

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Education to which was referred Senate Bill No. 138  
3 entitled “An act relating to school safety” respectfully reports that it has  
4 considered the same and recommends that the House propose to the Senate that  
5 the bill be amended as follows:

6 First: By striking out Sec. 4, 16 V.S.A. § 1485, in its entirety and inserting  
7 in lieu thereof a new Sec. 4 to read as follows:

8 Sec. 4. 16 V.S.A. § 1485 is added to read:

9 § 1485. BEHAVIORAL THREAT ASSESSMENT TEAMS

10 (a) Legislative intent.

11 (1) It is the intent of the General Assembly that behavioral threat  
12 assessment teams be used for the purpose of preventing instances of severe and  
13 significant targeted violence against schools and school communities, such as  
14 threats related to weapons and mass casualties and bomb threats. The goal of  
15 these teams is to assess, and appropriately respond to, potential reported threats  
16 to school communities.

17 (2) It is the intent of the General Assembly that use of behavioral threat  
18 assessment teams shall not contribute to increased school exclusion or  
19 unnecessary referrals of students to the criminal justice and school discipline  
20 systems and shall not disproportionately impact students from historically  
21 marginalized backgrounds, including students with disabilities.

1        (b) Policy.

2            (1) As used in this section, “behavioral threat assessment” means a fact-  
3 based, systematic process designed to identify, gather information about,  
4 assess, and manage dangerous or violent situations.

5            (2) The Secretary of Education, in consultation with stakeholder groups,  
6 including the Vermont School Boards Association and Vermont Legal Aid  
7 Disability Law Project, shall develop, and from time to time update, a model  
8 policy and procedure for use by behavioral threat assessment teams. The  
9 policy and procedure shall address the criteria that shall be used to assess a  
10 student’s threatening behavior, the process for reporting the behavior, and the  
11 civil rights and due process protections to which students are entitled in school  
12 settings, and when and how to refer to or involve law enforcement in the  
13 limited instances when such referral is appropriate, which shall not include  
14 student behavior that is a violation of the school conduct code but that is not a  
15 crime. The model policy and procedure shall require law enforcement contact  
16 in the case of imminent danger to individuals or the school community. The  
17 policy and procedure shall also describe the support resources that shall be  
18 made available, including mental health first aid, counseling, and safety plans. In  
19 developing the model policy and procedure, the Secretary shall follow  
20 guidance issued by the Vermont School Safety Center on best practices in the  
21 use of behavioral threat assessment teams.

1           (3) Each school district and each approved independent school shall  
2           develop, adopt, and ensure implementation of a policy and procedures for use  
3           of behavioral threat assessment teams that is consistent with and at least as  
4           comprehensive as the model policy and procedures developed by the Secretary  
5           and that follows guidance issued by the Vermont School Safety Center on best  
6           practices in the use of behavioral threat assessment teams. Any school board  
7           or approved independent school that fails to adopt such a policy shall be  
8           presumed to have adopted the most current model policy published by the  
9           Secretary.

10           (4) The Vermont School Safety Center shall issue guidance on the best  
11           practices of behavioral threat assessment teams. The guidance shall include  
12           best practices on bias and how to reduce incidents of bias, developed in  
13           consultation with the Office of Racial Equity.

14           (c) Discipline and student support.

15           (1) Consistent with the legislative intent in subsection (a) of this section,  
16           if a behavioral threat assessment team recommends, in addition to providing  
17           support resources, any action that could result in removal of a student from the  
18           student's school environment pending or after a behavioral threat assessment,  
19           the recommendation shall only be carried out in a manner consistent with  
20           existing law, regulation, and associated procedures on student discipline  
21           pursuant to section 1162 of this title and Agency of Education, Pupils (CVR

1 22-000-009), as well as federal and State law regarding students with  
2 disabilities or students who require additional support.

3 (2) Behavioral threat assessments shall be structured and used in a way  
4 that is intended to minimize interaction with the criminal justice system. Law  
5 enforcement referral and involvement may be appropriate only in cases  
6 involving threats, which shall not include student behavior that is a violation of  
7 the school conduct code but that is not also a crime.

