A BILL FOR AN ACT

Concerning additional comprehensive reporting requirements for school discipline reports, and, in connection therewith, requiring a post-enactment review of the implementation of this Act.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill adds sexual assaults and the unlawful use of marijuana on school grounds, in a school vehicle, or at a school activity or sanctioned event to the current list of conduct and discipline code violations that a
school is required to report as part of the safe school reporting requirements. Incidents of sexual assaults must only be reported in the aggregate, without any identifying information. The bill clarifies that the term "law enforcement" includes school resource officers.

The division of criminal justice (division) shall compile and report on the number of arrests, summons, and tickets that occurred on school grounds and the court dispositions of those cases. The division shall prepare a retroactive report using the best available data for the 2013-14 and 2014-15 school years.

The scheduled post-enactment review of House Bill 12-1345 will now include a review of this bill, including a review of the report to be compiled by the division. The post-enactment review of House Bill 12-1345 is extended to 180 days after the 4-year anniversary of the passage of this bill.

---

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly determines and declares that:

   (a) In 2011, the general assembly created a task force to study and assess practices and statutes concerning zero tolerance practices in schools and the interaction of school discipline practices with the juvenile justice system;

   (b) The following year, as a result of the work of this task force, the general assembly passed House Bill 12-1345, which contained requirements for law enforcement agencies and district attorneys to annually report contacts with students. The purpose of this data was to discover the extent to which minor offenses committed by students in schools result in contact with law enforcement agencies and, ultimately, entrance into the criminal justice system.

   (c) Only seventy-four out of two hundred forty-six, or thirty percent, of law enforcement agencies and only six out of twenty-two, or twenty-seven percent, of district attorneys have complied with these
reporting requirements;

(d) Due to inconsistent data collection methods and procedures, even the limited data currently collected from law enforcement agencies and district attorneys cannot be used since it is unreliable and not submitted in such a way that permits statewide comparison; and

(e) A number of additional problems with school discipline reports have arisen, including:

(I) Schools are not required to separately report instances of sexual assault in school safety reports and, as a result, they report sexual assault in the ambiguous "other" category; and

(II) Despite the legalization of marijuana in the state, schools do not separate marijuana-related incidents from general drug-related incidents that occur on school property, in school vehicles, or at school activities or sanctioned events.

(2) Therefore, it is the intent of the general assembly to ensure that high-level, consistent, and easily accessible school safety data is available to parents and other interested parties by:

(a) Ensuring that school reporting requirements reflect important and relevant issues such as sexual assault and marijuana-related incidents; and

(b) Implementing a new data collection method that is less burdensome for law enforcement agencies and that permits a relevant, reliable, and in-depth statewide analysis.

SECTION 2. In Colorado Revised Statutes, 22-32-109.1, amend (1) (a) (V), (1) (b.5), (1) (f), (2) introductory portion, (2) (b) introductory portion, (2) (b) (IV) introductory portion, (2) (b) (IV) (C), (2) (b) (VII), (2) (b) (VIII), (2) (c) (II), (3) introductory portion, and (3) (c); and add
(1) (e.5), (2) (b) (IV) (C.5), and (2) (b) (IX) as follows:

22-32-109.1. Board of education - specific powers and duties
- safe school plan - conduct and discipline code - safe school reporting
requirements - school response framework - school resource officers
- definitions. (1) Definitions. As used in this section, unless the context
otherwise requires:

(a) "Action taken" means a specific type of discipline, including
but not limited to the following categories of discipline:

(V) Referral to a law enforcement agency; or

(b.5) "Community partners" means, collectively, local fire
departments, state and local law enforcement agencies, local 911
agencies, interoperable communications providers, the safe2tell program
described in section 24-31-606, C.R.S., local emergency medical service
personnel, local mental health organizations, local public health agencies,
local emergency management personnel, local or regional homeland
security personnel, and school resource officers.

(e.5) "LAW ENFORCEMENT" INCLUDES ANY LAW ENFORCEMENT
AGENCY, LAW ENFORCEMENT OFFICER, OR SCHOOL RESOURCE OFFICER.

(f) (I) "Referral to law enforcement" means a communication
between a school administrator, teacher, or other school employee and a
law enforcement agency, which communication:

(A) Is initiated by the school administrator, teacher, or other
school employee; and

(B) Concerns behavior by a student that the school administrator,
teacher, or other school employee believes may constitute a violation of
the school conduct and discipline code or a criminal or delinquent offense
and for which the school administrator, teacher, or other school employee
requests an investigation or other involvement by a law enforcement agency:

(II) "Referral to law enforcement" does not include:

(A) Contact with a law enforcement agency that is made for the purpose of education, prevention, or intervention regarding a student's behavior; or

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and a law enforcement officer. OR

(C) ANY INCIDENT OR COMMUNICATION THAT IS INITIATED BY LAW ENFORCEMENT.

