

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	HB 7101	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Public Safety	67	Y's 50	N's
SPONSOR(S):	Oliva	GOVERNOR'S ACTION:		Approved
COMPANION BILLS:	CS/SB 7026			

SUMMARY ANALYSIS

HB 7101 passed the House of Representatives on March 7, 2018 as CS/SB 7026. On February 14, 2018, a former student shot and killed fourteen students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida. To increase communication between various entities that interact with schools and students, better identify students in need of mental health treatment and increase access to such treatment, and to help prevent mass violence incidents in the future, the bill:

- Establishes the Office of Safe Schools within the Department of Education (DOE) and establishes duties of the office including developing a School Safety Specialist Training Program;
- Establishes a threat assessment team at each school to determine when a student poses a threat of violence to themselves or others and engage behavioral health crisis resources if necessary;
- Requires revisions to zero tolerance policies to authorize threat assessment teams to address disruptive behavior through alternatives to expulsion or referral to law enforcement and requiring certain consultations with law enforcement;
- Authorizes sheriffs to appoint trained persons who meet specific requirements, to serve as school guardians;
- Requires all school personnel to receive youth mental health awareness and assistance training;
- Funds additional mobile crisis teams and community action treatment teams to create statewide access;
- Creates a categorical allocation and provides funding for mental health treatment in schools;
- Requires state and local agencies serving students with or at risk of mental illness to coordinate efforts, allows sharing of confidential information, and requires a court to notify a school district when referring a student to mental health services; and
- Creates the Marjory Stoneman Douglas High School Public Safety Commission to investigate failures that allowed mass incidents of violence in Florida and make recommendations to prevent such incidents in the future.

In addition, the bill:

- Prohibits a licensed importer, manufacturer or dealer from selling a firearm to a person under age 21, with exceptions;
- Expands the mandatory 3-day waiting period for handguns to all firearms sold at retail with certain exceptions;
- Prohibits a person from transferring, distributing, selling, or keeping for sale, offering for sale, possessing, or giving to another person a bump-fire stock and prohibits importing a bump-fire stock into the state;
- Authorizes a law enforcement agency to seize any firearm and ammunition owned by a person involuntarily examined under the Baker Act who has made a credible threat of violence against another person;
- Creates a process for a law enforcement officer to petition a court for a risk protection order to temporarily prevent a person from accessing a firearm when there is evidence that he or she poses a significant danger to himself or herself or others;
- Makes it a second degree felony to write and post or transmit a threat to conduct a mass shooting or act of terrorism in any manner that would allow another person to view the threat;
- Provides that a person adjudicated mentally defective or committed to a mental institution, may not own or possess a firearm or ammunition unless he or she has obtained relief from firearm ownership disability from the court;
- Provides that a retired law enforcement officer may be reemployed as a school resource officer by an employer that participates in the FRS and receive both a salary from the employer and retirement benefits after 6 months (rather than 12 months) have passed since termination of employment.

The bill appropriates a total of \$200 million in recurring and \$200 million in nonrecurring general revenue funds and provides appropriations to the Florida Department of Law Enforcement, the DOE, and the Department of Children and Families, for multiple purposes. See Fiscal Comments for details.

The bill was approved by the Governor on March 9, 2018, ch. 2018-3, L.O.F., and became effective on that date except as otherwise provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7101z.APC

DATE: March 26, 2018

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Marjory Stoneman Douglas High School Mass Violence Incident

On the afternoon of February 14, 2018, at 2:06 p.m., a nineteen-year old male former student ordered an Uber ride from his home in Broward County to Marjory Stoneman Douglas High School, in Parkland, Florida.¹ He arrived at the school at 2:19 p.m., carrying a backpack and a duffel bag.² He was wearing the school's colors, including a maroon polo shirt with the logo of the Marjory Stoneman Douglas High School Eagles on the sleeve.³

Upon arrival, he immediately entered the "freshmen building," a three-story building on the school's campus containing thirty classrooms and occupied by about 900 students and 30 teachers.⁴ Armed with an AR-15 semiautomatic rifle and multiple magazines of ammunition, he pulled the fire alarm. As students and teachers left the classrooms, he began indiscriminately shooting people on the first and second floors of the building,⁵ in the hallway and in classrooms. Teachers and students heard the gunshots and a "code red" lockdown was implemented.⁶ The shooting lasted six minutes, between 2:21 p.m. and 2:27 p.m. Fourteen students and three staff members were killed.

The shooter made his way up to the third floor where he eventually discarded the rifle, a vest, and ammunition in a stairwell, and blended in with fleeing students to get away. Upon his escape, the shooter walked to a nearby Walmart, where he purchased a soda at its Subway restaurant. From there, he walked to a McDonald's where he lingered until 3:01 p.m.⁷ At about 3:40 p.m., the shooter was stopped two miles from the school by a police officer in Coral Springs and taken into custody.

Background and Mental Health

The shooter was born on September 24, 1998, in Margate, Florida, and adopted at age two. His adoptive father died during his childhood, and he spent the majority of his youth with his adoptive mother and half-brother. He was identified as developmentally delayed in 2002, when he was four years old.

Records show the shooter attended at least six schools, including Cross Creek School, a school for students with emotional programs; Dave Thomas Education Center, an alternative high school for at-risk youth; and an adult education center.⁸

Friends and classmates described him as weird beginning in middle school. However, as he transitioned into high school, the strange behavior escalated. Classmates said he was selling knives

¹ News Release, Broward Sheriff's Office, *Stoneman Douglas Shooting Preliminary Timeline*, February 15, 2018, available at <http://www.sheriff.org/PIO/News/Pages/STONEMAN-DOUGLAS-SHOOTING-TIMELINE-OF-EVENTS-.aspx> (last visited February 26, 2018).

² Associated Press, CBS News, *Florida School Shooting Suspect Hid Among Students After Massacre*, February 15, 2018.

³ Kevin Sullivan, Samantha Schmidt, and David Fahrenthold, *What happened in the 82 minutes between [shooter's] arrival and arrest during Florida Shooting*, THE CHICAGO TRIBUNE, February 15, 2018, available at <http://www.chicagotribune.com/news/nationworld/ct-82-minutes-florida-shooting-20180215-story.html> (last visited February 26, 2018).

⁴ Sarah Almukhtar, K.K. Rebecca Lai, Anjali Singhbi and Karen Yourish, *What Happened Inside the Florida School Shooting*, THE NEW YORK TIMES, February 15, 2018, available at <https://www.nytimes.com/interactive/2018/02/15/us/florida-school-shooting-map.html> (last visited February 26, 2018).

⁵ *Id.*

⁶ *Supra*, note 3.

⁷ *Supra*, note 2.

⁸ Audra Burch, Frances Robles and Patricia Mazzei, *Florida Agency Investigated [Shooter] After Violent Social Media Posts*, THE NEW YORK TIMES, February 17, 2018.

out of a lunchbox, posting on Instagram about guns and killing animals, and threatening other students.⁹ After the threatening behavior to other students, teachers were told to “keep an eye” on him and not allow him on campus with a backpack.¹⁰

Broward County Public Schools disciplinary records show that the shooter had a long history of fights with teachers, and was frequently accused of using profane language with school staff.¹¹ School officials were so worried that on at least one occasion a mobile crisis unit was alerted to provide him with emergency counseling.¹²

In January 2017, while he was attending Marjory Stoneman Douglas High School, administrators recommended a “threat assessment” of the shooter, but it is unclear whether the assessment was performed.¹³ He was ultimately expelled from school for disciplinary reasons.¹⁴

In addition to the warning signs exhibited in school, neighbors complained the shooter was killing squirrels with pellet guns, vandalizing property, and lurking late at night along the drainage ditches than run alongside the backyards of the homes in the neighborhood. According to neighbors, police were frequently at the shooter’s home.

Despite the concerns at school and from neighbors, the Department of Children and Families (DCF) reported only one interaction with the shooter in September 2016.¹⁵ The interaction occurred following reports to the Florida Abuse Hotline of inadequate supervision and medical neglect by his adoptive mother. A DCF investigator visited the home on the same day of the report to the hotline, and was told he did not own any firearms and was receiving mental health services from Henderson Behavioral Center.¹⁶ In addition to depression, the shooter had autism and attention-deficit hyperactivity disorder (ADHD).¹⁷ He was regularly taking ADHD medication, but it is unclear whether he was taking anything for depression.¹⁸ The DCF investigator reportedly wrote in the report, “he [the shooter] stated he plans to go out and buy a gun. It is unknown what he is buying the gun for.”¹⁹ According to DCF, the shooter was never sent for involuntary examination under the Baker Act.²⁰

The shooter’s mother passed away from pneumonia in November 2017. After her death, the shooter lived with a family relative in Lantana, Florida.²¹ However, the family did not allow the shooter to continue to reside in the home because the family relative had a toddler and the shooter had guns and other weapons, without a gun safe.²² He then moved in with another family, and he was allowed to bring his guns, under the condition they remained in a lockbox.²³

Calls for Law Enforcement Assistance and Reports of Concerning Behavior

Law enforcement had more than twenty interactions with the shooter over several years.²⁴ The Broward County Sheriff has not detailed the content of the calls for assistance, but has said deputies may have

⁹ William Wan, Kevin Sullivan, David Weingrad, and Mark Berman, *Florida Shooting Suspect [Shooter]: Guns, depression and a life in trouble*, THE WASHINGTON POST, February 15, 2018.

¹⁰ *Id.*

¹¹ *Supra*, note 8.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Department of Children and Families, DCF Records, February 19, 2018.

¹⁶ *Id.*

¹⁷ *Supra*, note 8.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Supra*, note 15.

²¹ CNN, *Depressed teen’s guns didn’t raise red flags for host family of Florida shooter*, February 20, 2018.

²² *Id.*

²³ Richard Fausset and Serge Kovalski, *[Shooter], Florida Shooting Suspect, Showed Every Red Flag*, THE NEW YORK TIMES, February 15, 2018.

²⁴ John Maines, *Florida Shooting Suspect [Shooter] Showed Warning Signs for Years*, SUN SENTINEL, February 23, 2018.

responded to some of the calls.²⁵ The incident reports describe the shooter as suffering from mental illness and being emotionally handicapped, and being on behavioral medication.²⁶ One report noted, "He mentioned in the past that he would like to purchase a firearm."²⁷ The emergency calls from the shooter's home to police included incidents categorized as "mentally ill person," "child/elderly abuse," "domestic disturbance," and "missing person."²⁸ At least two calls reported the shooter as missing, in 2012 and 2013.²⁹

Law enforcement responded to the shooter's home on at least two occasions in November 2012. On the first occasion, the shooter had beaten up his brother. On a second occasion, his mother reported the shooter hit her with the plastic hose of a vacuum cleaner.³⁰ In January 2013, when he was 14-years old, police responded to a call for assistance at the home for aggressive behavior, where they handcuffed and placed him in the back of the police car. The police report indicated an involuntary examination under the Baker Act was not needed and he was released after calming down.

In February 2016, the Broward County Sheriff's Office received an anonymous call that the shooter had threatened on Instagram to shoot up his school and posted a picture of him with guns. The information was given to his school resource officer with no further action detailed. In September 2016, law enforcement was again called out to his home for aggressive behavior towards his mother and for slashing his arms.³¹ A counselor from Henderson Behavioral Center, where the shooter was a patient, deemed him to not be a threat to anyone or himself at that time.

In September 2017, a blogger in Mississippi warned the Federal Bureau of Investigation (FBI) that a commenter with a screen name similar to that of the shooter wrote on his YouTube page: "Im going to be a professional school shooter."³² The blogger, Ben Bennight, took a screenshot and flagged it to YouTube, which removed the post.³³ FBI agents interviewed Bennight about the incident. The agents concluded that no other information was included in the comment to indicate a particular time or location of a possible incident, or to lead to the identity of the person who posted the comment.³⁴ As a result, the post was not acted upon further by the FBI.

In November 2017, the family with whom the shooter was living placed an emergency call to law enforcement to express concerns that the shooter hid a gun in the backyard. It is unknown if any action was taken as a result of the incident.

On January 5, 2018, an unidentified person who was close to the shooter contacted the FBI to report his possession of guns, desire to kill people, and potential to carry out a school shooting.³⁵ The call went to a center in West Virginia instead of a local field office, and the information was never relayed to FBI agents in Florida.³⁶

Despite the shooter's numerous encounters with law enforcement, his behavior never resulted in criminal charges or involuntary commitment to mental health services. As a result, he was able to lawfully purchase an AR-15 rifle in February 2017, and use it during the shooting on February 14, 2018.

²⁵ *Id.*

²⁶ *Supra*, note 21.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Supra*, note 23.

³³ *Id.*

³⁴ *Id.*

³⁵ Ari Shapiro, *Former FBI Assistant Director on What Went Wrong with Tip About Florida Shooter*, NPR ALL THINGS CONSIDERED, February 20, 2018, available at <https://www.npr.org/2018/02/20/587375707/former-fbi-assistant-director-on-what-went-wrong-with-tip-about-florida-shooter> (last visited February 26, 2018).

³⁶ *Id.*

Law Enforcement Response to Incident

Broward County Sheriff's Deputy Scot Peterson was the armed school resource officer (SRO) at Marjory Stoneman Douglas High School. Initial reports following the shooting said that Deputy Peterson was at another part of the campus when the shooting began. After reviewing video footage, Sheriff Scott Israel, the Broward County Sheriff, during a press conference, revealed that Deputy Peterson was outside for upwards of four minutes and did not enter the building.³⁷ When asked what the deputy should have done, Sheriff Israel said Peterson should have "went in. Addressed the killer. Killed the killer."³⁸ According to Sheriff Israel, the video footage showed "he did none of that."³⁹

Coral Springs police officers were some of the first, if not the first, responders to arrive at the scene. Reports say they found that Deputy Peterson, along with three other sheriff's deputies, had not entered the building.⁴⁰ The deputies had their pistols drawn and were behind their vehicles, and none of them had gone into the school. It is unclear whether the shooter was still in the building when they arrived.⁴¹

Firearm Safety

The Florida Constitution guarantees the right of the people to keep and bear arms in self-defense.⁴² Generally, Florida law authorizes a person to own, possess, and lawfully use firearms and other weapons⁴³ without a license if:

- The person is not statutorily prohibited from possession a firearm or weapon, and
- Such ownership, possession, or use occurs in a lawful manner and location.⁴⁴

Persons Prohibited from Purchasing a Firearm

Federal law prohibits an individual from purchasing or possessing a firearm if he or she:

- Has been convicted of a felony;
- Is a fugitive of justice;
- Is an unlawful user of or addicted to any controlled substance;
- Has been adjudicated mentally defective or committed to a mental institution;
- Is illegally or unlawfully in the U.S., or has been granted a nonimmigrant visa;
- Received a dishonorable discharge from the Armed Forces;
- Has renounced U.S. citizenship;
- Is under an injunction, restraining order, or protective order restraining certain contact with an intimate partner or child; or
- Has been convicted of a misdemeanor crime of domestic violence.⁴⁵

Additionally, a person under indictment or information for a felony may not receive a firearm.⁴⁶ A person who sells a firearm to someone he or she knows or has reasonable cause to believe is prohibited from

³⁷ Stephen Hobbs, Scott Travis and Lisa J. Huriash, *Stoneman Douglas cop resigns; sheriff says he should have 'killed the killer'*, SUN SENTINEL, February 23, 2018, available at <http://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-florida-shooting-sro-20180222-story.html> (last visited February 26, 2018).

³⁸ *Id.*

³⁹ *Id.* Deputy Peterson was suspended for his failure to act during the shooting. He later resigned, and subsequently retired.

⁴⁰ Jake Tapper, *Sources: Coral Springs police upset at some Broward deputies for not entering school*, CNN, February 24, 2018, available at <https://www.cnn.com/2018/02/23/politics/parkland-school-shooting-broward-deputies/index.html> (last visited February 26, 2018).

⁴¹ *Id.*

⁴² FLA. CONST. art. 1, s. 8.

⁴³ Section 790.001(13), F.S., defines "weapon" as "any dirk, knife, metallic knuckles, slugshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife."

⁴⁴ S. 790.25, F.S.

⁴⁵ 18 U.S.C. § 922(g).

⁴⁶ 18 U.S.C. § 922(n).

purchasing a firearm under federal law may be prosecuted and imprisoned for up to 10 years.⁴⁷ A person who purchases or possesses a firearm in violation of the federal prohibitions may be imprisoned for up to 10 years.⁴⁸

Florida law prohibits an individual from purchasing a firearm if he or she:

- Has been convicted of a felony;⁴⁹
- Has been convicted of a misdemeanor crime of domestic violence;⁵⁰
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence, unless 3 years have elapsed since all sentence conditions were fulfilled or the record has been expunged;⁵¹
- Has been adjudicated mentally defective or committed to a mental institution;⁵²
- Has had an injunction for protection against domestic violence or repeat violence entered against him or her;⁵³ or
- Is a minor.⁵⁴

If a person has been arrested for a dangerous crime or certain enumerated offenses, or has been indicted for or charged by information with a felony, the person is conditionally non-approved to purchase a firearm, pending resolution of that matter.⁵⁵

Florida law imposes criminal penalties for possession of a firearm by a convicted felon or delinquent,⁵⁶ possession by a minor,⁵⁷ and failure to surrender a firearm pursuant to an injunction.⁵⁸ Florida law does not specifically prohibit or criminalize possession of a firearm by a person meeting other purchase disqualifying criteria.

Persons Adjudicated Mentally Defective or Committed to a Mental Institution

An adjudication of mental defectiveness is a determination by a court that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs.⁵⁹ Adjudications of mental defectiveness may include a finding of incapacity for guardianship purposes, acquittal by reason of insanity, or a finding that a criminal defendant is not competent to stand trial.⁶⁰

A person is prohibited from purchasing a firearm if he or she was involuntarily committed to a mental health institution.⁶¹ The involuntary nature of such a commitment may include inpatient placement,⁶² outpatient placement,⁶³ assessment and stabilization,⁶⁴ or substance abuse treatment.⁶⁵ The

⁴⁷ 18 U.S.C. §§ 922(d), and 924(3).

⁴⁸ 18 U.S.C. § 924(3).

⁴⁹ S. 790.065(2)(a)1., F.S.

⁵⁰ S. 790.065(2)(a)2., F.S.

⁵¹ S. 790.065(2)(a)3., F.S.

⁵² S. 790.065(2)(a)4., F.S.

⁵³ S. 790.065(2)(c)1., F.S.

⁵⁴ S. 790.18, F.S.

⁵⁵ S. 790.065(2)(c)1., and 8., F.S.

⁵⁶ S. 790.23, F.S. (possession of a firearm by a convicted felon is a second degree felony in most circumstances and a first degree felony punishable by life in certain instances).

⁵⁷ S. 790.22, F.S.

⁵⁸ S. 741.31(4)(a)1., F.S.

⁵⁹ S. 790.065(2)(a)4.a., F.S.

⁶⁰ *Id.*

⁶¹ S. 790.065(2)(a)4.b.(I), F.S.

⁶² S. 394.467, F.S.

⁶³ S. 394.4655, F.S.

⁶⁴ S. 397.6818, F.S.

