

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Infrastructure and Security

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BILL: CS/SB 7030

INTRODUCER: Education Committee

SUBJECT: School Safety and Security

DATE: March 27, 2019

REVISED: \_\_\_\_\_

|    | ANALYST                 | STAFF DIRECTOR | REFERENCE | ACTION                                |
|----|-------------------------|----------------|-----------|---------------------------------------|
| 1. | Bouck, Graf,<br>Olenick | Sikes          |           | <b>ED Submitted as Committee Bill</b> |
| 2. | Proctor                 | Miller         | IS        | <b>Fav/CS</b>                         |
| 3. |                         |                | AP        |                                       |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 7030 builds upon the school safety and security foundation established in SB 7026 (2018 Reg. Session) by addressing the school safety and security recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, and strengthening accountability and compliance oversight authority. Specifically, the bill:

- Improves school security measures by:
  - Establishing a workgroup to review campus hardening policies and recommend a prioritized list of strategies for implementation and related policy and funding enhancements;
  - Prioritizing the use of the school security risk assessment tool;
  - Expanding the personnel who may serve as a school district's school safety specialist to include certain law enforcement officers employed by the sheriff's office; and
  - Expanding school district options and eligibility for participation in the Coach Aaron Feis Guardian Program.
- Enhances student safety by:
  - Requiring improved school safety incident reporting;
  - Promoting the FortifyFL mobile suspicious activity reporting tool;
  - Expediting services for students with mental or behavioral disorders;
  - Requiring active assailant response policies;
  - Establishing a standardizing behavioral threat assessment instrument; and

- Establishing a workgroup to make recommendations regarding the development of a statewide threat assessment database.
- Provides school districts with greater flexibility to improve school safety by authorizing the transfer of additional categorical funds within the Florida Education Finance Program (FEFP) towards school safety expenditures.
- Criminalizes the false personation of a school guardian.

The bill takes effect upon becoming a law, unless otherwise specified.

## II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

## III. Effect of Proposed Changes:

In 2018, the Legislature enacted the “Marjory Stoneman Douglas High School Public Safety Act (Act).”<sup>1</sup> The legislation included provisions to address school safety and security including, but not limited to, establishing the Marjory Stoneman Douglas High School Public Safety Commission (commission),<sup>2</sup> and codifying within the Florida Department of Education (DOE) the Office of Safe Schools (OSS).<sup>3</sup>

### Marjory Stoneman Douglas High School Public Safety Commission

The commission is entrusted with investigating system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents, and developing recommendations for system improvements.<sup>4</sup> The commission submitted its initial report to the Governor and the Legislature on January 2, 2019.<sup>5</sup> The commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.

The commission’s report includes numerous school safety and security recommendations, which are addressed in the bill and explained in the Effects of Proposed Changes section as they relate to the components of the bill.

### Office of Safe Schools

The OSS in the DOE 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 planning.<sup>6</sup> The OSS requirements include:

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<sup>1</sup> Chapter 2018-3, Laws of Fla.

<sup>2</sup> Section 943.687, F.S.

<sup>3</sup> Section 1001.212, F.S.

<sup>4</sup> Section 943.687(3), F.S.

<sup>5</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited Feb. 22, 2019).

<sup>6</sup> Section 1001.212, F.S. *See also*: Florida Department of Education, *Office of Safe Schools*, <http://www.fldoe.org/safe-schools/> (last visited Jan. 29, 2019).

- Establishing and updating as necessary a school security risk assessment tool<sup>7</sup> for use by school districts and charter schools.
- Providing ongoing professional development opportunities to school district personnel.
- Providing a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings identified in the school security risk assessment.<sup>8</sup>
- Developing and implementing a School Safety Specialist Training Program for school safety specialists.<sup>9</sup> The office must develop the training program based on national and state best practices on school safety and security and must include active shooter training.
- Reviewing and providing recommendations on the security risk assessments.

## **Safe-School Officers**

### ***Present Situation***

Florida law requires each district school board and school district superintendent to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing one or more safe-school officer options which best meet the needs of the school district.<sup>10</sup> These options include:

- Establishing a school resource officer program, through a cooperative agreement with law enforcement agencies.
- Commissioning one or more school safety officers. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.
- Participating in the Coach Aaron Feis Guardian Program if such program is established by the sheriff.

### **Coach Aaron Feis Guardian Program**

The Coach Aaron Feis Guardian Program (guardian program) was established in 2018<sup>11</sup> as an option for school districts to meet the safe-school officer requirements in law.<sup>12</sup> Each sheriff has the discretion to establish a guardian program to aid in the prevention or abatement of active assailant incidents on school premises. School employees, except individuals who exclusively perform classroom duties as classroom teachers as defined in law,<sup>13</sup> may participate in the guardian program. The sheriff who chooses to establish a guardian program shall appoint as school guardians, without the power of arrest, school employees who volunteer and who comply with all of the following:

- Hold a valid license issued under s. 790.06, F.S. (license to carry a concealed firearm).

