

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 146  
Ways and Means

(Delegates Moon and Atterbeary)

Education, Health, and Environmental Affairs

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Education - Reportable Offenses, Student Discipline, and School Disruptions -  
Presence of an Attorney and Reporting

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This bill clarifies that a “reportable offense” as it relates to students in public or nonpublic schools is an offense that occurred off school premises and did not occur at an event sponsored by the school. The bill further requires that if a student is removed or excluded from the student’s regular school program for a reportable offense, the attorney of a student (if the student has an attorney) must be invited to participate in the conference between the student, or the student’s parent or guardian and the principal or county superintendent. Annually, local boards of education must provide specified information and reports to the Maryland State Department of Education (MSDE) regarding reportable offenses and related arrests, as well as certain school disruptions; MSDE must provide specified annual reports on reportable offenses and related arrests to the Governor and the General Assembly. MSDE must also annually report to the Maryland Center for School Safety and the General Assembly on incidents of school disruptions, as compiled from local school system reports to MSDE. **The bill takes effect July 1, 2022.**

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**Fiscal Summary**

**State Effect:** MSDE can meet reporting requirements using existing resources.

**Local Effect:** Local school systems can meet reporting requirements using existing resources.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The bill expands upon current State law that requires that the discipline of a student with a disability to be conducted in conformance with the federal Individual Disabilities Education Act (IDEA), by including discipline involving removal or exclusion of the student from the student's regular school program for more than 10 consecutive school days and reference to manifestation determination under IDEA. The bill also clarifies that provisions governing the discipline of students apply regardless of the cause for which a student is being disciplined.

For the first annual reports on school disruptions due on December 1, 2022, each local board must include information on school disruptions from the 2018-19 and 2019-20 school years. In addition, by November 1, 2022, each local board must report specified data to MSDE on students arrested for reportable offenses in public schools for school years 2017-18 through 2021-22. By January 1, 2023, MSDE must compile the information it receives and report to the Governor and General Assembly on the effects of students arrested for reportable offenses in public schools.

**Current Law:** Statutory provisions set forth requirements relating to the sharing of information regarding juveniles who have been arrested for reportable offenses. "Reportable offenses" include specified violent crimes and various gang-, weapons-, drug-, theft-, and intimidation-related charges; malicious destruction of property; second-degree assault; auto theft; and cruelty to animals.

If a student is arrested for a reportable offense or an offense related to the student's membership in a criminal organization, the law enforcement agency making the arrest must notify, within 24 hours of an arrest or as soon as practicable, the local superintendent and the school principal. A school security officer must also be notified, for a school with such an officer. The law enforcement agency may notify the State's Attorney of the arrest and charges. The State's Attorney must promptly notify either the local superintendent or the school principal of the disposition of such offenses.

Except by order of a juvenile court or other court on good cause shown, such information is confidential and may not be redisclosed by subpoena or otherwise and may not be part of the student's permanent educational record. However, a local superintendent or school principal is not prohibited from transmitting this information 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 been enrolled or transferred if the disposition of the reportable offense was a conviction or an adjudication of delinquency or if the criminal charge or delinquency petition is still pending.

The State Board of Education must adopt regulations to ensure that the information

obtained is (1) used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment and (2) transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out this purpose. They must also ensure that the information is destroyed when the student graduates or otherwise permanently leaves school or reaches age 22, whichever occurs first.

A 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 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. However, if the student is convicted of or adjudicated delinquent for the offense, the student may not attend the same school or ride on the same school bus as the victim.

The discipline of a student with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, must be conducted in conformance with IDEA. Within 10 school days of a decision to change the placement of a child with disabilities due to violation of the code of student conduct, a determination must be made as to whether the violation was a manifestation of the student's disability. If the violation was not a manifestation of the student's disability, the student may be disciplined in the same manner as any other student. If it was a manifestation of the student's disability, then a behavioral assessment must be conducted, a behavioral intervention plan must be developed, and the student must be returned to the student's placement unless the student has carried a weapon, knowingly possessed drugs, or inflicted serious bodily harm on another. If these latter conditions apply, the student may be assigned to an alternative educational placement for as many as 45 days.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Baltimore City Public Schools; Prince George's County Public Schools; St. Mary's County Public Schools; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Maryland State Department of Education; Department of State Police; Department of Legislative Services

**Fiscal Note History:**  
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