report or information submitted to the hotline, including any identifying information, if he or she had reason to believe that the report or information was falsely provided to the hotline. The Attorney General would have to be notified of the petition at least seven days before the hearing on it or as otherwise provided by the court. The Attorney General would have the right to appear in the proceedings to oppose the petition. If the court determined there was reason to believe that the report or information could have been falsely provided, the court could order the disclosure of the information, including any identifying information, as it determined appropriate.

In either scenario, if the court ordered the disclosure of information, it could place restrictions on the information's release and use, or redact material as it considered appropriate. Court-reviewed material that was not ordered released or that was redacted would have to be maintained by the court under seal for purposes of appeal only.

The Attorney General would be authorized to appear in any other action to oppose the release of any report or information submitted to the hotline, including any identifying information.

Penalty for Wrongful Disclosure

A person who intentionally disclosed information in violation of the Act would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$500, or both.

Authorization to Contract with Third Parties

The Attorney General could enter into contracts to secure services that would contribute to the effectiveness of the program. Any contract would have to require the vendor to be bound by the Act's requirements, including the confidentiality provisions.

Student Safety Fund

The Student Safety Fund would be created in the State Treasury. The State Treasurer could receive money and other assets from any source to deposit into the Fund, and would have to credit to the Fund any interest and earnings from Fund investments. The Attorney General would be the administrator of the Fund for auditing purposes. Any money in the Fund at the close of the fiscal year would have to remain in the Fund, and could not lapse to the General Fund.

The Attorney General could spend money from the Student Safety Fund, upon appropriation, only for one or more of the following purposes: 1) to pay the costs of the Attorney General for administering the Act, 2) to pay the costs of the MSP for operating the hotline, 3) to pay the costs of a contract vendor, and 4) to promote public awareness of the program, availability of the hotline, and the website operated by the Attorney General.

Annual Report

The Attorney General, in consultation with the MSP and DOE, would have to prepare an annual report and, by July 1, file it with the Governor, Secretary of the Senate, Clerk of the House of Representatives, and clerks of the Senate and House Appropriations

Committees. The report would have to be maintained on the Attorney General departmental website. The report would have to contain the following information:

- The number of reports and other information reported to the hotline.
- The number of reports and information forwarded to local law enforcement officials and school officials.
- The nature of the reports and information in categories that the Attorney General had established.
- The responses to the reports and information at the local level in categories that the Attorney General had established.
- The source of all funds deposited into the Student Safety Fund.
- The itemized costs and expenditures incurred by the Attorney General in implementing the Act.
- The itemized costs and expenditures incurred by the MSP in implementing the Act.
- The contributions of, and the costs and expenditures incurred by, any contract vendor under the Act.
- An analysis of the overall effectiveness of the program in addressing potential harm or criminal acts directed at schools, school employees, and school students.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In order to ensure that students help to prevent violence, bullying, and other dangerous or illegal activity in schools, the proposed program, commonly called "OK-2-SAY", would remove barriers that currently discourage children and young adults from reporting these activities.

The program would encourage students to report by offering contact via telephone hotline, text messages, and other forms of multimedia messaging. Allowing more avenues to report information by incorporating modern social and media technology should increase the program's appeal to students.

A big obstacle to soliciting students for information about threats of violence is a prevalent culture of silence that discourages students from "snitching" on their peers. As mentioned earlier, 81% of the incidents studied by the U.S. Secret Service and the U.S. Department of Education involved an individual who had some prior knowledge of an attacker's plan. That study determined that students are fearful of not being believed, and being ridiculed for being a snitch. It also found that students were more likely to report information if they knew that they would be believed and the information they provided would be protected. The OK-2-SAY program would address these findings head-on by guaranteeing confidentiality.

Supporting Argument

Programs similar to OK-2-SAY have been met with great success. They have been proven to save lives and promote effective intergovernmental operations with regard to appropriately responding to threats. According to Cadillac Public Schools officials, the hotline program in that district, which started in 2012, proved critical in receiving tips. At least four helpful tips were reported through that program.

According to the Attorney General, the anonymous "Safe2Tell" program in Colorado has resulted in the intervention of 28 planned school attacks, 275 weapon incidents, 442 sexual offenses, 890 planned suicides, and 1,636 bullying incidents.

In Missouri, an anonymous school violence hotline program allows for tips through a mobile smartphone application. According to the Attorney General, over 1,000 reports were made through this application in 2011, and 80% of law enforcement officials said the hotline promoted cooperation between law enforcement and schools.

Opposing Argument

The OK-2-SAY program would be duplicative of existing school violence prevention programs. Rather than replicate the efforts of successful programs that are already established and well-known, the State should seek a partnership with existing programs to expand these services statewide.

For example, Kent County Silent Observer started a privately funded "Fast 50" program

that gives students the ability to call in, text, or e-mail information relating to violent or illegal activity. Reportedly, this program has succeeded in stopping three acts of school violence, alerted authorities to two suicide threats, and resulted in the removal of many weapons and drugs from schools. According to Kent County Silent Observer, similar programs are present in Calhoun, Kalamazoo, Livingston, Macomb, Monroe, Oakland, Ottawa, St. Clair, Washtenaw, and Wayne Counties. Also, the MSP already offers telephone hotline services, and MSP representatives have admitted that the hotline could be advertised more effectively and made more useful.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would require the establishment of a confidential hotline program to the extent that funds were appropriated for that purpose. If funds were appropriated and the program were created, the Department of Attorney General and the Department of State Police would have increased costs of an unknown amount to establish a confidential hotline to receive and monitor reports of threats or unsafe activities. This would include costs for telecommunications, information technology, and staff. In addition, these Departments would incur costs to analyze the types of incidents and prepare a report. The Michigan Department of Education would be involved as a cooperating agency.

The bill would create the Student Safety Fund within the State Treasury. The Department of Attorney General would administer the Fund, and would be authorized to spend money from it for administrative expenses of the Attorney General, operating expenses of the MSP, payments to vendors, and promotional costs. The State Treasurer would be responsible for the investment of the Fund. The Fund could receive contributions from any source. It would retain interest earnings on the Fund balance, which would carry forward from year-to-year and not lapse to the General Fund.

The bill would not make an appropriation; however, Public Act 102 of 2013 (Enacted House Bill 4112) includes contingent appropriations that total \$3.5 million in FY

2012-13 for implementation of this program. These appropriations are not effective, however, unless Senate Bill 374 is enacted into law. The appropriations in Public Act 102 to the proposed Student Safety Fund are from the Lawsuits Settlement Fund, a State Restricted fund where cash proceeds of the settlements received by the State are deposited. The Lawsuits Settlement Fund balance lapses to the General Fund at year end; thus, it is a General Fund/General Purpose revenue equivalent.

Of the \$3.5 million appropriated in Public Act 102 for the Student Safety Hotline, \$2,371,000 and 1.0 full-time equated position (FTE) are for the Department of Attorney General in FY 2012-13.

The primary costs to the Department of State Police would come from the need to add 2.0 new FTEs, along with training needs and considerable technology costs for the program. Under Public Act 102, \$1,129,000 and 2.0 FTEs are appropriated for this purpose.

Fiscal Analyst: Bruce Baker
Elizabeth Pratt

A1314\374b

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.