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<sup>7</sup> The Florida Safe Schools Assessment Tool (FSSAT). Section 1006.1493, F.S.

<sup>8</sup> Section 1006.07(6)(a)4., F.S., requires a school security risk assessment at each public school using the school security risk assessment tool (FSSAT) developed by the Office of Safe Schools.

<sup>9</sup> Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator as a school safety specialist for the district.

<sup>10</sup> Section 1006.12, F.S.

<sup>11</sup> Section 26, Ch. 2018-3, Laws of Fla.

<sup>12</sup> Section 1006.12, F.S.

<sup>13</sup> Section 1012.01(2)(a), F.S.

- Complete 132 total hours of comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, which must include:
  - Eighty hours of firearms instruction based on the Criminal Justice Standards and Training Commission's Law Enforcement Academy training model, which must include at least 10 percent but no more than 20 percent more rounds fired than associated with academy training. Program participants must achieve an 85 percent pass rate on the firearms training.
  - Sixteen hours of instruction in precision pistol.
  - Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.
  - Eight hours of instruction in active shooter or assailant scenarios.
  - Eight hours of instruction in defensive tactics.
  - Twelve hours of instruction in legal issues.
- Pass a psychological evaluation administered by a psychologist licensed under ch. 490, F.S., and designated by the Florida Department of Law Enforcement (FDLE) and submit the results of the evaluation to the sheriff's office. The FDLE may provide the sheriff's office with mental health and substance abuse data for compliance with this requirement.
- Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455, F.S., and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.
- Successfully complete at least 12 hours of a certified nationally recognized diversity training program.<sup>14</sup>

A sheriff must issue a school guardian certificate to individuals who meet the requirements specified in law.<sup>15</sup> The sheriff must 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.<sup>16</sup>

For the 2018-2019 school year, 25 sheriffs have established a guardian training program and 25 school districts are implementing the guardian program as an option to provide safe-school officers. As of January 2019, 688 guardians had been assigned to public schools in the participating districts.<sup>17</sup>

In Ch. 2018-3, Laws of Fla., the legislature appropriated \$500,000 in recurring funds and \$67 million in nonrecurring funds to the DOE to allocate to sheriffs' offices that establish a guardian program. These funds were appropriated for screening-related and training-related costs and providing a one-time stipend of \$500 to school guardians who participate in the guardian program. As of January 2019, the department had received \$9.3 million in funding requests and \$2.6 million had been paid out to sheriff's offices for authorized expenses.<sup>18</sup>

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<sup>14</sup> Section 30.15(1)(k), F.S.

<sup>15</sup> Section 30.15(1)(k)2., F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Florida Department of Education, *School Safety and Security Update*, Senate Education Committee, January 8, 2019.

<sup>18</sup> *Id.*

### ***Effect of Proposed Changes***

Based on recommendations from the commission regarding the guardian program,<sup>19</sup> the bill amends s. 30.15, F.S., to require a sheriff to establish a guardian program if the local school board votes by majority to implement the program. The bill also removes the prohibition on an individual who exclusively performs classroom duties as a classroom teacher from participating in the guardian program.

The bill also amends s. 1006.12, F.S., to clarify three types of individuals who can fill the role of a school guardian. Upon completion of the statutorily-required training and screening and certification by a sheriff, the following individuals may serve as a school guardian:

- A school district or charter school employee who volunteers to serve as a guardian in addition to the employee's official job duties;
- A school district or charter school employee hired for the specific purpose of serving as a guardian; or
- A contract employee working at the school district or charter school through a contract with a private security agency. Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the private security agency enumerated in the contract between the school district or charter school governing board and private security agency.

The bill:

- Clarifies that the sheriffs' obligations associated with maintaining specified documentation applies to school guardians certified by the sheriffs rather than school guardians appointed by the sheriffs.
- Specifies that an individual may not serve as a school guardian unless he or she is appointed by the district school superintendent.

### **School Safety Specialist**

#### ***Present Situation***

Each district school superintendent must designate a school administrator as a school safety specialist for the district.<sup>20</sup> The school safety specialist must meet the following qualifications:

- Earn a certificate of completion of the school safety specialist training provided by the OSS within 1 year after appointment;<sup>21</sup> and
- Earn, or designate one or more individuals to earn, certification as a youth mental health awareness and assistance trainer.<sup>22</sup>

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<sup>19</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 104 (last visited Feb. 22, 2019).

<sup>20</sup> Section 1006.07(6)(a), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 1012.584(2), F.S.

