

By: Representative Moak

To: Education; Judiciary B

HOUSE BILL NO. 480

1 AN ACT TO ESTABLISH THE CREATION OF THE SAFE2TELL PROGRAM AS
 2 A NOT-FOR-PROFIT ORGANIZATION FOR THE PURPOSE OF PROVIDING
 3 STUDENTS A VENUE TO ANONYMOUSLY REPORT ANY THREATENING BEHAVIORS
 4 OR ACTIVITY ENDANGERING THEM OR SOMEONE ELSE; TO PRESCRIBE THE
 5 DUTIES AND FUNCTIONS OF THE PROGRAM; TO PROVIDE THAT ALL STUDENTS
 6 MAY REPORT INFORMATION IN VARIOUS FORMS INCLUDING ELECTRONIC
 7 MESSAGES WHICH SUCH INFORMATION SHALL BE PROTECTED FROM PUBLIC
 8 RELEASE; TO REQUIRE AN IN CAMERA REVIEW OF ALL CONFIDENTIAL
 9 INFORMATION; TO PROVIDE THAT THE INFORMATION MAY ONLY BE DISCLOSED
 10 UNDER CERTAIN CIRCUMSTANCES IN WHICH A SUBPOENA HAS BEEN ISSUED IN
 11 A LEGAL PROCEEDING REQUIRING DISCLOSURE OF THE PRIVILEGE
 12 INFORMATION; TO REQUIRE EACH BOARD OF EDUCATION TO TAKE CERTAIN
 13 ACTION TO ESTABLISH A SCHOOL RESPONSE FRAMEWORK CONSISTING OF
 14 POLICIES WHICH COMPLY WITH THE REQUIREMENTS OF THE NATIONAL
 15 INCIDENT MANAGEMENT SYSTEM; TO REQUIRE THE CUSTODIAN OF RECORDS
 16 FOR THE PROGRAM TO DENY THE RIGHT OF INSPECTION OF ANY
 17 CONFIDENTIAL MATERIALS RECEIVED, MADE OR KEPT BY THE PROGRAM AS
 18 REQUIRED BY THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 **SECTION 1.** (1) The Mississippi Legislature hereby finds
 21 and declares that:

22 (a) According to the United States Secret Service
 23 and Department of Education, in eighty-one percent (81%) of
 24 dangerous or violent incidents in schools, someone other than
 25 the attacker knew the incident was going to happen but did not
 26 report or act on that knowledge. Additionally, in incidents



27 of targeted school violence, most attackers engaged in some
28 behavior before the incident that caused others concern or
29 indicated a need for help;

30 (b) The ability to anonymously report information
31 about unsafe, potentially harmful, dangerous, violent or
32 criminal activities before or after they have occurred is
33 critical in reducing, responding to and recovering from these
34 types of events in schools;

35 (c) The Safe2Tell Program empowers students and the
36 community, by offering a comprehensive program of education,
37 awareness, training and a readily accessible tool that allows
38 students and the community, to easily provide anonymous
39 information about unsafe, potentially harmful, dangerous,
40 violent or criminal activities, or the threat of these
41 activities, to appropriate law enforcement and public safety
42 agencies and school officials;

43 (d) The Safe2Tell Program has a proven record of
44 success in prevention and intervention in cases of threats to
45 people or property, assaults, bullying, child abuse, substance
46 abuse, cutting, suicide, gangs, weapons, Internet safety or
47 other unsafe, potentially harmful, dangerous, violent or
48 criminal activities; and

49 (e) The Safe2Tell Program serves as a community
50 partner in the school response framework, and the program may
51 engage in information sharing and interoperable communications



52 with other community partners as part of a coordinated
53 response to a school-related incident.

54 (2) The Legislature therefore finds that it is
55 appropriate and necessary to provide for the anonymity of a
56 person who provides information to the Safe2Tell Program and
57 to provide for the confidentiality of Safe2Tell materials.

58 **SECTION 2.** The following terms shall have the meanings
59 ascribed in this section, unless the context otherwise
60 requires:

61 (a) "In camera review" means an inspection of
62 materials by the court, in chambers, to determine what, if
63 any, materials are discoverable.

64 (b) "Materials" means any records, reports, claims,
65 writings, documents, or information anonymously reported or
66 information related to the source of the materials.

67 (c) "Safe2Tell", "Safe2Tell Program" or "program"
68 means the program described in Section 3 of this act that
69 provides students and the community with the means to relay
70 information anonymously concerning unsafe, potentially
71 harmful, dangerous, violent or criminal activities, or the
72 threat of these activities, to appropriate law enforcement and
73 public safety agencies and school officials.

74 **SECTION 3.** (1) In addition to any other requirements
75 for articles of incorporation imposed by Articles 1 through
76 17, Chapter 4, Title 79, Mississippi Code of 1972, the



77 articles of incorporation for the Safe2Tell Program shall
78 require that the Safe2Tell Program:

79 (a) Establish and maintain methods of anonymous
80 reporting concerning unsafe, potentially harmful, dangerous,
81 violent, or criminal activities, or the threat of such
82 activities;

83 (b) Establish methods and procedures to ensure that
84 the identity of the reporting party remains unknown to all
85 persons and entities, including law enforcement officers and
86 employees or other persons operating the program;

87 (c) Establish methods and procedures so that
88 information obtained from a reporting party who voluntarily
89 discloses his or her identity and verifies that he or she is
90 willing to be identified may be shared with law enforcement
91 officers, employees or other persons operating the program,
92 and with school officials;

93 (d) Establish methods and procedures to ensure that
94 a reporting party's identity that becomes known through any
95 means other than voluntary disclosure is not further
96 disclosed; and

97 (e) Promptly forward information received by the
98 program to the appropriate law enforcement or public safety
99 agency or school officials.