(2) Safe school plan. In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, EACH SCHOOL DISTRICT BOARD OF EDUCATION SHALL, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, agencies, and community partners. The plan, at a minimum, shall MUST include the following:

(b) Safe school reporting requirements. A policy whereby the
principal of each public school in a school district shall IS REQUIRED TO submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of such THE school district concerning the learning environment in the school during that school year. The board of education of the school district annually shall ANNUALLY compile the reports from every school in the district and shall submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report shall be made available to MUST BE EASILY ACCESSIBLE BY the general public THROUGH A LINK ON THE DEPARTMENT OF EDUCATION'S WEB SITE HOMEPAGE. Such THE report shall MUST include, but need not be limited to, the following specific information for the preceding school year:

(IV) The number of conduct and discipline code violations. Each of which violations shall VIOLATION MUST be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(C) Use, possession, or sale of a drug or controlled substance, OTHER THAN MARIJUANA, on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C.5) THE UNLAWFUL USE, POSSESSION, OR SALE OF MARIJUANA ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT;

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school; and
(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs; AND

(IX) THE NUMBER OF ACTS ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT THAT INITIATED A TITLE IX SEXUAL VIOLENCE INVESTIGATION. IN ACCORDANCE WITH GUIDANCE FROM THE UNITED STATES DEPARTMENT OF EDUCATION, THE OFFICE FOR CIVIL RIGHTS, AND 20 U.S.C. SEC. 1681 ET SEQ., A TITLE IX INVESTIGATION MUST BE INITIATED WHEN A SCHOOL IS AWARE OR REASONABLY SHOULD BE AWARE OF POSSIBLE SEXUAL VIOLENCE. ANY INFORMATION PROVIDED AS A PART OF THIS SUBPARAGRAPH (IX) FOR THE SAFE SCHOOL REPORTING REQUIREMENTS MUST BE REPORTED AS AGGREGATE DATA AND MUST NOT INCLUDE ANY PERSONALLY IDENTIFYING INFORMATION. FOR THE PURPOSES OF THIS SUBPARAGRAPH (IX), "SEXUAL VIOLENCE" MEANS A PHYSICAL SEXUAL ACT PERPETRATED AGAINST A PERSON'S WILL OR WHERE A PERSON IS INCAPABLE OF GIVING CONSENT.

(c) **Internet safety plan.** (II) Each school district is encouraged to structure the internet safety plan so as to incorporate the internet safety topics into the teaching of the regular classroom curricula, rather than isolating the topics as a separate class. Each school district is encouraged to use available internet safety curricula resources, including but not limited to materials available through nonprofit internet safety foundations that are endorsed by the federal government. Each school district is also encouraged to work with the local law enforcement agencies for the jurisdiction in which the school district is located in developing the internet safety curricula, especially with regard to topics
that address personal safety on the internet, internet predator
identification, privacy issues, and homeland security issues. Each school
district is also encouraged to collaborate with parents and teachers in
developing the internet safety curricula, including collaborating with
district and statewide organizations that represent parents and teachers.

(3) **Agreements with state agencies.** Each board of education
shall cooperate and, to the extent possible, develop written agreements
with law enforcement, officials, the juvenile justice system, and social
services, as allowed under state and federal law, to keep each school
environment safe. Each board of education shall adopt a policy whereby
procedures will be used following instances of assault upon, disorderly
conduct toward, harassment of, the making knowingly of a false
allegation of child abuse against, or any alleged offense under the
"Colorado Criminal Code" directed toward a school teacher or school
employee or instances of damage occurring on the premises to the
personal property of a school teacher or school employee by a student.
Such procedures shall include, at a minimum, the following provisions:

(c) The school administration shall report the incident to the
district attorney or the appropriate local law enforcement, agency or
officer, who shall, upon receiving such report, investigate the
incident to determine the appropriateness of filing criminal charges or
initiating delinquency proceedings.