The school safety specialist has the following responsibilities:

- Supervise and oversee for all school safety and security personnel, policies, and procedures in the school district. The school safety specialist must:<sup>23</sup>
  - 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<sup>24</sup> and national, state, and community agencies and organizations in matters of school safety and security.
  - Conduct a school security risk assessment at each public school using the school security risk assessment tool developed by the OSS. Based on the assessment findings, the district's school safety specialist must provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security.
- Coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety.<sup>25</sup>
- Participate with specified entities in active shooter situation training at each school, conducted law enforcement agency or agencies that are designated as first responders to the school's campus.<sup>26</sup>
- Ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.<sup>27</sup>
- Approve construction items to ensure building security.<sup>28</sup>

### *Effect of Proposed Changes*

The bill expands the personnel who may serve as a school district's school safety specialist to include law enforcement officers employed by the sheriff's office located in the school district. Additionally, the bill specifies that:

- Any school safety specialist designated from the sheriff's office must be first authorized and approved by the sheriff employing the law enforcement officer.
- Any school safety specialist designated from the sheriff's office remains the employee of the sheriff's office for purposes of compensation, insurance, workers' compensation, and other benefits authorized by law for a law enforcement officer employed by the sheriff's office.

<sup>23</sup> Section 1006.07(6)(a), F.S.

<sup>24</sup> "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services. Section 365.171(3)(d), F.S.

<sup>25</sup> Section 1006.07(4)(b)1., F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 1012.584(2), F.S.

<sup>28</sup> Section 1013.64, F.S. Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements. Cost per student station also 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.

- The sheriff and the school superintendent may determine by agreement the reimbursement for such costs, or may share the costs, associated with employment of the law enforcement officer as a school safety specialist.

The expansion of the individuals who may serve as the school safety specialist for the school district may increase collaboration between the school districts and sheriffs to strengthen school safety and security.

## **False Personation of Law Enforcement Officers and Other Specified Persons**

### ***Present Situation***

Section 843.08, F.S., punishes false personation of any of the following law enforcement officers or other specified persons:

- A firefighter.
- Sheriff.
- Officer of the Florida Highway Patrol.
- Officer of the Fish and Wildlife Conservation Commission.
- Fire or arson investigator of the Department of Financial Services.
- Officer of the Department of Financial Services.
- Officer of the Department of Corrections.
- Correctional probation officer.
- Deputy sheriff.
- State attorney or assistant state attorney.
- Statewide prosecutor or assistant statewide prosecutor.
- State attorney investigator.
- Coroner.
- Police officer.
- Lottery special agent or lottery investigator.
- Beverage enforcement agent.
- Watchman (a security officer licensed under ch. 493, F.S.).
- Any member of the Florida Commission on Offender Review and any administrative aide or supervisor employed by the commission.
- Any personnel or representative of the FDLE.
- A federal law enforcement officer as defined in s. 901.1505, F.S.

A person commits the offense of false personation if he or she falsely assumes or pretends to be any person specified in s. 843.08, F.S., such as a police officer, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any person specified in s. 843.08, F.S.

False personation in violation of s. 843.08, F.S., is generally a third degree felony.<sup>29</sup> However, false personation is a second degree felony<sup>30</sup> if committed during the course of the commission of a felony, unless the felony resulted in the death or personal injury of another human being, in which case false personation is a first degree felony.<sup>31</sup>

### *Effect of Proposed Changes*

The bill amends s. 843.08, F.S., which criminalizes the false personation of law enforcement officers and other specified persons, to criminalize the false personation of a school guardian as described in s. 30.15(1)(k), F.S.

Currently, s. 843.08, F.S., prohibits false personation of a watchman (a security officer licensed under ch. 493, F.S.). The bill replaces the term “watchman” with “security officer licensed under chapter 493” and removes a definition of “watchman.”

False personation of a school guardian is generally a third degree felony. However, false personation is a second degree felony if committed during the course of the commission of a felony, unless the felony resulted in the death or personal injury of another human being, in which case false personation is a first degree felony.

The bill also reenacts a part of the Criminal Punishment Code offense severity ranking chart (s. 921.0022(3)(b), F.S.) to incorporate the amendments made by the bill to s. 843.08, F.S.

## **Florida Safe Schools Assessment Tool**

### *Present Situation*

Florida law requires the DOE, through the OSS, to contract with a security consulting firm that specializes in development of risk assessment software solutions with experience in conducting security assessments of public facilities to develop the Florida Safe Schools Assessment Tool (FSSAT).<sup>32</sup> The FSSAT must be used by school officials at each school district and public school site in the state in conducting security assessments and is intended to help school officials to identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The FSSAT is required to address the following components:

- School emergency and crisis preparedness planning;
- Security, crime and violence prevention policies and procedures;
- Physical security measures;
- Professional development training needs;
- An examination of support service roles in school safety, security, and emergency planning;
- School security and school police staffing, operational practices, and related services;

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<sup>29</sup> A third degree felony is punishable by up to 5 years in prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S. A third degree felony violation of s. 843.08, F.S., is ranked in Level 2 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(b), F.S.

<sup>30</sup> A second degree felony is punishable by up to 15 years in prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>31</sup> A first degree felony is generally punishable by up to 30 years in prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>32</sup> Section 1006.1493, F.S.



- School-community collaboration on school safety; and
- Return on investment analysis of the recommended physical security controls.