8 (3) For students eligible for an individual education program (IEP), a  
9 behavioral threat assessment shall not preempt, supersede, or otherwise take  
10 the place of the manifestation determination review process required under the  
11 Individuals with Disabilities Education Act, 20 U.S.C. 20 § 1415(k) and  
12 Agency of Education, Pupils (CVR 22-000-009), Rule 4313.

13 (4) For students eligible for a 504 plan, a behavioral threat assessment  
14 shall not preempt, supersede, or otherwise take the place of the manifestation  
15 determination review process required under Agency of Education, Pupils  
16 (CVR 22-000-009), Rule 4313.

17 (5) If a behavioral threat assessment involves a student who is eligible  
18 for an IEP or section 504 plan, the behavioral threat assessment process shall  
19 involve a special education administrator that is knowledgeable of the student  
20 and the student's disability and that can make recommendations regarding

1 available modifications, services, and related supports to address identified  
2 needs.

3 (d) Training.

4 (1) Each supervisory union, supervisory district, or approved  
5 independent school shall ensure behavioral threat assessment team members  
6 receive training at least annually in best practices of conducting behavioral  
7 threat assessments, as well as bias training. The annual training shall include  
8 training on:

9 (A) Agency of Education, Pupils (CVR 22-000-009), the rules  
10 governing exclusionary discipline;

11 (B) the purpose, use, and proper implementation of the manifestation  
12 determination review process;

13 (C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;  
14 the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; and  
15 other civil rights laws;

16 (D) the negative consequences of exclusion from school;

17 (E) the impact of trauma on brain development; and

18 (F) group bias training, specifically focused on bias in carrying out  
19 the duties of the behavioral threat assessment team.

1           (2) In developing guidance on implementation of bias training for  
2           behavioral threat assessment teams, the Agency of Education and Department  
3           of Public Safety shall consult with the Vermont Office of Racial Equity.

4           (e) Data reporting and collection. Annually, each supervisory union,  
5           supervisory district, and approved independent school shall report data related  
6           to completion of and outcomes of all behavioral threat assessments and  
7           manifestation determination reviews to the Agency in a format approved by the  
8           Secretary. At a minimum, the annual report shall include:

9                   (1) the names of the members of the behavioral assessment team;

10                   (2) the number of behavioral threat assessments and manifestation  
11                   determination reviews conducted in the preceding year and for each  
12                   assessment or review conducted:

13                           (A) a description of the behavior requiring an assessment;

14                           (B) the age, grade, race, gender, disability status, and eligibility for  
15                   free or reduced-price school meals of the student requiring the assessment; and

16                           (C) the results of each assessment or review;

17                   (3) the number of students subjected to more than one behavioral threat  
18                   assessment or manifestation determination review;

19                   (4) the amount of time a student is out of school pending completion of  
20                   a behavioral threat assessment;

1           (5) information regarding whether a student subject to a behavioral  
2           threat assessment was also subject to exclusionary discipline for the same  
3           behavior, including the length of such discipline;

4           (6) information regarding whether law enforcement was involved in a  
5           behavioral threat assessment;

6           (7) information regarding whether the threatening behavior was also  
7           reported to law enforcement; and

8           (8) any additional data the Secretary of Education determines may be  
9           necessary.

10          Second: By striking out Sec. 5, effective dates, in its entirety and inserting  
11          in lieu thereof a new Sec. 5 to read as follows:

12          Sec. 5. BEHAVIORAL THREAT ASSESSMENT TEAMS;

13                   IMPLEMENTATION

14          (a) Creation of model policy.

15               (1) On or before November 1, 2023, the Agency of Education shall issue  
16               for public comment a draft model policy and procedure for use by behavioral  
17               threat assessment teams, as required pursuant to 16 V.S.A. § 1485(b)(3).

18               (2) On or before December 15, 2023, the Agency shall issue, publicly  
19               post, and communicate to school districts and independent schools the final  
20               model policy and procedure, as required pursuant to 16 V.S.A. § 1485(b)(3).

