

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 7040

INTRODUCER: Appropriations Committee; Infrastructure and Security Committee; Education Committee; and Senator Diaz

SUBJECT: Implementation of the Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission

DATE: February 21, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Brick, Dew, Bouck, Sagues	Sikes		ED Submitted as Committee Bill
1.	Proctor	Miller	IS	Fav/CS
2.	Underhill	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7040 provides additional safeguards for Florida’s students and schools by building upon the school safety and security foundation established in the Marjory Stoneman Douglas High School Public Safety Act and the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (commission). The bill:

- Improves school safety planning and reporting to require:
 - Each district school board to adopt a school district emergency event family reunification plan to reunite students and employees with their families in the event of an emergency.
 - Comprehensive participation from all members of a school threat assessment team.
 - Law enforcement officers responsible for responding to the school in the event of an emergency to be on campus and directly involved in the execution of emergency drills.
 - Alignment of school-based diversion programs with local judicial circuit diversion programs.
 - Each district school board to adopt policies to ensure the accurate and timely reporting of all school safety and discipline incidents.
 - The Office of Safe Schools (OSS) include in school safety specialist training information about federal and state reporting and data privacy laws.
- Enhances the safe school officer position and the role of the county sheriff by:
 - Requiring school safety officers to complete mental health crisis intervention training.

- Expanding the power of school safety officers to make arrests on property owned or leased by a charter school in the district.
- Making the sheriff responsible for the provision of Feis guardian training and clarifying the training requirements applicable to such training.
- Strengthens school mental health coordination and implementation and requires:
 - A workgroup to provide guidance on the implementation of mental health-related recommendations of the commission.
 - Additional reporting requirements for the mental health assistance allocation.
 - Individualized Education Plans to include additional provisions related to post-high school transition.
- Strengthens school safety oversight and accountability by directing the:
 - Commissioner of Education to enforce compliance with all school safety requirements.
 - OSS to coordinate compliance with school safety incident reporting.
 - FortifyFL reporting tool to notify users of consequences for false reporting.
- Expands representation on the commission to include superintendents, principals, or teachers.

The Department of Education estimates that it will need an additional \$897,644 to implement provisions of the bill related to OSS and the Independent Education and Parental Choice office. In addition, there may be an indeterminate cost to local law enforcement, local school districts, state attorney offices, the Louis de la Parte Florida Mental Health Institute, charter schools, and the Department of Juvenile Justice to implement other provisions of the bill. See Section V.

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:

School Safety Planning and Reporting

Present Situation

Safety Incident Reporting

Each district school board is required to adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline.¹ The School Environmental Safety Incident Reporting (SESIR) system collects data on incidents related to school safety and discipline that occur on school grounds, school transportation, and off-campus, school-sponsored events.² The State Board of Education (SBE or state board) is required to adopt rules establishing the requirements for the SESIR.³

¹ Section 1006.07(9), F.S.

² FSU Center of Criminology and Florida 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 January 29, 2020).

³ *Supra*, note 1.

The law requires each school principal to ensure that standardized forms prescribed by SBE rule are used to report data concerning school safety and discipline to the Department of Education (DOE).⁴ The DOE may notify a district school board to withhold the salary of a district school superintendent who has failed to comply with SESIR reporting requirements and impose other appropriate sanctions that the Commissioner of Education (commissioner) or state board may impose.⁵ A district school board member who is responsible for a violation of the reporting or sanctions requirements applicable to a superintendent is subject to suspension and removal.⁶

District school boards are required to promote a safe and supportive learning environment in schools. In this regard, district school boards are required to adopt policies prohibiting crime and victimization, hazing, bullying and harassment, and dating violence and abuse.⁷ School board policies prohibiting bullying and harassment must include procedures for tracking data and reporting incidents to the DOE, which prepares an annual report on bullying and harassment policies to the Governor, the President of the Senate (President), and the Speaker of the House of Representatives (Speaker).⁸

School Emergency Response Policies and Procedures

District school boards must formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats, for all students and faculty at all district K-12 public schools.⁹

Drills for active shooter and hostage situations must be conducted in accordance with developmentally appropriate and age-appropriate procedures at least as often as other emergency drills. District school board policies must establish model emergency management and emergency preparedness procedures, including emergency notification procedures.¹⁰

The Florida Safe Schools Assessment Tool (FSSAT) is required to 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 identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The FSSAT is required to address certain components of school safety, such as school emergency and crisis preparedness planning.¹¹

Threat Assessment Teams

Each district school board must adopt policies for the establishment of threat assessment teams (TATs) at each school. The purpose of TATs is to coordinate resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students. Each TAT must include persons with expertise in counseling, instruction, school

⁴ Section 1006.09(6), F.S.

