

HOUSE BILL 1811

F1

8lr4054

By: **Delegate Fraser-Hidalgo**

Rules suspended

Introduced and read first time: March 6, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Threat Assessment Teams – Establishment and Oversight**

3 FOR the purpose of requiring the State Department of Education to develop a certain model
4 policy for the establishment of a threat assessment team on or before a certain date;
5 requiring a certain model policy to include certain policies and procedures; requiring
6 each county board of education to establish a certain minimum number of threat
7 assessment teams in the local school system based on a certain model policy on or
8 before a certain date; requiring a threat assessment team to include individuals with
9 certain expertise; providing for the duties of a threat assessment team; authorizing
10 a threat assessment team to obtain a certain student’s health records under certain
11 circumstances; requiring a threat assessment team to report a certain determination
12 to the county superintendent; authorizing a threat assessment team to report a
13 certain determination to the local law enforcement agency; requiring a county
14 superintendent to notify a certain student’s parent or legal guardian about the threat
15 assessment team’s determination; requiring the threat assessment team to report
16 certain data to certain entities on or before a certain date and each year thereafter;
17 authorizing a county superintendent to establish a threat assessment team oversight
18 committee; requiring a threat assessment team oversight committee to include
19 individuals with certain expertise; requiring a certain law enforcement agency to
20 notify a certain threat assessment team if a certain student is arrested for a certain
21 offense; requiring the State’s Attorney to notify a certain threat assessment team of
22 the disposition of a certain reportable offense by a student under certain
23 circumstances; requiring a certain health care provider to disclose certain medical
24 records of a certain person to a certain threat assessment team under certain
25 circumstances; defining a certain term; and generally relating to the establishment
26 and oversight of threat assessment teams in local school systems.

27 BY adding to

28 Article – Education

29 Section 7–125

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2014 Replacement Volume and 2017 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Education
5 Section 7–303(a) through (c) and (f)
6 Annotated Code of Maryland
7 (2014 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Health – General
10 Section 4–301(a) and (l), 4–306(a) and (c), and 4–307(a) through (c)
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 4–306(b)(11)(ii) and (12) and 4–307(k)(1)(v)2. and (vi)
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2017 Supplement)

18 BY adding to
19 Article – Health – General
20 Section 4–306(b)(13) and 4–307(k)(1)(vii)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2017 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Education**

26 **7–125.**

27 **(A) (1) ON OR BEFORE JANUARY 1, 2019, THE DEPARTMENT SHALL**
28 **DEVELOP A MODEL POLICY FOR THE ESTABLISHMENT OF A THREAT ASSESSMENT**
29 **TEAM.**

30 **(2) THE MODEL POLICY UNDER PARAGRAPH (1) OF THIS SUBSECTION**
31 **SHALL INCLUDE:**

32 **(I) POLICIES ON THE ASSESSMENT OF STUDENT BEHAVIOR**
33 **AND INTERVENTION WITH A STUDENT BASED ON BEHAVIOR THAT POSES A THREAT**
34 **TO THE SAFETY OF OTHER STUDENTS OR SCHOOL STAFF; AND**

35 **(II) PROCEDURES FOR REFERRAL OF A STUDENT TO:**

1 1. **THE LOCAL LAW ENFORCEMENT AGENCY; OR**

2 2. **HEALTH CARE PROVIDERS FOR EVALUATION OR**
3 **TREATMENT, IF APPROPRIATE.**

4 **(B) (1) BEGINNING IN THE 2019–2020 SCHOOL YEAR, EACH COUNTY**
5 **BOARD SHALL ESTABLISH AT LEAST ONE THREAT ASSESSMENT TEAM IN THE LOCAL**
6 **SCHOOL SYSTEM BASED ON THE MODEL POLICY DEVELOPED UNDER SUBSECTION**
7 **(A) OF THIS SECTION.**

8 **(2) A THREAT ASSESSMENT TEAM SHALL INCLUDE INDIVIDUALS WITH**
9 **EXPERTISE IN:**

10 **(I) STUDENT COUNSELING;**

11 **(II) EDUCATIONAL INSTRUCTION;**

12 **(III) SCHOOL ADMINISTRATION; AND**

13 **(IV) LAW ENFORCEMENT.**

14 **(3) THE THREAT ASSESSMENT TEAM SHALL:**

15 **(I) PROVIDE GUIDANCE TO STUDENTS, FACULTY, AND STAFF**
16 **MEMBERS REGARDING THE RECOGNITION AND REPORTING OF THREATENING OR**
17 **ABERRANT STUDENT BEHAVIOR THAT MAY REPRESENT A THREAT TO THE**
18 **COMMUNITY, SCHOOL, OR STUDENT;**

