
Education Committee

HB 2823

Brief Description: Creating a program to provide students and the community with the means to report anonymously concerning unsafe or violent activities, or the threat of these activities.

Sponsors: Representatives Parker, Riccelli, Manweller and Bergquist.

Brief Summary of Bill

- Establishes the Students Protecting Students program (Program) within the Office of the Superintendent of Public Instruction to provide students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities.
- Provides that the Program must establish methods of anonymous reporting via phone, text, and e-mail.
- Requires that information received be promptly forwarded to the relevant building principal or alternate school official, and, if immediately actionable, to the appropriate local law enforcement officers and public safety officers.
- Requires school districts to teach students about the Program every year, beginning in the 2016-17 school year.
- Requires districts and schools to disseminate information about the Program using normal means of existing communication, beginning in the 2016-17 school year.
- Provides that material created or obtained through the Program is confidential, and knowing disclosure is a misdemeanor offense.
- Contains provisions limiting disclosure of material except upon the motion of a criminal defendant, and after ex parte in camera review.
- Provides that material received, made, kept by, or received from the Program is exempt from disclosure under the Public Records Act.

Hearing Date: 2/1/16

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Megan Wargacki (786-7194).

Background:

School Safety.

In Washington, all public school districts and schools must have current Safe School Plans and procedures in place. The Office of the Superintendent of Public Instruction's (OSPI's) School Safety Center provides resources to help in the development of high-quality emergency operations and safety plans. The website of the School Safety Center has information about bullying and harassment, gang activity in schools, and crisis resources, among other things. One of those resources is the Crisis Text Line, a nonprofit company, which is accessible for free, anytime, anywhere in the United States, about any crisis. The company says that a live, trained crisis counselor receives the text messages and responds quickly, and that all information is confidential.

Some states have launched initiatives to provide safe and anonymous ways for students and members of the community to report concerns of safety. A national nonprofit organization called Safe2Tell National is trying to create national Safe2Tell school safety models. This company provides technical assistance and guidance to states wanting to replicate its model. Colorado adopted the Safe2Tell model. In 2007 Colorado passed a bill supporting the Safe2Tell program that ensured that reports to the hotline would be anonymous and records would remain confidential.

In 2014 the OSPI was awarded a five-year Project AWARE (Advancing Wellness and Resilience in Education) federal grant to:

- build and expand capacity to make schools safer, improve school climate, and increase awareness of mental health issues among youth;
- provide training for school personnel and other adults to detect and respond to mental health issues in children and youth; and
- connect those who may have behavioral health issues with appropriate services.

The Public Records Act.

The Public Records Act (PRA) requires all state and local agencies to disclose public records to any person upon request, unless the record falls within certain statutory exemptions. Under the PRA, a public record is any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics.

Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally while the exemptions must be interpreted narrowly to effectuate the general policy favoring disclosure.

Summary of Bill:

Program Description.

The Students Protecting Students program (Program) is established within the OSPI. The primary purpose of the program is to provide an anonymous way that students and the community can report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities. The Program must:

- establish and maintain methods of anonymous reporting via, at a minimum, phone, text message, and e-mail;
- establish methods and procedures to ensure that the identity of the reporting party remains anonymous;
- establish methods and procedures so that information obtained from a reporting party who voluntarily discloses his or her identity and verifies willingness to be identified may be shared with employees or persons operating the Program, law enforcement officers, public safety officers, and school officials;
- establish methods and procedures to ensure that the identity of a reporting party who becomes known through any means other than voluntary disclosure is not further disclosed; and
- promptly forward information received to the relevant building principal, or alternate school official, and, if deemed immediately actionable, to the appropriate local law enforcement officers and public safety officers.

Program Awareness.

Beginning in the 2016-17 school year, students in each common school must be taught about the Program, including how to report anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement agencies, public safety agencies, and school officials. The information taught must be age-appropriate.

Beginning in the 2016-17 school year, schools and districts must disseminate information about the Program, including the contact information for anonymous reporting, through any normal means of existing communication to students and families.

Confidential Material.

Material created or obtained by the Program is confidential and must not be disclosed. "Material" means a record, report, claim, writing, document, information anonymously reported, or information related to the source of the material.

Compelling Disclosure of Material.

The Program and its employees may be compelled to produce material only before a court or other tribunal and only under a court order for an in camera review. "In camera" means a confidential review by the judge alone in his or her chambers. An in camera review must be limited to an inspection of material that is relevant to the specific case pending before the court. The Attorney General acting on behalf of the Program has standing in an action to oppose the disclosure of material in the custody of the Program.

The Program and its employees may be compelled to produce material on the motion of a criminal defendant, supported by an affidavit that the material contains impeachment or exculpatory evidence. After an ex parte in camera review, the court may order the material be produced under a protective order that includes the redaction of the reporting party's identity and limitations on the use of the material. Material excised under a judicial order must be sealed and

preserved in the records of the court, to be made available to the appellate court in the event of an appeal. After the time for appeal has expired, the court must return the material to the Program.

Public Records Act Exemption.

Material received, made, kept by, or received from, the Program that is confidential is exempt from disclosure under the PRA.

Violation of Confidentiality.

A person who knowingly discloses material in violation of these provisions commits a misdemeanor punishable by up to 90 days imprisonment, up to \$1,000 in fines, or both.

Appropriation: None.

Fiscal Note: Requested on 1/26/16.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.