⁵ Section 1001.212(8), F.S.

⁶ Section 1001.42(13)(b), F.S.

⁷ Sections 1006.13, 1006.135, 1006.147, and 1006.148, F.S.

⁸ Section 1006.147, F.S.

⁹ Section 1006.07(4), F.S.

¹⁰ *Id.*

¹¹ Section 1006.1493, F.S.

administration, and law enforcement.¹² The Office of Safe Schools (OSS) developed the Comprehensive School Threat Assessment Guidelines (CSTAG)¹³ for use as a Behavioral Threat Assessment Instrument to assist TATs in the threat assessment process. The law provides specific requirements for the CSTAG, including that the CSTAG address training for TATs and school administrators.¹⁴

Mobile Suspicious Activity Reporting Tool (FortifyFL)

FortifyFL, the mobile suspicious activity reporting tool, is a computer and mobile phone application free to all public and private schools in Florida. District and school-level administrators receive and must respond to tips from FortifyFL. Any tips submitted through FortifyFL are sent to local school, district and law enforcement officials, and the designated officials are contacted until one or more of them take responsibility for taking action on the tip.¹⁵

The identity of the reporting party received through the mobile suspicious activity reporting tool is confidential and exempt from public records disclosure requirements. Information received through the mobile suspicious activity reporting tool is also exempt.¹⁶

Juvenile Diversion Programs

Juvenile diversion programs (diversion programs) are alternatives to juvenile arrest. A juvenile arrest may be diverted based on comprehensive knowledge of the juvenile's criminal history, prior contacts with law enforcement, and prior program enrollment.¹⁷ Florida law directs that a civil citation or similar pre-arrest diversion program for misdemeanor offenses be established in each judicial circuit in the state.¹⁸

Compliance with the community-based diversion programs includes all reporting requirements, specifically that criminal diversions be entered into Juvenile Justice Information System (JJIS) Prevention Web.¹⁹ School districts may still operate their own "diversion programs" that address non-criminal conduct, such as Student Code of Conduct violations and other misbehavior.²⁰

¹² Section 1006.07(7), F.S.

¹³ Comprehensive School Threat Assessment Guidelines. Florida Department of Education, *Memo to School District Superintendents and Charter School Administrators Regarding the Standardized Behavioral Threat Assessment Instrument* (Aug. 1, 2019), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8617/DPS-2019-116.pdf> (last visited January 29, 2020).

¹⁴ Section 1001.212(12)(a)6., F.S.

¹⁵ 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 January 29, 2020).

¹⁶ Section 943.082(6), F.S.

¹⁷ Marjory Stoneman Douglas High School Public Safety Commission (Commission), *Report Submitted to the Governor, Speaker of the House of Representatives and Senate President* (Nov. 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf>, at 131 (last visited January 29, 2020).

¹⁸ Section 985.12, F.S.

¹⁹ *Id.*

²⁰ Commission, *supra* note 17, at 133.

Currently, 58 school districts do not offer any form of school-based diversion program.²¹ Seven school districts participate in the civil citation or similar prearrest diversion program of the local judicial circuit, and three school districts operate school-based diversion programs.²²

Effect of Proposed Changes

Safety Incident Reporting

The bill modifies s. 1006.07(9), F.S., to clarify that a district school board's duty to adopt policies to ensure the reporting of incidents related to school safety and discipline includes the reporting of incidents related to SESIR, zero tolerance for crime and victimization, hazing, bullying and harassment, and dating violence and abuse. The bill also modifies s. 1006.09, F.S., to clarify that school principals must ensure that incidents concerning school safety and discipline are reported to the DOE through the SESIR system.

The bill clarifies the enforcement authority for school district and charter school reporting requirements under the SESIR system to specify that, upon notification by the commissioner, the district school board or charter school governing board must withhold the salary of a superintendent or charter school administrator for failure to comply with such requirements, based on clear and convincing evidence, pending demonstration of full compliance.

The bill authorizes the SBE to adopt rules establishing the requirements for all school safety incident reporting.

