

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 12-0459.01 Brita Darling x2241

SENATE BILL 12-079

SENATE SPONSORSHIP

King S., Cadman, Morse

HOUSE SPONSORSHIP

Stephens, Fields, Priola, Schafer S.

Senate Committees
Local Government

House Committees
Local Government

HOUSE
3rd Reading Unam ended
March 15, 2012

A BILL FOR AN ACT

101 **CONCERNING REVISIONS TO THE SAFE2TELL PROGRAM RELATING TO**
102 **ADVANCES IN COMMUNICATIONS TECHNOLOGY.**

HOUSE
2nd Reading Unam ended
March 12, 2012

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>.)

SENATE
3rd Reading Unam ended
February 14, 2012

The bill amends the safe2tell program (program) as follows:

- ! Removes the references in the article to the "hotline" to clarify that the program receives information through various methods of transmission in addition to telephone calls;

SENATE
Am ended 2nd Reading
February 13, 2012

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- ! Clarifies the existing structure of the program as a single program and reflects the proper name of the program;
- ! Clarifies that information received by the program through methods established by the program is confidential and is not subject to subpoena except under certain conditions.

The bill includes interoperable communications providers and the program as community partners in the school response framework.

Materials that are confidential pursuant to the statute shall not be released for public inspection as a public record.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 16-15.8-101
3 as follows:

4 **16-15.8-101. Legislative declaration.** (1) The general assembly
5 hereby finds and declares that:

6 (a) According to the United States secret service AND
7 DEPARTMENT OF EDUCATION, in ~~seventy-five~~ EIGHTY-ONE percent of
8 dangerous or violent incidents in schools, someone other than the attacker
9 knew the incident was going to happen but did not report or act on that
10 knowledge. ADDITIONALLY, IN INCIDENTS OF TARGETED SCHOOL
11 VIOLENCE, MOST ATTACKERS ENGAGED IN SOME BEHAVIOR PRIOR TO THE
12 INCIDENT THAT CAUSED OTHERS CONCERN OR INDICATED A NEED FOR
13 HELP;

14 (b) The ability to anonymously report information about UNSAFE,
15 POTENTIALLY HARMFUL, dangerous, violent, or criminal activities before
16 or after they have occurred is critical in reducing, RESPONDING TO, AND
17 RECOVERING FROM these types of events in schools;

18 (c) The ~~national safe-2-tell~~ SAFE2TELL program empowers
19 students ~~teachers, other school employees,~~ and the community by
20 ~~allowing them~~ OFFERING A COMPREHENSIVE PROGRAM OF EDUCATION,

1 AWARENESS, AND TRAINING AND A READILY ACCESSIBLE TOOL THAT
2 ALLOWS STUDENTS AND THE COMMUNITY to easily provide anonymous
3 information about UNSAFE, POTENTIALLY HARMFUL, dangerous, violent,
4 or criminal activities, OR THE THREAT OF THESE ACTIVITIES, to appropriate
5 law enforcement and public safety agencies ~~through a single electronic~~
6 ~~hotline~~ AND SCHOOL OFFICIALS; and

7 (d) The ~~safe-2-tell~~ SAFE2TELL program has a proven ~~national~~
8 record of success in prevention and intervention in cases of threats to
9 people or property, assaults, bullying, child abuse, substance abuse,
10 cutting, suicide, gangs, weapons, internet safety, or other UNSAFE,
11 POTENTIALLY HARMFUL, dangerous, violent, or criminal activities; AND

12 (e) THE SAFE2TELL PROGRAM SERVES AS A COMMUNITY PARTNER
13 IN THE SCHOOL RESPONSE FRAMEWORK DESCRIBED IN SECTION
14 22-32-109.1 (4), C.R.S., AND THE PROGRAM MAY ENGAGE IN
15 INFORMATION SHARING AND INTEROPERABLE COMMUNICATIONS WITH
16 OTHER COMMUNITY PARTNERS AS PART OF A COORDINATED RESPONSE TO
17 A SCHOOL-RELATED INCIDENT.

