

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 Criminal Justice

BILL: CS/SB 968

INTRODUCER: Criminal Justice Committee and Senator Hays

SUBJECT: School Safety

DATE: March 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			ED	
3.			AED	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 968 authorizes school principals and district school superintendents to designate employees and volunteers to carry concealed firearms on school campuses or in district administrative buildings.

The bill requires that designees meet criteria set forth in the bill including having a military or law enforcement background, successful completion of a training program, and additional screening as required by the principal or superintendent.

The Criminal Justice Standards and Training Commission will establish the training for designees. Criminal Justice Training Centers will administer the training. The Centers will also certify and remit proof of training completion by the designees.

Local law enforcement school campus first responders will have the opportunity to recommend related changes to district schools and private schools as noted during a campus tour every three years.

Active-shooter training for each school will be conducted by an accredited law enforcement academy. What this training entails is unspecified in the bill.

There is legislative intent regarding school safety in the bill. Conforming, technical, and clarifying amendments are made throughout the bill

The bill will become effective July 1, 2014.

II. Present Situation:

Gun Free School Zones

Federal Law

Federal law prohibits the knowing possession of a firearm that has been transported across state lines in interstate commerce or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By individuals licensed to possess a firearm by the state or a political subdivision of the state in which the school zone is located if the licensing law requires law enforcement verification that the individual meets the law's qualifications to receive the license before issuance;
- That is not loaded and stored in a locked container in a motor vehicle;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual;
- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual who is authorized by the school to cross school grounds for the purpose of gaining access to public or private lands open to hunting.¹

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm that has been transported across state lines in interstate commerce or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to the discharge of a firearm:

- On private property not part of school grounds;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual; or
- By a law enforcement officer acting in his or her official capacity.²

Federal law further provides that it is not Congress' intent to occupy the field of firearms regulation, unless there is a direct, positive, and irreconcilable conflict between a federal and state firearms law regulating the same subject matter. Thus, states may regulate firearms in a manner that is consistent with federal law.³

¹ 18 U.S.C. s. 922(q)(2)(A)-(B).

² 18 U.S.C. s. 922(q)(3)(A)-(B).

³ 18 U.S.C. s. 927.

Florida Law

Florida law prohibits, with exceptions, the possession or discharge of weapons or firearms at a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.⁴ The law prohibits:

- Exhibition of a weapon⁵ or firearm in the presence of another in a rude, careless, angry, or threatening manner on school property or a school bus, at a school bus stop or school-sponsored event, or within 1,000 feet⁶ of a K-12 public or private school, during school hours or at the time of a school activity.⁷ Such exhibition is a third degree felony,⁸ unless it is made in lawful self-defense.⁹
- Possession of a weapon¹⁰ or firearm, “except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop.” Penalties for such possession vary, as follows:
 - A person who willfully and knowingly unlawfully possesses a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event commits a third degree felony.¹¹
 - A person who fails to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree misdemeanor.¹²
 - A person who discharges a firearm while unlawfully possessing it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree felony,¹³ unless discharged for lawful defense of self or others or for a lawful purpose.¹⁴

The law provides several exceptions allowing individuals to carry a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event without express approval by school officials. A firearm may be carried:

- To a school-approved firearms program;
- To a career center having a firearms training range; or

⁴ s. 790.115(2)(a), F.S. (flush left provision at end of paragraph).

⁵ “Weapon” means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife. s. 790.001(13), F.S. Exhibiting a sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. s. 790.115(1), F.S.

⁶ The prohibition on exhibition of a firearm or weapon on private real property within 1,000 feet of a school does not apply to the property owner or those whose presence is authorized by the owner. s. 790.115(1), F.S.

⁷ s. 790.115(1), F.S.

⁸ A third degree felony is punishable by term of imprisonment not exceeding five years and a fine not exceeding \$5,000. ss. 775.082(3)(d) and 775.083(1)(c), F.S.

⁹ s. 790.115(1), F.S.

¹⁰ In addition to firearms and items defined as weapons, this provision also applies to possession of an electric weapon or device, destructive device, and a razor blade or box cutter. Section 790.115(2)(a), F.S.; *see footnote text, supra* note 4.

¹¹ s. 790.115(2)(e), F.S.

¹² s. 790.115(2)(c), F.S. This does not apply if the firearm was securely stored and the minor obtains the firearm as a result of an unlawful entry by any person. Also exempt from this section are members of the Armed Forces, National Guard, State Militia, or law enforcement officers, if the minor gains possession during or incidental to the performance of their official duties.

¹³ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding \$10,000. ss. 775.082 and 775.083, F.S.

¹⁴ s. 790.115(2)(d), F.S.

- In a vehicle by a person who is at least 18 years of age and the firearm is securely encased or not readily accessible for immediate use.

School districts may adopt policies waiving the vehicle exception for purposes of student and campus parking privileges.¹⁵

Concealed Weapon and Firearm Permits

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons and firearm license to individuals who meet statutory qualifications. Among other criteria, applicants must pass a fingerprint-based criminal background check and complete a firearm proficiency training class. The concealed carry license is a photo identification that enables the holder to carry a concealed weapon or firearm in public, except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.¹⁶

The Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training Commission certifies law enforcement officers and correctional probation officers after training curriculum has been successfully completed and other conditions are met.¹⁷ Officers who hold an active certification are not required to possess a concealed carry license in order to carry a concealed weapon or firearm while they are off-duty.¹⁸

Retired Law Enforcement, Active and Discharged Military

With a passing score on the firing range testing component of the minimum firearms proficiency course for active law enforcement officers, a retired law enforcement officer is authorized under federal law to carry a concealed firearm with proper state identification.¹⁹

Military firearms training is recognized as evidence of competence with a firearm for purposes of the concealed carry license but all other requirements must be met for both active and retired military.²⁰ A person applying for a concealed carry license may show proficiency with a firearm by presenting evidence of experience with a firearm during military service.²¹

Safe Storage

Florida law requires persons to store loaded firearms securely to prevent minors from gaining access to them.²²

¹⁵ s. 790.115(2)(c), F.S.; *see, e.g.*, Policy 7217, Leon County School Board.

