

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 811 (Senator A. Washington)  
 Education, Energy, and the Environment

**School Discipline - Behavioral Health and Safety - Data Collection and School Resource Officers**

This bill (1) requires the Maryland State Department of Education (MSDE) to make available, as a data download on its website, disaggregated discipline-related data at the State, local school system, and school levels as specified; (2) prohibits a school administrator or official or a school safety coordinator from directing a school resource officer (SRO) to enforce discipline-related school policies, rules, regulations, or procedures; (3) bars an SRO from unilaterally enforcing discipline-related school policies, rules, regulations, or procedures, and requires that training provided to them reflect that prohibition; (4) requires each county board to develop a behavioral health and safety plan as specified by September 1, 2024; and (5) requires that, beginning September 1, 2024, a public school must implement a behavioral health and safety plan before hiring an SRO. **The bill takes effect July 1, 2023.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$85,800 in FY 2024 to hire one educational specialist to implement data disaggregation elements of the bill. Future year expenditures reflect annualization and ongoing costs for the position. Any changes necessitated by the bill to the training curriculum for SROs can likely be handled with existing resources. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	85,800	102,900	107,500	112,300	118,200
Net Effect	(\$85,800)	(\$102,900)	(\$107,500)	(\$112,300)	(\$118,200)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** To the extent SROs need to be retrained, local school systems may be able to use existing grant funds from the State to do so. Local boards of education can develop behavioral health and safety plans as specified with existing resources. No effects from the data collection provisions as the bill does not alter the data that local school systems must collect and report.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *School Discipline Data*

MSDE must complete annual disaggregated discipline reports by August 1 of each year. For all data made publicly available, MSDE must include disaggregated data related to any disproportional disciplinary practices of a local school system or public school, as specified, and annually report the data to the Governor and the General Assembly. MSDE must report the disproportionality data for any school identified as “high-suspending” as specified and include alternative schools and programs and public separate day schools in any calculation of disproportionality data. “High-suspending” includes an elementary school that suspends 10% or more of its students in each subgroup and a secondary school that suspends 25% or more of its students in each subgroup, disaggregated by race, ethnicity, disability status, and English language proficiency.

MSDE must maintain the risk ratio and State comparison threshold of 2.0 used for identifying action under federal regulations that implement the federal Individuals with Disabilities Education Act (IDEA) for schools with high disproportionality.

#### *Behavioral Health and Safety Plans*

Behavioral health and safety plans developed by local school systems under the bill are for use by each public school where an SRO is assigned or a school security employee is employed. The plan must include metrics to measure and steps for improvement in (1) the number of students who have access to behavioral and mental health supports; (2) referrals to mental health services when a student is experiencing a crisis; (3) the use of restorative approaches in addressing student misconduct; (4) the use of trauma-informed approaches to address a student in distress; and (5) the number of school-based arrests, suspensions, referrals to the Department of Juvenile Services, and expulsions for nonviolent behavior.

Each local board of education must annually update the behavioral health and safety plan based on current evidence-based behavioral health practices.

### **Current Law:**

#### *Suspension and Expulsion in General*

In accordance with rules developed by each local school board, a principal may suspend a student for cause for up to 10 school days. The principal must provide the suspended student and the student's parents with a conference during the suspension period and a list of community resources. Upon request by a principal, a local superintendent may suspend a student for more than 10 days or expel a student, subject to investigation, conferencing, and appeal procedures in statute. A student may not be suspended or expelled only for attendance-related offenses but may be subject to in-school suspension for those offenses.

A student who has been suspended or expelled may not return to the classroom until the principal confers with (1) the teacher(s) who referred the student (if appropriate); (2) other appropriate school personnel; (3) the student; and (4) the student's parent or guardian.

If disruptive behavior results in action less than suspension, the principal or designee must confer with the teacher who referred the student prior to the student returning to the teacher's classroom.

#### *Suspension and Expulsion of Young Children*

Chapters 843 and 844 of 2017 prohibit a student in public prekindergarten, kindergarten, first, or second grade from being suspended or expelled, except that:

- a student in those grades may be expelled if required by federal law (generally, for bringing a firearm to school); and
- a student in those grades may be suspended for up to five days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

For a student in prekindergarten through second grade who is suspended or who commits an act that would otherwise be grounds for suspension, local school systems must provide intervention and support to address the student's behavior. Intervention and support include (1) positive behavior interventions and supports; (2) a behavior intervention plan; (3) a referral to a student support team; (4) a referral to an individualized education program; and (5) a referral for appropriate community-based services.

The school system must remedy the effect of a student's behavior through appropriate intervention methods including restorative practices. Restorative practices are practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- are conducted by trained staff;
- focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- help build a sense of belonging, safety, and social responsibility in the school community.

A public elementary school that has a suspension rate that exceeds 10% must implement a positive behavioral interventions and support (PBIS) program or an alternative behavior modification program in collaboration with MSDE. An elementary school that has already implemented a PBIS program or a behavior modification program must expand its existing program if it has a suspension rate that exceeds 10%.

### *Discipline Guidelines*

The State Board of Education (SBE) must establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards. The guidelines were last updated in 2014. In December 2018, the board established a Task Force on Student Discipline Regulations to review the guidelines and regulations. The task force issued its [final report](#) in August 2019, but no changes to the regulations or guidelines were made as a result.

The State board must also (1) upon request, provide technical assistance and training to local school boards on the use of restorative practices and (2) assist each local school board with implementing the guidelines. Each local school board must adopt regulations designed to create and maintain within schools the atmosphere of order and discipline necessary for effective learning. The local regulations must state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational. They must also provide for educational and behavioral interventions, restorative approaches, counseling, student and parent conferencing, and alternative programs.