19 **(II) IDENTIFY SPECIFIC MEMBERS OF THE SCHOOL COMMUNITY**
20 **TO WHOM A STUDENT MAY REPORT THREATENING BEHAVIOR; AND**

21 **(III) IMPLEMENT THE THREAT ASSESSMENT POLICIES ADOPTED**
22 **BY THE COUNTY BOARD BASED ON THE MODEL POLICY DEVELOPED BY THE**
23 **DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION.**

24 **(C) (1) (I) IF A THREAT ASSESSMENT TEAM MAKES A PRELIMINARY**
25 **DETERMINATION THAT A STUDENT POSES A THREAT OF VIOLENCE OR PHYSICAL**
26 **HARM TO SELF OR TO OTHERS, THE THREAT ASSESSMENT TEAM MAY OBTAIN THE**
27 **STUDENT’S HEALTH RECORDS AS PROVIDED IN §§ 4–306 AND 4–307 OF THE HEALTH**
28 **– GENERAL ARTICLE.**

29 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**

1 SUBSECTION, A MEMBER OF THE THREAT ASSESSMENT TEAM MAY NOT DISCLOSE
2 ANY PERSONAL HEALTH INFORMATION OBTAINED UNDER SUBPARAGRAPH (I) OF
3 THIS PARAGRAPH.

4 (2) IF A THREAT ASSESSMENT TEAM DETERMINES THAT A STUDENT
5 POSES A THREAT OF VIOLENCE OR PHYSICAL HARM TO SELF OR TO OTHERS, THE
6 THREAT ASSESSMENT TEAM:

7 (I) SHALL IMMEDIATELY REPORT THIS DETERMINATION TO
8 THE COUNTY SUPERINTENDENT; AND

9 (II) MAY REPORT THIS DETERMINATION TO THE LOCAL LAW
10 ENFORCEMENT AGENCY.

11 (3) AFTER A THREAT ASSESSMENT TEAM MAKES A REPORT TO THE
12 COUNTY SUPERINTENDENT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, THE
13 COUNTY SUPERINTENDENT SHALL IMMEDIATELY ATTEMPT TO NOTIFY THE
14 STUDENT'S PARENT OR LEGAL GUARDIAN ABOUT THE DETERMINATION.

15 (D) ON OR BEFORE JANUARY 1, 2021, AND EACH YEAR THEREAFTER, EACH
16 THREAT ASSESSMENT TEAM ESTABLISHED UNDER SUBSECTION (C) OF THIS
17 SECTION SHALL REPORT QUANTITATIVE DATA ON ITS ACTIVITIES TO:

18 (1) THE STATE BOARD;

19 (2) THE COUNTY SUPERINTENDENT OF THE LOCAL SCHOOL SYSTEM
20 IN WHICH THE THREAT ASSESSMENT TEAM WAS ESTABLISHED;

21 (3) THE MARYLAND STATE POLICE; AND

22 (4) THE MARYLAND DEPARTMENT OF HEALTH.

23 (E) (1) EACH COUNTY SUPERINTENDENT MAY ESTABLISH A THREAT
24 ASSESSMENT TEAM OVERSIGHT COMMITTEE.

25 (2) THE THREAT ASSESSMENT TEAM OVERSIGHT COMMITTEE SHALL
26 INCLUDE INDIVIDUALS WITH EXPERTISE IN:

27 (I) HUMAN RESOURCES;

28 (II) EDUCATION;

29 (III) SCHOOL ADMINISTRATION;

1 (IV) MENTAL HEALTH; AND

2 (V) LAW ENFORCEMENT.

3 7–303.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) “Criminal gang” has the meaning stated in § 9–801 of the Criminal Law
6 Article.

7 (3) “Law enforcement agency” means the law enforcement agencies listed
8 in § 3–101(e) of the Public Safety Article.

9 (4) “Local school system” means the schools and school programs under the
10 supervision of the local superintendent.

11 (5) “Local superintendent” means:

12 (i) The county superintendent, for the county in which a student is
13 enrolled, or a designee of the superintendent, who is an administrator; or

14 (ii) The superintendent of schools for the:

15 1. Archdiocese of Baltimore;

16 2. Archdiocese of Washington; and

17 3. Catholic Diocese of Wilmington.

