

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

House Bill 1033 (Delegate Luedtke, *et al.*)  
Judiciary and Ways and Means

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**Public and Nonpublic Schools - Sexual and Physical Abuse Notification and Prevention**

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This bill requires law enforcement agencies to notify the local superintendent of schools or the principal of the nonpublic school of the arrest of an employee or other specified adults working on school property for specified sexual abuse crimes and specified crimes of violence within one business day. Within five business days after being informed of an arrest by a law enforcement agency, the local superintendent of schools or the principal of the nonpublic school must notify specified parents and employees of the arrest. Each local board of education and each nonpublic school must ensure that employees receive annual training on the obligations of educators to report suspected child abuse. The State Board of Education must provide on its website a link to information on specified information related to sexual abuse and assault. Each local school system, public school, and nonpublic school must link to that information on its website. The State Board of Education must adopt regulations to implement the bill.

The bill takes effect July 1, 2015.

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**Fiscal Summary**

**State Effect:** The Maryland State Department of Education (MSDE) can modify the information it posts to its website using existing resources. The Department of State Police (DSP) can notify local school systems and nonpublic school principals of an arrest using existing resources.

**Local Effect:** Local law enforcement agencies can notify local school systems and nonpublic school principals of an arrest using existing resources. Local school systems can notify teachers and parents of an arrest using existing resources. Local school systems can also make any modifications to their training on the obligations of educators to report suspected child abuse using existing resources, and link to the required information using existing resources.

**Small Business Effect:** None.

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## **Analysis**

### **Bill Summary:**

#### *Reportable Offense*

Law enforcement agencies must report employees of a local school system or nonpublic school for sexual offense in the third degree, child sexual abuse, or crimes of violence as specified in the bill.

Law enforcement agencies must report an adult working on public school or nonpublic school property as a contractor, subcontractor, or a paid leader of a school activity for sexual crimes and other crimes of abuse as specified in the bill that involved a student who attended a school where the adult was employed at the time of the offense.

#### *Notification*

Within five business days after being informed of an arrest by a law enforcement agency, the local superintendent of schools or the principal of the nonpublic school must notify the following individuals of the arrest: (1) parents of students who attend any public or nonpublic school in the jurisdiction where the accused individual worked during the school year in which the alleged incident occurred; and (2) employees of any public or nonpublic school in the jurisdiction where the accused individual worked during the school year in which the alleged incident occurred.

The notification must designate a contact person within the local school system or the nonpublic school for parents and employees to report incidents of abuse that may be related to the arrest, and include suggestions for parent on how to talk with their children about sexual abuse and assault.

The notification may be delayed if requested to do so by a local law enforcement agency or a local State's Attorney due to an ongoing investigation.

The notification may not name or otherwise identify the victim of the alleged offense.

### *Training*

The annual training for educators must include training in identifying signs of sexual abuse and assault and be updated annually to reflect any changes in the law.

### *Website Links*

The State Board of Education must provide on its website a link to information on (1) the awareness of and prevention of sexual abuse and assault and (2) policies to protect students from sexual abuse and assault. The policies must include the following:

- information on legal requirements and policies regarding employee, contractor, and volunteer screenings in schools;
- signs of sexual abuse and assault; and
- information on how to report concerns of sexual abuse or assault to the local board of education, school administration, law enforcement agencies, and child protective services in the Social Services Administration of the Department of Human Resources.

The State Board of Education may use material available from the Maryland Coalition Against Sexual Assault, the Maryland Children's Alliance, or any other appropriate entity to carry out the requirements of the bill.

**Current Law:** A local board of education may not knowingly hire or retain any individual who has been convicted of a crime involving child sexual abuse. Similar prohibitions apply to certain nonpublic schools with respect to employees who work or have access to students. Also, a local school system may not permit an individual to operate a school vehicle, or serve as a school vehicle attendant, if the individual has been convicted of, or faces pending criminal charges for, a crime involving child abuse or neglect.

### *Mandatory Reporters*

Health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who have reason to believe that a child has been subjected to abuse or neglect, must notify the local department of social services or the appropriate law enforcement agency. An "educator or human service worker" includes any teacher, counselor, social worker, caseworker, and parole or probation officer. If the worker is acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, then the individual must notify the head of the institution or the designee.

A worker who notifies the appropriate authorities must make an oral report by telephone or direct communication as soon as possible to the local department or the appropriate law enforcement agency if the worker has reason to believe the child has been subjected to abuse or neglect. A written report to the local department is required not later than 48 hours after the contact, examination, or treatment that caused the worker to believe that the child had been subjected to abuse or neglect. A copy of the written report must be provided to the local State's Attorney. An agency that receives an oral report of suspected abuse or neglect must immediately notify the other agency.

As far as reasonably possible, a worker who makes a report must include the name, age, and home address of the child; the name and home address of the child's parent or other person responsible for the child's care; the whereabouts of the child; and the nature and extent of the child abuse or neglect. The report must include any available evidence about previous instances of abuse or neglect, any information that would help to determine the cause of the suspected abuse or neglect, and the identity of any person responsible for the abuse or neglect.