Each school safety specialist<sup>33</sup> is required to conduct a school security risk assessment at each public school using the FSSAT.<sup>34</sup>

### ***Effect of Proposed Changes***

Based on recommendations from the commission regarding physical site security assessment,<sup>35</sup> the bill amends s. 1006.1493, F.S., to specify that the FSSAT must be the primary physical site security assessment tool used by school officials at each school district and public school site in the state. The OSS must provide annual training to each school district's schools safety specialist and other appropriate school district personnel on assessing physical site security and completing the FSSAT assessment.

The bill also requires each district school superintendent, or his or her authorized designee, to approve each school specific FSSAT assessment. The district school superintendent must submit an FSSAT assessment to the department for each school site annually by August 1. Any superintendent who fails to comply with this submission requirement is subject to having his or her salary withheld as authorized in law.<sup>36</sup>

The requirements of the bill may improve FSSAT reporting, provide a better evaluation of school security, and provide additional accountability for ensuring the safety of students throughout the state.

### **School Hardening/Harm Mitigation**

#### ***Present Situation***

The commission's report specifies that "physical site target hardening is an essential component" of accomplishing the goal of preventing another active assailant attack.<sup>37</sup> The commission recommended that school districts implement a tiered approach to campus hardening that begins with basic harm mitigation concepts that are of little or no cost and those that may be implemented quickly.<sup>38</sup> After basic concepts have been implemented, districts should consider more advanced security measures, specifically the measures that focus on prevention, utilize

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<sup>33</sup> *Supra* note 9.

<sup>34</sup> Section 1006.07(6)(a)4., F.S.

<sup>35</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 297 (last visited Feb. 22, 2019).

<sup>36</sup> Section 1001.51(12)(b), F.S.

<sup>37</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

<sup>38</sup> *Id.* The initial report of the commission includes a tiered approach to enhancing campus site security under Appendix B of the report. *Id.*, at 345-350. In 2018, the Legislature appropriated \$98,962,286 in nonrecurring funds to the Department of Education to implement a grant program that will provide awards to schools to fund, in whole or in part, the fixed capital outlay costs associated with improving the physical security of school buildings as identified by a security risk assessment completed before August 1, 2018, by a school district or charter school. Section 44, Ch. 2018-3, Laws of Fla.; see also Florida Department of Education, *Educational Facilities Security Grant – Senate Bill 7026* (June 8, 2018), available at <http://www.fldoe.org/core/fileparse.php/18612/urlt/EdFacilitiesSecurityGrant-SenBill7026.pdf> (last visited Feb. 22, 2019).

technology, or require statutory changes.<sup>39</sup> Additionally, the commission recommended that the State of Florida engage subject matter experts through the OSS to establish guidelines and best practices for campus hardening.<sup>40</sup> The commission also recommended the following:<sup>41</sup>

- The OSS conduct a complete review of existing target-hardening practices and recommendations that are highlighted in other state’s school safety reports and by organizations such as the Partner Alliance for Safer Schools.<sup>42</sup>
- Prior to August 2019, the OSS, after receiving input from subject matter experts and completing its target-hardening review, provide the school districts with a tiered list of best practices that will allow schools to develop a plan to enhance and phase-in security levels over time, as budgets and resources allow.
- The legislature consider creating a permanent body similar to the Connecticut School Safety Infrastructure Council to oversee physical site security of schools.

### *Effect of Proposed Changes*

The bill specifies duties and responsibilities for the OSS and the Commissioner of Education (commissioner) regarding school hardening and harm mitigation strategies.

### Office of Safe Schools

Based on the suggestions highlighted in the commission’s initial report, the bill requires the OSS to convene a School Hardening and Harm Mitigation Workgroup (SHHMW) comprised of subject matter experts to review school campus hardening best practices. The bill requires the review to include, at a minimum:

- Target hardening practices implemented in other states;
- School safety guidelines developed by organizations such as the Partner Alliance for Safer Schools;
- Tiered approach to target campus hardening strategies identified in the initial report submitted by the commission; and
- The Florida Building Code for educational facilities construction<sup>43</sup> to determine whether the building code may need to be modified to strengthen school safety and security.

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<sup>39</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> According to the Partner for Alliance for Safer Schools (PASS), the PASS school safety and security guidelines are the most comprehensive information available on best practices specifically for securing K-12 school facilities—for elementary schools, middle schools and high schools. The PASS school security checklist allows tracking school or district’s security efforts in comparison to the best practices identified in the Guidelines. Partner for Alliance for Safer Schools, *PASS School Safety and Security Guidelines*, <https://passk12.org/guidelines-resources/pass-school-security-guidelines/> (last visited Jan. 28, 2019).

<sup>43</sup> The Department of Education is responsible for developing, reviewing, updating, revising, and recommending a mandatory portion of the Florida Building Code for educational facilities construction and capital improvement by district school boards and Florida College System institution boards. Section 1013.03(6), F.S.