18 (2) The general assembly therefore finds that it is appropriate and
19 necessary to provide for the anonymity of a person who provides
20 information ~~through~~ TO the ~~safe-2-tell hotline~~ SAFE2TELL PROGRAM and
21 to provide for the confidentiality of ~~safe-2-tell program records~~
22 SAFE2TELL MATERIALS.

23 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
24 **with amendments,** 16-15.8-102 as follows:

25 **16-15.8-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "IN CAMERA REVIEW" MEANS AN INSPECTION OF MATERIALS BY

1 THE COURT, IN CHAMBERS, TO DETERMINE WHAT, IF ANY, MATERIALS ARE
2 DISCOVERABLE.

3 (2) "MATERIALS" MEANS ANY RECORDS, REPORTS, CLAIMS,
4 WRITINGS, DOCUMENTS, OR INFORMATION ANONYMOUSLY REPORTED OR
5 INFORMATION RELATED TO THE SOURCE OF THE MATERIALS.

6 (3) "SAFE2TELL", "SAFE2TELL PROGRAM", OR "PROGRAM" MEANS
7 THE PROGRAM DESCRIBED IN SECTION 16-15.8-103 THAT PROVIDES
8 STUDENTS AND THE COMMUNITY WITH THE MEANS TO RELAY
9 INFORMATION ANONYMOUSLY CONCERNING UNSAFE, POTENTIALLY
10 HARMFUL, DANGEROUS, VIOLENT, OR CRIMINAL ACTIVITIES, OR THE
11 THREAT OF THESE ACTIVITIES, TO APPROPRIATE LAW ENFORCEMENT AND
12 PUBLIC SAFETY AGENCIES AND SCHOOL OFFICIALS.

13 **SECTION 3.** In Colorado Revised Statutes, **amend** 16-15.8-103
14 as follows:

15 **16-15.8-103. Safe2tell - duties - functions.** (1) In addition to any
16 other requirements for articles of incorporation imposed by articles 121
17 to 137 of title 7, C.R.S., the articles of incorporation for a ~~safe-2-tell~~ THE
18 SAFE2TELL program shall require that the ~~safe-2-tell~~ SAFE2TELL program:

19 (a) ~~Maintain, and expand if necessary, the existing hotline~~
20 ESTABLISH AND MAINTAIN METHODS OF ANONYMOUS REPORTING
21 CONCERNING UNSAFE, POTENTIALLY HARMFUL, DANGEROUS, VIOLENT, OR
22 CRIMINAL ACTIVITIES, OR THE THREAT OF SUCH ACTIVITIES;

23 (b) Establish ~~a method~~ METHODS AND PROCEDURES to ensure that
24 the identity of a ~~person who provides information concerning dangerous,~~
25 ~~violent, or criminal activities, to the hotline~~ THE REPORTING PARTY
26 remains unknown to all persons and entities, including law enforcement
27 officers and employees OR OTHER PERSONS operating the ~~hotline~~

1 PROGRAM;

2 (c) Establish a method to ensure that, if the identity of a person
3 who provides information to the hotline becomes known, whether through
4 voluntary disclosure or any other means, the identity is not further
5 disclosed METHODS AND PROCEDURES SO THAT INFORMATION OBTAINED
6 FROM A REPORTING PARTY WHO VOLUNTARILY DISCLOSES HIS OR HER
7 IDENTITY AND VERIFIES THAT HE OR SHE IS WILLING TO BE IDENTIFIED MAY
8 BE SHARED WITH LAW ENFORCEMENT OFFICERS, EMPLOYEES OR OTHER
9 PERSONS OPERATING THE PROGRAM, AND WITH SCHOOL OFFICIALS;

10 (d) ESTABLISH METHODS AND PROCEDURES TO ENSURE THAT A
11 REPORTING PARTY'S IDENTITY THAT BECOMES KNOWN THROUGH ANY
12 MEANS OTHER THAN VOLUNTARY DISCLOSURE IS NOT FURTHER DISCLOSED;
13 AND

14 ~~(d) (e) Assist law enforcement agencies and other public safety~~
15 ~~organizations in the detection of dangerous, violent, or criminal activities,~~
16 ~~and the apprehension of offenders or at-risk persons by Promptly~~
17 ~~forwarding~~ FORWARD information received concerning dangerous,
18 ~~violent, or criminal activities~~ BY THE PROGRAM to the appropriate law
19 enforcement or public safety agency OR SCHOOL OFFICIALS.