⁶⁵ S. 397.6957, F.S.

commitment may be for mental defectiveness, mental illness, or substance abuse.⁶⁶ The term also includes voluntary commitment under very specific circumstances:

- The person must have been involuntarily examined under the Baker Act;⁶⁷
- The examining physician must have found that the person is an imminent danger to himself or herself or others;
- The examining physician must certify that if the person did not agree to voluntary treatment, a petition for involuntary treatment would have been filed;
- The person must receive written notice of the physician's finding and certification and acknowledge in writing that he or she may be prohibited from buying firearms and from applying for or retaining a concealed weapons license as a result of agreeing to voluntary treatment; and
- A judge must review the record and order the record be submitted to FDLE.⁶⁸

Notably, a person is not prohibited from purchasing a firearm solely by virtue of being involuntarily examined under the Baker Act, which may last up to 72 hours.⁶⁹ The court must order further commitment following the involuntary examination for the person be considered committed.⁷⁰

Background Checks

The Brady Handgun Violence Prevention Act of 1993 (Brady Act) requires all licensed dealers, importers, and manufacturers to run a criminal background check on a prospective firearm transferee.⁷¹ The Brady Act required the U.S. Attorney General to establish a National Instant Criminal Background Check System (NICS) to facilitate these background checks.⁷² A licensee may either contact the FBI directly or a designated state Point-of-Contact (POC) to conduct the check.⁷³

In Florida, the Department of Law Enforcement (FDLE) is the designated POC through which licensed dealers, importers, or manufacturers must run a background check. Before a licensee may sell or deliver a firearm to a non-licensee, the seller must:

- Obtain a completed criminal history check form⁷⁴ from the potential buyer, which includes his or her name, date of birth, gender, race, and social security number or other identification number.
- Inspect proper identification that includes a photograph of the potential buyer.
- Collect a fee for processing the criminal history check.
- Request, via telephone call, FDLE to conduct a check of the information as reported and reflected in the Florida Crime Information Center and NICS.
- Receive a unique approval number for the inquiry from FDLE and record such number and the date on the criminal history check form.⁷⁵

When conducting the criminal background check, FDLE queries three national databases and two state level databases.⁷⁶ The national databases are part of NICS, maintained by the FBI, and include the:

- Interstate Identification Index (III), a database of criminal history record information;
- National Crime Information Center (NCIC), which includes information on persons subject to civil protection orders and arrest warrants; and

⁶⁶ S. 790.065(2)(a)4.b., F.S.

⁶⁷ S. 394.463, FS.

⁶⁸ S. 790.065(2)(a)4.b.(II), F.S.

⁶⁹ S. 394.463, F.S.

⁷⁰ See *infra*, Involuntary Examination under the Baker Act.

⁷¹ Pub. L. 103-159; 18 USC s. 922(t).

⁷² 28 C.F.R. § 25.1.

⁷³ Federal Bureau of Investigation, *About NICS*, <https://www.fbi.gov/services/cjis/nics/about-nics> (last visited February 26, 2018).

⁷⁴ The form is created by the United States Treasury Department's Bureau of Alcohol, Tobacco, and Firearms. Rule 11C-6.009, F.A.C.

A copy of the form is available online at <https://www.atf.gov/file/61446/download>.

⁷⁵ S. 790.065(1)(a), F.S.

⁷⁶ Email from Department of Law Enforcement staff, *RE: FDLE Processing of Mental Health Adjudications and Commitments* (February 21, 2018) (on file with Judiciary Committee).

- NICS Index, which includes the information contributed by federal and state agencies identifying persons prohibited from possessing firearms who are not included in the III or NCIC, such as persons with a prohibiting mental health history or who are illegal or unlawful aliens.⁷⁷

At the state level, FDLE checks the Florida Crime Information Center (FCIC) and the Computerized Criminal History Repository (CCH), which is the central database of Florida criminal records.⁷⁸ FDLE then advises the licensee whether he or she may proceed with the sale. The databases provide an immediate response on most queries, usually within a matter of seconds.⁷⁹

The Florida Constitution authorizes a county to require a criminal history records check for any firearm purchases within the county.⁸⁰

As of 2015, there had been approximately 197 million applications for firearm transfers or permits that were subject to a background check nationally, with over 3 million applications denied since the enactment of the Brady Act.⁸¹ In 2015, approximately 17 million applications for firearms transfers were received, and 1.4 percent were denied nationally.⁸² Florida saw 885,086 applications, with 12,632 denials, which is in line with the national average at about 1.4 percent.⁸³

Nationally, the most common reason for denying a firearm transfer was a felony conviction, at approximately 35.8 percent of denials in 2015. Other common reasons for denial include fugitive status (13.4 percent), a state law prohibition (13 percent), drug user or addict status (7.7 percent), misdemeanor domestic violence conviction (7.5 percent), and mental health adjudication or commitment (5.9 percent).⁸⁴

Who May Sell Firearms

To engage in the business of firearm or ammunition importation, manufacture, or dealing, a person must be licensed by the U.S. Attorney General.⁸⁵ A person is engaged in the business:

- As a **manufacturer**, when a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms or ammunition manufactured;
- As a **dealer**, when a person who devotes time, attention, and labor to dealing in or repairing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale or repair of firearms; or
- As an **importer**, when a person who devotes time, attention, and labor to importing firearms or ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.⁸⁶

A person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms is

⁷⁷ *National Instant Criminal Background Check System Posts NICS Index Data*, FEDERAL BUREAU OF INVESTIGATION, March 18, 2016, available at <https://www.fbi.gov/news/pressrel/press-releases/national-instant-criminal-background-check-system-posts-nics-index-data> (last visited February 26, 2018).

⁷⁸ Email from Department of Law Enforcement staff, *RE: FDLE Processing of Mental Health Adjudications and Commitments* (February 22, 2018) (on file with Judiciary Committee).

⁷⁹ *Supra*, note 77.

⁸⁰ FLA. CONST. art. VIII, sec. 5(b).

⁸¹ Bureau of Justice Statistics, *Background Checks for Firearm Transfers, 2015 – Statistical Tables* (November 30, 2017), available at: <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6126> (last viewed February 24, 2018).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ 18 U.S.C. §§ 922(a), and 923(a).

⁸⁶ 18 U.S.C. § 921(a)(21).

not “engaged in the business” and therefore does not require a license to conduct sales.⁸⁷ An unlicensed seller may not sell or deliver a firearm to a person:

- Who resides in a different state than the state the seller lives in,⁸⁸ or
- Whom he or she knows or has reasonable cause to believe is disqualified from purchasing a firearm.⁸⁹

Requirements for sales by licensed and unlicensed sellers differ under federal and Florida law, with stricter requirements typically placed on licensees.

Age Requirements for Purchase and Possession of a Firearm

Under federal law, a person must be 21 years old to purchase a handgun or 18 years old to purchase a shotgun or rifle from a licensed dealer, importer, or manufacturer.⁹⁰ Florida law prohibits a person, whether licensed or not, from selling a firearm to a minor under 18 years old, making the minimum purchase age for all types of firearms, including handguns,⁹¹ 18 when purchased from an unlicensed seller in Florida. It is a third degree felony, punishable by up to five years in prison and a \$5,000 fine,⁹² for a person other than a licensed dealer to sell or transfer a firearm to a minor,⁹³ and a second degree felony, punishable by up to 15 years in prison and a \$10,000 fine,⁹⁴ for a licensed dealer to sell or transfer a firearm to a minor.

A minor generally may not possess a firearm unless:

- The firearm is unloaded at his or her home;
- He or she is engaged in a lawful hunting activity and is:
 - At least 16 years old, or
 - Supervised by an adult;
- He or she is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
 - At least 16 years old, or
 - Supervised by an adult with the consent of the minor’s parent or guardian; or
- The firearm is unloaded and being transported directly to or from a lawful hunting activity or recreational shooting activity.⁹⁵

A minor who unlawfully possesses a firearm commits:

- For a first offense, a first degree misdemeanor, punishable by up to one year of county jail and a \$1,000 fine, if treated as an adult,⁹⁶ or one year of juvenile commitment or supervision;⁹⁷ or
- For a second or subsequent offense, a third degree felony, punishable by up to five years in prison and a \$5,000 fine,⁹⁸ if treated as an adult, or five years of juvenile commitment or supervision.⁹⁹

⁸⁷ *Id.*

⁸⁸ 18 U.S.C. § 922(a)(3).

⁸⁹ 18 U.S.C. § 922(d).

⁹⁰ 18 U.S.C. § 922(b)(1).

⁹¹ The federal age requirement applies only to sales by licensed dealers, importers, or manufacturers. 18 USC 922(b)(1).

⁹² Ss. 775.082, and 775.083, F.S.

⁹³ S. 775.16, F.S.

⁹⁴ Ss. 775.082, and 775.083, F.S.

⁹⁵ S. 790.22(c), F.S.

⁹⁶ Ss. 775.082, and 775.083, F.S.

⁹⁷ S. 985.435(6), F.S. (If supervision or a program of community service is ordered by the court for a juvenile, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months.)

⁹⁸ Ss. 775.082, and 775.083, F.S.

⁹⁹ S. 790.22(5)(a), F.S.

Wait Periods between Sale and Delivery of a Handgun

In Florida, there is a mandatory 3-day waiting period, excluding weekends and legal holidays, between the sale and delivery of a handgun by a retailer, except that a concealed weapons licensee¹⁰⁰ or a person trading in another handgun may bypass the waiting period.¹⁰¹ A retailer is a person engaged in the business of making sales at retail to consumers. A retailer or employee of a retailer who unlawfully delivers a handgun before the 3-day waiting period has expired commits a third degree felony,¹⁰² punishable by up to 5 years in prison and a \$5,000 fine.¹⁰³

There is no waiting period between sale and delivery for other types of firearms; however, the Florida Constitution authorizes a county to impose a 3- to 5-day waiting period, excluding weekends and legal holidays, between the sale and delivery of a firearm within the county by ordinance.¹⁰⁴ Pinellas,¹⁰⁵ Hillsborough,¹⁰⁶ Miami-Dade,¹⁰⁷ Broward,¹⁰⁸ Palm Beach,¹⁰⁹ Sarasota,¹¹⁰ and Volusia¹¹¹ counties have ordinances imposing additional waiting periods on firearm sales.

There is no federal waiting period to purchase a firearm.

License to Carry a Concealed Firearm

Florida does not require a license or permit to purchase or possess a firearm. However, unless exempted, a person may not carry a concealed firearm or weapon without a license issued by the Department of Agriculture and Consumer Services (DACS).¹¹² There are over 1.8 million licenses to carry a concealed firearm or weapon in Florida.¹¹³ DACS must issue a license to any applicant who:

- Is at least 21 years old;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Has not been committed for the abuse of a controlled substance;
- Does not habitually use alcohol or other substances to the extent normal faculties are impaired;
- Desires the legal means to carry a concealed weapon in self-defense;
- Demonstrates competence with a firearm;
 - A copy of a Certificate of Completion or similar document from any of the following courses or classes demonstrates the requisite competence:
 - A hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency in another state;
 - A National Rifle Association (NRA) firearms safety or training course;
 - A firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school, using instructors certified by the NRA, the Criminal Justice Standards and Training Commission, or DACS;
 - Any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement; or

¹⁰⁰ S. 790.06, F.S.

¹⁰¹ S. 790.0655, F.S.

¹⁰² S. 790.0655(3)(a), F.S.

¹⁰³ Ss. 775.082 & 775.083.

¹⁰⁴ FLA. CONST. art. VIII, s. 5(b).

¹⁰⁵ S. 86-88, Pinellas County Code of Ordinances.

¹⁰⁶ S. 36-84, Hillsborough County Code of Ordinances.

¹⁰⁷ S. 21-20.18, Miami-Dade County Code of Ordinances.

¹⁰⁸ S. 18-96, Broward County Code of Ordinances.

¹⁰⁹ S. 28-23, Palm Beach County Code of Ordinances.

¹¹⁰ S. 86-1, Sarasota County Code of Ordinances.

¹¹¹ S. 78-1, Volusia County Code of Ordinances.

¹¹² S. 790.01, F.S.

¹¹³ *Number of Licenses by Type As of January 31, 2018*, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, available at http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last viewed February 24, 2018).

- Any firearms training or safety course or class conducted by a state-certified instructor or by an instructor certified by the NRA.
- Has not received a withhold of adjudication for a felony in the preceding 3 years; and
- Is not prohibited from purchasing or possessing a firearm under federal or Florida law.¹¹⁴

In fiscal year 2016-17, there were:

- 116,469 applications for a new license received;
- 114,730 new licenses issued;
- 5,402 applications denied, 2,701 of which due to applicant ineligibility;
- 1,089 licenses revoked;
- 3,039 licenses suspended for a disqualifying arrest; and
- 984 licenses suspended for a domestic violence injunction.¹¹⁵

Carrying a concealed firearm without a license or exemption is a third degree felony, punishable by up to five years in prison and a \$5,000 fine.¹¹⁶ Carrying any other concealed weapon without a license or exemption is a first degree misdemeanor, punishable by up to one year in jail and a \$1,000 fine.¹¹⁷

Firearm Regulation by Type

The federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) heavily regulates the following types of firearms:

- Machine guns,¹¹⁸ which are explicitly prohibited from sale or purchase but may be possessed under certain circumstances;
- Short-barreled shotguns;
- Short-barreled rifles;
- Destructive devices, e.g. rocket launchers and large bore firearms;
- Silencers; and
- Any other weapon, a catch-all category that captures improvised and disguised firearms.¹¹⁹

Federal firearms law specifically prohibits transactions and possession of certain types of firearms, including:

- Transfer or possession of a machine gun, with a narrow exception;¹²⁰
- Manufacture, importation, sale, or possession of any firearm not detectable by security devices;¹²¹ and
- Possession of a firearm not registered as required by the National Firearms Act.¹²²

Florida law additionally prohibits the following types of firearms or ammunition:

- Short-barreled rifles;¹²³
- Short-barreled shotguns;¹²⁴
- Machine guns;¹²⁵ and

¹¹⁴ S. 790.06(2), F.S.

¹¹⁵ *Supra*, note 113.

¹¹⁶ S. 790.01(2), F.S.; ss. 775.082, and 775.083, F.S.

¹¹⁷ S. 790.01(1), F.S., ss. 775.072, and 775.083, F.S.

¹¹⁸ "Machinegun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

¹¹⁹ 26 U.S.C. § 5845; 27 C.F.R. § 479.11.

¹²⁰ 18 U.S.C. § 922(o).

¹²¹ 18 U.S.C. § 922(p).

¹²² 26 U.S.C. § 5861(d).

¹²³ S. 790.221, F.S.

¹²⁴ *Id.*

- Armor-piercing or exploding ammunition, dragon's breath shotgun shells, bolo shells, and flechette shells.¹²⁶

Regulation of Automatic Firearms

Florida law uses the term "machine gun" to refer to automatic firearms.¹²⁷ Specifically, a "machine gun" is defined as any firearm that shoots, or is designed to shoot, automatically more than one shot, without manually reloading, by a single function of the trigger.¹²⁸ Possession of a machine gun is prohibited under state law unless lawfully owned and possessed under provisions of federal law.¹²⁹

Federal law similarly defines a machine gun as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger."¹³⁰ Federal law further provides that the term machine gun includes "any part designed" to convert a firearm into a machine gun. Machine guns are regulated by the 1934 National Firearms Act¹³¹ and the 1968 Gun Control Act, as amended by the 1986 Firearms Owners' Protection Act.¹³² The lawful transfer and possession of a machine gun generally requires:

- Filing a transfer application with the ATF and paying a transfer tax;
- Getting ATF approval; and
- Registering the firearm in the new owner's name.¹³³

The only machine guns that may be transferred and possessed under federal law are machine guns that were lawfully manufactured and possessed prior to May 1986.¹³⁴

Bump-Fire Stocks

A bump-fire stock is a piece of plastic or metal that is attached to a semiautomatic rifle to speed up the rate of fire. The device allows a shooter to fire dozens of rounds in seconds, faster than manual trigger-pulling, by harnessing the gun's natural recoil. In October 2017, the Las Vegas shooter used guns equipped with bump-fire stocks to carry out the deadliest shooting in modern American history.

In 2010, the ATF determined that using a bump-fire stock did not make a gun fully automatic because the trigger of a rifle equipped with the device still had to be engaged every time the weapon was fired.¹³⁵ In addition, ATF found that a bump-fire stock device was a firearm part, not a machine gun, and therefore not regulated as a firearm under the Gun Control Act or National Firearms Act.¹³⁶

Regulation of Bump-Fire Stocks in Other States

California is the only state to explicitly restrict sale of bump-fire stock devices, referred to in the California Penal Code as a multiburst trigger activator.¹³⁷ State law defines a multiburst trigger activator to mean:

¹²⁵ *Id.*
¹²⁶ S. 790.31, F.S.
¹²⁷ S. 790.001(9), F.S.
¹²⁸ *Id.*
¹²⁹ S. 790.221, F.S.
¹³⁰ 26 U.S.C. § 5845(b).
¹³¹ 26 U.S.C. § 5801.
¹³² 18 U.S.C. § 921.
¹³³ BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, *Transfers of NFA Firearms*, <https://www.atf.gov/firearms/docs/atf-national-firearms-act-handbook-chapter-9/download>.
¹³⁴ 18 U.S.C. §922(o).
¹³⁵ Ann Givens, *ATF Official Who Evaluated the Bump Stock's Legality Pushes Back Against Critics*, THE TRACE, October 10, 2017, available at <https://www.thetrace.org/rounds/atf-bump-stock-evaluation-legal-machine-gun/> (last visited February 26, 2018).
¹³⁶ Stephen Gutowski, *ATF Explains Bump Fire Stock Approval, Won't Say if Is Reconsidering Legality of Device*, THE WASHINGTON FREE BEACON, October 7, 2017, available at <http://freebeacon.com/issues/atf-explains-bump-fire-stock-approval-wont-say-reconsidering-legality-device/> (last visited February 26, 2018).
¹³⁷ Ann. Cal. Penal Code § 16930.

- A device designed or redesigned to be attached to a semiautomatic firearm, which allows the firearm to discharge two or more shots in a burst by activating the device; or
- A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.¹³⁸

Any person in California who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any multiburst trigger activator may be punished by up to one year in county jail.¹³⁹

New York penalizes any person who possesses any machine gun or any other firearm or weapon simulating a machine gun and which is adaptable for such use.¹⁴⁰ As used in New York law, machine gun means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.¹⁴¹ However, because New York only prohibits weapons simulating a machine gun, it is legal in the state to possess an unattached bump-fire stock.¹⁴²

Minnesota bans the use of trigger activators. As defined in state law, the term means a removable manual or power-driven trigger activating device constructed and designed so that, when attached to a firearm, the rate at which the trigger may be pulled increases and the rate of fire of the firearm increases to that of a machine gun.¹⁴³ However, because semiautomatic rifles with bump-fire stocks are slightly lower than automatic guns, Minnesota law is unclear if bump-fire stocks are prohibited.¹⁴⁴

Risk-Based Gun Removal Laws

Risk-based gun removal laws allow a court to order the removal of firearms from an individual under specified circumstances. Connecticut enacted the first risk-based gun removal law in 1999, allowing the state attorney, an assistant state attorney, or two police officers to apply for a warrant to remove firearms in a person's possession upon a showing of probable cause that:

- The person poses an imminent risk of harming him- or herself or others;
- The person possesses one or more firearms; and
- The firearm or firearms are located within the court's jurisdiction.¹⁴⁵

In determining whether to issue the warrant for seizure, the judge must consider:

- Recent threats or acts of violence directed toward others;
- Recent threats or acts of violence directed toward him- or herself; and
- Recent acts of cruelty to animals.¹⁴⁶

The court may also consider:

- Reckless use, display, or brandishing of a firearm;
- A history of use, attempted use, or threatened use of physical force against others;
- Prior involuntary confinement; and
- Illegal controlled substance use or alcohol abuse.¹⁴⁷

¹³⁸ *Id.*

¹³⁹ Ann. Cal. Penal Code § 32900.

¹⁴⁰ N.Y. Penal Law §§ 265.02(2) and (3).

¹⁴¹ N.Y. Penal Law § 265.00(1).

¹⁴² Jon Campbell, *Are Bump Stocks Illegal in New York*, DEMOCRAT & CHRONICLE, October 5, 2017, available at <https://www.democratandchronicle.com/story/news/politics/albany/2017/10/05/bump-stocks-illegal-new-york/106331400/>.

¹⁴³ M.S.A. § 609.67(d).