This clarification may improve school safety incident reporting by school districts and charter schools.

Emergency Drills

The bill modifies s. 1006.07, F.S., to require sheriffs to coordinate with the district school safety specialist to determine the necessary law enforcement officers responsible for responding to a school in the event of an active assailant emergency, and requires the designated law enforcement officers to be physically present on campus and directly involved in the execution of active assailant drills.

The bill authorizes school board policies to provide accommodations for drills conducted by Exceptional Student Education centers.

Emergency Event Family Reunification

The bill modifies s. 1006.07, F.S., to require district school boards and charter school governing boards to, by August 1, 2021, adopt an emergency event family reunification plan for the purpose of reuniting students and employees with their families in the event of a mass casualty or

²¹ Florida Department of Juvenile Justice, *Statewide Audit of School-Based Diversion Programs* (July 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/Meetings/2019/August/August-14-1015am-Report-on-Statewide-Assessment-DJ.aspx>, at 21-23 (last visited January 29, 2020).

²² *Id.* The information that is required to be entered into JJIS Prevention Web varies among school districts who participate in the local judicial circuit diversion programs. Sarasota County School District participates in the local judicial circuit diversion program but also appears to operate a school-based diversion program.

other emergency event situation. The bill requires the adoption of the emergency event family reunification plans to be coordinated with local law enforcement agencies.

The bill modifies s. 1001.212, F.S., to require the OSS develop, in coordination with the Division of Emergency Management and other federal, state, and local law enforcement agencies and first-responder agencies, a model emergency event family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary institutions that are closed or unexpectedly evacuated due to natural or man-made disasters or emergencies.

The bill amends s. 1006.1493, F.S., to require the FSSAT to address policies and procedures to prepare for and respond to natural or manmade disasters or emergencies, including plans to reunite students and employees with families after a school is closed or unexpectedly evacuated due to such disasters or emergencies.

Threat Assessment Teams

The bill modifies s. 1006.07, F.S., relating to TATs. Specifically, the bill:

- Clarifies that the law enforcement presence on a threat assessment team must include a sworn law enforcement officer who has undergone threat assessment training identified by the OSS.
- Requires that all members of the TAT be involved in the threat assessment process from start to finish, including the determination of the final disposition decision.

These changes may ensure that all members of the TAT are active participants in the entire threat assessment process.

Mobile Suspicious Activity Reporting Tool (FortifyFL)

The bill modifies s. 943.082, F.S., effective October 1, 2020, to require notification to parties reporting through FortifyFL that if, following investigation, it is determined that a person knowingly submitted a false tip through FortifyFL, the IP address of the device on which the tip was submitted will be provided to law enforcement agencies and the reporting party may be subject to criminal penalties for a false report. In all other circumstances, unless the reporting party has chosen to disclose his or her identity, the report must remain anonymous.

Juvenile Diversion Programs

The bill modifies ss. 985.12 and 1002.421, F.S., to require the Department of Juvenile Justice (DJJ) and the state attorney of each judicial circuit to monitor and enforce compliance with school-based diversion program requirements. School-based diversion programs must:

- Operate consistently with criteria established by the state attorney in the judicial circuit in which the school is located.
- Be defined in school policy and the code of conduct.
- Be approved by the district school board, charter school governing board, or private school governing authority, as applicable.

The bill requires the OSS to maintain a current directory of public and private school-based diversion programs and cooperate with each judicial circuit and the DJJ, which are responsible

for facilitating compliance with the law. The bill requires, beginning in fiscal year 2021-2022, law enforcement officers to have field access to civil citation and prearrest diversion information.

These changes may ensure all school-based diversion programs meet established requirements for prearrest diversion programs. This may improve the quality and accountability of such diversion programs.

Safe School Officers

Present Situation

Safe School Officer Requirement

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 and charter schools.²³ These options include:

- Establishing a school resource officer (SRO) program, through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers²⁴ who must meet specified screening requirements²⁵ and also complete mental health crisis intervention training.
- Commissioning one or more school safety officers. School safety officers are certified law enforcement officers with the power of arrest on district school property, who are employed by either a law enforcement agency or by the district school board. School safety officers must undergo the same screening requirements as an SRO.
- Participating in the Coach Aaron Feis Guardian Program (guardian program).
- Contracting with a security agency²⁶ to employ as a school security guard an individual who holds a Class “D” and Class “G” license²⁷ and completes the same training and evaluation requirements as a school guardian.