**SECTION 3.** In Colorado Revised Statutes, 22-32-146, amend
(4) introductory portion; and add (5) as follows:

22-32-146. **School use of on-site peace officers as school
resource officers.** (4) Commencing August 1, 2013, and continuing each
August 1 thereafter THROUGH AUGUST 1, 2014, each law enforcement
agency employing or contracting with any law enforcement officer who
is acting or has acted in his or her official capacity on school grounds, in
a school vehicle, or at a school activity or sanctioned event shall report to
the division of criminal justice created in section 24-33.5-502, C.R.S., in
aggregate form without personal identifying information, data about the
cases handled by the agency on school grounds, in a school vehicle, or at
a school activity or sanctioned event. FAILURE TO SUBMIT A TIMELY
REPORT TO THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO THIS
SUBSECTION (4) DOES NOT RELIEVE A LAW ENFORCEMENT AGENCY OF ITS
RESPONSIBILITY TO FILE THE REPORT REQUIRED BY THIS SUBSECTION (4).
A LAW ENFORCEMENT AGENCY THAT HAS FAILED TO FILE A TIMELY
REPORT SHALL FILE ALL SUCH REPORTS WITH THE DIVISION OF CRIMINAL
JUSTICE NO LATER THAN AUGUST 15, 2015. Each such report shall
include, at a minimum, the following information relating to the
preceding twelve months:

(5) COMMENCING AUGUST 1, 2015, AND CONTINUING AUGUST 1
EVERY YEAR THEREAFTER, EACH LAW ENFORCEMENT AGENCY THAT IS
ACTING OR HAS ACTED IN ITS OFFICIAL CAPACITY ON SCHOOL GROUNDS,
IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT
SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE ALL STUDENT
ARRESTS THAT OCCURRED AT A PUBLIC ELEMENTARY SCHOOL, MIDDLE OR
JUNIOR HIGH SCHOOL, OR HIGH SCHOOL; IN A SCHOOL VEHICLE; OR AT A
SCHOOL ACTIVITY OR SANCTIONED EVENT. FOR EACH SUCH REPORT, THE
LAW ENFORCEMENT AGENCY SHALL REPORT:

(a) THE STUDENT'S FULL NAME;

(b) THE STUDENT'S DATE OF BIRTH;

(c) THE STUDENT'S RACE, ETHNICITY, AND GENDER;
(d) The name of the school where the incident occurred or the name of the school that operated the vehicle or held the activity or event;

(e) The date of the arrest or taking of a student into custody;

(f) The date of the issuance of the summons or ticket;

(g) The arrest or incident report number as recorded by the law enforcement agency;

(h) The single most serious offense investigated per incident using the National Crime Information Center (NCIC) crime code;

(i) The type of weapon involved, if any, for offenses classified as Group A offenses under the National Incident-Based Reporting System; and

(j) The law enforcement agency’s originating reporting identifier.

SECTION 4. In Colorado Revised Statutes, 20-1-113, amend (1); and add (4) as follows:

20-1-113. Reporting of criminal proceedings involving public school students. (1) On or before August 1, 2013, and on or before each August 1 thereafter continuing through August 1, 2014, the district attorney of each judicial district, or his or her designee, shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., information about offenses alleged to have been committed by a student that have occurred on school grounds, in a school vehicle, or at a school activity or sanctioned event within the judicial district during the preceding twelve months. FAILURE TO SUBMIT A TIMELY REPORT TO THE
DIVISION OF CRIMINAL JUSTICE PURSUANT TO THIS SUBSECTION (1) DOES NOT RELIEVE A DISTRICT ATTORNEY OF HIS OR HER RESPONSIBILITY TO FILE THE REPORT REQUIRED BY THIS SUBSECTION (1). A DISTRICT ATTORNEY WHO HAS FAILED TO FILE A TIMELY REPORT SHALL FILE ALL SUCH REPORTS WITH THE DIVISION OF CRIMINAL JUSTICE NO LATER THAN AUGUST 15, 2015.

(4) COMMENCING AUGUST 1, 2015, AND CONTINUING EVERY AUGUST 1 EVERY YEAR THEREAFTER, EACH DISTRICT ATTORNEY SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE THE NAME OF ANY STUDENT WHO WAS GRANTED PRE-FILE JUVENILE OR ADULT DIVERSION FOR AN ARREST THAT OCCURRED AT A PUBLIC ELEMENTARY SCHOOL, MIDDLE OR JUNIOR HIGH SCHOOL, OR HIGH SCHOOL; IN A SCHOOL VEHICLE; OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT. IN ADDITION TO THE FULL NAME OF THE STUDENT, THE DISTRICT ATTORNEY SHALL REPORT THE STUDENT'S DATE OF BIRTH AND GENDER AND THE ARREST OR INCIDENT REPORT NUMBER, AS RECORDED BY THE ARRESTING LAW ENFORCEMENT AGENCY FOR THE STUDENT.