¹⁴⁴ Stefan Becket, *Where are bump-fire stocks illegal?*, CBS NEWS, October 6, 2017, available at <https://www.cbsnews.com/news/where-are-bump-fire-stocks-illegal-feds-states-weigh-bans-after-las-vegas-shooting/> (last visited February 26, 2018).

¹⁴⁵ Conn. Gen. Stat. § 29-38c(a).

¹⁴⁶ Conn. Gen. Stat. § 29-38c(b).

Within 14 days of the execution of a firearms seizure warrant, the court must hold a hearing to determine whether the seized firearms should be returned to the person named in the warrant or should continue to be held by the state for up to one year.¹⁴⁸ To continue holding a seized firearm, the state must demonstrate by clear and convincing evidence that the person poses a risk or imminent personal injury to him- or herself or others.¹⁴⁹

The Connecticut Supreme Court upheld the constitutionality of its risk-based gun removal law in *Hope v. State*, reasoning that the law does not restrict the right of law-abiding, responsible citizens to use arms in self-defense.¹⁵⁰ The court held that by only restricting for up to one year the rights of those whom a court has adjudged to pose a danger to themselves or others, the law falls under one of the longstanding “presumptively lawful regulatory measures” articulated in *District of Columbia v. Heller*.¹⁵¹ A 2017 study of the Connecticut law regarding suicide prevention estimated that the law averted approximately 72 suicides, or one suicide per every 10-11 gun seizure cases.¹⁵²

California, Indiana, Washington, and Oregon have also passed risk-based gun removal laws.¹⁵³ In California, Washington, and Oregon, a family or household member may petition the court for gun removal in addition to law enforcement.

Threat to Conduct Mass Shooting or Act of Terrorism

Currently, s. 836.10, F.S., makes it a second-degree felony to compose and send certain written threats, including electronic communications, to kill or do bodily injury. To violate this section, a person must:

- Write or compose a threat to kill or do bodily injury; and
- Send, or procure the sending of, the communication to the person threatened or family member of the person threatened.

In 2010, the Legislature amended s. 836.10, F.S., to add “electronic communication” to the types of written threats that are prohibited, but left intact the requirement that the written threat be sent to the person who is the subject of the threat or to a person whose family member is the subject of the threat. The statute currently makes it a second-degree felony¹⁵⁴ for a person to write or compose and send or procure the sending of any letter, inscribed communication, or electronic communication that contains a threat to kill or do bodily injury to the person threatened or family member of the person threatened.

Criminal defendants have challenged the statute as vague and overbroad, arguing that the statute could criminalize innocent written speech because it does not require proof that the defendant had the specific intent to cause the threatened harm.¹⁵⁵ Florida courts have held that s. 836.10, F.S., does not require the actual intent to do harm or the apparent ability to carry out the threat.¹⁵⁶ Additionally, the courts have upheld the statute finding it is definitive enough to give notice of the behavior it proscribes

¹⁴⁷ *Id.*

¹⁴⁸ Conn. Gen. Stat. § 29-38c(c).

¹⁴⁹ Conn. Gen. Stat. § 29-38c(d).

¹⁵⁰ 133 A.3d 519 (Conn. App. Ct. 2016).

¹⁵¹ 554 U.S. 570 (2008).

¹⁵² Swanson JW, Norko M, Lin H, Alanis-Hirsch K, Frisman L, Baranoski M, Easter M, Robertson AG, Swartz M, and Bonnie RJ.

Implementation and effectiveness of Connecticut's risk-based gun removal law: does it prevent suicides? LAW AND CONTEMPORARY PROBLEMS. 2017; 80: 179-208.

¹⁵³ Cal. Penal Code §§ 18125, 18150, & 18175; Ind. Code §§ 35-47-14-1, 35-47-14-2, 35-47-14-5, 35-47-14-6, & 35-47-14-8; Oregon S. 719, 79th Leg., Reg. Sess. (Or. 2017); Wash. Rev. Code §§ 7.94.030, 7.94.040, 7.94.050, & 7.94.080

¹⁵⁴ A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. SS. 775.082(3)(d) and 775.083(1)(b), F.S.

¹⁵⁵ *Saidi v. State*, 845 So. 2d 1022, 1026 (Fla. 5th DCA 2003).

¹⁵⁶ *Id.* at 1027.

and, thus, not vague. Further, it is limited enough in its objective to target threats to injure persons¹⁵⁷ and, thus, not overbroad.¹⁵⁸

In a 2016 decision, a juvenile's disposition under s. 836.10, F.S., for posting written threats to kill or do bodily injury on Twitter¹⁵⁹ was reversed.¹⁶⁰ The juvenile made a series of public posts on Twitter over the span of several days threatening to "shoot up" his school.¹⁶¹ The tweets were discovered by an out-of-state watchdog group who reported the threats to local police. Local police later contacted school officials informing them of the threats.

On appeal, the Second District Court of Appeals found that because the juvenile publicly posted the tweets, rather than directly sending them to any student or school official, the receipt of the threats by school officials through local police was too far removed to support a conviction under s. 836.10, F.S. The court specifically highlighted the difficulty of applying the current statute to modern forms of social media communication, recognizing that many threats made on social media fall outside the narrow scope of the law, which requires the communication to be sent directly to a specific person.¹⁶²

Involuntary Examination under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as "The Baker Act"¹⁶³), codified in part I of ch. 394, F.S., to address mental health needs in the state.¹⁶⁴ The Baker Act provides the authority and process for the voluntary and involuntary examination of persons who meet certain criteria, and the subsequent inpatient or outpatient placement of such individuals for treatment.

DCF administers the Baker Act through receiving facilities, which are designated by DCF. The receiving facility may be public or private and provides the initial examination and short-term treatment of persons who meet the criteria under the Baker Act.¹⁶⁵ A person who requires longer-term treatment may be transported to a DCF-designated treatment facility. Treatment facilities are state owned, operated, or supported hospitals, centers, or clinics that provide extended treatment and hospitalization beyond what is provided in a receiving facility.¹⁶⁶

¹⁵⁷ The First Amendment permits a state to ban a "true threat." "True threats" encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals." *Virginia v. Black*, 538 U.S. 343, 359 (2003).

¹⁵⁸ *Reilly v. Department of Corrections*, 847 F. Supp. 951, 958 (M.D. Fla. 1994); See also *Smith v. State*, 532 So. 2d 50, 52 (Fla. 2d DCA 1988).

¹⁵⁹ "Twitter allows users to send 'updates' (or 'tweets': text based posts, up to 140 characters long) to [the] Twitter website via short message service (e.g. on a cell phone), instant messaging, from their computer at home or work, or through a third-party application." Gnoted, *What Is Twitter and How Does It Work- Beginner's Guide*, <http://gnoted.com/what-is-twitter-and-how-does-it-work-beginners-guide/> (last visited March 14, 2018).

¹⁶⁰ *J.A.W. v. State*, 210 So. 3d 142 (Fla. 2d DCA 2016).

¹⁶¹ The following tweets were posted: "can't wait to shoot up my school"; "it's time"; "My mom and dad think I'm serious about shooting up my school I'm dying"; "school getting shot up on a Tuesday"; "night f[***]king sucked can't wait to shoot up my school soon"; and "I sincerely apologize to anyone who took me seriously. I love my high school and honestly own no weapons to want to harm anyone in any way." *Id.*

¹⁶² *Id.*

¹⁶³ "The Baker Act" is named for its sponsor, Representative Maxine E. Baker, one of the first two women from Dade County elected to office in the Florida Legislature. As chair of the House Committee on Mental Health, she championed the treatment of mental illness in a manner that would not sacrifice a patient's rights and dignity. Baker served five terms as a member of the Florida House of Representatives from 1963-1972 and was instrumental in the passage of the Florida Mental Health Act. See UNIVERSITY OF FLORIDA SMATHERS LIBRARIES, *A Guide to the Maxine E. Baker Papers*, available at <http://www.library.ufl.edu/spec/pkyonge/baker.htm> (last visited February 26, 2018), and 2014 *Baker Act User Reference Guide: The Florida Mental Health Act*, DEPARTMENT OF CHILDREN AND FAMILIES AND UNIVERSITY OF SOUTH FLORIDA, DEPARTMENT OF MENTAL HEALTH LAW AND POLICY, 2014, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/laws/BakerActManual.pdf> (last visited February 26, 2018).

¹⁶⁴ Ch. 71-131, s. 1, Laws of Fla.

¹⁶⁵ S. 394.455(39), F.S.

¹⁶⁶ S. 394.455(47), F.S.

Current law allows an involuntary examination if there is reason to believe a person has a mental illness and because of the illness, the person.¹⁶⁷

- Has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for himself or herself that an examination is needed; and
- Is likely to suffer from self-neglect or substantial harm to her or his well-being, or be a danger to himself or herself or others.

A person who is subject to an involuntary examination may not be held longer than 72 hours in a receiving facility.¹⁶⁸

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.¹⁶⁹ A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination.¹⁷⁰ A law enforcement officer¹⁷¹ may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.¹⁷² Health care practitioners may initiate an involuntary examination by executing the *Certificate of Professional Initiating an Involuntary Examination*, an official form adopted in rule by DCF.¹⁷³ The health care practitioner must have examined the person within the preceding 48 hours and state that the person meets the criteria for involuntary examination.¹⁷⁴ The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:¹⁷⁵

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders, or a physician employed by the United States Department of Veterans Affairs or Department of Defense.¹⁷⁶
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.¹⁷⁷
- A psychiatric nurse who is certified as an advanced registered nurse practitioner under s. 464.012, who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.¹⁷⁸
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

¹⁶⁷ S. 394.463(1), F.S. If the examination period ends on a weekend or a holiday, the person must be released no later than the next working day.

¹⁶⁸ S. 394.463(2)(g), F.S. For those under the age of 18, the examination must begin within 12 hours of arrival at the receiving facility.

¹⁶⁹ S. 394.463(2)(a), F.S.

¹⁷⁰ *Id.*

¹⁷¹ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. Section 943.10(1), F.S.

¹⁷² *Supra*, note 169.

¹⁷³ The *Certificate of Professional Initiating an Involuntary Examination*, created by DCF, must be executed by health care practitioners initiating an involuntary examination under The Baker Act. The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person.

See rule reference in Rule 65E-5.280, F.A.C. The form is also online. See, *Certificate of Professional Initiating an Involuntary Examination*, DEPARTMENT OF CHILDREN AND FAMILIES, available at

<http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf> (last visited February 26, 2018).

¹⁷⁴ S. 394.463(2)(a)3., F.S.

¹⁷⁵ *Id.*

¹⁷⁶ S. 394.455(32), F.S.

¹⁷⁷ S. 394.455(5), F.S.

¹⁷⁸ S. 394.455(35), F.S.

Between July 1, 2015 and June 30, 2016, there were 194,354 involuntary examinations initiated in the state. Law enforcement initiated half of the involuntary examinations (50.86 percent), followed closely by mental health professionals (47.27 percent), with the remaining initiated pursuant to *ex parte* orders by judges (1.88 percent).¹⁷⁹

Educational Facilities

Current law requires that any new construction of an educational facility must not exceed a statutorily-established cost per student station.¹⁸⁰ The baseline cost per student station was initially established in 1997¹⁸¹ and subsequently amended in 2003¹⁸² and 2006.¹⁸³ The cost per student station for new construction is structured as a ceiling or maximum and is annually adjusted to take into consideration inflation in each subsequent year.¹⁸⁴ This adjustment is made by the Public Education Capital Outlay (PECO) Estimating Conference after the adoption of each new Consumer Price Index forecast. In 1997, the statute identifying what is and what is not included in the cost per student station amount was amended.¹⁸⁵ Since 1997, this statute has remained unchanged and states that the cost per student station of new construction includes: contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. These costs do not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements.¹⁸⁶ Each school district must maintain documentation relating to the cost of new construction as reported to the Department of Education and the Auditor General must review the documentation and verify compliance.¹⁸⁷

School Safety Initiatives

Several states have undertaken various measures to improve school safety and security frameworks, particularly related to identifying and intervening in safety threats before they are realized, improving interagency communication, and providing supports to students in need. A number of states have convened taskforces to identify areas for improvement, including New Jersey,¹⁸⁸ Ohio,¹⁸⁹ Massachusetts,¹⁹⁰ Connecticut,¹⁹¹ and others.

Specific initiatives and recommendations have included:

- Establishing training requirements for school staff and students related to active shooter scenarios;¹⁹²
- Establishing school safety specialist academies;
- Requiring schools to deploy threat assessment teams to identify potential threats to student safety;
- Establishing requirements for hardening school sites; and

¹⁷⁹ Christy, A., et al., *Fiscal Year 2015/2016 Report Annual Report*, BAKER ACT REPORTING CENTER, LOUIS DE LA PARTE FLORIDA MENTAL HEALTH INSTITUTE, DEPARTMENT OF MENTAL HEALTH LAW & POLICY, UNIVERSITY OF SOUTH FLORIDA, March 2017, available at http://www.usf.edu/cbcs/baker-act/documents/annual_report.pdf (last visited January 26, 2018).

¹⁸⁰ Section 1013.64(6)(d), F.S.

¹⁸¹ Ch. 1997-384, LOF.

¹⁸² Ch. 2003-391, LOF.

¹⁸³ Ch. 2006-27, LOF.

¹⁸⁴ Section 1013.64(6)(d), F.S.

¹⁸⁵ Ch. 1997-384, LOF.

¹⁸⁶ Section 1013.64(6)(d), F.S.

¹⁸⁷ *Id.*

¹⁸⁸ *New Jersey School Security Task Force Report and Recommendations*, NEW JERSEY SCHOOL SECURITY TASK FORCE, July 2015, available at <http://www.state.nj.us/education/schools/security/TaskForceReport.pdf> (last visited January 22, 2018).

¹⁸⁹ *School Safety Task Force Recommendations and Resources*, OHIO ATTORNEY GENERAL, June 2013, available at <http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Schools/SchoolSafetyTaskForceReport>.

¹⁹⁰ *Massachusetts Task Force Report on School Safety and Security*, MASSACHUSETTS SCHOOL SAFETY AND SECURITY TASK FORCE, July 2014, available at <http://www.mass.gov/edu/docs/eoe/school-safety-security/school-safety-report.pdf> (last visited February 26, 2018).

¹⁹¹ *Report of the School Safety Infrastructure Council*, CONNECTICUT SCHOOL SAFETY INFRASTRUCTURE COUNCIL, June 27, 2014, available at http://das.ct.gov/images/1090/SSIC_Final_Draft_Report.pdf (last visited February 26, 2018).

¹⁹² *Supra*, note 188 at 12 and 17.

- Establishing and implementing local crisis response protocols.

At least 20 states have implemented school safety specialist programs.¹⁹³ Generally, such programs provide appointed school district safety specialists training through a school safety and security academy. The academy training includes national and state best practices, current resources on school safety and security, intervention prevention, and emergency preparedness planning. In addition, the academy establishes a common school safety and security vision for the state, and provides coordinated, interdisciplinary technical assistance and guidance to school districts.¹⁹⁴

School Marshal/School Sentinel Programs

Several states have enacted laws to allow individuals to carry firearms as part of their employment duties.¹⁹⁵ Since 2013, Texas has authorized school districts to participate in a school marshal program. The marshal program allows public school districts, open enrollment charter schools, private schools, and two-year colleges to appoint school marshals to carry firearms.¹⁹⁶

Protection of Texas Children Act

A school marshal, approved by the Texas Commission on Law Enforcement, may act only in accordance with the written regulations adopted by the school board or school governing body and must complete training conducted by a law enforcement agency using an approved school marshal curriculum. No other course can be substituted or exempt an individual from the school marshal training course. The course requires 80 hours of training in: physical security, improving campus security, use of force, active shooter response, and weapon proficiency.¹⁹⁷ In addition, the individual must be an employee of the school, hold a valid license to carry, and pass a psychological exam.¹⁹⁸

Two Texas school districts, Argyle and Keene,¹⁹⁹ participate in the School Marshal Program. In addition, 172 school districts in Texas allow staff or board members to carry firearms on school premises. Approximately 15 percent of these school districts have a police department and 24 percent employ school resource officers.²⁰⁰

South Dakota School Sentinel Program

In 2013, South Dakota authorized school districts to create and supervise the arming of school employees, security personnel, or volunteers.²⁰¹ Currently, two South Dakota school districts²⁰² have implemented the School Sentinel program.²⁰³

¹⁹³ *Id.* at 16.

¹⁹⁴ *Id.*

¹⁹⁵ See e.g., Ala. Code § 45-30-103(a), (c); Ark. Code Ann. § 5-73-119 (4); Safe Carry Protection Act, § 1-6(c)(6), 2014 Ga. Laws 599, 606; Act of Apr. 16, 2013, § 9(d), 2013 Kan. Laws 551, 571; Or. Rev. Stat. § 166.370(3)(h); Act of Mar. 8, 2013, § 1, 2013 S.D. Sess. Laws 210, 210; Tenn. Code Ann. § 49-6-815; Protection of Texas Children Act, 2013 Tex. Gen. Laws 1742, 1746; Utah Code Ann. § 76-10-505.5(4)(a);

¹⁹⁶ TEXAS COMMISSION ON LAW ENFORCEMENT, *School Marshals*, <https://www.tcole.texas.gov/content/school-marshals> (last visited February 26, 2018).

¹⁹⁷ TEXAS COMMISSION ON LAW ENFORCEMENT, *School Marshal Program*, <https://www.tcole.texas.gov/sites/default/files/documents/school%20marshal%20brochure.pdf> (last visited February 26, 2018).

¹⁹⁸ *Id.*

¹⁹⁹ AJC.COM, *Texas school marshals allowed to carry guns on campus*, February 17, 2018, <https://www.ajc.com/news/texas-school-marshals-allowed-carry-guns-campus/mbZhkdAdiD7SGZixNtifeL/> (last visited February 26, 2018).

²⁰⁰ *In Texas, 172 school districts allow teacher to carry guns in schools*, CORPUS CHRISTI CALLER-TIMES, February 22, 2018, <http://www.caller.com/story/news/education/2018/02/22/texas-172-school-districts-allow-teachers-staff-armed/364677002/> (last visited February 26, 2018).

²⁰¹ *School sentinel training program scheduled for July*, KELOLAND MEDIA GROUP, April 12, 2016, <http://www.keloland.com/news/article/news/school-sentinel-training-program-scheduled-for-july> (last visited February 26, 2018).

²⁰² The Associated Press, *Excerpts from Recent South Dakota editorials*, THE NEWS TRIBUNE, February 20, 2018, <http://www.thenewstribune.com/news/business/article201066669.html> (last visited February 26, 2018).

²⁰³ *Local News, Lawmakers Urge Schools to Consider Sentinel Programs After Parkview Florida School Shooting*, KCCR AM 1240, February 15, 2018, <http://www.todayskccr.com/lawmakers-urge-schools-to-consider-sentinel-programs-after-parkview-florida-school-shooting/> (last visited February 26, 2018).

Under the program, law enforcement provides training for all approved school personnel who volunteer to serve as sentinels. The training course requires at least 80 hours of training similar to Texas.²⁰⁴ In addition, an applicant must hold a valid concealed weapons permit, be examined by a licensed physician who certifies that the applicant is able to perform the duties of a school sentinel, and may not have unlawfully used any prescribed drug, controlled substance, or marijuana within one year before the time of application for training.²⁰⁵

School Resource and School Safety Officers

A school resource office (SRO) is a law enforcement officer who is employed by a law enforcement agency. SROs abide by school board policies and consult with and coordinate activities through the school principal. They are responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a school board and a law enforcement agency. Activities conducted by the SRO, which are part of the regular instructional program of the school, are under the principal's direction.²⁰⁶

A school safety officer is a certified law enforcement officer²⁰⁷ who may be employed by a district school board or law enforcement agency. A school safety officer has and must exercise the power to make arrests for violations of law on school board property. The school safety officer may also make arrests off school board property and may carry weapons when performing his or her official duties. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, depending upon the agreement.²⁰⁸

Prior to the 2017-2018 fiscal year, proviso language associated with the Florida Education Finance Program (FEFP) in the General Appropriations Act identified the eligible safe school activities on which school districts could spend Safe Schools allocation funds, including implementing the district's school resource officer program. For the past several years, over 80 percent of the Safe School allocation has been used by school districts to pay for school resource officers. Data from the 2015-2016 school year shows a total of 1,516 school resource officers statewide serving 2,432 schools; and of the \$64.5 million appropriated in the Safe Schools allocation, \$52.3 million was used to pay for these officers. Throughout the state, most school districts collaborate with law enforcement agencies to provide SROs; these salaries are paid through a variety of funding sources, including the Safe Schools allocation and county sheriff departments.