The bill requires the SHHMW to meet as necessary and submit its report to the executive director of the OSS by August 1, 2019. The report must include, at a minimum:

- A prioritized list for implementing school campus hardening strategies and estimated costs and timeframes for school districts and charter schools to implement such strategies. The estimated costs must include regional and statewide projections of the implementation costs.
- Recommendations for policy and funding enhancements to strengthen school safety and security.

The bill requires the OSS to submit to the commissioner:

- The report submitted by the SHHMW; and
- Recommendations regarding procedures for the OSS to use to monitor and enforce compliance by the school districts and charter schools in the implementation of the SHHMW's recommended campus hardening and harm mitigation strategies.

A review of the existing school hardening and harm mitigation plans, policies, and guidelines, and related estimated costs and implementation timeframes by the SHHMW may assist the office with compiling a prioritized list of policy and funding enhancements to strengthen school safety and security.

#### Commissioner of Education

The bill requires the commissioner to review the SHHMW's report and recommendations submitted by the OSS regarding monitoring and enforcing compliance with the recommended campus hardening and harm mitigation strategies. The commissioner must provide by September 1, 2019, a summary of the SHHMW's recommendations related to campus hardening and harm mitigation strategies to the Governor, President of the Senate, and the Speaker of the House of Representatives. The summary must include, at a minimum:

- Policy and funding enhancements to strengthen school safety and security; and
- The estimated costs and timeframes for the implementation of the campus hardening and harm mitigation strategies recommended by the workgroup.

### **School Environmental and Safety Incident Reporting**

#### ***Present Situation***

The DOE has collected data on the most serious incidents of crime, violence, and disruptive behavior since 1995 through the School Environmental Safety Incident Reporting (SESIR) system.<sup>44</sup> The SESIR collects data related to incidents that occur on school grounds, school transportation, and off-campus, school-sponsored events during any 24-hour period, 365 days a year.<sup>45</sup> There are 26 incidents that must be reported in SESIR.<sup>46</sup> These incident types and

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<sup>44</sup> FSU Center of Criminology and The Department of Education *The Florida School Environmental Safety and Incident Reporting (SESIR) system* (2006) available at <http://criminology.fsu.edu/wp-content/uploads/The-Florida-School-Environmental-Safety-Incident-Reporting-SESIR-System.pdf>, at 1 (last visited Feb. 22, 2019).

<sup>45</sup> *Id.*

<sup>46</sup> Florida Department of Education, *SESIR Codes and Definitions*, available at <http://www.fldoe.org/safe-schools/sesir-discipline-data/> (last visited Jan. 31, 2018).

definitions are based on the criminal code but are not a precise reflection due to the specific focus on youth in the K-12 school environment.<sup>47</sup>

Florida law requires that each school district and the DOE implement an automated information system which is a part of, and compatible with, the statewide comprehensive management information system (information system).<sup>48</sup> Each information system component is required to contain automated student, staff and financial data. Additionally, each school principal must make necessary provisions to ensure that all school reports are accurate and timely, including, but not limited to, school safety and discipline data.<sup>49</sup> The information system standardizes the definitions of serious crimes and violent acts in schools, so that all schools within a district and statewide are using the same definitions to define criminal and/or violent incidents.

### ***Effect of Proposed Changes***

The bill amends s. 1006.07, F.S., to enhance oversight and enforcement as it relates to SESIR. Specifically, the bill:

- Requires the OSS provide oversight and technical assistance for SESIR reporting.
- Requires the OSS adopt rules to establish reporting requirements.
- Codifies the SESIR system and provides penalties for non-compliance.

These changes are consistent with the recommendations from the commission to provide DOE with SESIR oversight authority and authority to impose sanctions for non-compliance.<sup>50</sup> Providing such oversight authority to the OSS and penalties for noncompliance may increase reporting participation and accuracy.

### **Mobile Suspicious Activity Reporting Tool (FortifyFL)**

#### ***Present Situation***

In 2018, the FortifyFL application (application) was created and funded as part of the Marjory Stoneman Douglas High School Public Safety Act. The Florida Department of Law Enforcement (FDLE), in conjunction with the Department of Legal Affairs, was required to 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 officials.<sup>51</sup>

The application is fully operational and, according to the DOE, has received 278 tips.<sup>52</sup> The application is free to all public and private schools in Florida. Districts who have similar tools may continue to use them in addition to the application.<sup>53</sup> Even in cases where district-level tools

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<sup>47</sup> *Id.*

<sup>48</sup> Section 1008.385(2), F.S. see also Rule 6A-1.0014, F.A.C.

<sup>49</sup> *See ss.* 1001.54(3), 1001.54(3), and 006.09(6), F.S. Each school principal must ensure that standardized forms prescribed by State Board of Education rule are used to report data concerning school safety and discipline data.

<sup>50</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 314 (last visited Feb. 22, 2019).

<sup>51</sup> Section 943.082(4)(a), F.S.

<sup>52</sup> Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). 278 tips as of 1/29/19.