20 (e) Foster the detection of dangerous, violent, or criminal activities
21 and encourage students, teachers, and other school employees to report
22 information about such activities to the hotline; and

23 (f) Encourage local media providers to promote the hotline by
24 informing the public of its functions and benefits.

25 **SECTION 4.** In Colorado Revised Statutes, **amend** 16-15.8-104
26 as follows:

27 **16-15.8-104. In camera review - confidentiality of materials -**

1 **criminal penalty.** (1) (a) The ~~safe-2-tell~~ SAFE2TELL program ~~in~~ AND
2 PERSONS implementing AND OPERATING the ~~safe-2-tell~~ ~~hotline~~ PROGRAM
3 shall not be compelled to produce ~~records concerning a report to the~~
4 ~~hotline of dangerous, violent, or criminal activities before a court or other~~
5 ~~tribunal~~; ANY MATERIALS except on the motion of a criminal defendant to
6 the court in which the offense is being tried, supported by an affidavit
7 establishing that the ~~records or report~~ MATERIALS contain impeachment
8 evidence or evidence that is exculpatory to the defendant in the trial of
9 that offense.

10 (b) ~~On motion of a defendant pursuant to paragraph (a) of this~~
11 ~~subsection (1), the defendant shall be authorized to subpoena records and~~
12 ~~reports for review by the court in accordance with this section.~~ IF THE
13 DEFENDANT'S MOTION IS GRANTED, the court shall conduct an ex parte in
14 camera review of materials produced under the defendant's subpoena. ~~to~~
15 ~~determine whether the materials contain impeachment evidence or~~
16 ~~evidence that is exculpatory to the defendant.~~

17 (c) If the court determines that the produced materials contain
18 impeachment evidence or evidence that is exculpatory to the defendant,
19 the court shall order the materials to be produced to the defendant
20 PURSUANT TO A PROTECTIVE ORDER THAT INCLUDES, AT A MINIMUM, THE
21 REDACTION OF THE REPORTING PARTY'S IDENTITY AND LIMITATIONS ON
22 THE USE OF THE MATERIALS, AS NEEDED, UNLESS CONTRARY TO STATE OR
23 FEDERAL LAW. ~~In the event the materials contain information that would~~
24 ~~identify the person who was the source of the evidence, the court shall~~
25 ~~issue appropriate orders to ensure that the person's identity is not~~
26 ~~disclosed, unless the state or federal constitution requires the disclosure~~
27 ~~of the person's identity.~~ ANY MATERIALS EXCISED PURSUANT TO A

1 JUDICIAL ORDER FOLLOWING THE IN CAMERA REVIEW SHALL BE SEALED
2 AND PRESERVED IN THE RECORDS OF THE COURT, TO BE MADE AVAILABLE
3 TO THE APPELLATE COURT IN THE EVENT OF AN APPEAL. AFTER THE TIME
4 FOR APPEAL HAS EXPIRED, THE COURT SHALL RETURN THE MATERIALS TO
5 THE SAFE2TELL PROGRAM.

6 (d) The court shall return to the safe-2-tell program all materials
7 produced under this subsection (1) that are not disclosed to the defendant.
8 The safe-2-tell program shall retain the materials until the conclusion of
9 the criminal trial and the expiration of the time for all direct appeals in the
10 case.