Office of Safe Schools

The Office of Safe Schools (OSS) within the Florida Department of Education (DOE) promotes and supports safe learning environments by addressing issues of student safety and academic success. OSS administers the Safe Schools Allocation, which provides for an equitable distribution of resources for safe schools activities for each school district, with a priority for providing school resource officers.²⁰⁹

The Safe Schools Allocation consists of a base sum for each school district, as appropriated by the Legislature each year, with two-thirds of the remaining amount provided to each district based on the Florida Crime Index and one-third based on each district's proportionate share of the state's total unweighted full time equivalent student enrollment.²¹⁰

²⁰⁴ OFFICE OF THE SOUTH DAKOTA ATTORNEY GENERAL, *School Sentinel Training Program*, <http://atg.sd.gov/LawEnforcement/Training/schoolsentinel.aspx> (last visited Feb. 24, 2018). Individuals must receive training in: firearms proficiency, use of force, legal aspects of using force, weapons retention by a sentinel, identifying protocols, and, first aid for victims.

²⁰⁵ *Id.*

²⁰⁶ S. 1006.12(1), F.S.

²⁰⁷ See s. 943.10(1), F.S.,

²⁰⁸ S. 1006.12(2), F.S.

²⁰⁹ See s. 1011.62(15), F.S.

²¹⁰ *Id.*

For the 2017-2018 school year, the Legislature appropriated a total of \$64,456,019 for safe schools activities and established a based sum of \$62,660 for each school district.²¹¹

Emergency Drills and Procedures

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.²¹²

DOE provides a risk assessment tool for conducting security assessments; however, school districts are not required to conduct security assessments at each public school site.²¹³

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the results of the self-assessment. The superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.²¹⁴

Zero Tolerance Policies

In compliance with the federal Gun Free Schools Act,²¹⁵ Florida law requires each district school board to adopt a policy of zero tolerance for crime and victimization, which, among other things, requires that students found in possession of a firearm at school, at school functions, or on school transportation be expelled for a minimum of one year and referred to the criminal justice or juvenile justice system. Florida's zero tolerance law also applies to a student in possession of a weapon at school, at a school function, or on school transportation and also applies to threats or false reports regarding explosives, bombs, weapons of mass destruction, and destructive devices involving school or school personnel's property, school transportation, or school sponsored activities.²¹⁶

In 2009, Florida revised its zero tolerance law to encourage the use of alternatives to expulsion or referral to law enforcement by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. School boards have discretion to provide continuing educational services to an expelled student in an alternative educational setting. A district school superintendent may consider the one-year expulsion requirement on a case-by-case basis and request that the school board modify the requirement by assigning the student to a disciplinary program or second chance school if it determines such modification is in the best interest of the student and the school system.²¹⁷

Florida law states that the purpose of zero tolerance policies is to protect students and staff from serious threats to school safety and the policies should not be applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.²¹⁸ Among other things, each

²¹¹ Ch. 2017-234, s. 6, Laws of Fla.

²¹² S. 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. S. 1006.07(4)(b), F.S.

²¹³ See *id* (citing Specific Appropriation 102A, s. 2, ch. 2013-40. The purpose of the assessment is to help school officials identify threats, vulnerabilities, and appropriate safety controls for schools.

²¹⁴ S. 1006.07(6), F.S.

²¹⁵ Pub. L. 101-647.

²¹⁶ S. 1006.13(3), F.S.; see also, s. 790.162 and 790.163, F.S. (relating to threats and false reports).

²¹⁷ S. 1006.13(3), F.S. (flush-left provision at end of subsection).

²¹⁸ S. 1006.13(1), F.S.

school board's zero tolerance policy must define acts that pose a serious threat to school safety and petty acts of misconduct.²¹⁹ Additionally, each school board's zero tolerance policy must:

- Provide that any student found to have committed crimes upon any elected official or school district employee must be expelled or placed in an alternative school setting or other program, as appropriate.²²⁰
- Prohibit students found to have committed certain felony offenses against another student from attending the same school or riding on the same school bus as a victim or a victim's sibling.²²¹

School boards must enter into agreements with the county sheriff's office and local police department which specify the guidelines for ensuring that acts posing a serious threat to school safety, whether committed by a student or an adult, are reported to a law enforcement agency. In addition, school boards must adopt a cooperative agreement with the Florida Department of Juvenile Justice (DJJ) to establish guidelines for ensuring that any "no contact order" entered by a court is reported and enforced and that all of the necessary steps are taken to protect the victim of the offense.²²²

PROMISE Program

The PROMISE program in Broward County is an example of such an agreement based on the district school board's criteria of acts that pose a serious threat. The program addresses the needs of students who commit non-violent infractions that previously could have resulted in the student being arrested and entering the juvenile justice system. The program emphasizes intervention and prevention. Some of the non-violent infractions, as determined by the school board criteria, include drug or alcohol possession, bullying, major disruption on campus, and fighting – mutual combat.²²³ Depending on the severity of the incident, a student may have several incidents prior to referral to law enforcement.²²⁴

Student Crime Watch

Each district school board must provide for the proper attention to health, safety, and other matters relating to the welfare of students, including implementation of a student crime watch program. The purpose of the program is to promote responsibility among students and to assist in the control of criminal behavior within the schools.²²⁵

Mental Health and Mental Illness

Mental health and mental illness are not synonymous. Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community.²²⁶

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress

²¹⁹ S. 1006.13(2)(b), and (c), F.S.

²²⁰ S. 1006.13(5), F.S.

²²¹ S. 1006.13(6)(a), F.S.

²²² S. 1006.13(4)(a) and (6)(b), F.S.

²²³ *Promise Infraction Matrix*, BROWARD COUNTY SCHOOLS, available at <https://www.browardprevention.org/wp-content/uploads/2013/10/Pages-from-PROMISE-Infraction-Matrix.pdf> (last visited February 26, 2018).

²²⁴ *Broward County Public Schools Administrative Discipline Matrix – Grades 9-12*, BROWARD COUNTY SCHOOLS, available at <http://www.browardschools.com/SiteMedia/Docs/Info/CodeBook/Matrix-9-12.pdf> (last visited February 26, 2018).

²²⁵ See s. 1006.07(3), F.S. See e.g., CITIZENS' CRIME WATCH OF MIAMI-DADE COUNTY, *Youth Crime Watch of Miami-Dade County*, <http://www.youthcrimewatch-miamidade.com/> (last visited February 26, 2018); BROWARD COUNTY SCHOOLS, *Youth Crime Watch of Broward County*, http://www.broward.k12.fl.us/emergencypreparedness/ycw_new/pages/index.html (last visited February 26, 2018).

²²⁶ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Mental Health Basics*, <http://www.cdc.gov/mentalhealth/basics.htm> (last visited February 26, 2018). The primary indicators used to evaluate an individual's mental health are: 1. Emotional well-being (perceived life satisfaction, happiness, cheerfulness, peacefulness); 2. Psychological well-being (self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships); and 3. Social well-being (social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community).

and/or impaired functioning.²²⁷ Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being.

Mental illness affects millions of people in the United States each year. Only about 17% of adults in the United States are considered to be in a state of optimal mental health.²²⁸ This leaves the majority of the population with less than optimal mental health.²²⁹

- One in five adults (43.8 million people) experiences mental illness in a given year;
- Approximately 6.9 percent (16 million people) had at least one major depressive episode in the past year; and
- Approximately 18.1 percent of adults live with anxiety disorders, such as obsessive-compulsive disorder, posttraumatic stress disorder, and specific phobias.

Many people are diagnosed with more than one mental illness. For example, people who suffer from a depressive illness (major depression, bipolar disorder, or dysthymia) often have a co-occurring mental illness such as anxiety.²³⁰

Mental Health Services in Florida

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.²³¹

Behavioral Health Managing Entities

In 2001, the Legislature authorized DCF to implement behavioral health managing entities (MEs) as the management structure for the delivery of local mental health and substance abuse services.²³² The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.²³³ Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.²³⁴

DCF contracts with seven MEs - Big Bend Community Based Care (blue), Lutheran Services Florida (yellow), Central Florida Cares Health System (orange), Central Florida Behavioral Health Network, Inc. (red), Southeast Florida Behavioral Health (pink), Broward Behavioral Health Network, Inc. (purple), and South Florida Behavioral Health Network, Inc. (beige) that in turn contract with local service providers²³⁵ for the delivery of mental health and substance abuse services:²³⁶

²²⁷ *Id.*

²²⁸ *Id.*, see also, NATIONAL INSTITUTE OF MENTAL HEALTH, *Any Mental Illness (AMI) Among Adults*, <http://www.nimh.nih.gov/health/statistics/prevalence/any-mental-illness-ami-among-adults.shtml> (last visited February 26, 2018). Mental illness can range in severity from no or mild impairment to significantly disabling impairment. Serious mental illness is a mental disorder that has resulted in a functional impairment which substantially interferes with or limits one or more major life activities.

²²⁹ NATIONAL ALLIANCE ON MENTAL ILLNESS, *Mental Health by the Numbers*, <http://www.nami.org/Learn-More/Mental-Health-By-the-Numbers> (last visited February 26, 2018).

²³⁰ JOHN HOPKINS MEDICINE, *Mental Health Disorder Statistics*, http://www.hopkinsmedicine.org/healthlibrary/conditions/mental_health_disorders/mental_health_disorder_statistics_85,P00753/ (last visited February 26, 2018).

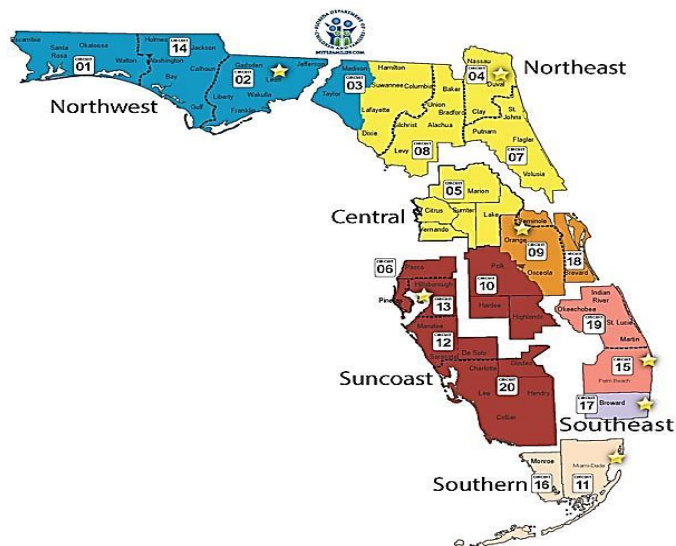
²³¹ These priority populations include, among others, persons diagnosed with co-occurring substance abuse and mental health disorders, persons who are experiencing an acute mental or emotional crisis, children who have or are at risk of having an emotional disturbance and children at risk for initiating drug use.

²³² Ch. 2001-191, Laws of Fla.

²³³ Ch. 2008-243, Laws of Fla.

²³⁴ *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY, July 18, 2014.

²³⁵ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.



Mental Health Services for Students

DOE, through the Bureau of Exceptional Education and Student Services and OSS, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health as well as substance use and abuse.²³⁷ Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.²³⁸

State funding for school districts is provided primarily by legislative appropriations, the majority of which is distributed through an allocation through the FEFP to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.²³⁹ Each district school board must include the amount of categorical funds as a part of the district annual financial report to DOE, and DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.²⁴⁰

The law provides that district school boards and state agencies administering children’s mental health funds should form a multiagency network to provide support for students with severe emotional disturbance.²⁴¹ The program goals for each component of the multiagency network are to:

- Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;
- Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- Provide programs and services as close as possible to the student’s home in the least restrictive manner consistent with the student’s needs; and
- Integrate a wide range of services necessary to support students with severe emotional disturbances and their families.²⁴²

²³⁶ DEPARTMENT OF CHILDREN AND FAMILIES, *Managing Entities*, <http://www.myffamilies.com/service-programs/substance-abuse/managing-entities> (last visited February 26, 2018).

²³⁷ S. 1003.42(2)(n), F.S.

²³⁸ S. 1012.01(2)(b), F.S.

²³⁹ S. 1012.01(6), F.S.

²⁴⁰ *Id.*

²⁴¹ See s. 1006.04(1)(a), F.S.

²⁴² S. 1006.04(1)(b), F.S.

DOE may award grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities (SEDNET).²⁴³ SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.²⁴⁴ SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.²⁴⁵

Law Enforcement Interactions with Individuals with Mental Illness

Law enforcement is often called to intervene in situations where individuals with mental illness behave in ways that disturb the social order or lead to concerns for others' safety; however, these situations are challenging for officers, as individuals with mental illness may not respond well to the standard law enforcement approaches.²⁴⁶ For example, the majority of individuals assaulting police officers are under the influence of drugs or alcohol, have a psychiatric disorder, or have co-occurring behavioral health conditions.²⁴⁷ Additionally, when officers perceive mental disturbance to be dangerous, they may approach the individual with increased force in order to resolve the situation with the result that encounters can be dangerous for both police officers and individuals with mental illness.²⁴⁸

In 1987, police officers in Memphis, Tennessee, responded to a call where a young man was threatening people with a knife and when police officers ordered him to drop the knife, he refused; the officers eventually opened fire, and the young man died of multiple gunshot wounds.²⁴⁹ The man had a history of mental illness.²⁵⁰ Community concerns about the young man's death led Memphis to develop a better way to intervene with individuals in a mental health crisis, which became the Memphis model of Crisis Intervention Training (CIT).²⁵¹

Crisis Intervention Training

There are nearly 2,700 CIT programs in the United States,²⁵² including seven regional or multi-county and 26 county programs in Florida.²⁵³ CIT offers an alternative approach to standard law enforcement

²⁴³ S. 1006.04(2), F.S.

²⁴⁴ Fiscal agents include the Brevard, Broward, Miami-Dade, Duval, Escambia, Hamilton, Highlands, Hillsborough, Lee, Leon, Marion, Orange, Palm Beach, Pinellas, Polk, Putnam, St. Lucie, Sarasota, and Washington school districts. FLORIDA DEPARTMENT OF EDUCATION, BUREAU OF EXCEPTIONAL EDUCATION AND STUDENT SERVICES, *BEESS Discretionary Projects*, January 2017, at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited February 26, 2018).

²⁴⁵ FLORIDA DEPARTMENT OF EDUCATION, BUREAU OF EXCEPTIONAL EDUCATION AND STUDENT SERVICES, *BEESS Discretionary Projects*, January 2017, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited February 26, 2018).

²⁴⁶ Watson, Amy, et. al., *Improving police response to persons with mental illness: A Multilevel conceptualization of CIT*, NATIONAL INSTITUTES OF HEALTH, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2655327/pdf/nihms69181.pdf> (last visited February 26, 2018).

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ UNIVERSITY OF MEMPHIS CIT CENTER, *Overview: The CIT Program: Background*, <http://www.cit.memphis.edu/overview.php?page=1> (last visited February 26, 2018).

²⁵⁰ *Id.*

²⁵¹ UNIVERSITY OF MEMPHIS CIT CENTER, *Overview: The Memphis Model*, <http://www.cit.memphis.edu/overview.php?page=1> (last visited February 26, 2018).

²⁵² UNIVERSITY OF MEMPHIS CIT CENTER, *Overview: National Model*, <http://www.cit.memphis.edu/overview.php?page=7> (last visited February 26, 2018).

²⁵³ UNIVERSITY OF MEMPHIS CIT CENTER, *Escambia CIT Programs*, <http://www.cit.memphis.edu/cjus/index.php?classname=cCountyDetails&func=showCountyDetails&county=Escambia&stateid=10> (last visited Feb. 24, 2018). Regional and multi-county programs include Central Florida, North Central Florida, Northwest Florida CIT, Northwest Florida Regional Task Force, Treasure Coast, Volusia/Flagler, Lake/Sumter, and Pasco/Hernando. County programs include Bay, Bradford, Broward, Charlotte, Citrus, Clay, Columbia, Miami-Dade (2), DeSoto, Gadsden, Gulf, Holmes, Lee, Leon, Marion, Nassau, Okaloosa, Orange, Osceola, Palm Beach, Pinellas, Sarasota, Walton, and Washington. (last visited February 26, 2018).

practices tailored to the needs of individuals with mental illness. CIT involves a five-day training for law enforcement officers²⁵⁴ that provides information on:

- **Mental health:**²⁵⁵ provides officers with a better understanding of the diagnostic and treatment issues related to mental health functioning²⁵⁶ and discusses the civil rights of those with mental illness, state commitment statutes, and mental health assessment.
- **Community support services:**²⁵⁷ provides officers with information on the support services available within their own communities. A portion of this section includes presentations by mental health advocate organizations, individuals with mental illness and their family members, and other advocates from the community.
- **Police procedures and liability issues:**²⁵⁸ covers protocols relating to officer tactical training and safety restraints; provides information of how officers can manage stress; and emphasizes legal, safety and policy issues.
- **De-escalation training:**²⁵⁹ trains officers on the methods necessary for on-scene crisis intervention and includes role playing, scenario usage, and officer safety issues.
- **Jail diversion strategies and mental health courts:**²⁶⁰ includes topics such as an introduction to diversion strategies and established programs within the criminal justice system to integrate incarcerated individuals with local mental health resources, and work with the mental health courts.

The training also includes site visits to programs or facilities used by individuals with mental illness, such as homeless shelters, outpatient treatment centers, drop-in centers or state hospitals, where trainees can interact with individuals with mental illness.²⁶¹

Positive Outcomes of CIT

Research indicates that alternatives to standard law enforcement approaches, such as CIT, work more effectively with individuals with mental illness, resulting in lower rates of injury and death. For example, these approaches can help law enforcement to de-escalate the situation, and can also divert individuals with mental illness from jails and into treatment settings more appropriate for dealing with the mental illness underlying the behavior.²⁶² Additionally, research indicates the CIT is effective at increasing officers' knowledge about and improving attitudes toward individuals with mental illness.²⁶³ Data from observations of officers' behavior indicated that CIT was associated with decreased likelihood of arrest and increased likelihood of referral or transport to mental health services. In one study, while CIT trained officers and non-CIT trained officers used force at the same rates, CIT trained officers were

²⁵⁴ UNIVERSITY OF MEMPHIS CIT CENTER, *National Curriculum*, <http://www.cit.memphis.edu/curriculum.php?id=0> (last visited February 26, 2018).

²⁵⁵ UNIVERSITY OF MEMPHIS CIT CENTER, *Mental Health Didactics: Overview of Mental Health Didactics*, <http://www.cit.memphis.edu/curriculum.php?id=1> (last visited February 26, 2018).

²⁵⁶ Includes lectures on an overview of severe and persistent mental illness, an in-depth examination of mood and thought disorders, review of issues related to children and youth, examination of cognitive disorders, special focus on issues such as PTSD and suicide, examination of substance abuse and co-occurring disorders, and an introduction to psychopharmacology.

²⁵⁷ UNIVERSITY OF MEMPHIS CIT CENTER, *Community Support: Overview of Community Support*, <http://www.cit.memphis.edu/curriculum.php?id=2> (last visited February 26, 2018).