If a district school board, through its adopted policies, procedures, or actions, denies a charter school access to any safe-school officer options, the school district must assign a school resource officer or sworn law enforcement school safety officer to the charter school. Under such circumstances, the charter school’s share of the costs of the sworn law enforcement school resource officer or sworn law enforcement school safety officer may not exceed the safe school allocation funds provided to the charter school and shall be retained by the school district.

²³ Section 1006.12, F.S.

²⁴ “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. Section 943.10(1), F.S.

²⁵ SROs must undergo criminal background checks, drug testing, and a psychological evaluation. Section 1006.12(1)(a), F.S.

²⁶ “Security agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners. This includes any person who utilizes dogs and individuals to provide security services. Section 493.6101(18), F.S.

²⁷ License requirements are specified in chapter 493.

Coach Aaron Feis Guardian Program

The guardian program was established in 2018²⁸ as an option for school districts to meet the safe-school officer requirements in law.²⁹ Persons certified as school guardians have no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.³⁰

A sheriff is required to provide access to a guardian program to aid in the prevention or abatement of active assailant incidents on school premises³¹ If a district school board has voted by a majority to implement a guardian program, the sheriff in that county must establish a guardian program to provide training to school district or charter school employees, either directly or through a contract with another sheriff's office that has established a guardian program.³²

In addition, a charter school governing board in a school district that has not implemented a guardian program may request the sheriff in the county to establish a guardian program for the purpose of training the charter school employees. If the county sheriff denies the request, the charter school governing board may contract with a sheriff that has established a guardian program to provide such training. The charter school governing board must notify the superintendent and the sheriff in the charter school's county of the contract prior to its execution.

The sheriff must certify as school guardians school employees who:³³

- Hold a valid concealed weapon license.³⁴
- Complete a 144-hour training program, consisting of 12 hours of certified nationally recognized diversity training and 132 total hours of comprehensive firearm safety and proficiency training, including 12 hours of training in precision pistol, conducted by Criminal Justice Standards and Training Commission (CJSTC)-certified instructors.
- Pass a psychological evaluation administered by a licensed psychologist³⁵ and designated by the Florida Department of Law Enforcement (FDLE) and submit the results of the evaluation to the sheriff's office.
- Submit to and pass an initial drug test and subsequent random drug tests in accordance with law³⁶ and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

²⁸ Section 26, ch. 2018-3, Laws of Fla.

²⁹ Section 1006.12, F.S.

³⁰ Section 30.15(1)(k), F.S.

³¹ *Id.* A sheriff is required to consult with the Florida Department of Law Enforcement on programmatic guiding principles, practices, and resources in establishing a school guardian program. Section 30.15(1)(k)2., F.S.

³² Section 30.15(1)(k)1.a., F.S. The sheriff conducting the training is reimbursed for screening-related and training-related costs and for providing a one-time stipend of \$500 to each school guardian who participates in the school guardian program. Section 30.15(1)(k)1.c., F.S.

³³ Section 30.15(1)(k)2., F.S.

³⁴ Section 790.06, F.S.

³⁵ Chapter 490 of the Florida Statutes governs licensure for psychological services.

³⁶ Section 112.0455, F.S.

The sheriff who conducts the guardian training must issue a school guardian certificate to individuals who have completed the required training to the satisfaction of the sheriff. The sheriff must also maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified by the sheriff. An individual certified as a school guardian may serve only if he or she is appointed by the applicable school district superintendent or charter school principal.³⁷

Effect of Proposed Changes

The bill modifies s. 1006.12, F.S., relating to safe-school officers to align requirements between sworn law enforcement (SROs and school safety officers) and between Feis guardian program certified personnel (school guardians and school security guards).

The bill modifies requirements relating to school safety officer authority and training by:

- Clarifying that school safety officers have the power to make arrests on property owned or leased by a charter school in the district.
- Requiring that school safety officers must complete mental health crisis intervention training, similar to the training required of an SRO.

These provisions may clarify the authority of a school safety officer within the school district, and ensure that all sworn law enforcement officers in schools are trained to deal with crisis situations.

