

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1072
Ways and Means

(Delegate Wilson, *et al.*)

Education, Health, and Environmental Affairs

Education - Child Sexual Abuse Prevention - Instruction and Training

This bill requires a local board of education or a nonpublic school that receives State funds to *require* each employee to receive instruction with specified elements annually on the prevention, identification, and reporting of child sexual abuse. In addition, each local board of education must (1) establish and implement policies that support the prevention of child sexual abuse through ongoing training of staff that include specified elements and (2) develop employee codes of conduct that address appropriate contact between staff and students. By December 1, 2018, the Interagency Committee on School Construction (IAC) and the State Council on Child Abuse and Neglect (SCCAN) must jointly develop guidelines and best practices for the assessment and modification of physical facilities and spaces to reduce opportunities for child sexual abuse. Beginning in the 2019-2020 school year, each local board must develop policies and procedures on the use and modification of physical facilities and spaces to reduce opportunities for child sexual abuse. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: IAC and SCCAN can develop the required guidelines using existing resources; however, resources may need to be temporarily directed from other IAC and SCCAN priorities.

Local Effect: Local school system expenditures increase, potentially significantly, to provide *each* employee with *annual* instruction and training that meets the requirements of the bill, as discussed below. Any modification of physical facilities and spaces to reduce opportunities for child sexual abuse may also increase expenditures, potentially significantly. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: “Child sexual abuse” is defined as an act by an adult involving a minor or a student that constitutes a sexual offense under the laws of the State or any sexual contact between an adult and a minor.

“Sexual misconduct” is defined as an act by an adult, including an oral, nonverbal, written, or electronic communication, or a physical activity directed toward or with a minor that is designed to promote a romantic or sexual relationship with the minor, including specified activities.

The instruction described must include comprehensive training and information to help employees to:

- recognize sexual misconduct in adults;
- recognize and appropriately respond to sexually inappropriate, coercive, or abusive behaviors among minors;
- recognize behaviors and verbal cues that could indicate a minor has been a victim of child sexual abuse; and
- respond to disclosures by minors or their parents or guardians of child sexual abuse or reports of boundary-violating behaviors of adults or minors in a supportive and appropriate manner that meets mandated reporting requirements under State law.

Specifically, each local board of education must establish and implement policies that support the prevention of child sexual abuse through ongoing training of staff regarding (1) behavior that constitutes adult perpetration; (2) reporting obligations and procedures; and (3) for staff involved in the hiring process, comprehensive screening of prospective employees. The instruction and training may include in-person or e-learning instruction and training. It must be periodically reviewed and updated.

Finally, each local board of education must make information about the training available to parents, legal guardians, and other interested persons in the community.

Current Law/ Background:

Child Abuse

As discussed below, statutory provisions set forth a process by which individuals are required to report suspected child abuse and neglect; local departments of social services must take specified action upon receiving such reports. “Abuse” means the physical or mental injury of a child under circumstances that indicate that the child’s health or welfare

is harmed or at substantial risk of being harmed by (1) a parent; (2) a household or family member; (3) a person who has permanent or temporary care or custody of the child; (4) a person who has responsibility for supervision of the child; or (5) a person who, because of the person's position or occupation, exercises authority over the child. "Abuse" also includes sexual abuse of a child, whether physical injuries are sustained or not, but does not include the physical injury of a child by accidental means. "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child.

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 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.

Local School System Requirements

A local board of education may not knowingly hire or retain any individual who has been convicted of specified crimes, including child sexual abuse. Further, a local school system contract must provide that a contractor or subcontractor for the local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of specified crimes, including child sexual abuse.

State Council on Child Abuse and Neglect

Chapter 356 of 1999 codified that the Governor's Council on Child Abuse and Neglect and renamed it SCCAN (the State Council on Child Abuse and Neglect). SCCAN consists of 23 members and is required to meet at least once every three months. SCCAN's mandate is defined in federal and State law. The federal Child Abuse Prevention and Treatment Act (CAPTA) charges SCCAN and all citizen review panels "to evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities" and to "provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations." The Maryland Family Law Article states the CAPTA requirements and specifically charges SCCAN to "report and make recommendations annually to the Governor and the General Assembly on matters relating to the *prevention*, detection, prosecution, and treatment of child abuse and neglect, including policy and training needs."