In general, a person other than a health care practitioner, police officer, educator, or human service worker who has reason to believe that a child has been subjected to abuse or neglect must notify the local department of social services or the appropriate law enforcement agency. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute. Individuals (other than those who are required to report because of their professional capacity) who in good faith make or participate in making a report of abuse or neglect or participate in an investigation or resulting judicial proceeding are immune from civil liability or criminal penalties

### *Penalties for Failure to Report*

State law does not criminalize the failure of a worker to report suspected abuse or neglect. The licensing boards for some workers who are mandated to report child abuse and neglect (nurses, doctors, and social workers are examples) are authorized to discipline workers for failing to report.

### *Law Enforcement Reporting of Students*

Within 24 hours of an arrest, the arresting law enforcement agency must notify the school superintendent (local or archdiocese) and the public or private school's principal when a student enrolled in one of their schools is arrested for a reportable offense or an offense that is related to the student's membership in a criminal gang. A school security officer must also be notified, for a school with such an officer. Public schools that enroll students in grade 6 through 12 are required to designate a school security officer. A law

enforcement agency may also notify the State's Attorney of the arrest and the charges. Any record of the arrest kept by the school must be destroyed when the student graduates or otherwise permanently leaves school or turns 22 years old, whichever occurs first.

Reportable offenses include specified violent crimes and various gang-, weapons-, drug-, theft-, and intimidation-related charges. Chapter 188 of 2010, the Safe Schools Act of 2010, among other provisions, expanded the list of reportable offenses for students to include malicious destruction of property, second-degree assault, auto theft, inducing false testimony or avoidance of subpoena, retaliation for testimony, and intimidation or corruption of a juror. Chapter 218 of 2014 added first-degree burglary and animal cruelty as reportable crimes.

The local superintendent and the school principal must 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 if such action is necessary or appropriate to protect the physical or psychological well being of the alleged victim. If a student 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.

**Background:** Estimates of how many children are victims of child sexual abuse vary considerably due largely to differing definitions of sexual abuse, differences in time periods considered, and underreporting of sexual abuse. One meta-analysis of 22 American-based studies suggests that 30% to 40% of girls and 13% of boys experience sexual abuse during childhood. Many sexually abused children exhibit physical and behavioral symptoms. *Practical Strategies for School Counselors* developed by MSDE lists some of these indicators of sexual abuse.

### *Mandatory Reporters*

According to the Child Welfare Information Gateway, every state and the District of Columbia have laws that identify those people who are required to report suspected incidences of child abuse and neglect. As of November 2013 (the latest information available), 48 states and the District of Columbia specify professions for which the mandatory reporting requirements apply. Typically, mandated reporters include school personnel, social workers, health care workers, child care providers, medical examiners or coroners, and law enforcement officers. The other two states, New Jersey and Wyoming, do not specify professional workers who are required to report, but they require all persons to report suspected child abuse or neglect. At least 18 states, including Maryland, require all citizens to report suspected abuse or neglect regardless of profession. In Maryland, however, the reporting requirements for a citizen are less stringent than the reporting requirements for covered professionals.

**State Expenditures:** MSDE reports that it is responsible for developing website links relating to sexual and physical abuse, and it presently sponsors annual Child Abuse/Suicide training to local points of contact. As part of that training, website links and other materials are provided and shared. These links are updated with new material regularly. Thus, MSDE is already performing the requirements specified in the bill, and can continue to do so using existing resources.

Since DSP is already required to notify local school systems and principals of student arrests for certain crimes, they already maintain contacts with local school systems and principals; thus, DSP can notify local school systems and nonpublic school principals of an arrest using existing resources.

**Local Expenditures:** Since local law enforcement agencies are already required to notify local school systems and principals of student arrests for certain crimes, they already maintain contacts with local school systems and principals; thus, local law enforcement agencies can notify local school systems and nonpublic school principals of an arrest using existing resources.

Local school systems can notify teachers and parents of an arrest using existing resources as it is assumed that the number of cases will be few and notifications can be distributed through students.

MSDE reports that because educators are required to report child abuse and neglect under the Family Law Article, all local school systems provide training to all school personnel on child abuse and neglect policies and procedures. According to statute, child abuse specifically includes sexual abuse. The training also includes symptoms of child abuse and neglect as well as the related programs and services available. As part of the State's health education curriculum, local school systems also address abuse and assault (including sexual assault), as well as harassment (including sexual harassment) in a manner that differs progressively by grade. Therefore, local school systems can make any modifications to their training on the obligations of educators to report suspected child abuse using existing resources.

Local school systems can provide a link on their websites to the information collected by MSDE using existing resources.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Crimes Against Children Research Center, Maryland State Department of Education, Maryland Association of Counties, Montgomery County, Baltimore City, Department of Legislative Services

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