The bill also establishes requirements for Feis guardian program certified school security guards to clarify training, screening, authority, and oversight. Specifically:

- The school security guard must satisfactorily complete all requirements of the guardian program, and that training must be conducted by a county sheriff.
- The sheriff providing the training for a school security guard must be reimbursed by the DOE for screening- and training-related costs.
- The sheriff must maintain specified training, certification, inspection, and qualification records for school security guards.
- Similar to a school guardian, the school security guard has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.
- The contract between a security agency and district school board must also define conditions, requirements, costs, and responsibilities necessary to satisfy background screening requirements.
- A school security guard serving in the capacity of a safe-school officer is considered to be a “noninstructional contractor” who has direct contact with a student for the purpose of background screening, which must be satisfied prior to the school security guard being permitted access to school grounds.
- An individual may only serve as a school security guard if he or she is appointed by the applicable school district superintendent or charter school administrator.

³⁷ *Supra*, note 31

The bill modifies s. 30.15, F.S., to clarify that the sheriff is responsible for Feis guardian program training. A sheriff may provide Feis guardian program training to school district or charter school employees directly, through a contract with an entity selected by the local sheriff, through a contract with another sheriff's office that has established a Feis guardian program, or any combination thereof. If the local sheriff contracts with another entity to provide the training, the local sheriff must oversee, supervise, and certify all aspects of the contract governing the Feis guardian program.

The bill also modifies Feis guardian program training to specify that:

- A sheriff who contracts with one or more county sheriffs to provide Feis guardian program training must notify, in writing, the local school district superintendent and charter school governing boards of any county-specific protocols.
- The 144-hour training program and ongoing training be conducted by CJSTC-certified instructors who hold active instructional certifications.
- The 16 hours of instruction in precision pistol include night and low-light shooting conditions.
- A licensed professional may administer the psychological examination individuals must pass as part of the Feis guardian program training, which is similar to the requirements for an SRO or school safety officer. The licensed professional is not required to be a licensed psychologist designated by the FDLE.
- The sheriff's office must review and approve the results of the psychological evaluation and drug tests for each applicant seeking Feis guardian program certification, before accepting the applicant into the Feis guardian program.

The bill clarifies that a charter school may waive the school district's obligation to assign a sworn law enforcement school resource or safety officer that arises when a school district denies a charter school access to safe school officer options, and the charter school may retain its safe school allocation funds.

These changes may ensure that guardian training is available to personnel in each Florida county, is consistently applied to all personnel serving as school guardians and school security guards, and improve delivery and administration of the program under the sole authority of a county sheriff.

School-Based Mental Health Services

Present Situation

The DOE, through the Bureau of Exceptional Education and Student Services and the OSS, is required to promote a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Student services personnel, including school psychologists, social workers, and counselors, are responsible for advising students with regard to personal and social adjustments and providing services at the district and school level.³⁸

³⁸ Section 1012.01(2)(b), F.S.

The Louis de la Parte Florida Mental Health Institute

Chapter 2002-397, L.O.F., established the Louis de la Parte Florida Mental Health Institute (institute) within the University of South Florida to strengthen mental health services throughout the state.³⁹ The institute is authorized to provide direct mental health services, coordinate with other agencies to provide mental health services, and support state agencies in the delivery of mental health services.⁴⁰

The OSS is responsible for providing data to support the evaluation of mental health services by the institute.⁴¹

Individualized Education Plans

The individualized education plan (IEP) is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability.⁴² When the student attains the age of 16, the IEP must include an annually updated statement addressing the intent for the student to pursue a standard high school diploma and other appropriate measurable long-term postsecondary education and career goals.⁴³

Mental Health Assistance Allocation

The mental health assistance allocation is a categorical fund established to provide funding to assist school districts in establishing or expanding school-based mental health care; train educators and other school staff in detecting and responding to mental health issues; and connect children, youth, and families who may experience behavioral health issues with appropriate services.⁴⁴ A total of \$75 million was appropriated to school districts through the mental health assistance allocation for the 2019-2020 school year.⁴⁵ In order to receive the allocation, a school district must develop and submit a plan outlining the local program and planned expenditures to the district school board for approval. This plan must include all district schools, including charter schools, unless a charter school chooses to independently develop and submit a plan outlining the local program and planned expenditures.⁴⁶

The plans must include elements such as:⁴⁷

- Identification of strategies to increase the amount of time that school-based student services personnel spend providing direct services to students, which may include the review and revision of district staffing resource allocations based on school or student mental health assistance needs.
- Strategies or programs to reduce the likelihood of at-risk students developing certain mental health problems.