Interagency Committee on School Construction

IAC was established in 1971 to aid the counties and Baltimore City with public school construction projects and capital improvements. The director of IAC must be appointed by IAC with the approval of the Board of Public Works. The Maryland State Department of Education or any other State agency may lend its employees to serve as staff for IAC.

Local Expenditures: While the bill requires school employees to receive the annual training, it is unclear whether the school systems are required to *provide* the training free of charge. To the extent local school systems provide this type of training as part of their

professional development, local school system expenditures increase to provide training that meets the requirements of the bill.

There is at least one vendor offering online training regarding the prevention of child sexual abuse. This training takes about two hours to complete and teaches adults how to prevent, recognize, and react responsibly to child sexual abuse. However, it is unknown if this or any other existing training meets the requirements of the bill. *For illustrative purposes only*, if local school systems decided that currently available training meets the bill's requirements, local school system expenditures increase by approximately \$10 per employee annually if the school systems pay for the training. The number of employees in each local school system and the estimated cost of training if provided by the local school system are shown in **Exhibit 1**. Further, additional training modules on specific topics are available at \$5 per individual per module.

The online training offers discounts for bulk orders, which could reduce local school system expenditures. Alternatively, local school systems could choose to do in-person training using existing staff or develop in-house online training,

Exhibit 1
Estimated *Potential* Local School System Costs for
Annual Online Training

| <u>Local School System</u> | <u>Number of Employees</u> | <u>Assume \$10 per employee</u> |
|----------------------------|----------------------------|---------------------------------|
| Allegany | 1,189 | \$11,890 |
| Anne Arundel | 10,121 | 101,210 |
| Baltimore City | 9,161 | 91,610 |
| Baltimore | 14,702 | 147,020 |
| Calvert | 2,074 | 20,740 |
| Caroline | 895 | 8,950 |
| Carroll | 3,143 | 31,430 |
| Cecil | 2,096 | 20,960 |
| Charles | 3,515 | 35,150 |
| Dorchester | 755 | 7,550 |
| Frederick | 5,659 | 56,590 |
| Garrett | 548 | 5,480 |
| Harford | 5,112 | 51,120 |
| Howard | 8,190 | 81,900 |
| Kent | 267 | 2,670 |
| Montgomery | 21,871 | 218,710 |
| Prince George's | 18,447 | 184,470 |
| Queen Anne's | 940 | 9,400 |
| St. Mary's | 2,148 | 21,480 |
| Somerset | 493 | 4,930 |
| Talbot | 585 | 5,850 |
| Washington | 2,907 | 29,070 |
| Wicomico | 2,283 | 22,830 |
| Worcester | 1,152 | 11,520 |
| Total | 118,253 | \$1,182,530 |

Note: Actual costs depend on actual training costs, which may be more or less than estimated. Further, employees may be required to pay for their own training.

Source: Maryland State Department of Education; Department of Legislative Services

In addition to the annual training that all employees must take, each local board of education must establish and implement policies that support the prevention of child sexual abuse through ongoing training of staff regarding (1) behavior that constitutes adult perpetration; (2) reporting obligations and procedures; and (3) for staff involved in the hiring process, comprehensive screening of prospective employees. It is unknown what it will cost local school systems to implement such policies.

It is unknown what policies and procedures each local school system will develop on the use and modification of physical facilities and spaces to reduce opportunities for child sexual abuse. However, any modification of physical facilities and spaces likely will increase expenditures, potentially significantly.

It is assumed that local school systems can develop employee codes of conduct that address appropriate contact between staff and students using existing resources. Existing employee codes of conduct may already include this information. For example, [the Montgomery County Public Schools \(MCPS\) Employee Code of Conduct](#) includes several examples of inappropriate conduct with students including “inappropriate physical interactions with students” and “one-on-one interactions with MCPS students” through electronic communication on subjects not directly related to instruction or MCPS work responsibilities.

Additional Comments: A nonpublic school that receives State funds must also require each employee to receive annual instruction on the prevention, identification, and reporting of child sexual abuse. Thus, each specified nonpublic school must provide the training to all employees either free of charge or by charging the employees to take the training.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Maryland State Department of Education; Department of Budget and Management; Stewards of Children; Department of Legislative Services

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