<sup>53</sup> Florida Department of Education, *FortifyFL School Safety Awareness Program* (Oct. 26, 2018) available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8397/dps-2018-157.pdf>, at 1-2 (last visited Feb. 22, 2019).

exist, district and school-level administrators will receive tips from the application and will be expected to respond. Administrators are expected to register to receive tips through the application's administrative portal for the safety and well-being of students and staff. Any tips submitted via the application are sent to local school district and law enforcement officials, and the designated officials are contacted until one or more of them take action on the tip.<sup>54</sup>

### ***Effect of Proposed Changes***

The bill amends s. 943.082, F.S., to require a district school board to promote the application on its website, campuses, newsletters, and install the application on all student-issued computer devices. Additionally, the bill requires charter schools to comply with the specified advertising requirements. These changes are consistent with the commission's recommendations.<sup>55</sup>

The requirement that the application be promoted in these mediums may help to increase awareness and use of the application.

### **Active Assailant Policy**

#### ***Present Situation***

Florida law requires that district school boards in consultation with public safety agencies formulate and prescribe policies and procedures for actual emergencies including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats.<sup>56</sup> Additionally, a district school board must establish model emergency management and preparedness procedures, including emergency notification procedures. The active shooter training for each school must engage the participation of the district school safety specialist, threat assessment team (TAT) members, faculty, staff and students and must be conducted by a law enforcement agency or agencies that are designated as first responders to the school's campus.

#### ***Effect of Proposed Changes***

The bill amends section 1006.07, F.S. to require that each district school board have a well-developed, written, distributed, and trained upon active assailant response policy to be used at each school and approved by the district superintendent. Any school-specific modifications to the district policy must be approved by the superintendent. The active assailant policy must be submitted to the OSS by August 1, 2019. Additionally, the bill amends sections 1001.212 and 1002.33, F.S., to require a charter school governing board to adopt an active assailant policy and submit the policy to the OSS for review. These changes are consistent with the recommendation by the commission that each school district's active assailant policy be approved by the OSS.<sup>57</sup>

These changes may provide for more consistency in active assailant response policies throughout the state.

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<sup>54</sup> *Id.*

<sup>55</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 266 (last visited Feb. 22, 2019).

<sup>56</sup> Section 1006.07(4)(a), F.S.

<sup>57</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 86 (last visited Feb. 22, 2019).

## **Multiagency Services for Students with Severe Emotional Disturbance**

### ***Present Situation***

Florida law establishes a multiagency network 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 includes district school boards to provide educational programs, and state departments and agencies administering children's mental health funds to provide mental health treatment and residential services.<sup>58</sup> The multiagency network is required to improve the coordination of services to expand school-based mental health services, transition services, and integrated education and treatment programs for students with and at risk of emotional or behavioral disabilities.<sup>59</sup>

Local child and adolescent mental health systems of care must include the local educational multiagency network to enhance collaboration between agencies and to facilitate the provision of services by the child and adolescent mental health treatment and support system and the school district.<sup>60</sup>

### ***Effect of Proposed Changes***

The bill amends s. 1006.04, F.S., to establish service timeframes for children with or at risk of emotional or behavioral disabilities. Specifically, the bill requires the multiagency network to improve coordination of services to such children to provide the following:

- Children who are referred for evaluation or screening to determine eligibility for services receive the evaluation or screening within 45 days of the referral; and
- If eligible for services, students and their families must be provided a referral to appropriate services within 30 days after completion of the evaluation or screening.

Such changes are consistent with timelines recommended by the commission,<sup>61</sup> and may assist in the timely diagnosis of mental, emotional, or behavioral disorders and ensure students and families are provided timely information about available services and supports.

## **School-Based Behavioral Threat Assessments**

### ***Present Situation***

The threat assessment process provides guidance to students, faculty, and staff regarding the recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self.<sup>62</sup>

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<sup>58</sup> Section 1006.04(1)(a), F.S. The network was created in 1984 as the Multiagency Service Network for Students with Severe Emotional Disturbance (SEDNET).

<sup>59</sup> Section 1006.04(1)(c), F.S.

<sup>60</sup> Section 394.495(5), F.S.

<sup>61</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 273 (last visited Feb. 22, 2019).

<sup>62</sup> Section 1006.07(7)(a), F.S.

Each district school board is required to adopt policies to establish TATs at each school.<sup>63</sup> Such policies must be consistent with model policies developed by the OSS, and must include procedures for referrals to mental health services identified by the school district,<sup>64</sup> when appropriate. A school TAT is composed of members with expertise in counseling, instruction, school administration, and law enforcement to coordinate resources, assessment, and intervention for individuals whose behavior may pose a threat to the safety of school staff or students.<sup>65</sup>

Florida law specifies procedures to be followed by the TAT upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself, or exhibits significantly disruptive behavior.<sup>66</sup>

Each TAT must report quantitative data on its activities to the OSS in accordance with guidance from the OSS.<sup>67</sup>

Currently, there is not a standard threat assessment process or automated threat assessment system in Florida. The current threat assessment process in Florida is school - or district - specific with little to no information sharing as a result of the threat assessment process.<sup>68</sup>

#### Virginia Student Threat Assessment Guidelines (VSTAG)

The VSTAG model is an approach to violence prevention that emphasizes early attention to conflict before it escalates into violent behavior.<sup>69</sup> The model integrated recommendations from the FBI<sup>70</sup> and Secret Service<sup>71</sup> studies of school shootings with input from educators working in Virginia public schools.