³⁹ Section 1004.44, F.S.

⁴⁰ Section 1004.44(3), F.S.

⁴¹ Section 1001.212(7), F.S.

⁴² Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9 (last visited January 29, 2020).

⁴³ Section 1003.5716(2), F.S.

⁴⁴ Section 1011.62(16), F.S.

⁴⁵ Ch. 2019-115, Laws of Fla., s. 2, Specific Appropriation 93.

⁴⁶ *Supra*, note 45.

⁴⁷ Section 1011.62(16)(b), F.S.

- Strategies to identify mental health problems more effectively, to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

School districts are required to annually submit a report to the DOE on program outcomes and expenditures for the previous fiscal year, by September 30.

Effect of Proposed Changes

The Louis de la Parte Florida Mental Health Institute

The bill modifies s. 1004.44, F.S., to require, upon becoming law, the institute, in consultation with the DJJ, the Department of Children and Families (DCF), and the DOE to convene a workgroup of practitioners and experts to review, evaluate, and provide implementation guidance on the mental health-related findings and recommendations of the commission. The bill requires the workgroup to analyze, evaluate, and identify regulatory or legislative actions necessary to facilitate implementation of each recommendation, and to submit an initial summary report to the Governor, the President, and the Speaker by August 1, 2020. The report must include specific policy and budget recommendations, including draft legislation and associated fiscal impact statements, and other information and policy or administrative recommendations to improve the state's mental health care system.

The bill requires the institute to continue to monitor commission activities and coordinate with agency partners to advise on implementation activities. The bill also authorizes the institute to submit subsequent reports and recommendations on an annual basis or as requested. The bill provides a sunset date for the workgroup of July 1, 2024, which is one year after the sunset date of the commission.

Individual Education Plans

The bill modifies s. 1003.5716, F.S., to add that the required transition plan for a student with an IEP, beginning in the 2021-2022 school year, must also include a statement of post-high school performance expectations, which must include:

- A plan to facilitate continuity of care and coordination of any behavioral health services needed to assist the student in reaching post-high school performance expectations.
- Parent, student, and agency roles and responsibilities pertaining to the provision and funding of specified transition services.

These changes may assist students who require an IEP, and their parents, in successfully navigating the transition from high school to higher education or the workforce.

Mental Health Assistance Allocation

The bill modifies s. 1011.62, F.S., to clarify and add new requirements for the mental health plans that must be submitted by school districts in order to receive the mental health assistance allocation. In addition to existing requirements, the bill requires plans to include input from school and community stakeholders and include mental health policies and procedures that implement and support:

- Universal supports to promote psychological well-being, and safe and supportive school environments.

- Methods for responding to a student with suicidal ideation, including training in suicide risk assessment and the use of suicide awareness, prevention, and screening instruments developed as required for continuing education and inservice training for youth suicide awareness and prevention; adoption of guidelines for informing parents of suicide risk; and implementation of school board policies for initiating involuntary examination of students at risk of suicide.
- A school crisis response plan that includes strategies to prevent, prepare for, respond to, and recover from a range of school crises. The plan must establish or coordinate the implementation of district-level and school-level crisis response teams whose membership includes, but is not limited to, representatives of school administration and school-based mental health service providers.

The bill also modifies district reporting requirements to the DOE and requires the DOE to submit a state summary of the required information from the school district reports to the Governor, the President, and the Speaker, by November 1 of each year. The bill requires the DOE report to include school district data required under current law and requires both reports to additionally include:

- Program outcomes and expenditures for all public schools in the district, including charter schools.
- District-level and school-level information, including multiple-year trend data, when available.
- The number and ratio of school social workers, school psychologists, and certified school counselors employed by the district or charter school and the total number of licensed mental health professionals employed directly by the district or charter school.

These changes may provide more suitable data to assist in the refinement of policies and improve the provision of school-based mental health services.