### *State and Local Report Card*

Under the federal Every Student Succeeds Act (ESSA), the most recent version of the Elementary and Secondary Education Act, both states and local school districts receiving Title I, Part A funds must prepare and widely disseminate an annual report card. Among other requirements, information submitted to the Civil Rights Data Collection biennial survey regarding in-school suspensions, out-of-school suspensions, expulsions,

school-related arrests, referrals to law enforcement, chronic absenteeism, and incidents of violence (including bullying and harassment) must be reported within the report card. ESSA requires that accountability data be reported for all students and for the following “subgroups” of students: economically disadvantaged students; students from major racial and ethnic groups; children with disabilities; and English learners.

### *Addressing Disproportionate and Discrepant Impacts of School Discipline*

State regulations require MSDE to develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students. MSDE may use the discrepancy model to assess the impact of discipline on special education students. The discrepancy model uses a risk ratio of 3.0 as the threshold for determining whether disproportionality exists; a risk ratio of 3.0 means that a target population (*e.g.*, Black males) is three times more likely than a control population (*e.g.*, all other males) to be identified for special education services or disciplined in some manner. A risk ratio over 1.0 indicates overrepresentation. If MSDE identifies a school’s discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system must prepare and present to SBE a plan to reduce the impact within one year and eliminate it within three years. A local school system must report its progress annually to the State board. See the Additional Comments section below for more information on the State’s use of risk ratios.

### *Data Collection and Presentation*

MSDE must collect data on alternative school discipline practices in public schools for each local school system, including (1) the types of alternative school discipline practices that are used in a local school system and (2) the type of misconduct for which an alternative discipline practice is used. Also, MSDE must disaggregate the information in any MSDE student discipline data report by race, ethnicity, gender, disability status, eligibility for free or reduced-price meals or an equivalent measure of socioeconomic status, and English language proficiency for (1) the State; (2) each local school system; and (3) each public school. Special education-related data in any such report must be disaggregated by race, ethnicity, and gender.

### *Reportable Offenses*

If a student is arrested for certain crimes, a law enforcement agency is required by law to notify the student’s school principal, local school superintendent, and if applicable, SRO. These crimes are known as “reportable offenses.” Chapter 742 of 2022 required the principal or local school superintendent to invite a student’s attorney to participate in a conference between school officials, the student, and the student’s parent or guardian if the student is being removed or excluded from the student’s regular school program for a

reportable offense, including a child with a disability. Annually, local boards of education must provide reports to MSDE regarding information about each reportable offense and school disruptions that occur on public school grounds for the immediately preceding school year. MSDE must provide separate reports on this information each year to the specified entities.

### *School Resource Officers*

Chapter 30 of 2018 (Maryland Safe to Learn Act) defined an SRO as (1) a law enforcement officer assigned to a school in accordance with a memorandum of understanding between a local law enforcement agency and a local school system or (2) a Baltimore City School Police Officer, as defined in current law.

Under Chapter 30, the Maryland Center for School Safety (MCSS) developed, in consultation with local school systems, a specialized curriculum to be used in training SROs. The curriculum was submitted to and approved by the Maryland Police Training and Standards Commission (MPTSC). Chapter 30 also required MCSS to develop and submit to MPTSC for approval by March 1, 2019, a model training program based on the curriculum, which it has now done. Each local law enforcement agency must enroll SROs either in (1) the MCSS model training program or (2) a local training program approved by MPTSC that is consistent with the approved curriculum. All SROs were required to complete an approved specialized training program.

MCSS must collect specified data on SROs and, in collaboration with local law enforcement and school systems, develop guidelines based on its analysis of the data to assist local school systems in (1) identifying the appropriate number and assignment of SROs, including supplemental coverage by local law enforcement agencies and (2) collaborating and communicating with local law enforcement agencies. Each local school system must develop a plan in consultation with local law enforcement to implement the guidelines and submit its plan to MCSS for review and comment.

Before each school year begins, each local school system must annually file a report with MCSS that identifies (1) the public schools that have an SRO assigned and (2) if no SRO is assigned to a public school, the adequate local law enforcement coverage that will be provided to the school. MCSS must submit annual summaries of the SRO/law enforcement coverage reports it receives to the Governor and General Assembly. MCSS must also collect and report annually data on specified incidents of use of force involving SROs or school security employees.

Each year, the Governor must include \$10.0 million for the Safe Schools Fund to provide grants to local school systems and law enforcement agencies to meet the SRO/law

enforcement coverage requirements; the fiscal 2024 budget bill includes the funding. Grants must be made based on the proportion of public schools in each jurisdiction.

**State Expenditures:** General fund expenditures increase by \$85,812 in fiscal 2024 for MSDE to hire one education program specialist to perform data and program analysis, report local school system data, and provide technical assistance as needed. This estimate reflects a 90-day start-up delay from the bill’s July 1, 2023 effective date. It includes salary and fringe benefits for the educational specialist, one-time start-up costs, and other ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$78,403
Operating Expenses	<u>7,409</u>
<b>Total FY 2024 State Expenditures</b>	<b>\$85,812</b>

Future year expenditures reflect annualization, annual increases, employee turnover, ongoing operating expenses, and elimination of one-time costs.

**Additional Comments:** MSDE advises that, consistent with federal requirements and the bill’s provisions, it uses a risk ratio of 2.0 as the threshold for determining disproportionality with regard to the implementation of the federal IDEA. However, as noted above, State reporting and accountability related to disproportionality in student discipline uses a risk ratio of 3.0 as the threshold, which is not affected by the bill.

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### Additional Information

**Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 23 of 2022; HB 522 and HB 171 of 2021; and HB 328 of 2020.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Department of Education; Maryland Center for School Safety; Department of Juvenile Services; Baltimore City Public Schools; Anne Arundel County Public Schools; Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2023  
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