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<sup>63</sup> Section 1006.07(7), F.S.

<sup>64</sup> Section 1012.584(4), F.S., defines “mental health services” and requires notification to all school personnel who have received training on mental health services about available mental health services.

<sup>65</sup> Section 1006.07(7), F.S.

<sup>66</sup> Procedures include superintendent and parental notifications, inspection of criminal records, and immediate action for mental health and substances abuse crises. *Id.*

<sup>67</sup> Section 1006.07(7)(f), F.S.

<sup>68</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 281 (last visited Feb. 22, 2019).

<sup>69</sup> Dewey G. Cornell University of Virginia June 18, 2018 *Overview of the Virginia Student Threat Guidelines (VSTAG)* <https://curry.virginia.edu/sites/default/files/images/YVP/VSTAG%20summary%206-18-18.pdf>, at 1 (last visited Feb. 22, 2019).

<sup>70</sup> Mary Ellen O’Toole, *The School Shooter: A Threat Assessment Perspective*, available at <https://files.eric.ed.gov/fulltext/ED446352.pdf> (last visited Feb. 22, 2019).

<sup>71</sup> United States Secret Service and the United States Department of Education (Robert A. Fein), *Threat Assessment in Schools, A Guide to Managing Threatening Situations and to Creating Safe School Climates* (2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf> (last visited Feb. 22, 2019).

The VSTAG model follows a five-step process, which includes an evaluation of a threat as transient<sup>72</sup> or substantive,<sup>73</sup> a response to a substantive threat, and implementation and monitoring of a safety plan, if necessary.

### *Effect of Proposed Changes*

The bill implements recommendations from the commission regarding the development of a standardized, statewide behavioral threat assessment instrument and a statewide threat assessment database.<sup>74</sup> Specifically, the bill amends s. 1001.212, F.S., to require the OSS to:

- Develop, no later than August 1, 2019, a standardized, statewide behavioral threat assessment instrument (instrument) for use by all public schools, including charter schools. The instrument must include:
  - An evaluation of the causes and seriousness of the threat.
  - The response to a substantive threat, including law enforcement or mental health referrals.
  - Ongoing monitoring to assess implementation of safety strategies.
  - Training for members of a TAT and school administrators regarding the use of the instrument.
- Evaluate, by August 1, 2020, each school district's behavioral threat assessment procedures, and:
  - Notify the district school superintendent if that school district's behavioral threat assessment is not in compliance with the instrument.
  - Report any issues of ongoing noncompliance to the district school superintendent, commissioner, and State Board of Education.

Each district school board, in its policies establishing a TAT, must include in its behavioral threat assessment procedures the instrument developed by the OSS. The establishment of a statewide instrument may assist in the development of policies that are more proactive and include greater oversight and accountability of district policies and procedures. In addition, school personnel may receive improved training on and knowledge of the threat assessment process and how to conduct effective behavioral threat assessments.

Additionally, the bill requires the OSS to:

- Establish a Statewide Threat Assessment Database Workgroup to make recommendations regarding the development of a statewide threat assessment database to provide access to information about any school threat assessment by authorized personnel statewide.
- The workgroup must provide a report to the OSS, no later than December 31, 2019, with recommendations regarding, but not limited to:
  - Required threat assessment data and authorized users.
  - Database design and functionality, to include data security.

<sup>72</sup> A transient threat is a broad category including all threats that do not reflect a genuine intent to harm others. Most student threats are transient threats that reflect expressions of humor, anger, frustration, or fear. Transient threats can be provocative and disruptive, but from a threat assessment perspective, they do not reflect a real intent to harm others. *Supra* note 56, at 2.

<sup>73</sup> Substantive threats are characterized by qualities that reflect serious intent, such as planning and preparation, recruitment of accomplices, and acquisition of a weapon. *Supra* note 56, at 3.

<sup>74</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 286-287 (last visited Feb. 22, 2019).



- Restrictions and authorities on information sharing, including the Family Educational Right and Privacy Act,<sup>75</sup> confidentiality of substance abuse and disorder patient records,<sup>76</sup> and the Health Insurance Portability and Accountability Act.<sup>77</sup>
- The cost to develop and maintain a statewide online database.
- An implementation plan and timeline.

The workgroup recommendations may assist in determining the effective implementation of a statewide threat assessment database for providing vital student threat information to school districts and law enforcement. The bill requires that each school TAT must utilize the statewide threat assessment database when it becomes available.