11 (2) (a) ~~Records and information~~ MATERIALS created or obtained
12 through THE implementation OR OPERATION of the ~~safe-2-tell hotline~~
13 SAFE2TELL PROGRAM are confidential, and no person shall disclose the
14 ~~records or information~~ MATERIAL. The ~~safe-2-tell~~ SAFE2TELL program in
15 AND PERSONS implementing a ~~safe-2-tell hotline~~, OR OPERATING THE
16 SAFE2TELL PROGRAM may be compelled to produce the ~~records or~~
17 ~~information~~ MATERIALS only before a court or other tribunal and only
18 pursuant to court order for an in camera review. Any such review shall be
19 limited to an inspection of ~~records and information~~ MATERIALS that are
20 ~~relevant~~ MATERIAL to the specific case pending before the court. THE
21 ATTORNEY GENERAL ACTING ON BEHALF OF THE SAFE2TELL PROGRAM
22 SHALL HAVE STANDING IN ANY ACTION TO OPPOSE THE DISCLOSURE OF
23 MATERIALS IN THE CUSTODY OF THE SAFE2TELL PROGRAM.

24 (b) A person who knowingly discloses ~~confidential records or~~
25 ~~information~~ MATERIALS in violation of the provisions of this subsection
26 (2) commits a class 1 misdemeanor.

27 **SECTION 5.** In Colorado Revised Statutes, **amend** 22-1-126 as

1 follows:

2 **22-1-126. Safe2tell program.** As described in section
3 16-15.8-103, C.R.S., there is established ~~a safe-2-tell electronic hotline~~
4 THE SAFE2TELL PROGRAM with the primary purpose of providing students
5 ~~teachers, other school employees,~~ and the community with the means to
6 relay information anonymously concerning UNSAFE, POTENTIALLY
7 HARMFUL, dangerous, violent, or criminal activities, OR THE THREAT OF
8 THESE ACTIVITIES, to appropriate law enforcement ~~or~~ AND public safety
9 agencies ~~through a single anonymous electronic hotline~~ AND SCHOOL
10 OFFICIALS.

11 **SECTION 6.** In Colorado Revised Statutes, 22-32-109.1, **amend**
12 (4) (d) introductory portion as follows:

13 **22-32-109.1. Board of education - specific powers and duties**
14 **- safe schools. (4) School response framework - school safety,**
15 **readiness, and incident management plan.** Each board of education
16 shall establish a school response framework that shall consist of policies
17 described in this subsection (4). By satisfying the requirements of this
18 subsection (4), a school or school district shall be in compliance with the
19 national incident management system, referred to in this subsection (4) as
20 "NIMS", developed by the federal emergency management agency. At a
21 minimum, the policies shall require:

22 (d) Each school district, on or before July 1, 2009, to start to
23 develop a school safety, readiness, and incident management plan,
24 including, to the extent possible, emergency communications, that
25 coordinates with any statewide or local emergency operation plans. In
26 developing the plan, a school district may collaborate with local fire
27 departments, state and local law enforcement agencies, local 911

1 agencies, INTEROPERABLE COMMUNICATIONS PROVIDERS, THE SAFE2TELL
2 PROGRAM DESCRIBED IN SECTION 16-15.8-103, C.R.S., local emergency
3 medical service personnel, local mental health organizations, local public
4 health agencies, local emergency management personnel, and local or
5 regional homeland security personnel, which entities are collectively
6 referred to in this subsection (4) as "community partners". The school
7 safety, readiness, and incident management plan shall, at a minimum,
8 identify for each public school in the school district:

9 **SECTION 7.** In Colorado Revised Statutes, 24-72-204, **add** (2)
10 (e) as follows:

11 **24-72-204. Allowance or denial of inspection - grounds -**
12 **procedure - appeal - definitions.** (2) (e) NOTWITHSTANDING ANY
13 PROVISION TO THE CONTRARY IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF
14 THIS SUBSECTION (2), THE CUSTODIAN SHALL DENY THE RIGHT OF
15 INSPECTION OF ANY MATERIALS RECEIVED, MADE, OR KEPT BY THE
16 SAFE2TELL PROGRAM, AS DESCRIBED IN SECTION 16-15.8-103, C.R.S.,
17 THAT ARE CONFIDENTIAL PURSUANT TO SECTION 16-15.8-104, C.R.S.

18 **SECTION 8. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.