²⁵⁸ UNIVERSITY OF MEMPHIS CIT CENTER, *Law Enforcement: Overview of Law Enforcement*, <http://www.cit.memphis.edu/curriculum.php?id=5> (last visited February 26, 2018).

²⁵⁹ UNIVERSITY OF MEMPHIS CIT CENTER, *De-Escalation Training: Overview of De-Escalation Training*, <http://www.cit.memphis.edu/curriculum.php?id=3> (last visited February 26, 2018).

²⁶⁰ UNIVERSITY OF MEMPHIS CIT CENTER, *Research and Systems: Jail Diversion*, <http://www.cit.memphis.edu/curriculum.php?id=6&page=1> (last visited February 26, 2018).

²⁶¹ UNIVERSITY OF MEMPHIS CIT CENTER, *Site Visits: Overview of Site Visits*, <http://www.cit.memphis.edu/curriculum.php?id=4> (last visited February 26, 2018).

²⁶² UNIVERSITY OF MEMPHIS CIT CENTER, *Overview: Jail Diversion and Referral to Healthcare*, <http://www.cit.memphis.edu/overview.php?page=4> (last visited February 26, 2018).

²⁶³ Compton, Michael, et al., *The Police-Based Crisis Intervention Team (CIT) Model: I. Effects on Officers' Knowledge, Attitudes, and Skills*, PSYCHIATRIC SERVICES, Vol. 65, Issue 4. <https://ps.psychiatryonline.org/doi/full/10.1176/appi.ps.201300107> (last visited February 26, 2018).

significantly more likely than non-CIT trained officers to use verbal engagement or negotiation as the highest level of force in a situation involving a person with mental illness.²⁶⁴

Mobile Crisis Teams

A mental health crisis can be an extremely frightening and difficult experience for both the individual in crisis and those around him or her. It can be caused by a variety of factors at any hour of the day.²⁶⁵ Family members and caregivers of an individual experiencing a mental health crisis are often ill-equipped to handle these situations and need the advice and support of professionals.²⁶⁶ All too frequently, law enforcement or EMTs are called to respond to mental health crises and they often lack the training and experience to effectively handle the situation.²⁶⁷ Mobile crisis teams can be beneficial in such instances.

Mobile crisis teams are deployed prior to the individual's arrival at a receiving facility or emergency room to provide immediate assessment, intervention, recommendations, referral, and support services.²⁶⁸ Early intervention can efficiently stabilize acute situations; specifically, mobile crisis teams can prevent unnecessary stays in hospitals and jails and connect individuals with the community mental health system who had not accessed treatment and services before.²⁶⁹ Crisis teams are available to anyone, regardless of their ability to pay and must be ready to respond to any mental health emergency.

Mobile Crisis Teams in Florida²⁷⁰

Behavioral Health Managing Entity	# of Teams	Provider	Population Served
Big Bend Community Based Care	0	None	None
Broward Behavioral Health Coalition	1	Henderson Behavioral Health	Adults and Children, 24/7
Central Florida Behavioral Health Network	3	Gracepoint Wellness	Adults and Children, day/evening
		Peace River Center- Bartow	Adults and Children, day/evening
		Centerstone of Florida	Adults and Children, M-F 9am –7pm
Central Florida Cares Health Systems	2	Brevard Cares Mobile Crisis Response Team	Children and Families, 24/7
		Devereux Advanced Behavioral Health	Children only
Lutheran Services	0	None	None
Southeast Florida Behavioral Health Network	4	Jerome Golden Center for Behavioral Health (West Palm)	Adults and children, 24/7
		Jerome Golden Center for Behavioral Health (Belle Glade)	Adults and children, 24/7
		South County Mental Health Center	Adults and children, 24/7
		New Horizons of the Treasure Coast	Adults and children, 24/7
South Florida Behavioral Health Network	1	Miami Behavioral Health: Banyan Health Systems Mobile Crisis Team	Adult and children, 24/7

²⁶⁴ *Id.*

²⁶⁵ DEPARTMENT OF CHILDREN AND FAMILIES, *Mobile Crisis Teams – Florida*, (August 15, 2017), p. 1, available at, <http://www.dcf.state.fl.us/programs/samh/MentalHealth/task-force-examination-minors/docs/20170818/Mobile%20Crisis%20Teams.docx> (last visited February 26, 2018).

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.* at pp. 1-2.

Community Action Treatment (CAT) Teams

According to the National Institute of Mental Health (NIMH), half of all lifetime cases of mental health disorders have begun by age 14 and three quarters have begun by age 24.²⁷¹ Successful transition between the children and adult systems is critical; many individuals with mental health disorders fall through the gaps between the children and adult mental health systems during a critical time in their lives.²⁷² In 2003, the New Freedom Commission on Mental Health released a report that identified further gaps in the mental health system and recommended transforming the mental health system through community-based services to help individuals with mental illnesses live successfully in their communities.²⁷³ The Community Action Treatment (CAT) teams model is an example of a comprehensive service approach that allows young people with mental illnesses who are at risk or out-of-home placements to receive services and remain in their communities with their caregivers.²⁷⁴

CAT teams are intended to be a safe and effective alternative to out-of-home placement for children with a mental health condition and characteristics that impact their ability to function well in the community.²⁷⁵ The goals of CAT teams are to:²⁷⁶

- Strengthen the family and support systems for youth and young adults to assist them to live successfully in the community;
- Improve school related outcomes such as attendance, grades and graduation rates;
- Decrease out-of-home placements;
- Improve family and youth functioning;
- Decrease substance use and abuse;
- Decrease psychiatric hospitalizations;
- Transition into age appropriate services; and
- Increase health and wellness.

To be eligible for services through a CAT team, the individual must be a child or young adult, up to 21 years old, with a mental health or co-occurring substance abuse diagnosis and specified accompanying characteristics, the requirements for which vary by age.²⁷⁷ If the child is less than 11 years old he or she must meet two of the following accompanying characteristics; however, individuals aged 11-21 must only meet one of the following accompanying characteristics:²⁷⁸

- The individual is at-risk for out-of-home placement as demonstrated by repeated failures at less intensive levels of care;
- The individual has had two or more hospitalizations or repeated failures;
- The individual has had involvement with DJJ or multiple episodes involving law enforcement; or
- The individual has poor academic performance and/or suspensions.

The CAT model is an integrated service delivery approach that utilizes a team of individuals to comprehensively address the needs of the young person, and his or her family.²⁷⁹ The CAT team includes a full-time team leader, mental health clinicians, a psychiatrist or advanced registered nurse

²⁷¹ Kessler, Berglund, Demler, Jin, Merikangas, and Walters, *Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication*, ARCHIVES OF GENERAL PSYCHIATRY. June 2005, available at, <https://www.ncbi.nlm.nih.gov/pubmed/15939837> (last visited February 26, 2018).

²⁷² Maryann Davis and Bethany Hunt, *State efforts to expand transition supports for young adults receiving adult public mental health services*. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, CENTER FOR MENTAL HEALTH SERVICES, 2005, available at, <https://www.nasmhpd.org/sites/default/files/Expand%20Transition%20Supports.pdf> (last visited February 26, 2018).

²⁷³ Letter from The President's New Freedom Commission on Mental Health to President George W. Bush, July 22, 2002, available at <http://govinfo.library.unt.edu/mentalhealthcommission/reports/FinalReport/downloads/FinalReport.pdf> (last visited February 26, 2018).

²⁷⁴ DEPARTMENT OF CHILDREN AND FAMILIES, *Community Action Team Evaluation Report*, January 31, 2014, p. 6, available at http://www.dcf.state.fl.us/programs/samh/docs/CAT_Team_Evaluation_January_31_2014.pdf (last visited February 26, 2018).

²⁷⁵ DEPARTMENT OF CHILDREN AND FAMILIES, *Fiscal Year 2017-18 Managing Entity Templates, Guidance 32 – Community Action Treatment (CAT) Team*, Effective January 1, 2018, p. 1 (Guidance Document on file with Health and Human Services Committee).

²⁷⁶ *Id.* at pp. 1-2.

²⁷⁷ *Id.* at p. 2.

²⁷⁸ *Id.*

²⁷⁹ *Id.*

practitioner (ARNP), a registered or licensed practical nurse, a case manager, therapeutic mentors, and support staff.²⁸⁰ They work collaboratively to deliver the majority of behavioral health services, coordinate with other service providers when necessary, and assist the family in developing or strengthening its natural support system.²⁸¹

CAT teams have greater flexibility than traditional mental health providers, which is intended to promote a “whatever it takes” approach to assisting young people with mental health or co-occurring substance use disorders and their families to achieve their goals.²⁸² One of the differences between CAT teams and traditional mental health services is that services are provided or coordinated by the multidisciplinary team; these services are individualized and often do not fit into the standard of medical necessity, and are typically not reimbursed by Medicaid or private insurance.²⁸³ The number of sessions and the frequency at which they are provided is set through collaboration rather than service limits.²⁸⁴ In addition, the family is treated as a unit, and the CAT team addresses all family members’ needs.²⁸⁵

CAT teams provide services in the family’s home or in other community locations that are convenient for the family being served. The mix of services and supports the CAT team provides to the individual and his or her family should be developmentally appropriate for the young person and serve to strengthen him or her and his or her family.²⁸⁶ Services provided by the CAT team include:²⁸⁷

- **Crisis Intervention and 24/7 On-call Coverage:** Assists the family with crisis intervention, referrals, or supportive counseling.
- **Natural Support Network Development:** Develops natural community supports, including extended family and friends, support groups and peer support, and religious and civic organizations.
- **Case Management:** The case manager coordinates care with other parties such as providers, schools, or juvenile justice; advocates on behalf of the family; and provides access to services and supports, including, but not limited to: primary health care (medical and dental); basic needs such as housing and transportation; educational services such as tutoring; vocational services such as job readiness and placement; and legal services.
- **Incidental and Emergency Funds:** Funds are used for services and supports, outlined in the care plan. Examples of items purchased include medications, aftercare or recreational activities, and educational supplies to help them reach treatment goals and move toward greater independence.
- **Family Education:** Families are educated on topics related to their treatment goals, including effective parenting skills and behavior management.
- **Psychiatric Services:** A psychiatrist or ARNP completes a psychiatric evaluation to determine the need for psychotherapeutic medication and for treatment recommendations. If medication is prescribed, the CAT team provides medication management to review therapeutic effects and side effects.
- **Respite:** Provides short-term supervision for the young person away from the family to offer temporary relief as a planned event or to improve family stability in a time of crisis.
- **Substance Abuse and Co-occurring Services:** Ensures both mental health and substance abuse needs are addressed.
- **Therapeutic Mentoring:** A mentor is assigned to serve as a role model, build a strong sense of self and assist with social, vocational and problem-solving skill development.
- **Therapy:** Provides and coordinates individual, group, and family therapy services. The type, frequency and location of therapy provided are based on their individual needs.

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Supra*, note 274 at p. 8.

²⁸³ *Id.*

²⁸⁴ *Id.*

²⁸⁵ *Id.* at p. 9.

²⁸⁶ *Supra*, note 275 at p. 7.

²⁸⁷ *Supra*, note 274 at p. 9.

- **Transition Services:** Assists the family to overcome gaps in services and supports in areas such as education, vocation, living situation, and primary health and behavioral health care when moving from the children to the adult service system.
- **Transportation:** Assists with transportation to medical appointments, court hearings, or other related activities outlined in the care plan.
- **Tutoring:** Assists the young person with remedial academic instruction to enhance educational performance.

In addition to the services the CAT team provides, it also encourages the young person and his or her family to develop connections to natural supports²⁸⁸ within its own network of associates, such as friends and neighbors; through connections with community; through service and religious organizations; and through participation in clubs and other civic activities.²⁸⁹

Through the treatment planning process, including in the development of a plan of care, the CAT team works with the young person and his or her family²⁹⁰ to identify short-term objectives to build long-term stability, resilience, family unity, and to promote wellness and illness management.²⁹¹ Within 30 days admission, an initial plan of care must be developed.²⁹² The initial plan of care guides the provision of services by the CAT team and must at a minimum:

- Be developed with the participation of the individual receiving services and his or her family, including caregivers and guardians;
- Specify the CAT team services and supports to be provided by CAT team members, to include a focus on engagement, stabilization, and safety planning if needed; and
- Include a brief initial discharge planning discussion, to include the general goals to be accomplished prior to discharge.

Within 60 days of admission, the initial plan of care must be reviewed and updated, if needed; following the review and update, the initial plan of care becomes known as the master plan of care and must:²⁹³

- Be reviewed and updated, as needed.
- Be strength-based and build on assets and resources;
- Be individualized and developmentally appropriate to age and functioning level;
- Consider and address needs in various life domains, as appropriate;
- Integrate substance abuse and mental health treatment, when indicated;
- Specify measurable treatment goals and target dates for the CAT team services and supports;
- Specify the CAT team members responsible for completion of each treatment goal; and
- Include a plan for discharge, to include how CAT team services will provide the resources and tools for successful transition from CAT team services.

The average length of time a young person is expected to receive services is six to nine months, and he or she may be discharged when:²⁹⁴

- He or she has functioned well at home and school for the past three months, and the family and staff agree to terminate services;
- Family dynamics have improved, and the family and staff agree to terminate services;
- The parents or young person refuse to participate in services after three months despite efforts to engage them;

²⁸⁸ Natural supports ease the transition from formal services and provide ongoing support after discharge.

²⁸⁹ *Supra*, note 275 at p. 6.

²⁹⁰ There is evidence that outcomes improve when youth and families participate actively in treatment for the youth, and that their involvement is essential at every phase of the treatment process, including assessment, treatment planning, implementation, and monitoring and outcome evaluation. Because of this, DCF encourages providers to focus on engaging the young person and his or her family as a critical first step in the treatment process and to promote active participation, as equal partners, in the treatment planning process. See, note 275 at p. 6.

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.* at pp. 6-7.

²⁹⁴ *Supra*, note 274 at pp. 10-11.

- He or she moves out of the catchment area;
- He or she is admitted to a residential treatment program, a juvenile justice or criminal justice commitment program; or
- The CAT team determines that a different program would be more clinically beneficial.

As part of discharge planning, the team assists the family to identify resources to successfully maintain progress.²⁹⁵

Use of CAT Teams in Florida

In 2005, the Florida Legislature funded the first CAT team as a behavioral healthcare pilot project for children, adolescents, and young adults with significant mental health needs in Manatee County.²⁹⁶ Manatee Glens, a non-profit behavioral health provider, implemented the first CAT team pilot project with the goal of diverting children and youth with significant behavioral health needs from residential mental health treatment, foster care, and juvenile detention facilities.²⁹⁷

In 2013, the Legislature funded ten pilot CAT teams through Specific Appropriation 352-A of the 2013–2014 GAA.²⁹⁸ The Legislature directed DCF as part of the 352-A appropriation to develop a report that evaluates the effectiveness of CAT teams in meeting the goal of offering parents and caregivers of this target population a safe option for raising their child at home rather than utilizing more costly institutional placement, foster home care, or juvenile justice services.²⁹⁹ Based on this directive, DCF published the Community Action Team Evaluation Report³⁰⁰ on January 31, 2014. While the report was not able to provide an unequivocal conclusion as to the efficacy of the CAT team model, its assessment was positive and it found positive outcomes associated with the use of CAT teams, including diversion from out of home placement, functional improvement, improved school attendance, and an increased number of days spent in the community (i.e., not in a psychiatric hospital, juvenile detention center, residential treatment facility, or on runaway).³⁰¹

Following the positive report on CAT teams, the Legislature allocated recurring funding and non-recurring funding expanding the number of CAT teams in 2014, 2015, 2016 and 2017.³⁰²

As of July 1, 2017, recurring funding supports 23 CAT teams and non-recurring funding supports 3 CAT teams.³⁰³ They are:

²⁹⁵ *Id.* at p. 10

²⁹⁶ *Supra*, note 275 at p. 1.

²⁹⁷ *Id.*

²⁹⁸ Fla. General Appropriation Act Fiscal Year 2013-2014, SB 1500 item 352-A, available at http://www.myfloridahouse.gov/filestores/Adhoc/Appropriations/GAA/2013-Senate/CR_SB_1500.pdf (last visited February 26, 2018).

²⁹⁹ *Id.*

³⁰⁰ *Supra*, note 274.

³⁰¹ *Id.* at pp. 22-26.

³⁰² Fla. General Appropriation Act Fiscal Years 2014-2015, 2015-2016, 2016-2017; HB 5001 item 349, SB 2500-A item 377G, HB 5001 item 382, respectively.

³⁰³ Fla. General Appropriation Act Fiscal Year 2017-2018, SB 2500 item 361A.

Counties	CAT Team Provider
Alachua, Columbia, Dixie, Hamilton, Lafayette, Suwannee	Meridian Behavioral Health
Alachua	Sinfonia
Bay	Life Management Center
Brevard	Circles of Care
Charlotte	Charlotte Behavioral Healthcare
Collier	David Lawrence Center
Duval	Child Guidance Center
Escambia	Lakeview Center
Hillsborough	Mental Health Care
Indian River, Martin, St. Lucie	Family Preservation Services of Florida
Lake, Sumter	Lifestream Behavioral Center
Lee	SalusCare
Leon, Gadsden, Wakulla	Apalachee Center
Manatee	Manatee Glens
Marion	The Centers
Miami-Dade	Citrus Health Network
Miami-Dade	Institute for Child and Family Health
Okaloosa	Bridgeway Center
Orange	Lakeside Behavioral Healthcare
Palm Beach	Sinfonia
Pasco	Baycare Behavioral Health
Pinellas	Personal Enrichment Mental Health Services
Polk, Highlands, Hardee	Peace River Center
Sarasota, DeSoto	Manatee Glens
Volusia, Flagler	Halifax Health
Walton	COPE Center

These programs operate by contracts between DCF or the managing entity and each provider identified in the GAA.³⁰⁴ DCF is currently implementing a transition plan to assign these contracts to ME subcontract management on or before June 30, 2018.³⁰⁵

In DCF's SAMH Annual Plan for fiscal years 2017-19, it identified the need to increase intensive, in-home team interventions that are available 24/7 as part of its strategic initiative to increase access to quality, recovery-oriented system of care, and enhance the community-based service array to shift from an acute care model to a recovery based model of care.³⁰⁶ DCF identified increasing the number of CAT and mobile crisis teams as a way to meet this objective.³⁰⁷

Youth Mental Health Awareness and Assistance Training

One form of youth mental health awareness and assistance training is youth Mental Health First Aid. Mental Health First Aid, USA (MHFA) is a mental health literacy public education program, teaching

³⁰⁴ *Supra*, note 275 at p. 1.

³⁰⁵ *Id.*

³⁰⁶ *Florida Substance Abuse and Mental Health Plan, Triennial State and Regional Master, Fiscal Years 2017-19*, DEPARTMENT OF CHILDREN AND FAMILIES, SUBSTANCE ABUSE AND MENTAL HEALTH PROGRAM OFFICE, January 31, 2016, pp. 8-9, available at <http://www.dcf.state.fl.us/programs/samh/publications/FL-SAMH-PlanFY17-19.pdf> (last visited February 26, 2018).