18 (6) “Reportable offense” means:

19 (i) A crime of violence, as defined in § 14–101 of the Criminal Law
20 Article;

21 (ii) Any of the offenses enumerated in § 3–8A–03(d)(4) of the Courts
22 Article;

23 (iii) A violation of § 4–101, § 4–102, § 4–203, or § 4–204 of the
24 Criminal Law Article;

25 (iv) A violation of §§ 5–602 through 5–609, §§ 5–612 through 5–614,
26 § 5–617, § 5–618, § 5–627, or § 5–628 of the Criminal Law Article;

27 (v) A violation of § 4–503, § 9–504, or § 9–505 of the Criminal Law
28 Article;

- 1 (vi) A violation of § 6–102, § 6–103, § 6–104, or § 6–105 of the
2 Criminal Law Article;
- 3 (vii) A violation of § 9–802 or § 9–803 of the Criminal Law Article;
- 4 (viii) A violation of § 3–203 of the Criminal Law Article;
- 5 (ix) A violation of § 6–301 of the Criminal Law Article;
- 6 (x) A violation of § 9–302, § 9–303, or § 9–305 of the Criminal Law
7 Article;
- 8 (xi) A violation of § 7–105 of the Criminal Law Article;
- 9 (xii) A violation of § 6–202 of the Criminal Law Article; or
- 10 (xiii) A violation of § 10–606 of the Criminal Law Article.

11 (7) “School principal” means the principal of the public or nonpublic school
12 in which a student is enrolled, or a designee of the principal, who is an administrator.

13 (8) (i) “School security officer” includes a school principal, another
14 school administrator, a law enforcement officer, or other individual employed by a local
15 school system or a local government who is designated by the county superintendent or a
16 school principal to help maintain the security and safety of a school.

17 (ii) “School security officer” does not include a teacher.

18 (9) “Student” means an individual enrolled in a public school system or
19 nonpublic school in the State who is 5 years of age or older and under 22 years of age.

20 **(10) “THREAT ASSESSMENT TEAM” MEANS A THREAT ASSESSMENT**
21 **TEAM ESTABLISHED BY A COUNTY BOARD UNDER § 7–125 OF THIS TITLE.**

22 (b) If a student is arrested for a reportable offense or an offense that is related to
23 the student’s membership in a criminal gang, the law enforcement agency making the
24 arrest:

25 (1) Shall notify the following individuals of the arrest and the charges
26 within 24 hours of the arrest or as soon as practicable:

27 (i) The local superintendent;

28 (ii) The school principal; [and]

29 (iii) For a school that has a school security officer, the school security

1 officer; and

2 (IV) THE THREAT ASSESSMENT TEAM; AND

3 (2) May notify the State's Attorney of the arrest and charges.

4 (c) The State's Attorney shall promptly notify [either] the local superintendent,
5 THE THREAT ASSESSMENT TEAM, or the school principal of the disposition of the
6 reportable offense required to be reported under subsection (b) of this section.

7 (f) The State Board shall adopt regulations to ensure that information obtained
8 by a local superintendent, A THREAT ASSESSMENT TEAM, a school principal, or a school
9 security officer under subsections (b), (c), and (e) of this section is:

10 (1) Used to provide appropriate educational programming and related
11 services to the student and to maintain a safe and secure school environment for students
12 and school personnel;

13 (2) Transmitted only to school personnel of the school in which the student
14 is enrolled as necessary to carry out the purposes set forth in item (1) of this subsection;
15 and

16 (3) Destroyed when the student graduates or otherwise permanently
17 leaves school or turns 22 years old, whichever occurs first.

18 Article – Health – General

19 4–301.

20 (a) In this subtitle the following words have the meanings indicated.

21 (l) “Person in interest” means:

22 (1) An adult on whom a health care provider maintains a medical record;

23 (2) A person authorized to consent to health care for an adult consistent
24 with the authority granted;

25 (3) A duly appointed personal representative of a deceased person;

26 (4) (i) A minor, if the medical record concerns treatment to which the
27 minor has the right to consent and has consented under Title 20, Subtitle 1 of this article;
28 or

29 (ii) A parent, guardian, custodian, or a representative of the minor
30 designated by a court, in the discretion of the attending physician who provided the
31 treatment to the minor, as provided in § 20–102 or § 20–104 of this article;

1 (5) If item (4) of this subsection does not apply to a minor:

2 (i) A parent of the minor, except if the parent's authority to consent
3 to health care for the minor has been specifically limited by a court order or a valid
4 separation agreement entered into by the parents of the minor; or

5 (ii) A person authorized to consent to health care for the minor
6 consistent with the authority granted; or

7 (6) An attorney appointed in writing by a person listed in item (1), (2), (3),
8 (4), or (5) of this subsection.

9 4-306.

10 (a) In this section, "compulsory process" includes a subpoena, summons, warrant,
11 or court order that appears on its face to have been issued on lawful authority.