1           (3) School districts and independent schools currently using behavioral  
2           threat assessment teams shall update and implement a policy on the use of  
3           behavioral threat assessment teams consistent with the model policy created  
4           pursuant to 16 V.S.A. § 1485(b)(3) not later than the 2024–2025 school year.

5           (b) Establishment of behavioral threat assessment teams; training.

6           (1) School districts and independent schools not already using  
7           behavioral threat assessment teams shall take all actions necessary to establish  
8           a team not later than July 1, 2025, including:

9                   (A) identifying and training team members, which shall include  
10                  group bias training and any other applicable training requirements pursuant to  
11                  16 V.S.A. § 1485(d);

12                   (B) adopting a behavioral threat assessment team policy;

13                   (C) establishing procedures for proper, fair, and effective use of  
14                  behavioral threat assessment teams;

15                   (D) updating and exercising emergency operations plans; and

16                   (E) providing education to the school community on the purpose and  
17                  use of behavioral threat assessment teams.

18           (2) School districts and independent schools currently using behavioral  
19           threat assessment teams shall certify compliance with the training requirements  
20           contained in 16 V.S.A. § 1485(d) on or before the first day of the 2023–2024  
21           school year.

1           (3) The Agency of Education and Department of Public Safety shall  
2           issue guidance and offer training necessary to assist school districts and  
3           independent schools with implementation of this subsection.

4           (c) The Agency of Education shall establish guidelines necessary to collect  
5           the data required pursuant to 16 V.S.A. § 1485(e). Each supervisory union,  
6           supervisory district, and approved independent school using behavioral threat  
7           assessment teams as of July 1, 2023 shall comply with the data collection  
8           requirements under 16 V.S.A. § 1485(e) beginning in the 2023–2024 school  
9           year.

10          (d) Reports.

11           (1) On or before January 15, 2024, the Agency of Education, in  
12           consultation with the Vermont School Safety Center, shall issue a report on the  
13           status of the implementation of the duties and requirements established  
14           pursuant to 16 V.S.A. § 1485, including the status of:

15                   (A) the development of the model policy;

16                   (B) updates to training and guidance documents;

17                   (C) updates on training and professional development requirements  
18           for behavioral threat assessment teams;

19                   (D) data collected or voluntarily reported to the Agency or Center;

20                   (E) the guidance issued, training developed, and measures  
21           implemented to prevent a disproportionate impact of behavioral threat

1 assessments on historically marginalized students, including students with  
2 disabilities, to ensure that use of behavioral threat assessments do not increase  
3 use of school removals or law enforcement referrals for these populations, as  
4 well as plans for future training and guidance; and

5 (F) any grants or funding secured to support the implementation or  
6 proper use of behavioral threat assessment teams.

7 (2) On or before January 15, 2025, the Agency of Education, in  
8 consultation with the Vermont School Safety Center, shall issue a report on the  
9 status of the implementation of the duties and requirements established  
10 pursuant to 16 V.S.A. § 1485, including the status of:

11 (A) data collected from supervisory unions, supervisory districts, and  
12 independent schools for the 2023–2024 school year;

13 (B) completion of the development of the model policy; and

14 (C) additional guidance, training, and other measures to prevent  
15 disproportionate impacts on historically marginalized students, including  
16 students with disabilities, as well as plans for future training and guidance.

17 Third: By adding a new section to be Sec. 6 to read as follows

18 Sec. 6. EFFECTIVE DATES

19 (a) This section and Sec. 5 shall take effect on July 1, 2023.

20 (b) Secs. 1 (16 V.S.A. § 1481) and 3 (16 V.S.A. § 1484) shall take effect  
21 on August 1, 2023.

1        (c) Sec. 2 (16 V.S.A. § 1480) shall take effect on July 1, 2024.

2        (d) Sec. 4 (16 V.S.A. § 1485) shall take effect on July 1, 2025.

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10       (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

FOR THE COMMITTEE