## **School District Funding**

### ***Present Situation***

State funding for school districts is provided primarily by legislative appropriations, the majority of which is distributed through the FEFP.

### **Florida Education Finance Program**

Florida law provides funds for the operation of schools by 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.<sup>78</sup> Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE, and the 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.<sup>79</sup> A district school board may approve a budget amendment.

### **Safe Schools Allocation**

Safe schools funds are to be used by school districts to help them comply with the sections of Florida law dedicated to student discipline and school safety, with priority given to establishing a school resource officer program pursuant to section 1006.12, F.S.<sup>80</sup>

For the 2018-19 fiscal year, \$161,956,019 is appropriated for safe schools activities, with each school district receiving a guaranteed minimum of \$250,000.<sup>81</sup> The remaining appropriation has historically been allocated based on two-thirds being allocated to school districts based on the latest official FDLE Florida Crime Index and one-third being allocated based on each district's share of the state's total unweighted student enrollment.<sup>82</sup> However, in Ch. 2018-3, Laws of Fla.,

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<sup>75</sup> 20 U.S.C., s. 1232g.

<sup>76</sup> 42 C.F.R., Part 2.

<sup>77</sup> 42 U.S.C., s. 1320d-6, and 45 C.F.R. Part 164-E

<sup>78</sup> Section 1011.62(6), F.S.

<sup>79</sup> *Id.*

<sup>80</sup> Section 1011.62(15), F.S.

<sup>81</sup> Ch. 2018-3, s. 42, Laws of Fla.

<sup>82</sup> Section 1011.62(15), F.S.

the appropriated funds<sup>83</sup> were distributed to school districts based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment, and school districts are required to use these funds exclusively for hiring or contracting for school resource officers.

### *Effect of Proposed Changes*

#### FEFP and Safe Schools Allocation

Based on recommendations from the commission regarding school safety funding,<sup>84</sup> the bill amends s. 1011.62, F.S., to provide school districts with greater spending flexibility between categorical funding within the FEFP. The bill authorizes the district school board, upon adoption of a resolution that these funds are urgently needed to maintain school board specified academic classroom instruction or improve school safety, to transfer funds from the guaranteed allocation, supplemental academic instruction allocation, Florida digital classroom allocation, and federally connected student supplement. This may provide school districts with additional funding resources to ensure the safety and security of students.

The bill also amends the safe schools allocation formula by requiring one-third (instead of two-thirds) be allocated to school districts based on the most recent official FDLE Florida Crime Index and two-thirds (instead of one-third) be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Revising the formula in this manner more closely approximates the safe schools allocation for the 2018-2019 fiscal year resulting from the additional funds appropriated in Ch. 2018-3, Laws of Fla., which mitigates the likelihood of a school district receiving a disparate amount in future fiscal years.

The bill takes effect upon becoming a law, unless otherwise specified.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires a county sheriff under certain circumstances to implement a school guardian program, requiring the expenditure of funds. Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Article VII, section 18 (d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an "insignificant fiscal impact" are exempt from the mandate requirements, which for Fiscal Year 2018-2019 is

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<sup>83</sup> Specific Appropriation 92, Ch. 2018-9, Laws of Fla., the 2018-2019 General Appropriations Act, appropriated \$64.5 million for the safe schools allocation. Section 42, Ch. 2018-3, Laws of Fla., appropriated an additional \$97.5 million for the safe schools allocation.

<sup>84</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 105 (last visited Feb. 22, 2019).

forecast at slightly over \$2 million.<sup>85,86,87</sup> It is unknown at this time if the costs for county sheriffs to implement the bill will collectively exceed the insignificant fiscal impact threshold.

As for applicable specified constitutional exceptions, a general law may be binding on cities and counties if the Legislature determines that the law fulfills an important state interest (see section 13), and estimated funds are appropriated to cover the mandate. In 2018-2019, the Legislature set aside \$67.5 million for this program, and it is anticipated that approximately \$57 million in unspent funds from this year will be included in the 2019-2020 budget. These funds should be sufficient to cover the costs to county sheriffs of implementing the school guardian program.

If the Legislature does not authorize adequate funding, a two-thirds vote of the membership of each house may be required for the provisions in the bill to be binding upon the county sheriffs.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

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<sup>85</sup> FLA. CONST. art. VII, s. 18(d).

<sup>86</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 13, 2019).

<sup>87</sup> Based on the Florida Demographic Estimating Conference's February 6, 2019 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 13, 2019).

C. **Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official prison bed impact, if any, of legislation has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds).

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 30.15, 843.08, 943.082, 1001.10, 1001.11, 1001.212, 1002.33, 1006.04, 1006.07, 1006.12, 1006.1493, and 1011.62

The bill also reenacts section 921.0022 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Infrastructure and Security on March 26, 2019:**

- The CS criminalizes the false personation of a school guardian and replaces the term “watchman” with “security officer”.

B. **Amendments:**

None.