School Safety Oversight and Accountability

Present Situation

The Commissioner of Education

The commissioner is required by law to oversee compliance with the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-3, L.O.F., by school districts; district school superintendents; and public schools, including charter schools. The commissioner must facilitate compliance to the maximum extent provided under law, identify incidents of noncompliance, and impose or recommend to the SBE, the Governor, or the Legislature enforcement and sanctioning actions.⁴⁸

Charter School Safety Requirements

Charter schools must operate in accordance with the terms of their respective charters and are generally exempt from other requirements in the K-20 Education Code. The law requires charter

⁴⁸ Section 1001.11, F.S.

schools to comply with certain provisions in the K-20 Education Code, including any statutes pertaining to student health, safety, and welfare.⁴⁹

The Office of Safe Schools

The OSS is a division of the DOE that serves as a central repository for best practices, training standards, and compliance oversight in matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.⁵⁰ OSS responsibilities include duties related to school safety incident reporting and data. The OSS is also required to develop and implement a School Safety Specialist Training Program for school safety specialists, which must be based on national and state best practices on school safety and include active shooter training.⁵¹

The OSS is required to provide ongoing professional development opportunities to school district personnel.⁵²

Effect of Proposed Changes

The Commissioner of Education

The bill modifies s. 1001.11, F.S., to clarify existing authority of the commissioner to oversee compliance with school safety and security requirements. The bill directs the commissioner to facilitate public and nonpublic school compliance with any education-related requirements of the law relating to health, welfare, safety, and security, pursuant to existing authority established in law. The bill clarifies that the incidents of noncompliance that require the commissioner to impose or recommend sanctions must be incidents of material noncompliance.

Charter School Safety Requirements

The bill modifies s. 1002.33, F.S., to require that charter schools demonstrate and certify compliance with specified statutes in their contracts or addendums to their contracts. The bill specifically requires charter schools certify compliance with district school requirements related to emergency drills and emergency procedures.

The bill modifies s. 1001.11(9), F.S., to require charter school governing boards to designate at least one administrator to be responsible for the duties assigned to a district school superintendent related to state reporting requirements concerning health, safety, and welfare. The bill aligns the penalties authorized to be imposed against a designated charter school administrator or charter school governing board with the penalties authorized to be imposed against a superintendent or district school board for violations of reporting requirements.

The bill also provides notification requirements for charter schools relating to safe-school officers. Specifically, the bill:

⁴⁹ Section 1002.33(16), F.S. The K-20 Education Code includes chapters 1000-1013 of the Florida Statutes.

⁵⁰ Section 1001.212, F.S. *See also*: Florida Department of Education, *Office of Safe Schools*, <http://www.fldoe.org/safe-schools/> (last visited January 29, 2020).

⁵¹ Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator employed by the school district or a law enforcement officer employed by the sheriff's office as a school safety specialist for the district.

⁵² Section 1001.212(2), F.S.

- Requires that charter school governing board notification to the applicable superintendent and sheriff of participation in the Feis guardian program must be in writing.
- Requires charter school administrators to comply with notification requirements to the county sheriff and the OSS for safe-school officer misconduct or firearm discharge.

The bill requires the OSS to provide ongoing professional development opportunities to charter school personnel in addition to existing requirements to provide training to school district personnel.

The Office of Safe Schools

The bill modifies s. 1001.212, F.S., to require the OSS to provide support with school safety incident reporting requirements. The bill requires the School Safety Specialist Training Program developed by the OSS, in consultation with the FDLE, to include information about federal and state laws regarding education records, medical records, data privacy, and incident reporting requirements, particularly with respect to behavioral threat assessment and emergency planning and response procedures. The bill also clarifies that the unified search tool provided by the OSS, known as the Florida School Safety Portal, must include data from all school safety incident reporting.

The bill requires the OSS to oversee, facilitate, and coordinate district and school compliance with school safety incident reporting requirements. The bill specifically requires the OSS to:

- Provide technical assistance to administrators for school safety incident reporting.
- Review and evaluate the safety incident reports related to SESIR, zero tolerance for crime and victimization, hazing, bullying and harassment, and dating violence and abuse, reported by each school district, charter school, and other entities as may be required by law.

The additional responsibilities concerning school safety that the bill delegates to the OSS may improve the accuracy of reported school safety data.

Marjory Stoneman Douglas High School Public Safety Commission

Present Situation

The commission was established in 2018 to investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents, and to develop recommendations for system improvements.⁵³ The commission submitted its initial report to the Governor and the Legislature on January 2, 2019,⁵⁴ and its second report on November 1, 2019.⁵⁵ The commission is composed of 16 members, with five members each appointed by Governor, the President, and the Speaker. Members serve at the pleasure of the officer who appointed the member. A vacancy on the commission must be filled in the same manner as the original appointment. The commission is scheduled to sunset on July 1, 2023.⁵⁶

⁵³ Section 943.687(3), F.S.