SECTION 5. In Colorado Revised Statutes, 24-33.5-503, add (1) (bb) and (1) (cc) as follows:

24-33.5-503. Duties of division. (1) The division has the following duties:

(bb) (I) ON OR BEFORE APRIL 1, 2016, AND EVERY APRIL 1 EVERY TWO YEARS THEREAFTER, TO COMPILE AND ANALYZE THE DATA REPORTED BY LAW ENFORCEMENT AGENCIES AND PREPARE A REPORT, WITHOUT IDENTIFYING INFORMATION, CONCERNING THE TOTAL NUMBER OF ARRESTS THAT OCCURRED ON SCHOOL GROUNDS, IN SCHOOL VEHICLES, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT AND DESCRIBE THE FINAL
DISPOSITION OF THOSE ARRESTS BY REPORTING AGENCY, SCHOOL, AND LOCATION. THE REPORT MUST ANALYZE THE DATA BY RACE, AGE, GENDER, ETHNICITY, AND THE SPECIFIC TYPE OF OFFENSE WITH ALL NATIONAL CRIME INFORMATION CENTER CRIME CODES. THE DIVISION OF CRIMINAL JUSTICE SHALL SUPPORT LAW ENFORCEMENT AGENCIES IN THEIR EFFORTS TO SUBMIT THE REQUIRED DATA, ACTIVELY REACH OUT TO AGENCIES THAT HAVE FAILED TO SUBMIT THE REQUIRED DATA, AND PROVIDE A REASONABLE DEGREE OF TRAINING IF NECESSARY.

(II) THE DIVISION SHALL SUBMIT THE REPORT TO THE EDUCATION AND JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE DIVISION SHALL PROVIDE THE REPORT TO ANY MEMBER OF THE PUBLIC UPON REQUEST, IN A MANNER THAT DOES NOT INCLUDE ANY IDENTIFYING INFORMATION REGARDING ANY STUDENT. IF THE DIVISION PROVIDES THE INFORMATION TO A MEMBER OF THE PUBLIC UPON REQUEST PURSUANT TO THIS PARAGRAPH (bb), THE DIVISION MAY CHARGE A FEE TO THE PERSON, WHICH FEE SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS INCURRED BY THE DIVISION IN PROVIDING THE INFORMATION. PROVIDED THAT THE DIVISION ADHERES TO ALL STATE AND FEDERAL PRIVACY AND CONFIDENTIALITY LAWS CONCERNING STUDENT INFORMATION, THE DIVISION SHALL PROVIDE THE UNDERLYING DATA GATHERED BY A LAW ENFORCEMENT AGENCY TO ANY INDEPENDENT RESEARCH OR COMMUNITY-BASED ORGANIZATION WORKING TO ANALYZE SCHOOL-BASED CRIMINAL BEHAVIOR AND THE RESPONSE TO THAT BEHAVIOR BY THE JUVENILE AND CRIMINAL JUSTICE SYSTEMS.

(cc) TO PREPARE A RETROACTIVE REPORT MEETING THE REQUIREMENTS OF PARAGRAPH (bb) OF THIS SUBSECTION (1) USING THE
SECTION 6. In Colorado Revised Statutes, 2-2-1201, amend (8) as follows:

2-2-1201. Accountability clauses - post-enactment review of implementation of bills by legislative service agencies - definitions - repeal. (8) (a) Notwithstanding any other provision of this section, in conducting the post-enactment review of House Bill 12-1345, enacted in 2012, and House Bill 15-____, enacted in 2015, the legislative service agencies shall not be subject to:

(I) The requirements of subsection (2) of this section; or

(II) The requirement in subsection (3) of this section that the legislative service agencies complete the post-enactment review no later than one hundred eighty days after the two-year or five-year anniversary, as applicable, of the enactment of House Bill 12-1345 or House Bill 15-____.

(b) In conducting the post-enactment review of House Bill 12-1345 and House Bill 15-____, enacted in 2015, the legislative service agencies shall submit to the members of the education committees of the house of representatives and senate, or any successor committees, any information reported by the division of criminal justice by school resource officers and other law enforcement officers pursuant to section 22-32-146, C.R.S., and by district attorneys pursuant to section 20-1-113, C.R.S. The committee members are encouraged to consider whether to: pursuant to section 24-33.5-503 (1) (bb), C.R.S.

(I) Continue to require school resource officers and other law enforcement officers and district attorneys to report such information to the division of criminal justice; or
(II) Introduce legislation to repeal such reporting requirements.

c) The legislative service agencies shall complete the post-enactment review of House Bill 12-1345 AND HOUSE BILL 15-____, ENACTED IN 2015, no later than one hundred eighty days after the four-year anniversary of the enactment of HOUSE BILL 15-____.

d) This subsection (8) is repealed, effective September 1, 2016 JULY 1, 2020.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.