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Senate Bill 374 (as enacted)  
Sponsor: Senator Judy K. Emmons  
Senate Committee: Education  
House Committee: Appropriations

**PUBLIC ACT 183 of 2013**

Date Completed: 4-3-14

**RATIONALE**

Many people believe that Michigan should have a statewide program to encourage students to report threats of school violence and other potentially harmful activities. Although incidents of violence, bullying, suicide, and other serious problems may be prevented if someone with knowledge about a possible incident alerts authorities, many students evidently fear repercussions for being a "snitch". According to a May 2008 report, the United States Secret Service and United States Department of Education studied 37 incidents of school violence and found that in 81% of them, 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 Michigan, in 2012, Cadillac Public Schools introduced a similar program, which reportedly has met with success. To expand these efforts across the State, it was suggested that a hotline be established for reporting harm or threats.

**CONTENT**

**The bill enacted the "Student Safety Act" to provide for the development and implementation of a program that allows for confidential reports of potential self-harm or potential harm or criminal acts directed at students, school employees, or schools, to a hotline. Specifically, the bill does the following:**

- **Requires the Attorney General to establish the program, to the extent that funds are appropriated for it, and be responsible for the operational and administrative oversight of the program.**
- **Requires calls to the hotline to be transmitted to a vendor under contract with the Attorney General.**
- **Requires the program to provide for a means to review reported information and to direct the information, and any appropriate analysis of the potential threat, to local law enforcement officials and school officials.**
- **Requires hotline information to be referred immediately to a community mental health services program if a psychiatric emergency might be taking place.**
- **Requires the Attorney General to develop a source of information about community mental health resources, and to notify schools and law enforcement of this information source.**
- **Provides that reports or information submitted to the hotline are confidential, and must be maintained by the vendor for at least one year.**
- **Prescribes conditions for the release of information regarding a report or information submitted to the hotline.**
- **Prescribes a misdemeanor penalty for intentional disclosure of information in violation of the Act.**
- **Creates the "Student Safety Fund".**

- **Requires the Attorney General to prepare an annual report of information that was reported to the hotline, local level responses, costs, an analysis of the program's overall effectiveness, and other information.**

The Act took effect on December 13, 2013, and will be repealed on October 1, 2017.

The Act defines "hotline" as 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 vendor, including information forwarded to the vendor through the Attorney General departmental website.

(Please note: Most of the following references to the Attorney General pertain to the Department of the Attorney General.)

#### Program Requirements

The Act requires the Attorney General, in consultation with the Michigan Department of State Police (MSP), the Department of Community Health, and the Department of Education, to the extent that funds are appropriated for this purpose, to establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools in the State. The program must include a hotline for receiving the reports and information, and the hotline must be available for use 24 hours a day, 365 days a year.

(The Act defines "school" as a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through 12, including all school property. "School employee" means 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" means 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 includes a school bus. "School student" means a person who is enrolled as a student in a school. All of these definitions apply regardless of whether school is in session.)

The Attorney General must establish the program within the guidelines of the Act, and must have access to the information needed for the required annual report. The Attorney General may post promotional information about the program on the departmental website.

The Attorney General is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline, and to direct the information and reports, including any analysis of the potential threat as determined appropriate by the Attorney General or vendor, to local law enforcement officials and school officials. The program also must include a means by which responses at the local level are determined and evaluated for effectiveness. The Attorney General must ensure that program personnel are given appropriate training in all of the following areas:

- Crisis management, including recognizing mental illness and emotional disturbance.
- The resources that are available in the community for providing mental health treatment and other human services.
- Other matters determined by the Attorney General to be relevant to the administration and operation of the program.

A report or other information submitted to the hotline will be considered a report to a law enforcement agency, and must be maintained as a record by the vendor for at least one year, subject to the Act's confidentiality requirements.

### Establishment of Hotline

The Department of Technology, Management, and Budget (DTMB) must issue a request for proposals to enter into a contract for the operation of the hotline. The DTMB has sole authority over the request for proposals process and the decision over which entity is awarded the contract. The MSP may submit a proposal. Any contract must require the vendor to be bound by the requirements of the Act, including its confidentiality provisions.

When the hotline is operational, all calls received by any existing State-run school violence hotline in operation before the Act was enacted must be directed to the hotline established under the Act. Any existing State-run school violence hotline must be disconnected within six months after the hotline under the Act is operational.

### Mental Health Referral & Resources

The Attorney General must ensure that any hotline information that suggests that a psychiatric emergency is taking place within a county is immediately referred to the community mental health services program crisis line for that county.

The Attorney General also must develop a source of information on available community mental health resources and contacts, including mental health services. The Attorney General must notify schools and law enforcement of this information source. The notice must include the Attorney General's recommendation that school and law enforcement, upon investigating a case and determining that mental illness or emotional disturbance is or may be involved, use this information in aiding subjects and their parents or guardians.

### Confidential Information; Disclosure

Any report or information submitted to the hotline is confidential and exempt from the Freedom of Information Act, and may not be released except as provided in the Student Safety Act. This also applies to any hotline report or information that the vendor forwards to a law enforcement official or school official.