⁵⁴ Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited January 29, 2020).

⁵⁵ Commission, *supra* note 17. The commission was required to submit an initial report by January 1, 2019, and is authorized to issue annual reports. Section 943.687(9), F.S.

⁵⁶ Section 943.687, F.S.

Effect of Proposed Changes

The bill modifies s. 943.687, F.S., effective upon becoming law, to require the Governor, the President, and the Speaker to each appoint one additional member to the commission to be selected from among the state's actively-serving school district superintendents, school principals, or classroom teachers. The bill also requires:

- The three new appointments be made by May 30, 2020, to serve beginning June 1, 2020.
- Future appointments be made in consideration of an equal balance of school district, law enforcement, and health care professional representation, and reflect the diversity of the state.

These changes ensure education representation on the commission and may assist the commission in addressing school safety and security issues.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

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.

C. Government Sector Impact:

The Department of Education (DOE) estimates that it will need a total of \$897,644 in additional funds to implement provisions of the bill related to OSS and the Independent Education and Parental Choice office. Specifically, DOE estimates that the additional

responsibilities outlined in the bill will require an additional eight staff members (\$680,240) within the Office of Safe Schools. One OSS staff member would be responsible for maintaining a current directory of public and private school-based diversion programs and determine compliance of those programs. Another OSS staff member would serve as a data analyst and coordinate with district SESIR and MIS liaisons. The remaining six OSS staff members would work in the field to conduct compliance monitoring for an average of 625 schools per staff member, and incur an estimated \$144,000 in travel expenses.

The DOE also estimates that an additional staff member (\$73,404) is needed in the Independent Education and Parental Choice Office to enforce compliance with provisions of the bill for private schools that receive state school scholarship program funds.

In addition, there may be indeterminate, minimal costs to local law enforcement, local school districts, state attorney offices, the Louis de la Parte Florida Mental Health Institute, charter schools, and the Department of Juvenile Justice to implement other provisions of the bill. Local law enforcement agencies could incur costs to have responding officers present and involved in all emergency drills at each school. School districts may incur costs to contract with a licensed psychologist to evaluate guardian candidates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.15, 943.082, 943.687, 985.12, 1001.11, 1001.212, 1002.33, 1002.421, 1003.5716, 1004.44, 1006.07, 1006.09, 1006.12, 1006.1493, and 1011.62.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on February 20, 2020:

The committee substitute makes the following changes to the bill:

- Removes the Department of Education (DOE) as an entity for monitoring and enforcing compliance with school-based diversion program requirements.
- Clarifies that law enforcement officers only have field access to civil citation and diversion information from the Juvenile Justice Information System database, rather than full access to the Juvenile Justice Information System database.

- Incorporates recommendations from the Florida Department of Law Enforcement (FDLE) that:
 - Require the Office of Safe Schools to consult with the FDLE in the development of training for school safety specialists.
 - Clarify the background screening requirements of Feis program certified security guards by removing reference to s. 1012.467, F.S.
- Changes “centralized integrated data repository” to “unified search tool”, known as the Florida Schools Safety Portal to improve access to timely, complete, and accurate information from multiple data sources.
- Delays implementation of the requirement to include a statement of post-high school performance expectations in a student’s Individualized Education Plan until the 2021-2022 school year.
- Authorizes school board policies to provide accommodations for drills conducted by Exceptional Student Education (ESE) centers.
- Removes provisions from the bill requiring the State Board of Education to adopt rules for emergency and active assailant drills.
- Removes Section 14 of CS/SB 7040 related to zero tolerance policies for crime and victimization.
- Clarifies that a charter school may waive the school district's obligation to assign a sworn law enforcement school resource or safety officer that arises when a school district denies a charter school access to safe school officer options, and the charter school may retain its safe school allocation funds.
- Changes the effective date of the bill to July 1, except as otherwise expressly provided in the bill:
 - Section 3 related to changing the makeup of the Commission to include three additional members is effective upon becoming law.
 - Section 10 related to the Institute convening a workgroup is effective upon becoming law

CS by Infrastructure and Security on February 3, 2020:

- Requires the DJJ and the state attorney of each judicial circuit, in cooperation with the DOE, to monitor and enforce compliance with school-based diversion program requirements in charter and private schools.

B. Amendments:

None.