12 (b) A health care provider shall disclose a medical record without the
13 authorization of a person in interest:

14 (11) To a local drug overdose fatality review team established under Title 5,
15 Subtitle 9 of this article as necessary to carry out its official functions, subject to:

16 (ii) Any additional limitations for disclosure or redisclosure of a
17 medical record developed in connection with the provision of substance abuse treatment
18 services under State law or 42 U.S.C. § 290DD-2 and 42 C.F.R. Part 2; [or]

19 (12) To a guardian ad litem appointed by a court to protect the best interests
20 of a minor or a disabled or elderly individual who is a victim of a crime or a delinquent act,
21 for the sole purpose and use of the guardian ad litem in carrying out the guardian ad litem's
22 official function to protect the best interests of the minor or the disabled or elderly
23 individual in a criminal or juvenile delinquency court proceeding as permitted under 42
24 C.F.R. § 164.512(e); OR

25 **(13) TO A THREAT ASSESSMENT TEAM ESTABLISHED BY A COUNTY**
26 **BOARD OF EDUCATION UNDER § 7-125 OF THE EDUCATION ARTICLE, SUBJECT TO**
27 **THE ADDITIONAL LIMITATIONS UNDER § 4-307 OF THIS SUBTITLE FOR DISCLOSURE**
28 **OF A MEDICAL RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE**
29 **PROVISION OF MENTAL HEALTH SERVICES.**

30 (c) When a disclosure is sought under this section:

31 (1) A written request for disclosure or written confirmation by the health
32 care provider of an oral request that justifies the need for disclosure shall be inserted in the
33 medical record of the patient or recipient; and

1 (2) Documentation of the disclosure shall be inserted in the medical record
2 of the patient or recipient.

3 4–307.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) “Case management” means an individualized recipient centered service
6 designed to assist a recipient in obtaining effective mental health services through the
7 assessing, planning, coordinating, and monitoring of services on behalf of the recipient.

8 (3) “Core service agency” has the meaning stated in § 7.5–101 of this
9 article.

10 (4) “Director” means the Director of the Behavioral Health Administration
11 or the designee of the Director.

12 (5) “Mental health director” means the health care professional who
13 performs the functions of a clinical director or the designee of that person in a health care,
14 detention, or correctional facility.

15 (6) (i) “Personal note” means information that is:

16 1. The work product and personal property of a mental
17 health provider; and

18 2. Except as provided in subsection (d)(3) of this section, not
19 discoverable or admissible as evidence in any criminal, civil, or administrative action.

20 (ii) Except as provided in subsection (d)(2) of this section, a medical
21 record does not include a personal note of a mental health care provider, if the mental
22 health care provider:

23 1. Keeps the personal note in the mental health care
24 provider’s sole possession for the provider’s own personal use;

25 2. Maintains the personal note separate from the recipient’s
26 medical records; and

27 3. Does not disclose the personal note to any other person
28 except:

29 A. The mental health provider’s supervising health care
30 provider that maintains the confidentiality of the personal note;

31 B. A consulting health care provider that maintains the

1 confidentiality of the personal note; or

2 C. An attorney of the health care provider that maintains the
3 confidentiality of the personal note.

4 (iii) "Personal note" does not include information concerning the
5 patient's diagnosis, treatment plan, symptoms, prognosis, or progress notes.

6 (b) The disclosure of a medical record developed in connection with the provision
7 of mental health services shall be governed by the provisions of this section in addition to
8 the other provisions of this subtitle.

9 (c) When a medical record developed in connection with the provision of mental
10 health services is disclosed without the authorization of a person in interest, only the
11 information in the record relevant to the purpose for which disclosure is sought may be
12 released.

13 (k) (1) A health care provider shall disclose a medical record without the
14 authorization of a person in interest:

15 (v) In accordance with a subpoena for medical records on specific
16 recipients:

17 2. To grand juries, prosecution agencies, and law
18 enforcement agencies under the supervision of prosecution agencies for the sole purposes
19 of investigation and prosecution of a provider for theft and fraud, related offenses,
20 obstruction of justice, perjury, unlawful distribution of controlled substances, and of any
21 criminal assault, neglect, patient abuse or sexual offense committed by the provider against
22 a recipient, provided that the prosecution or law enforcement agency shall:

23 A. Have written procedures which shall be developed in
24 consultation with the Director to maintain the medical records in a secure manner so as to
25 protect the confidentiality of the records; and

26 B. In a criminal proceeding against a provider, to the
27 maximum extent possible, remove and protect recipient identifying information from the
28 medical records used in the proceeding; [or]

29 (vi) In the event of the death of a recipient, to the office of the medical
30 examiner as authorized under § 5–309 or § 10–713 of this article; **OR**

31 **(VII) TO A THREAT ASSESSMENT TEAM ESTABLISHED BY A**
32 **COUNTY BOARD OF EDUCATION UNDER § 7–125 OF THE EDUCATION ARTICLE.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
34 1, 2018.