



State of Tennessee

PUBLIC CHAPTER NO. 394

SENATE BILL NO. 1238

By Gresham

Substituted for: House Bill No. 1158

By Ogles, Ragan, Smith, Hardaway, Terry, Coley, Powers

AN ACT to amend Tennessee Code Annotated, Title 49, relative to threat assessment teams.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding the following language as a new part:

49-6-2601.

(a) Each LEA may adopt a policy to establish a threat assessment team within the LEA. The purpose of the threat assessment team is to develop comprehensive intervention-based approaches to prevent violence, manage reports of potential threats, and create a system that fosters a safe, supportive, and effective school environment.

(b) The threat assessment team must include LEA personnel and law enforcement personnel. An LEA's threat assessment team may include juvenile services personnel, a representative of the local district attorney's office, a representative of the department of children's services, and mental health service providers.

(c) A threat assessment team shall:

(1) Obtain training from local law enforcement or mental health service providers on how to assess individuals exhibiting threatening or disruptive behavior and develop interventions for individuals exhibiting such behavior;

(2) Conduct threat assessments based on dangerous or threatening behavior of individuals in the school, home, or community setting;

(3) Provide guidance to students, faculty, staff, and others in the LEA on how to recognize, address, and report threatening or dangerous behavior;

(4) Establish procedures that outline the circumstances in which LEA personnel are required to report threatening or dangerous behavior;

(5) Establish procedures for students, faculty, and community members to anonymously report threatening or dangerous behavior and specify to whom the behavior should be reported;

(6) Provide guidance and best practices for the intervention and prevention of violence;

(7) Establish procedures for the:

(A) Assessment of individuals exhibiting behavior that may present a threat to the health or safety of the individual or others;

(B) Development of appropriate means of intervention, diversion, and de-escalation of threats; and

(C) Development of appropriate courses of actions that should be taken in the event threatening or dangerous behavior is reported, including, but not limited to, referrals to community services or healthcare providers, notification of parents or guardians, if appropriate, or notification of law enforcement and emergency medical services;

(8) Refer individuals to support services; and

(9) Provide post-incident assessments and evaluate the effectiveness and response of the LEA to incidents.

(d) The threat assessment team shall document all behaviors and incidents deemed to pose a risk to school safety or that result in intervention and shall provide the information to the LEA. All information shall be documented in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws. The LEA must consider the information when reviewing and developing a building-level school safety plan.

(e) The threat assessment team shall report threat assessment team activities to the local board of education and the director of schools on a regular basis. The report must include quantitative data on threat assessment team activities, including post-incident assessments, and must provide information on the effectiveness of the team's response to incidents deemed to pose a risk to school safety. The report must comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws.

(f) Documents produced or obtained pursuant to this section are not open for public inspection. Threat assessment team meetings do not constitute an open meeting as defined by § 8-44-102.

49-6-2602.

(a)(1) Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence or exhibits significantly disruptive behavior or need for assistance, the threat assessment team may:

(A) Request law enforcement information or records, which may be provided as deemed appropriate by the law enforcement agency in accordance with state and federal privacy laws; and

(B) Request court files and records, which may be provided as deemed appropriate by the juvenile court pursuant to § 37-1-153.

(2) A member of a threat assessment team shall not disclose any court files or records obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which the disclosure was made. This section does not require a law enforcement agency or juvenile court to produce a record or limit a law enforcement agency's or juvenile court's discretion.

(3) Law enforcement and juvenile justice information obtained pursuant to this part cannot be used:

(A) To discipline or exclude a child from educational services unless the information is provided to a school pursuant to § 37-1-131(a)(2)(B); or

(B) By a juvenile court system to assess legal consequences against a person for any action, unless the information is brought before the juvenile court pursuant to a properly filed petition and addressed through the proper court proceedings in accordance with title 37, chapter 1.

(b) An LEA may disclose information contained in a student's education record to appropriate parties, including members of the threat assessment team and the members' respective agencies, in the event of an emergency if knowledge of the

information is necessary to protect the health or safety of the student or other individuals. Any disclosure under this subsection must comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, the Data Accessibility, Transparency and Accountability Act, and all other relevant state and federal privacy laws. This section does not limit an LEA's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(c) Agencies, entities, and individuals subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1320d et seq.) may disclose information contained in a medical record to the threat assessment team if the agency, entity, or individual believes that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. Any disclosure under this subsection must comply with HIPAA. Nothing in this subsection (c) limits an agency's, entity's or individual's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(d) The threat assessment team shall certify to any agency or individual providing confidential information that the information will not be disclosed to any other party, except as provided by law. The agency providing the information to the threat assessment team shall retain ownership of the information provided, and such information remains subject to any confidentiality laws applicable to the agency. The provision of information to the threat assessment team does not waive any applicable confidentiality standards. Confidential information may be shared with the threat assessment team only as necessary to protect the safety of the individual or others. Nothing in this part compels an agency or individual to share records or information unless required by law.

49-6-2603.

(a) A threat assessment team and individual members of a threat assessment team, and any person providing information to a threat assessment team, are not liable in any action for damages or for other relief for any lawful actions taken in accordance with this part. A threat assessment team and individual members of a threat assessment team are immune from liability arising from:

(1) The provision of information to a threat assessment team, if the information is provided to the threat assessment team in good faith, without malice, and on the basis of facts known or reasonably believed to exist; or

(2) Any decisions, opinions, actions, and proceedings rendered, entered, or acted upon by a threat assessment team within the scope or function of the duties of the threat assessment team if made in good faith, without malice, and on the basis of facts known or reasonably believed to exist.

SECTION 2. The state board of education shall promulgate rules to effectuate the purposes of this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1238

PASSED: May 1, 2019


RANDY McNALLY
SPEAKER OF THE SENATE


GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 10th day of May 2019


BILL LEE, GOVERNOR