³⁰⁷ *Id.* at p. 9.

individuals to identify, understand, and respond to signs of mental illnesses and substance use disorders.³⁰⁸ MHFA helps to reduce the stigma associated with mental illness and increase the assistance offered to those experiencing a mental health crisis or developing a mental health problem.³⁰⁹

MHFA was developed in Australia in 2001 by a mental health literacy professor and a nurse specializing in health education.³¹⁰ The MHFA program is used worldwide, including in the United States, where the National Council for Community Behavioral Healthcare (National Council) operates MHFA in partnership with the Missouri Department of Mental Health.³¹¹ Since MHFA was introduced in the United States in 2008,³¹² over one million individuals have been trained in MHFA; the five states with the greatest number of individuals trained are California (52,637), Pennsylvania (44,704), Texas (33,468), Michigan (27,728), and Missouri (25,391).³¹³ MHFA trainees include health care professionals, social workers, employers and business leaders, leaders in faith communities, school personnel and educators, law enforcement and public safety officials, veterans and their family members, individuals with mental illness or substance use disorders and their families, and the general public.³¹⁴

The Substance Abuse and Mental Health Services Administration (SAMHSA) has classified MHFA as an evidence-based program.³¹⁵

Training

MHFA is an interactive eight-hour course that presents an overview of mental illness and substance use disorders in the United States. It addresses:

- Risk factors and warning signs of mental health problems,
- Mental health problems' impact,
- Common treatments, and
- Recovery and resiliency.³¹⁶

In MHFA training, participants learn a 5-step action plan encompassing the skills, resources and knowledge to help an individual in crisis connect with appropriate professional, peer, social, and self-help care.³¹⁷ The action plan covers:³¹⁸

- **Assessing for risk of suicide or harm:** teaches participants to identify signs of suicidal thoughts and behaviors, self-injury, or other harm. Such warning signs include, but are not limited to, making threats or taking steps to hurt or kill oneself; acting reckless or engaging in risky activities; increased use of alcohol or drugs; withdrawing from family, friends, or society; and dramatic mood changes.
- **Listening nonjudgmentally:** teaches participants to use verbal and nonverbal skills such as open body posture, comfortable eye contact, and other strategies to engage in appropriate conversation.

³⁰⁸ THE NATIONAL COUNCIL FOR BEHAVIORAL HEALTH, *Mental Health First Aid Certification Standards*, August 2012, p. 3 available at <https://www.nationalcouncildocs.net/wp-content/uploads/2013/10/MHFA-USA-Certification-Standards-Updated-Aug-2012.pdf> (last visited February 24, 2018).

³⁰⁹ *Id.*

³¹⁰ MENTAL HEALTH FIRST AID USA, *About*, <https://www.mentalhealthfirstaid.org/about/> (last visited February 26, 2018).

³¹¹ *Id.*

³¹² THE NATIONAL COUNCIL FOR BEHAVIORAL HEALTH, *Mental Health First Aid*, <https://www.thenationalcouncil.org/training-courses/mental-health-first-aid/> (last visited February 26, 2018).

³¹³ *Supra*, note 310.

³¹⁴ *Supra*, note 312.

³¹⁵ SAMHSA'S NATIONAL REGISTRY OF EVIDENCE-BASED PROGRAMS AND PRACTICES, *Mental Health First Aid*,

<https://nrepp.samhsa.gov/ProgramProfile.aspx?id=1229> (last visited February 26, 2018).

³¹⁶ MENTAL HEALTH FIRST AID USA, *What You Learn*, <https://www.mentalhealthfirstaid.org/take-a-course/what-you-learn/> (last visited February 26, 2018).

³¹⁷ *Id.*

³¹⁸ *Id.*

- **Giving reassurance and information:** provides participants information and resources to offer to someone to provide emotional support and practical help.
- **Encouraging appropriate professional help:** provides participants with a variety of local and national resources to connect individuals in need of care with appropriate professionals, such as doctors, counselors, and certified peer specialists, and professional help, such as therapy or medication.
- **Encouraging self-help and other support strategies:** teaches participants to identify potential sources of support and to practice offering these supports to the person he or she is helping, such as exercise, medication, and support groups.

MHFA participants learn how to apply the action plan in a variety of situations, such as when someone is experiencing a panic attack, suicidal thoughts or behaviors, acute psychosis, overdose or withdrawal, and reaction to a traumatic event.³¹⁹

The MHFA training can be conducted as one two-day seminar, two one-day events spaced over a short period of time, or as four two-hour sessions; participants must attend the entire course and pass a national exam.³²⁰ MHFA training must be renewed every three years; at the end of each three-year period, the individual must complete a refresher course and exam.³²¹

“Train-the-Trainer” Instructor Certification

MHFA offers a “train-the-trainer” course; this is its instructor certification course. Individuals are certified through a three- or five-day interactive training.³²² Individuals seeking instructor certification do not need specific academic or professional credentials, but should have knowledge of or experience with mental health problems, prior experience in training adult learners, and a commitment and capability to roll out MHFA in the community.³²³ The MHFA instructor training teaches individuals to:³²⁴

- Teach the MHFA course, including material covering the 5-step action plan, evidence-supported treatment and self-help strategies, and an overview of prevalence data;
- Present the program with fidelity to the tested, core model;
- Apply the program to a range of adult learning styles; and
- Tailor presentations to diverse audiences and learning environments.

To become certified, participants must be present for the entire training, satisfactorily deliver the presentation, and pass a written exam.³²⁵ Once certified as an MHFA instructor, the instructor must teach his or her first course no later than six months after receiving certification and must teach at least three courses per year.³²⁶ Additionally, certified instructors must complete at least one professional development option per year and maintain acceptable ratings from participants in each MHFA training he or she teaches.³²⁷

Youth Mental Health First Aid Course

Youth Mental Health First Aid launched in January 2013 after a year-long pilot.³²⁸ Youth Mental Health First Aid³²⁹ focuses on youth 12 to 25 years old and is designed to teach adults who work with young people, such as teachers and school staff, parents and caregivers, and social services workers, how to

³¹⁹ *Id.*

³²⁰ *Supra*, note 308 at p. 6.

³²¹ *Id.*

³²² MENTAL HEALTH FIRST AID USA, *Certification Process*, <https://www.mentalhealthfirstaid.org/become-an-instructor/certification-process/> (last visited February 26, 2018).

³²³ *Id.*

³²⁴ *Id.*

³²⁵ *Supra*, note 322.

³²⁶ *Supra*, note 308 at p. 12.

³²⁷ *Id.* at p. 13.

³²⁸ *Supra*, note 312.

³²⁹ The Youth Mental Health First Aid course may only be taught by instructors certified specifically in this version.

help children and teens who are in crisis or are experiencing a mental health or substance use problem.³³⁰ The course introduces participants to the unique risk factors and warning signs of mental health problems in adolescents.³³¹

The course teaches participants the risk factors and warning signs of a variety of mental health challenges common among adolescents, including anxiety, depression, psychosis, eating disorders, ADHD, disruptive behavior disorders, and substance use disorder.³³² The curriculum spans mental health challenges for youth, includes a review of normal adolescent development, and provides intensive guidance for both crisis and non-crisis situations.³³³ Participants learn to support youth with developing signs and symptoms of mental illnesses or who are in emotional crises by applying the MHFA five-step action plan in a way that is tailored to youth.³³⁴

State Use of Mental Health First Aid

Arizona, Colorado, Georgia, Maryland,³³⁵ and Missouri have statewide programs requiring certain public employees to complete MHFA training; typically the state pays for the employees' training.³³⁶ A number of states have built MHFA training into curriculums for specified public employees. For example, in Pennsylvania and Rhode Island the course is part of corrections officer and police officer training, and in Austin, Texas, the course is offered to every public library employee.³³⁷ States have also developed public-private partnerships to offer MHFA trainings. For example, Mental Health First Aid Colorado³³⁸ supports community-level MHFA initiatives, coordinates and promotes awareness of MHFA trainings throughout the state, and identifies target audiences and opportunities for expanding MHFA training; additionally, the Colorado Department of Education provides funding for Youth Mental Health First Aid trainings in schools and youth-serving organizations.³³⁹

SAMHSA has awarded twenty states, including Florida, Project AWARE grants.³⁴⁰ The Florida AWARE program promotes mental wellness and seeks to ensure that Florida youth who experience mental health problems have timely access to effective and coordinated supports and services.³⁴¹ The Florida AWARE program focuses on integrating school- and community-based mental health supports; as part of this, it provides training to youth-serving adults using the Youth Mental Health First Aid program.³⁴²

³³⁰ *Supra*, note 312.

³³¹ *Youth Mental Health First Aid*, MENTAL HEALTH FIRST AID USA, January 2016, p. 1, available at <https://www.mentalhealthfirstaid.org/wp-content/uploads/2016/01/Youth-MHFA.pdf> (last visited February 26, 2018).

³³² *Supra*, note 331.

³³³ *Supra*, note 312.

³³⁴ *Id.*

³³⁵ Additionally, Maryland offers MHFA training at every community college.

³³⁶ Caroline Cournoyer, *Governments Discover Need for Mental Health First Aid*, GOVERNING, June 2012, <http://www.governing.com/topics/health-human-services/gov-governments-discover-mental-health-first-aid.html> (last visited February 24, 2018).

³³⁷ MENTAL HEALTH FIRST AID USA, *2014 Mental Health First Aid State Policy Toolkit*, (Aug. 2014), p. 26, available at <https://www.thenationalcouncil.org/wp-content/uploads/2014/08/Policy-Toolkit-FINAL.pdf> (last visited February 24, 2018).

³³⁸ Mental Health First Aid Colorado is a public-private partnership of the Colorado Behavioral Healthcare Council and Colorado Division of Behavioral Health, with collaboration from a statewide coalition of healthcare providers, advocacy organizations, criminal justice professionals, educational institutions and state agencies.

³³⁹ COLORADO DEPARTMENT OF EDUCATION, *Youth Mental Health First Aid*, <https://www.cde.state.co.us/healthandwellness/ymhfa> (last visited February 24, 2018).

³⁴⁰ The Florida Department of Education was the recipient of the Project AWARE grant. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, *Project Advancing Wellness and Resilience Education (AWARE)*, <https://www.samhsa.gov/nitt-ta/project-aware-grant-information> (last visited February 26, 2018).

³⁴¹ *Florida AWARE Program Model*, FLORIDA DEPARTMENT OF EDUCATION, available at <http://www.dcf.state.fl.us/programs/samh/MentalHealth/task-force-examination-minors/docs/20170928/Florida%20AWARE%20Program%20Model.pdf> (last visited February 24, 2018).

³⁴² *Id.*

Outcomes

Overall, the evidence is reasonably strong that MHFA training improves participants' knowledge, attitudes, and help-provision behaviors related to mental health.³⁴³ A meta-analysis of MHFA identified 15 studies that conducted a quantitative evaluation of either the adult or youth MHFA training.³⁴⁴ It found promising gains among individuals trained in MHFA and found these gains to be equivalent to or greater than those for other widely accepted interventions.³⁴⁵ An evaluation of MHFA training for teachers in South Africa found that the training increased their knowledge of mental health; changed their beliefs about treatment of depression to be more like those of mental health professionals; reduced stigma towards students with depression; and increased their confidence in providing help to students and colleagues with mental health problems.³⁴⁶ The study also found a positive indirect effect on students; they reported receiving more mental health information from school staff.³⁴⁷

Additionally, participants in MHFA training self-report favorable training outcomes. An evaluation of Mental Health First Aid England (MHFA England) reported that the proportion of participants rating their knowledge in supporting people with mental health problems as 'Good' or 'Excellent' increased from 32% to 90% after completing MHFA training.³⁴⁸ MHFA England also reported that the proportion of participants rating their confidence in supporting people with mental health problems as 'Good' or 'Excellent' increased from 27% to 89% as a result of MHFA training.³⁴⁹

Effect of Proposed Changes

The bill provides that the act may be cited as the "Marjory Stoneman Douglas High School Public Safety Act".

Purchase of Firearms – Age and Waiting Period

The bill generally prohibits a licensed importer, licensed manufacturer, or licensed dealer from selling a firearm to a person who is less than 21 years old.³⁵⁰ The bill provides exceptions for a person purchasing a shotgun or a rifle who is a law enforcement officer³⁵¹ or correctional officer.³⁵²

A person who violates this provision commits a third degree felony, punishable by up to 5 years in prison and up to a \$5,000 fine.

³⁴³ Eunice Wong, Rebecca Collins, and Jennifer Cerully, *Reviewing the Evidence Base for Mental Health First Aid: Is There Support for Its Use with Key Target Populations in California?*, RAND HEALTH QUARTERLY, July 2015, available at https://www.rand.org/content/dam/rand/pubs/research_reports/RR900/RR972/RAND_RR972.pdf (last visited February 24, 2018).

³⁴⁴ Hadlaczky, Hökby, Mkrtchian, Carli, and Wasserman, *Mental Health First Aid Is an Effective Public Health Intervention for Improving Knowledge, Attitudes, and Behaviour: A Meta-Analysis*, INTERNATIONAL REVIEW OF PSYCHIATRY, Vol. 26, No. 4, 2014, pp. 467–475.

³⁴⁵ *Id.*

³⁴⁶ Anthony Jorm, Betty Kitchener, Michael Sawyer, Helen Scales, and Stefan Cvetkovski, *Mental health first aid training for high school teachers: a cluster randomized trial*, BIOMED CENTRAL PSYCHIATRY, June 24, 2010, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2908569/> (last visited February 24, 2018).

³⁴⁷ *Id.*

³⁴⁸ *Mental Health First Aid England and North East Mental Health Development Unit Partnership Project, Evaluation*, MENTAL HEALTH FIRST AID ENGLAND, March 2011, p. 2, available at https://mhfaengland.org/mhfa-centre/research-and-evaluation/mental-health-first-aid-north-east-england/MHFA_in_NE_England_Full_Evaluation.pdf (last visited February 26, 2018).

³⁴⁹ *Id.*

³⁵⁰ S. 790.065, F.S.

³⁵¹ Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. S. 943.10, F.S.

³⁵² Correctional officer means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel. S. 943.10, F.S.

The bill amends s. 790.0655, F.S. to expand the mandatory 3-day waiting period for handguns to all firearms sold at retail. The 3-day period excludes weekends and legal holidays. The bill also provides that the waiting period must extend beyond 3 days if the required background check is not complete before the expiration of 3 days. In addition to the exceptions under current law for a concealed weapons permit holder and trade-in of another handgun, the bill, for purchase of a rifle or shotgun, excepts from the waiting period a person who:

- Has successfully completed a hunter safety course and presents his or her hunter safety certification card;³⁵³
- Has a valid Florida hunting license as of March 1, 2018, and is not required to complete a hunter safety course under s. 379.3581, F.S.;
- Is a law enforcement officer or correctional officer; or
- Is a servicemember as defined in s. 250.01, F.S..³⁵⁴

Bump-fire Stocks

The bill creates s. 790.222, F.S. to prohibit a person in Florida from importing into the state or transferring, distributing, selling, keeping for sale, offering for sale, possessing, or giving to another person a bump-fire stock. This provision is effective October 1, 2018.

The bill defines a bump-fire stock to mean a conversion kit, a tool, an accessory, or a device used to alter the rate of fire of a firearm to mimic automatic weapon fire or which is used to increase the rate of fire to a faster rate than is possible for a person to fire such semiautomatic firearm unassisted by a kit, a tool, an accessory, or a device.

A violation of the prohibition against bump-fire stocks is a third degree felony, punishable by up to 5 years in prison and up to a \$5,000 fine.³⁵⁵

Involuntary Examination under the Baker Act – Seizure of Firearms

The bill amends s. 394.463, F.S, to provide that a law enforcement officer who is acting in accordance with a circuit court ex parte order stating a person meets the criteria for involuntary examination may use such reasonable force as is necessary to gain entry to the premises, and any dwellings, buildings, or other structures located on the premises, and take custody of the person who is the subject of the ex parte order. When applicable, a law enforcement officer who has received crisis intervention training shall be assigned to serve and execute the ex parte order.

The bill authorizes a law enforcement officer taking custody of a person under the Baker Act to seize and hold any firearm or ammunition in the possession of the person if the person poses a potential danger to himself or herself or others and has made a credible threat of violence against another person.

If the law enforcement officer takes custody of the person at the person's residence, the law enforcement officer may seek the voluntary surrender of firearms or ammunition kept in the residence which have been already been seized. If the firearms or ammunition are not voluntarily surrendered, a law enforcement officer may petition the court for a risk protection order (discussed further below).

Firearms or ammunition seized or voluntarily surrendered pursuant to this provision must be made available for return no later than 24 hours after the person taken into custody can document that he or she is no longer subject to involuntary examination and has been released or discharged from any

³⁵³ S. 379.3581, F.S.

³⁵⁴ "Servicemember" means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. S. 250.01(19), F.S.

³⁵⁵ Ss. 775.082(3)(e), and 775.083(1)(c), F.S.

inpatient or involuntary outpatient treatment or the person is subject to a firearm purchase, ownership or possession disability. The process for the actual return of firearms or ammunition seized or voluntarily surrendered may not take longer than 7 days. Law enforcement agencies must develop policies and procedures relating to the seizure, storage, and return of firearms or ammunition held pursuant to this section.

Risk Protection Orders

The bill creates a process for a law enforcement officer to petition a court for a risk protection order to temporarily prevent a person from accessing a firearm when there is evidence that he or she poses a significant danger to himself or herself or others.³⁵⁶

A petition must:

- Allege that the respondent poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition, and must be accompanied by an affidavit made under oath stating the specific statements, actions or facts that give rise to a reasonable fear of significant dangerous acts by the respondent;
- Identify the quantities, types and locations of all firearms and ammunition the petitioner believes to be in the respondent's current ownership, possession, custody, or control; and
- Identify whether there is a known existing domestic violence, repeat violence, sexual violence, dating violence or stalking protection order.

To issue the order, the court must find by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to him- or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm. In making this determination, the court may consider any relevant evidence, including but not limited to:

- A recent act or threat of violence by the respondent against him- or herself or others, whether or not such violence or threat involves a firearm;
- An act or threat of violence by the respondent within the past 12 months;
- Evidence of serious mental illness or recurring mental health issues;
- Prior violations of an injunction for protection against domestic violence; repeat, dating, or sexual violence; or stalking;
- A previous or existing risk protection order;
- A violation of a previous or existing risk protection order;
- Whether the respondent has been convicted of, had adjudication withheld on, or pled nolo contendere to a domestic violence crime;
- Ownership of, access to, or intent to possess firearms;
- Unlawful or reckless use, display, or brandishing of a firearm;
- Recurring use of, or threat to use, physical force or stalking;
- Whether the respondent has been arrested for, convicted of, had adjudication withheld or pled nolo contendere to a crime of violence or involving a threat of violence;
- Corroborated evidence of controlled substance or alcohol abuse;
- Evidence of recent acquisition of firearms; and
- Any relevant information from family or household members.

A court may issue a risk protection order for up to 12 months. Prior to a hearing, a court may issue a temporary ex parte risk protection order upon a showing of reasonable cause to believe that the respondent poses a significant danger of causing personal injury to him- or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or ammunition. The court must hold a temporary ex parte risk protection order hearing in person or by telephone on the

³⁵⁶ S. 790.401, F.S.

day the petition is filed or on the business day immediately following the day the petition is filed. A temporary ex parte risk protection order terminates upon the hearing for risk protection order.

A risk protection order or temporary ex parte risk protection order must require the respondent to surrender all firearms and ammunition in his or her custody, control, or possession and his or her license to carry a concealed weapon to the local law enforcement agency, which must be done at the time of service to the serving law enforcement officer if the order is personally served. Alternatively, the respondent must surrender the firearms, ammunition, and license to the agency immediately after service. A law enforcement officer may request a warrant to search for firearms or ammunition if the officer has probable cause to believe that there are firearms or ammunition in the person's custody, control, or possession that have not been surrendered.

At the time of surrender, a law enforcement officer taking possession of any firearm, ammunition, or license to carry a concealed weapon must issue a receipt identifying all firearms and the quantity and type or ammunition that have been surrendered and provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the serving officer must file the original receipt with the court and ensure that his or her law enforcement agency retains a copy of the receipt. All law enforcement agencies must develop policies and procedures by January 1, 2019, regarding the acceptance, storage, and return of surrendered firearms or ammunition.

The respondent may submit one written request for a hearing to vacate a risk protection order, starting after the date of the issuance of the order, and may request another hearing after every extension of the order, if any. The respondent has the burden of proving by clear and convincing evidence that he or she does not pose a significant danger of causing personal injury to him- or herself or others by having a firearm or ammunition. Following a hearing, the court must vacate the order if it finds that the respondent has met his or her burden of proof.

