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MEMORANDUM

TO: Members of the Juvenile Defense Attorney Interim Committee

FROM: Richard Sweetman

DATE: August 12, 2013

SUBJECT: SB12-046 concerning disciplinary measures in public schools

I. Background

In 2012, the Colorado General Assembly considered SB12-046, which concerned disciplinary measures in public schools. SB12-046 was the sole bill to come out of the 2011 Legislative Task Force to Study School Discipline, which met during the 2011 legislative interim. SB12-046 made substantive changes to the laws concerning school conduct and discipline codes, grounds for suspension and expulsion, and referrals of students to law enforcement agencies. The bill eliminated statutory "zero tolerance" language and increased the discretion of schools and school districts to determine when to impose suspensions and expulsions as disciplinary measures. The bill also created reporting requirements for (1) law enforcement officers who arrest or ticket students on school grounds and (2) district attorneys who handle cases involving students accused of committing offenses on school grounds.

SB12-046 was lost on the penultimate day of the 2012 session when the House of Representatives declined to take up the bill for consideration on second reading. However, the provisions of SB12-046 were saved on Sine Die -- May 9, 2012 -- when they were amended into HB12-1345 (the school finance bill) on third reading in the Senate. These provisions were ultimately enacted into law as Sections 21 through 46 of HB12-1345.

II. Relevant provisions of SB12-046/HB12-1345

SB12-046/HB12-1345 contained several provisions that are relevant to the deliberations of the 2013 Juvenile Defense Attorney Interim Committee:

A. School districts required to minimize referrals of students to law enforcement.

First, SB12-046/HB12-1345 requires that, on and after August 1, 2013, in creating and enforcing a school conduct and discipline code, each school district board of education shall:

- (1) Impose proportionate disciplinary interventions and consequences that are designed to reduce the number of referrals of students to law enforcement; and
- (2) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice

system.¹

B. School resource officers required to report incidents to school principals.

Under SB12-046/HB12-1345, if a school resource officer (SRO) or other law enforcement officer acting in his or her official capacity on school grounds arrests a student, the officer shall notify the principal of the school of the arrest within twenty-four hours.²

If an SRO or other law enforcement officer acting in his or her official capacity on school grounds issues a summons, ticket, or other notice requiring the appearance of a student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, the officer shall notify the principal of the school within ten days after the issuance of the summons, ticket, or other notice.³

C. Law enforcement agencies required to report data concerning cases involving students.

Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who acts in his or her official capacity on school grounds shall report to the division of criminal justice (DCJ) within the state department of public safety, in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds.⁴ Each report shall include, at a minimum, the following information relating to the preceding twelve months:

(1) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(2) The number of students arrested by the officer, including the offense for which each such arrest was made;

(3) The number of summonses or tickets issued by the officer to students; and

(4) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.⁵

D. District attorneys required to report data concerning cases involving students.

Under SB12-046/HB12-1345, on or before August 1, 2013, and on or before each August 1 thereafter, the district attorney of each judicial district shall report to DCJ information about offenses alleged to have been committed by a student that have occurred

¹ See page 30 of HB12-1345.

² See page 34 of HB12-1345.

³ Ibid.

⁴ See pages 34-35 of HB12-1345.

⁵ Ibid.

on school grounds within the judicial district during the preceding twelve months.⁶ The reported information shall include the number of offenses filed in court, including the total number of each type of such offenses; the disposition of each case; and the age, gender, school, and race or ethnicity of each student that the district attorney prosecuted.⁷

To the extent practicable, the reported information shall also include:

(1) The number of offenses that were referred to the district attorney by a law enforcement agency and were not filed in court, including the total number of each type of such offenses; and

(2) The number of offenses for which the district attorney referred an offender to a juvenile diversion program or other alternative program, including the total number of each type of such offenses.⁸

E. Division of criminal justice required to make reported data available to the public upon request.

SB12-046/HB12-1345 requires DCJ to receive the information reported to DCJ by law enforcement agencies and by district attorneys and provide the information to any member of the public upon request, in a manner that does not include any identifying information regarding any student.⁹

F. Peace officer standards and training board required to establish standards for training of SROs.

On or before January 1, 2014, the peace officers standards and training (POST) board shall identify an SRO training curriculum to prepare peace officers to serve as SROs. In assigning peace officers to serve as SROs, each law enforcement agency is encouraged to ensure the officers have successfully completed the training curriculum or will complete the training curriculum within six months after beginning the assignment.¹⁰

On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the POST training curriculum.¹¹

If you have any questions about the content of this memo, please contact Richard Sweetman at (303) 866-4333.

⁶ See pages 43-44 of HB12-1345.

⁷ See page 44 of HB12-1345.

⁸ Ibid.

⁹ See page 46 of HB12-1345.

¹⁰ See page 45 of HB12-1345.

¹¹ Ibid.