As necessary for purposes of the Act and to address reports and information received under the Act, information regarding a report or information submitted to the hotline, including any identifying information, may be disclosed by the vendor and its employees acting in the course of their duties. Also, as necessary, information regarding a report or information may be disclosed by the Attorney General, law enforcement agencies, schools, and community mental health services programs, and their employees acting in the course of their duties, although they may not disclose information that would identify the person who submitted the report or information to the hotline.

In addition, information regarding a report or information submitted to the hotline, including identifying information, may be disclosed with the permission of the person or, if the person is a minor, the minor and his or her parents or guardians. The information also may be disclosed pursuant to a court order under the circumstances specified below.

### Disclosure Pursuant to Court Order

An individual charged with a criminal offense as a result of a report or information submitted to the hotline may petition the court for the disclosure of the report or information, including any identifying information. The prosecuting attorney for the local unit of government having jurisdiction and the Attorney General must 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 have the right to appear in the proceedings to oppose the petition. The court may conduct a hearing on the petition. The hearing must be in chambers and outside the presence of the petitioner. If the court determines that the information is relevant to the criminal proceedings and is essential to the petitioner's fair trial, the court may order the disclosure of the information, including any identifying information, as it determines appropriate.

In addition, the prosecuting attorney for a local unit of government may petition the court for the disclosure of a report or information submitted to the hotline, including any identifying information, if he or she has reason to believe that the report or information was falsely provided to the vendor through the hotline. The Attorney General must be notified of the petition at least seven days before the hearing on it or as otherwise provided by the court, and has the right to appear in the proceedings to oppose the petition. If the court determines that there is reason to believe that the report or information may have been falsely provided, the court may order the disclosure of the information, including any identifying information, as it determines appropriate.

In either scenario, if the court orders the disclosure of information, it may place restrictions on the release and use of the report or information, or redact material as it considers appropriate. Court-reviewed material that is not ordered released or that is redacted must be maintained by the court under seal for purposes of appeal only.

The Attorney General also may appear in any other action to oppose the release of any report or information obtained through the hotline, including any identifying information.

#### Penalty for Wrongful Disclosure

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

#### Required Expunction

If a report to the hotline does not result in a referral, or the investigation of a subject results in a determination that no action regarding the subject is warranted, the subject's name must be expunged from the records of all entities involved in the hotline program, except as otherwise provided by law.

#### Student Safety Fund

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

The Attorney General may 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 vendor for operating the hotline, and 3) to promote public awareness of the program, including the availability of the hotline and the website operated by the Attorney General.

Money may not be spent for any promotion program that includes a reference to, or the image or voice of, an elected official, appointed State employee, State employee governed by a senior executive service limited term employment agreement, or candidate for elective office, that is targeted to a media market in this State.

#### Annual Report

In consultation with the vendor and the Departments of Community Health and Education, the Attorney General must prepare an annual report and file it by July 31. Copies of the report must be filed with the Governor, Secretary of the Senate, Clerk of the House of Representatives, and clerks of the Senate and House Appropriations Committees. The report also must be maintained on the Attorney General departmental website. The report must contain all of the following information:

- The number of reports and other information reported to the hotline.

- The number of reports and information reported to the hotline that are forwarded to local law enforcement officials and school officials.
- The number of hotline reports resulting in referral to mental health services.
- The nature of the reports and information reported in categories established by the Attorney General.
- The responses to the reports and information at the local level in categories established by the Attorney General.
- 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, the vendor.
- An analysis of the overall effectiveness of the program in addressing potential self-harm and 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 illegal or dangerous activity in schools, including self-harm, the hotline program, commonly called "OK-2-SAY", will remove barriers that discourage children and young adults from reporting these activities.

The program will encourage students to report by offering contact via telephone hotline, text messages, and other forms of 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 culture of silence that discourages students from "snitching" on their peers. As mentioned above, 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 addresses these findings 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 information provided by the Attorney General in mid-2013, the anonymous "Safe2Tell" program in Colorado had 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.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The bill requires the establishment of a confidential hotline program to the extent that funds are appropriated for this purpose. If funds are appropriated and the program is created, the Department of Attorney General will have increased costs of an unknown amount to contract with a vendor that will establish a confidential hotline to receive and monitor reports of threats or unsafe activities. This will include costs for telecommunications, information technology, and staff. The Department of Technology, Management, and Budget will issue a request for proposals for this project and select the vendor. The Michigan Department of Education and the Department of Community Health will be involved as cooperating agencies. Together with the Attorney General, these Departments will incur costs to analyze the types of incidents and prepare a report.

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

The bill does not make an appropriation; however, Public Act 102 of 2013 (Enacted House Bill 4112) included contingent appropriations totaling \$3.5 million in FY 2012-13 for implementation of this program. These appropriations were not effective unless Senate Bill 374 was enacted into law. After the enactment of the bill, these appropriations were established as work projects. The appropriations in Public Act 102 to the Student Safety Fund are from the Lawsuits Settlement Fund, a State Restricted fund in which 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. The appropriation also included \$1,129,000 and 2.0 FTEs for the Department of State Police.

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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.