The petitioner may request, by motion, an extension of a risk protection order at any time within 30 calendar days before the end of the order. If the court finds by clear and convincing evidence that the requirements for issuance of a risk protection order continue to be met, the court must extend the order. If, after notice, the motion for extension is uncontested and no modification of the order is sought, the court may extend the order. An extension may last up to 12 months, subject to an order to vacate or another extension order by the court.

If a risk protection order is vacated or ends without extension, a law enforcement agency holding a surrendered firearm or ammunition must return the surrendered property upon the respondent's request only after confirming that:

- The respondent is currently eligible to own or possess firearms and ammunition under federal and state law through a background check; and
- The risk protection order has been vacated or has ended without extension.

A law enforcement officer must provide notice to any family or household members of the respondent before returning any surrendered firearm or ammunition.

A respondent may elect to transfer all firearms and ammunition that have been surrendered to or seized by a local law enforcement agency to another person who is willing to receive the respondent's firearms and ammunition. The law enforcement agency may allow such a transfer only if the chosen recipient:

- Is currently eligible to own or possess a firearm and ammunition under federal and state law, after confirmation through a background check;
- Attests to storing the firearms and ammunition in a manner such that the respondent does not have access to or control of the firearms and ammunition until the risk protection order is vacated or ends without extension; and
- Attests not to transfer the firearms or ammunition back to the respondent until the risk protection order against the respondent is vacated or ends without extension.

Within 24 hours of issuance, the clerk of the court must enter any risk protection order or temporary ex parte risk protection order into the uniform case reporting system and forward a copy of the order to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency must enter the order into the National Instant Criminal Background Check System, any other federal or state computer-based systems used to identify prohibited purchasers of firearms or ammunition, and into any computer-based criminal intelligence information system available in Florida to list outstanding warrants. The order must remain in each system for the period stated in the order and may only be removed when the order is vacated or ends without extension. The order is enforceable in any county in Florida.

Within three business days after issuance of a risk protection order or temporary ex parte risk protection order, the issuing court is required forward all available identifying information concerning the respondent and the date of order issuance to DACS. Upon receipt of the information, DACS must determine if the respondent has a license to carry a concealed weapon. If the respondent does have a license to carry a concealed weapon, DACS must immediately suspend the license.

If a risk protection order is vacated or ends without extension, DACS must reinstate the respondent's license to carry a concealed weapon if it had previously suspended the license and the respondent is currently eligible to have a license to carry a concealed weapon.

The bill penalizes filing a petition for a risk protection order knowing the information contained in the petition is materially false or with the intent to harass the respondent as a first degree misdemeanor, punishable by up to 1 year in county jail and a \$1,000 fine.³⁵⁷ A person who has in his or her custody or control a firearm or ammunition or who purchases, possesses, or receives a firearm or ammunition with knowledge that he or she is prohibited from doing so by a risk protection order commits a third degree felony, punishable by up to 5 years in prison and a \$5,000 fine.³⁵⁸

Firearms Possession by a Person Adjudicated Mentally Defective or Committed to a Mental Institution

Current law prohibits a person adjudicated mentally defective or committed to a mental institution from purchasing a firearm or obtaining a concealed weapon license.³⁵⁹ However, there is no prohibition against such a person possessing a firearm.

The bill creates s. 790.064, F.S. to provide that a person adjudicated mentally defective or committed to a mental institution, may not own or possess a firearm or ammunition unless he or she has obtained relief from firearm ownership disability from the court. The firearm possession and ownership disability runs concurrently with the firearm purchase disability provided in s. 790.065(2), F.S. and a person seeking relief from the firearm possession and ownership disability must follow the procedures in that section.

Threat to Conduct Mass Shooting or Act of Terrorism

The bill amends s. 836.10, F.S., to prohibit a person from:

- Making a threat in a writing or other record, including an electronic record, to conduct a mass shooting or act of terrorism; and
- Posting or transmitting the threat in any manner that would allow any other person to view the threat.

The bill does not require that the threat to conduct the mass shooting or act of terror be sent to any particular person or member of a person's family, unlike a threat to kill or do bodily injury. Written

³⁵⁷ Ss. 775.082 & 775.083, F.S.

³⁵⁸ Ss. 775.082 & 775.083, F.S.

³⁵⁹ S. 790.065(2)(a)4., F.S.

threats to conduct a mass shooting or act of terrorism that are publicly posted online, even if not specifically sent to or received by the person who is the subject of the threat, are prohibited. A violation of the prohibition is a second degree felony, punishable by up to 15 years in prison and up to a \$10,000 fine.³⁶⁰

Crime Stoppers Trust Fund

Section 16.555, F.S. creates the Crime Stoppers Trust Fund within the Department of Legal Affairs. The bill authorizes grants to be awarded to fund student crime watch programs established pursuant to s. 1006.07(3), F.S..

Office of Safe Schools

The bill creates s. 1001.212, F.S.,³⁶¹ to codify OSS within DOE and expands the duties and responsibilities of the office. The office serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness training. The bill requires the office to:

- establish and update as necessary a school security risk assessment tool for use by school districts and charter schools in conducting self-assessments;
- provide ongoing professional development opportunities to school district personnel;
- provide a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings in a district schools' security risk assessment;
- develop and implement a School Safety Specialist Training Program for school safety specialists appointed by each district school superintendent;
- review and provide recommendations on security risk assessments;
- coordinate with FDLE to provide a centralized integrated data repository and data analytics resources to improve access to timely, complete and accurate information integrating data from, at a minimum, but not limited to the following data sources: social media; DCF; FDLE; DJJ and local law enforcement;³⁶²
- disseminate in consultation with FDLE, to participating schools awareness and education materials on the School Safety Awareness Program; and
- award grants to schools to improve the safety and security of school buildings based upon recommendations in security risk assessments.

The bill requires the DOE to contract with a third party security consultant to review and analyze the current security risk assessment tool and a sample of self-assessments conducted by school districts to determine the effectiveness of the recommendations produced by the self-assessment. The department must submit a report to the Executive Office of the Governor's Office of Policy and Budget, the chair of the Senate Committee on Appropriations, and the House of Representatives Appropriations Committee no later than January 1, 2019.

School Safety Specialists

The bill establishes the School Safety Specialist Training Program, which must be based on national and state best practices on school safety and security and must include training modules in traditional

³⁶⁰ Ss. 775.082(3)(d), and 775.083(1)(b), F.S. The bill also amends s. 921.0022, F.S. to make conforming changes to the provision of the Offense Severity Ranking Chart relating to s. 836.10, F.S.

³⁶¹ The bill also amends s. 20.15, F.S. to create the office as a division of the Department of Education.

³⁶² The bill provides that data that is exempt or confidential and exempt from public records requirements retains its status when incorporated into the centralized integrated data repository. The bill provides that to maintain the confidentiality requirements attached to the information provided to the centralized integrated data repository by the various state and local agencies, data governance and security shall ensure compliance with all applicable state and federal privacy requirements through the use of user authorization and role based security, data anonymization and aggregation and auditing capabilities.

and online formats. The office must award a certificate of completion to a school safety specialist who satisfactorily completes the training.³⁶³

The bill amends s. 1006.07(6), F.S. to require each district school superintendent to designate a school administrator as a school safety specialist for the school district. The specialist must earn a certificate of completion of the school safety specialist training provided by the OSS within 1 year of appointment. The specialist is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district. In addition, each specialist must:

- Review policies and procedures for compliance with state law and rules;
- Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance, emergency procedures, including active shooter training, and school safety and security;
- Serve as the school district liaison with local public safety agencies and national, state, and community agencies and organizations in matters of school safety and security; and
- Conduct a security risk assessment at each public school using the tool developed by the office.

The specialist, rather than the superintendent, must provide recommendations to the district school board based on findings from the security risk assessment. The district school board must receive the findings and any recommendations at a publicly noticed school board meeting. The specialist must then report the findings and school board action to the office within 30 days after the meeting.

In addition, each school safety specialist must coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of the campus once every 3 years and provide recommendations related to school safety. The recommendations must be considered as part of the specialist's recommendations to the district school board.³⁶⁴

School District Discipline Policies

The bill revises requirements for district school board policies on student discipline by:

- Providing that students must note, at the time of initial registration for school, referrals to mental health services the student has had;³⁶⁵
- Allowing the school board of a receiving school district to refer a student who was expelled from another district to mental health services which are defined as community mental health services, health care providers, and services provided under ss. 1006.04 and 1011.62(17);³⁶⁶ and
- Requiring the code of student conduct to:
 - Include policies for referring a student to such mental health services;³⁶⁷
 - Provide notice that a student who is determined to have brought a firearm or weapon to school, to a school function, or on school transportation may also be referred to mental health services in addition to being expelled or referred to the criminal or juvenile justice system;³⁶⁸ and
 - Provide notice that any student who is determined to have made a threat or false report may be referred to mental health services, when appropriate.³⁶⁹

The bill also requires a court to notify the appropriate district school superintendent of the name and address of any student it refers to mental health services within 48 hours of referral.³⁷⁰

³⁶³ S. 1001.212(4), F.S.

³⁶⁴ See also, 1006.07(8), F.S.

³⁶⁵ S. 1006.07(1)(b), F.S.

³⁶⁶ S. 1006.07(1)(b)3, F.S.

³⁶⁷ S. 1006.07(2)(k), F.S.

³⁶⁸ S. 1006.07(2)(l), F.S.

³⁶⁹ S. 1006.07(2)(m), F.S.

³⁷⁰ S. 1006.08(2), F.S.

Student Crime Watch Program

The bill amends s. 1006.07(3), F.S. to provide that a student crime watch program which is created by a district school board must allow students and the community to anonymously relay information regarding unsafe and potentially harmful, dangerous, violent or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials.

Threat Assessment Teams

The bill creates s. 1006.07(7), F.S. to require each district school board to adopt policies for establishing threat assessment teams for each school, which must coordinate resources, assessment, and intervention with individuals whose behavior may pose a threat to the safety of students or school staff, consistent with model policies developed by OSS. The policies must include procedures for referrals to community mental health services or health care providers for evaluation or treatment, when appropriate.

A threat assessment team must include persons with expertise in counseling, instruction, school administration, and law enforcement. The team must identify school community members to whom threatening behavior should be reported and provide guidance to students, faculty, and staff for recognizing threatening or aberrant behavior that may represent a threat to the community, school, or self. Threat assessment teams must report quantitative data on its activities according to guidance developed by OSS.

If a threat assessment team determines that a student poses a threat of violence or physical harm to self or others, the team must immediately report its determination to the district school superintendent or his or her designee. The superintendent, or designee, must then immediately attempt to notify the student's parent or guardian. The bill specifies that the notification procedures do not preclude school district personnel from acting immediately to address an imminent threat.

If school personnel suspects an immediate mental health or substance abuse crisis, they must follow policies established by the threat assessment team to engage behavioral health crisis resources. The bill requires that behavioral health crisis resources include mobile crisis teams and school resource officers trained in crisis intervention. It also requires them to provide emergency intervention and assessment, make recommendations, and refer a student with an immediate mental health or substance abuse crisis for appropriate services. School personnel must report all such situations and actions taken to the threat assessment team, which must contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary follow-up actions.

The bill specifies that, notwithstanding any other provision of law, all state and local agencies and programs that provide services to students experiencing or at risk of an emotional disturbance or a mental illness may share with each other records or information that are confidential or exempt from disclosure under public records laws if the records or information are reasonable necessary to ensure access to appropriate services for the student or the safety of the student or others.

The bill authorizes a threat assessment team to obtain criminal history record information on a person it determines to pose a threat. The bill prohibits team members from disclosing criminal history record information or use any record beyond the purpose for which the original disclosure was made.

School Safety Awareness Program

The bill creates s. 943.082, F.S. to require FDLE in collaboration with the Department of Legal Affairs to competitively procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. At a

minimum, the department must receive reports electronically through the mobile suspicious activity reporting tool that is available on both Android and Apple devices.

The bill specifies that information received by the tool must be promptly forwarded to the appropriate law enforcement agency or school official. Law enforcement dispatch centers, school districts, schools, and other entities identified by the FDLE must be made aware of the tool.

Florida Safe Schools Assessment Tool

The bill creates s. 1006.1493, F.S. which requires DOE to contract with a security consulting firm that specializes in the development of risk assessment software solutions and has experience in conducting security assessments of public facilities to develop, update and implement a risk assessment tool, which shall be known as the Florida Safe Schools Assessment Tool (FSSAT). The FSSAT must be used by school officials at each school district and public school site in the state in conducting security assessments for use by school officials at each school district and public school site in the state. The FSSAT will help school officials identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The bill sets forth the minimum components that the FSSAT must address and requires annual reporting by DOE on the status of implementation.

Emergency Drills and Procedures

The bill amends s. 1006.07(4), F.S. to require each school to establish model emergency management and preparedness procedures, in consultation with the appropriate public safety agencies, for active shooter and hostage situations and conduct such drills at least as often as other emergency drills. The emergency response policy must identify the individuals responsible for contacting the primary emergency response agency. The district school board must also establish a schedule to test the functionality and coverage capacity of all emergency communication systems and determine if adequate signal strength is available in all areas within the school's campus.

Safe-School Officers

The bill amends s. 1006.12, F.S. to provide that each district school board and school district superintendent must partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing any combination of the following options which best meets the needs of the school district:

- Establish school resource officer programs;
- Commission one or more school safety officers;
- At the school district's discretion, participate in the school guardian³⁷¹ program.

The bill requires that school resource officers and school safety officers to undergo criminal background checks, drug tests and a psychological evaluation

Coach Aaron Feis Guardian Program

Aaron Feis was an assistant football coach and school security guard at Marjory Stoneman Douglas High School who died shielding students from gunfire at the school on February 14, 2018. According to reports, Feis "ran into the building where the attack was happening and jumped between a student and the gunman, pushing her out of harm's way".³⁷²

³⁷¹ Section 6 of this bill requires the Division of Law Revision and Information to change references from "school marshal" to "school guardian" whenever those terms appear in the act.

³⁷² Wells Dusenbury, South Florida Sun Sentinel "Aaron Feis, beloved football coach who died saving students, mourned by Stoneman Douglas Community", February 22, 2018, found at: <http://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-florida-school-shooting-aaron-feis-funeral-20180222-story.html>

The bill amends s. 30.15, F.S. to authorize each sheriff to establish a Coach Aaron Feis Guardian Program to aid in the prevention or abatement of active assailant incidents on school premises.³⁷³ The bill provides that a school guardian has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident of a school premises. Individuals who exclusively perform classroom duties as classroom teachers as defined in s. 1012.01(2)(a), F.S. are excluded from participating in the guardian program³⁷⁴.

A sheriff who chooses to establish the program must appoint as school guardians, without the power of arrest, school employees who volunteer and:

- hold a concealed weapons license;
- pass a psychological evaluation administered by a licensed psychologist;
- pass an initial drug test and subsequent random drug tests;
- successfully complete at least 12 hours of a certified, nationally recognized diversity training program; and
- complete 132 total hours of comprehensive firearm safety and proficiency training as detailed in the bill conducted by Criminal Justice Standards and Training Commission-certified instructors, and successfully complete ongoing training, weapon inspection and firearm qualification on at least an annual basis

The sheriff must issue a school guardian certificate to individuals who meet these requirements and will be required to maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian appointed by the sheriff.

Reemployment after Retirement from Florida Retirement System

The Florida Retirement System (FRS) is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges and universities and serves as the retirement plan for other participating cities and special districts. Pursuant to s. 121.091, F.S. a person who retires may not be reemployed by an employer participating in the Florida Retirement System and receive both a salary from the employer and retirement benefits for 12 calendar months after termination of employment.

The bill amends s. 121.091, F.S. to provide that a retired law enforcement officer may be reemployed as a school resource officer by an employer that participates in the FRS and receive both a salary from the employer and retirement benefits after 6 months have passed since termination of employment.

Safe Schools Allocation – FEFP

The bill amends s. 1011.62(15), F.S. relating to the safe schools allocation of the FEFP to provide that any additional funds appropriated to this allocation in the 2018-2019 fiscal year to the school resource officer program shall be used exclusively for employing or contracting for school resource officers, which shall be in addition to the number of officers employed or contracted for in the 2017-2018 fiscal year.

Zero Tolerance

The bill amends s. 1006.13, F.S. to revise zero tolerance provisions by permitting a threat assessment team to address disruptive behavior using alternatives to expulsion or referral to law enforcement and

³⁷³ Advisory Legal Opinion, Op. Att'y Gen. Fla. 2014-13 (2014), stating that "section 790.115, Florida Statutes, operates as an exemption from the prohibition against the possession of weapons and firearms on campus when authorized in support of approved school-sanctioned activities."

³⁷⁴ The bill provides that this limitation does not apply to classroom teachers of a Junior Reserve Officers' Training Corps program, a current servicemember, or a current or former law enforcement officer.

requires the team to consult with law enforcement when a student exhibits a pattern of behavior that poses a threat to school safety or when a student commits more than one misdemeanor.

Educational Facilities

The bill amends s. 1013.64, F.S. to provide that the cost per student station does not include the cost for securing entries, checkpoint construction, lighting specifically designed for entry point security, security cameras, automatic locks and locking devices, electronic security systems, fencing designed to prevent intruder entry into a building, bullet-proof glass, or other capital construction items approved by the school safety specialist to ensure building security for new educational, auxiliary, or ancillary facilities. Costs for these items must be below 2 percent per student station.

Mental Health Prevention and Treatment Services

Mental Health Assistance Allocation

The bill amends s. 1011.62, F.S. to create the mental health assistance allocation within the FEFP to provide funds for school-based mental health programs as annually provided in the General Appropriations Act (GAA). The allocation will provide each school district at least \$100,000, with the remaining balance allocated based on each district's proportionate share of the state's total unweighted FTE student enrollment. Eligible charter schools are also entitled to a proportionate share of district funding.

At least 90 percent of a school district's allocation must be expended on:

- The provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses; and
- The coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.

The bill provides that allocated funds may not supplant funds that are provided for these purposes from other operating funds and may not be used to increase salaries or provide bonuses. The bill encourages school districts to maximize third-party health insurance benefits and Medicaid claiming for services where appropriate.

In order to receive allocation funds, a school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. In addition, a charter school must annually develop and submit a detailed plan outlining the local program and planned expenditures of the funds in the plan to its governing body for approval. Once the plan is approved by the governing body, it must be provided to its school district for submission to the Commissioner of Education.

Each approved plan must be submitted to the commissioner by August 1 each year and must focus on delivering evidence-based mental health care treatment to children by:

- Providing for mental health assessment, diagnosis, intervention, treatment, and recovery services;
- Coordinating services with primary care providers and other health providers involved in the student's care; and
- Providing for the direct employment of service providers or a contract-based collaboration or partnership with local community mental health programs, agencies, or providers.

Beginning September 30, 2019, and by each September 30 thereafter, each school district must submit to DOE a final report on its program outcomes and its expenditures that must at least include the number of:

- Students who receive screenings or assessments;

- Students who are referred for services or assistance;
- Students who receive services or assistance;
- Direct employment service providers employed by each school district; and
- Contract-based collaborative efforts or partnerships with community mental health programs, agencies or providers.

SEDNET Mental Health Services

The bill amends s. 1006.04, F.S. to provide that the multiagency network for students with emotional and behavioral disabilities, SEDNET, works with education, mental health, child welfare, and juvenile justice professionals, along with other agencies and families, to provide children with mental illness or emotional and behavioral problems and their families with access to the services and supports they need to succeed. The multiagency network must:

- Support and represent the needs of students in each school district in joint planning with fiscal agents of children’s mental health funds, including the expansion of school-based mental health services, transition services, and integrated education and treatment programs;
- Improve coordination of services for children with or at-risk of emotional/behavioral disabilities and their families by assisting multi-agency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement;
- Increase parent and youth involvement and development with local systems of care; and
- Facilitate student and family access to effective services and programs for students with and at-risk of emotional/behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.