100 **SECTION 4. In camera review - confidentiality of**
101 **materials - criminal penalty.** (1) (a) The Safe2Tell Program



102 and persons implementing and operating the program shall not
103 be compelled to produce any materials except on the motion of
104 a criminal defendant to the court in which the offense is
105 being tried, supported by an affidavit establishing that the
106 materials contain impeachment evidence or evidence that is
107 exculpatory to the defendant in the trial of that offense.

108 (b) If the defendant's motion is granted, the court
109 shall conduct an ex parte in camera review of materials
110 produced under the defendant's subpoena.

111 (c) If the court determines that the produced
112 materials contain impeachment evidence or evidence that is
113 exculpatory to the defendant, the court shall order the
114 materials to be produced to the defendant pursuant to a
115 protective order that includes, at a minimum, the redaction of
116 the reporting party's identity and limitations on the use of
117 the materials, as needed, unless contrary to state or federal
118 law. Any materials excised pursuant to a judicial order
119 following the in camera review shall be sealed and preserved
120 in the records of the court, to be made available to the
121 appellate court in the event of an appeal. After the time for
122 appeal has expired, the court shall return the materials to
123 the Safe2Tell Program.

124 (2) (a) Materials created or obtained through the
125 implementation or operation of the Safe2Tell Program are
126 confidential, and no person shall disclose the material. The



127 Safe2Tell Program and persons implementing or operating the
128 Safe2Tell Program may be compelled to produce the materials
129 only before a court or other tribunal and only pursuant to
130 court order for an in camera review. Any such review shall be
131 limited to an inspection of materials that are material to the
132 specific case pending before the court. The Attorney General
133 acting on behalf of the Safe2Tell Program shall have standing
134 in any action to oppose the disclosure of materials in the
135 custody of the Safe2Tell Program.

136 (b) A person who knowingly discloses materials in
137 violation of the provisions of this subsection (2) commits a
138 misdemeanor.

139 **SECTION 5.** **Safe2Tell Program.** As described in Section 3
140 of this act, there is established the Safe2Tell Program with
141 the primary purpose of providing students and the community
142 with the means to relay information anonymously concerning
143 unsafe, potentially harmful, dangerous, violent or criminal
144 activities, or the threat of these activities, to appropriate
145 law enforcement and public safety agencies and school
146 officials.

147 **SECTION 6.** (1) Each board of education shall establish
148 a school response framework that shall consist of policies
149 described in this section. By satisfying the requirements of
150 this section, a school or school district shall be in
151 compliance with the national incident management system,



152 referred to in this section as "NIMS," developed by the
153 Federal Emergency Management Agency.

154 (2) At a minimum, the policies shall require:

155 (a) (i) Each school district, on or before July 1,
156 2014, to establish a date by which each school of the school
157 district shall be in compliance with the requirements of this
158 section; except that the date may be changed by the school
159 board for cause.

160 (ii) Each school district shall make the dates
161 established under subparagraph (i) of this paragraph (a)
162 available to the public upon request.

163 (b) Each school district to adopt the national
164 response framework released by the United States Department of
165 Homeland Security and NIMS formally through orders or
166 resolutions;

167 (c) Each school district to institutionalize the
168 incident command system as taught by the Emergency Management
169 Institute of the Federal Emergency Management Agency;

170 (d) Each school district, on or before July 1,
171 2014, to start to develop a school safety, readiness and
172 incident management plan, including, to the extent possible,
173 emergency communications, that coordinates with any statewide
174 or local emergency operation plans. In developing the plan, a
175 school district may collaborate with local fire departments,
176 state and local law enforcement agencies, local 911 agencies,



177 interoperable communications providers, the Safe2Tell Program
178 described in Section 3 of this act, local emergency medical
179 service personnel, local mental health organizations, local
180 public health agencies, local emergency management personnel,
181 and local or regional homeland security personnel, which
182 entities are collectively referred to in this section as
183 "community partners." The school safety, readiness and
184 incident management plan shall, at a minimum, identify for
185 each public school in the school district:

186 (i) Safety teams and backups who are
187 responsible for interacting with community partners and
188 assuming key incident command positions; and

189 (ii) Potential locations for various types of
190 operational locations and support functions or facilities.

191 **SECTION 7.** Notwithstanding any provision to the
192 contrary, the custodian of any public records shall deny the
193 right of inspection of any materials received, made or kept by
194 the Safe2Tell Program, as described in Section 3 of this act,
195 which are confidential in nature as prescribed under Section 4
196 of this act.

197 **SECTION 8.** Safety clause. The Legislature hereby finds,
198 determines and declares that this act is necessary for the
199 immediate preservation of the public peace, health and safety.

200 **SECTION 9.** This act shall take effect and be in force from
201 and after its passage.