Crisis Intervention Training

The bill requires all school resource officers to receive mental health crisis intervention training, to better equip them for responding to incidents involving students with mental health problems.³⁷⁵

Mobile Crisis Teams

The bill funds additional mobile crisis teams to serve areas of the state not currently served by such teams (see Fiscal Comments section). The bill also addresses the use of mobile crisis teams. If school personnel believe that an immediate mental health or substance abuse crisis is occurring, they may engage a mobile crisis team as one of the behavioral health crisis resources that may be available to address that crisis.³⁷⁶

CAT Teams

Currently, CAT teams are only mentioned in proviso language in the GAA. The bill codifies CAT teams in s. 394.495, F.S. It requires DCF to contract for CAT teams throughout the state through the MEs. Subject to appropriation, an individual CAT team must serve each of the counties or regions currently served by a CAT team and DCF must contract for additional teams to ensure CAT services are available in the remaining areas of the state.

The bill requires CAT teams to provide community-based behavioral health and support services to children 11 to 21 years of age who have serious behavioral health conditions, and are at risk for out-of-home placement as evidenced by:

- Repeated failures at less intensive levels of care;

³⁷⁵ S. 1006.12(1)(c), F.S.

³⁷⁶ S. 1006.07(7)(e), F.S.

- Having two or more hospitalizations; involvement with DJJ or multiple episodes involving law enforcement; or
- Poor academic performance or suspensions.

CAT teams may also serve children younger than 11 years of age who have serious behavioral health conditions if they display two or more of the characteristics for risk for out-of-home placement. Regardless of the age of the child or young adult, CAT teams must provide services that:

- Comprehensively address the therapeutic needs of the child or young adult using an integrated service delivery approach. If necessary, CAT teams must make referrals to specialized treatment and follow up to ensure services are provided.
- Engage the child or young adult and his or her family as active participants in all phases of treatment.
- Strengthen children’s and young adults’ families and support systems to assist them to live successfully in the community. To facilitate this, CAT teams must be available to the child or young adult and his or her family at all times.
- Coordinate with other key entities providing services and supports, such as their schools, the local educational multiagency network for severely emotionally disturbed students under s. 1006.04, F.S., the child welfare system, and the juvenile justice system. CAT teams must also coordinate with the managing entity in their service location.

Youth Mental Health Awareness and Assistance Training

The bill creates s. 1012.584, F.S., to require DOE, beginning with the 2018-2019 school year, to implement an evidence-based youth mental health awareness and assistance training program³⁷⁷ to help school personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders and provide them the skills to help a person who is developing or experiencing a mental health or substance use problem.

The bill requires DOE to provide youth mental health first aid training to all personnel in elementary, middle, and high schools; the training must include, at a minimum:

- An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness;
- Information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis, eating disorders, and self-injury, and common treatments for those conditions, and how to assess those risks; and
- Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies including, but not limited to, peer, social, or self-help care.

The bill implements a “train-the-trainer” model to provide the youth mental health awareness and assistance training. It requires each district’s school safety specialist, or his or her designee(s), to become certified as a youth mental health trainer. The MHFA “train-the-trainer” instructor certification course for Youth MHFA could be used to meet this requirement. Once certified, the school safety specialist, or his or her designee(s), would train all school personnel in the district who are required to have youth mental health training. Each school district must notify all school personnel who have received the training of mental health services that are available in the school district and the individual to contact if a student needs services.

³⁷⁷ DOE must select a national authority on mental health first aid to facilitate providing mental health first aid training, using a trainer certification model. The National Council and the MHFA are one authority and model that could satisfy this requirement. However, the bill does not require DOE to use the National Council or MHFA model; it could use other authorities or models, if available.

The Marjory Stoneman Douglas High School Public Safety Commission

The incident of mass violence at Marjory Stoneman Douglas High School was preceded by multiple, repeated interactions between the shooter and law enforcement agencies, social services agencies, and schools, over many years. This history was characterized by a lack of communication and coordination, preventing these many entities from understanding the whole problem and taking action to prevent the mass violence incident.

In response to this problem, the bill creates the Marjory Stoneman Douglas High School Public Safety Commission (Commission)³⁷⁸ within FDLE. The Commission is composed of 16 voting members and four nonvoting members.³⁷⁹ The Governor will appoint five voting members to the Commission, including the chair; and President of the Senate and Speaker of the House of Representatives will each appoint five voting members to the Commission. The Commissioner of FDLE will serve as a member of the commission. Appointments must be made by April 30, 2018. The bill requires the Secretary of DCF, the Secretary of the DJJ, the Secretary of the Agency for Health Care Administration (AHCA) and the Commissioner of Education will serve as ex officio, non-voting members of the Commission.

The bill directs the Commission to meet, as necessary, to conduct its work at the call of the chair and at designated times and locations throughout the state. The bill permits the Commission to meet telephonically, or through other similar means. The General Counsel of FDLE will serve as general counsel for the commission and FDLE staff, as assigned by the chair, will assist the commission in performing its duties.

Duties of the Commission

The bill requires the Commission to investigate system failures in the Marjory Stoneman Douglas High School shooting, as well as previous other mass violence incidents in Florida, and to develop recommendations for system improvements. The Commission must analyze information and evidence about the Marjory Stoneman Douglas High School shooting and other mass violence incidents in this state. At a minimum, the duties of the Commission include:

- Developing a timeline of the incident, incident response, and all relevant events preceding the incident, with particular attention to all perpetrator contacts with local, state and national government agencies and entities and any contract providers of such agencies and entities.
- Investigating any failures in incident responses by local law enforcement agencies and school resource officers. This investigation includes:
 - Identifying existing policies and procedures for active assailant incidents and evaluating fidelity to them in the execution of incident responses.
 - Evaluating existing policies and procedures for active assailant incidents in comparison with national best practices.
 - Evaluating the extent to which any failures in policy, procedure, or execution contributed to an inability to prevent deaths and injuries.
 - Making specific recommendations for improving law enforcement and school resource officer incident response in the future.
 - Making specific recommendations for determining the appropriate ration of school resource officers per school by school type. At a minimum, the methodology for determining the ratio should include the school location, student population, and school design.
- Investigating any failures in interactions with perpetrators preceding mass violence incidents. To

³⁷⁸ Commission is defined in s. 20.03, F.S. as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

³⁷⁹ All members of the Commission must serve without compensation, but will be reimbursed for their per diem and travel expenses pursuant to s. 112.061, F.S.

do this, the Commission must:

- Identify the history of interactions between perpetrators and government entities such as schools, law enforcement agencies, courts and social service agencies, and identify any failures to adequately communicate or coordinate regarding indicators of risk or possible threats.
- Evaluate the extent to which any such failures contributed to an inability to prevent deaths and injuries.
- Make specific recommendations for improving communication and coordination among entities with knowledge of indicators of risks or possible threats of mass violence in the future.
- Identify available state and local tools and resources for enhancing communication and coordination regarding indicators of risk or possible threats, including, but not limited to, the Department of Law Enforcement Fusion Center or the Judicial Inquiry System, and make specific recommendations for using such tools and resources more effectively in the future.

To carry out its duties, the bill allows the Commission to seek professional assistance from appropriate agencies of state government, as needed; the bill requires these agencies to provide assistance in a timely manner.

Access to Information and Records

The bill permits the Commission to request any information or records, including confidential or exempt information or records, which pertain to the Marjory Stoneman Douglas High School shooting or other prior mass violence incidents in Florida that the Commission is reviewing as part of its duties. Upon such a request, the bill requires that the commission be given access to information or records if they are necessary for the Commission to carry out its duties. The bill requires that information or records obtained by the Commission that are otherwise confidential or exempt retain their confidential or exempt status and prohibits the Commission from disclosing them.

Subpoena and Investigative Powers

The bill also gives the Commission the power to subpoena and investigate. It may issue subpoenas and other necessary process to compel the attendance of witnesses to testify before the Commission and to compel the production of any books, papers, records, documentary evidence, and other items, including confidential information, relevant to the performance of the duties of the commission or to the exercise of its powers. The chair or any other member of the Commission may administer all oaths and affirmations in the manner prescribed by law to witnesses who testify before the Commission; it may also delegate this authority to its investigators. The Commission may also delegate the authority to issue subpoenas to its chair, who in all events shall issue process on behalf of the Commission. Subpoenas issued by the commission shall run throughout the state, and the sheriffs³⁸⁰ in the several counties shall make such service and execute all process or orders when required by the Commission.

Should any subpoenaed person refuse to obey a subpoena, the bill permits the Commission to seek judicial remedy. The Commission can make application to any circuit court of this state, which shall have jurisdiction to order the witness to appear, to produce evidence, or to give testimony touching on the matter in question, if so ordered. The court may punish a person who fails to comply with such an order as contempt.

Annual Report

The bill requires the Commission to submit an initial report on its findings and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2019.

³⁸⁰ The bill requires sheriffs to be paid as provided in s. 30.321, F.S., for executing process orders for the Commission.

The Commission may issue reports annually thereafter, through 2023. The Commission sunsets and is repealed on July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

To the extent that persons are arrested for, charged with, and convicted of, selling a firearm to a person under 21 years old or a violation of the bump-fire stock ban, this bill will have an indeterminate fiscal impact on state government as these cases are processed through the criminal justice system.

Filing initial petitions for a temporary injunction to retain firearms and ammunition for 60 days and extensions of the temporary injunction by law enforcement may increase the workload of the state court system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

To the extent that persons are arrested for, charged with, and convicted of, selling a firearm to a person under 21 years old or a violation of the bump-fire stock ban, this bill will have an indeterminate fiscal impact on local governments as these cases are processed through the criminal justice system.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent 18 through 21 year olds may no longer purchase firearms, other than handguns, through retail sales from licensed dealers, the bill may have a negative impact on the firearms industry.

D. FISCAL COMMENTS:

The bill appropriates a total of \$200 million in recurring funds from the General Revenue Fund and \$200 million in nonrecurring funds from the General Revenue Fund. The bill provides appropriations for multiple purposes as summarized in the chart below and as described in more detail in the narrative following the chart.

#	DEPT	Issue	CS/SB 7026		
			Recurring	Nonrecurring	Total
1	DOE	Mental Health Assistance Allocation - Florida Education Finance Program	\$69,237,286		\$69,237,286
2	DOE	Marjory Stoneman Douglas High School Memorial		\$1,000,000	\$1,000,000
3	DOE	Rebuild Building 12, Marjory Stoneman Douglas High School		\$25,262,714	\$25,262,714
4	DOE	Coach Aaron Feis Guardian Program	\$500,000	\$67,000,000	\$67,500,000
5	DOE	Office of School Safety - Department of Education	\$344,393		\$344,393
6	DOE	Safe Schools Allocation - Florida Education Finance Program for Additional School Resource Officers	\$97,500,000		\$97,500,000
7	DOE	School Safety Specialists - Active Shooter Training	\$100,000		\$100,000
8	DOE	Improve Physical Security of Schools - Grant Program		\$98,962,286	\$98,962,286
9	DLE	Mobile Suspicious Activity Reporting Tool	\$100,000	\$300,000	\$400,000
10	DLE	Marjory Stoneman Douglas High School Public Safety Commission	\$600,000	\$50,000	\$650,000
11	DCF	Community Action Treatment Teams	\$9,800,000		\$9,800,000
12	DCF	Mobile Crisis Teams	\$18,300,000		\$18,300,000
13	DOE	Youth Mental Health Awareness and Assistance Training	\$500,000	\$6,200,000	\$6,700,000
14	DOE	Review of Florida Safe Schools Assessment Tool		\$1,000,000	\$1,000,000
15	DOE	Teacher and Administrator Death Benefits	\$18,321	\$225,000	\$243,321
16	DOE	Centralized Data Repository and Data Analytics Resources	\$3,000,000		\$3,000,000
Total			\$200,000,000	\$200,000,000	\$400,000,000

1. Mental Health Assistance Allocation - Florida Education Finance Program - \$69,237,286 in recurring funds

The bill appropriates \$69,237,286 in recurring funds to the Department of Education in the Aid to Local Governments Grants and Aids – Florida Education Finance Program to fund the mental health assistance allocation established in the bill.

2. Youth Mental Health Awareness and Assistance Training - \$500,000 in recurring funds and \$6,200,000 in nonrecurring funds

The bill provides \$500,000 in recurring funds and \$6,200,000 in nonrecurring funds to the Department of Education to implement the youth mental health awareness and assistance training as directed pursuant to s. 1012.584, F.S.

3. Marjory Stoneman Douglas High School Memorial - \$1 million in nonrecurring funds

The bill appropriates \$1 million in nonrecurring funds for the design and construction of a memorial honoring those who lost their lives on February 14, 2018, at Marjory Stoneman Douglas High School in Broward County. The bill requires the department to collaborate with the students and faculty of Marjory Stoneman Douglas High School, the families of the victims, the Broward County School District, and other relevant entities of the Parkland, Florida, community on the design and placement of the memorial. The Legislature has previously funded memorials at a cost of approximately \$250,000 per memorial. Given the need to complete design and site preparation work, an additional amount is being provided.

4. Marjory Stoneman Douglas High School – Rebuild Building 12 – \$25,262,714 in nonrecurring funds

The bill appropriates \$25,262,714 in nonrecurring funds to the Department of Education for the purpose of replacing Building 12, as listed in the Florida Inventory of School Houses, at Marjory Stoneman Douglas High School in Broward County.

The January 2019 high school student station cost (this cost includes legal, administrative, architecture & engineering fees, site improvement, contract costs, and furniture and equipment) of \$31,751 was applied to an estimated 900 9th grade students at the school. A 10-year average of 9th grade enrollment plus growth yielded the 900 estimated students.

5. School Guardian Program - \$500,000 recurring funds; \$67,000,000 in nonrecurring funds

The bill appropriates the sum of \$500,000 in recurring funds and \$67,000,000 in nonrecurring funds to the Department of Education for purposes of implementing the school guardian program established in the bill. The funds shall be used for screening- and training-related costs and providing a one-time stipend of \$500 to school guardians who participate in the school guardian program.

There are 3,679 elementary, middle, high, and combination schools in Florida, this includes charter schools. The policy is to have an average of 10 school guardians per school for a total of 36,790 guardians. A per school guardian cost of \$1,812 was calculated which includes: (a) \$233 for a criminal background and drug screening, (b) \$230 for a psychological exam, (c) \$762 for the 132-hour school guardian training, (d) \$97 for the concealed weapon permit and (e) \$500 stipend. Applying the per school guardian cost to the total needed equals \$66,163,480 in nonrecurring funds. The \$500,000 in recurring funds is the assumed annual retraining cost for attrition.

6. Office of Safe Schools - \$344,393 in recurring funds and 3 FTE

The bill appropriates \$344,393 in recurring funds and an additional 3 full-time equivalent positions to DOE to address the expanded responsibilities and duties of the Office of Safe School which is codified in law within the bill. These positions include 1 project director and 2 program specialists and the funding provides \$244,393 for salary and benefits and \$100,000 for expenses to include travel.

7. Safe School Allocation - School Resource Officers – \$97,500,000 in recurring funds

The bill appropriates \$97,500,000 in recurring funds for the Safe Schools Allocation of the Florida Education Finance Program. (FEFP). From these funds, \$187,340 will be distributed to each school district and developmental research school to increase each districts' minimum amount to \$250,000 when combined with the minimum amount appropriated in the Safe School Allocation portion of the FEFP of the 2018-2019 General Appropriations Act. The balance of funds appropriated in this bill for this purpose will be distributed to school districts based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Each school district must use these

funds exclusively for hiring or contracting for school resource officers pursuant to s. 1006.12, Florida Statutes.

There are approximately 1,500 school resource officers according to the most recent Safe School Allocation Expenditure Report. Using the report, staff calculated a statewide average of \$65,000 per school resource officer for salary and benefits. Doubling the number of school resource officers using the calculated statewide average would cost \$97,500,000.

8. School Safety Specialists - \$100,000 in recurring funds

The bill appropriates \$100,000 in recurring funds for the Office of School Safety to competitively procure an existing active shooter training course. The bill requires each district school superintendent to designate a school safety specialist and for that specialist to obtain a certificate of completion of the Department of Education's Office of Safe Schools' School Safety Specialist Training Program. A required component of the training program is active shooter training.

9. Improve Physical Security of Schools - Grant Program— \$98,962,286 in nonrecurring funds

The bill appropriates the sum of \$98,962,286 in nonrecurring funds to the Department of Education to implement a grant program that will provide awards to school districts and charter schools and charter schools to fund in whole or in part the fixed capital outlay costs to improve the physical security of school buildings as identified from the school district's 2017-2018 security risk assessment completed pursuant to s. 1006.07(6)

The current Safe Schools Allocation is approximately \$64 million in the Florida Education Finance Program (FEFP). Using this as a starting point, additional funds were provided to total the \$97 million for the Department of Education to implement a grant program.

10. Mobile Suspicious Activity Reporting Tool - \$100,000 in recurring funds and \$300,000 in nonrecurring funds

The bill appropriates \$100,000 in recurring funds and \$300,000 in nonrecurring funds to the Department of Law Enforcement to competitively procure for the development or acquisition of a mobile suspicious activity reporting tool.

11. Marjory Stoneman Douglas High School Public Safety Commission - \$600,000 in recurring funds; \$50,000 in nonrecurring

The bill appropriates the recurring sum of \$600,000 and the nonrecurring sum of \$50,000 to the Department of Law Enforcement to fund the operations of the Marjory Stoneman Douglas High School Public Safety Commission. The bill also authorizes five full-time equivalent positions, with associated salary rate of 345,000.

12. Community Action Treatment (CAT) Teams - \$9.8 million in recurring funds

The bill provides a recurring appropriation of \$9.8 million in recurring general revenue funds to the Department of Children and Families to establish 13 additional CAT teams. Each team will receive \$750,000 annually consistent with the funding amount for the existing teams. There are currently 27 CAT teams funded in the Department of Children and Families in Fiscal Year 2017-18. CAT teams are not currently established in all counties. The bill will provide funding to establish 3 CAT teams in areas where none exist as well as 10 additional ones based on Florida's estimated population. It is estimated that 5.6 million individuals do not have access to CAT Teams. The existing teams serve a population area of approximately 566,000 individuals. Based on this ratio, 10 additional teams would need to be established.

13. Mobile Crisis Teams - \$18.3 million in recurring funds

The bill provides an appropriation of \$18.3 million to the Department of Children and Families to establish an additional 30 Mobile Crisis Teams statewide. There are currently 13 Mobile Crisis Teams funded through the Department of Children and Families. Mobile Crisis Teams, on average, can provide services for a population area of approximately 476,000 individuals. Based on a Florida population estimate of 20 million residents, 30 additional teams will need to be established to provide statewide coverage. Mobile Crisis Teams will receive approximately \$610,000 each.

14. Teacher and Administrator Death Benefits -\$18,321 in recurring funds and \$225,000 in nonrecurring funds

The bill appropriates \$18,321 in recurring funds and \$225,000 in nonrecurring funds for the payment of death benefits for the three Marjory Stoneman Douglas High School staff members who lost their lives on February 14, 2018 as authorized in s. 112.1915, F.S.

15. Centralized Data Repository and Data Analytics Resources - \$3 million in recurring funds

The bill provides \$3 million in recurring funds to the Department of Education to competitively procure for the development or acquisition of the centralized data repository and analytics resources as required by the bill.

16. Review of Florida Safe Schools Assessment Tool - \$1 million in nonrecurring funds

The Department of Education currently has a security risk assessment tool known as the Florida Safe Schools Assessment Tool and school districts are required to use this tool for the completion of a self-assessment. The bill provides a nonrecurring appropriation of \$1 million for the Department of Education to competitively procure a contract to review and analyze this tool and a sample of self-assessments conducted by the districts and to provide recommendations for updates and/or enhancements. The Legislature has previously funded such reviews and studies for \$1 million.