¹⁶ s. 790.06, F.S.

¹⁷ s. 943.13, F.S., and related provisions within chapter 943, F.S. The curriculum includes “high liability training” which requires the recruit to demonstrate safety and marksmanship with a firearm.

¹⁸ s. 790.052, F.S., applies to officers defined in ss. 943.10(1), (2), (6), (7), (8) and (9), F.S.

¹⁹ Generally, retired in good standing after at least 15 years of service. s. 943.132, F.S.

²⁰ The 21 years of age requirement has been waived for active and honorably discharged veteran military. ss. 790.06(2)(b) and 790.062, F.S.

²¹ s. 790.06(2)(h)5., F.S.

²² ss. 790.115(2)(c)2. and 790.174, F.S.

School Safety

Emergency Policies

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.²³

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other “best practices,” the self-assessment suggests that school districts:

- Develop a district-wide plan for potential attacks against school sites.
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes, among other things, procedures for weapons and hostage situations.
- Share emergency plans and procedures with designated school and school district personnel, identify training for all types of school staff and staff that require specialized training, and incorporate such training into the Master Plan for In-Service Training.²⁴

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.²⁵

School Resource Officers

School resource officers are employed by a law enforcement agency. They are certified law enforcement officers who retain all the powers and duties of a law enforcement officer during their tenure as a school resource officer.²⁶

School Safety Officers

School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. A school safety officer has the authority to carry weapons when performing official duties.²⁷ School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel,

²³ s. 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. s. 1006.07(4)(b), F.S.

²⁴ s. 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 12, 2013). The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. *Id.*

²⁵ s. 1006.07(6), F.S.

²⁶ s. 1006.12(1)(a), F.S.

²⁷ ss. 1006.12(2)(a) and (c), F.S.

property, and students within the school district. School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.²⁸

Background Screening

Florida law requires school district employees to undergo a fingerprint-based background screening as a condition of employment.²⁹ Instructional and noninstructional personnel³⁰ and noninstructional school district employees and contracted personnel³¹ must undergo Level 2 background screening.³² Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 criminal offenses.³³ Such employees must be rescreened every five years.³⁴

III. Effect of Proposed Changes:

School Campus and District Administration Building Safety

The bill provides the opportunity for school principals and superintendents to designate volunteers and school or district employees to carry a concealed weapon or firearm on school or district property. The designee must complete at least 40 hours of a school safety program, and complete 8 hours of active shooter training and 4 hours of firearm proficiency training on an annual basis. The bill provides that the Criminal Justice Standards and Training Commission will establish the training programs. Criminal Justice Training Centers will administer the training programs. The Centers will certify completion of the training and remit proof of the program completion.

To become a designee, the employee or volunteer must be:

- An honorably discharged military veteran with no firearm-related disciplinary infraction;
- An active-duty member of the military, National Guard, or reserves, with no firearm-related disciplinary infraction;
- A law enforcement officer or a former officer who has retired or terminated employment in good standing and not during the course of an internal investigation of which he or she was the subject.

Under current law the employee-designee would have already undergone Level 2 background screening if he or she has contact with students. The bill provides that the designee will satisfy any additional screening requirements set forth by the principal or superintendent, therefore the

²⁸ ss. 1006.12(2)(b) and (d), F.S.

²⁹ ss. 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. See ss. 943.0542 and 1002.421(2)(i), F.S.

³⁰ Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. s. 1012.32(2), F.S.

³¹ Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. s. 1012.465(1), F.S.

³² ss. 1012.32(1)-(2), 1012.465(2), and 1012.56(10), F.S.

³³ ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

³⁴ ss. 1012.465(2) and 1012.56(10)(b), F.S.

volunteer-designee could be required to undergo the background screening as well. The designee is required to carry the weapon or firearm in a concealed manner at all times while performing official school duties.

The bill requires that active-shooter and hostage situations be part of school board policies and procedures related to school safety. The bill requires that an accredited law enforcement academy conduct active-shooter situation training for each school. The term “active shooter” is not defined in the bill. The school active-shooter situation training requirements are not specified.

The bill requires district school boards and private school principals to provide for the first responder law enforcement agencies to tour the campuses every three years. Any changes recommended by the law enforcement agency must be documented by school officials.

The bill contains legislative intent language regarding school safety. It also makes technical, clarifying and conforming changes in existing law. The bill will become effective July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

District school boards will likely experience additional costs related to safety and security due to designee training and perhaps liability costs associated with designees carrying firearms on school property.

FDLE anticipates a fiscal impact from the bill, reporting as follows:

“FDLE provides staff to the Criminal Justice Standards and Training Commission (Commission), which has oversight for the training and minimum standards of Florida’s law enforcement, correctional and correctional probation officers.

This bill requires development of training curriculum that includes 40 hours minimum for a school safety training program, 8 hours active shooter, and 4 hours for firearms proficiency. An 80-hour firearms proficiency course already exists as part of the law enforcement basic recruit training program for civilians desiring to become law enforcement officers. With a strict focus on handguns, the existing course hours could be reduced. However, anything less than 44 hours would be insufficient since skilled and trained officers taking active shooter training courses average between 24 and 40 hours.

To develop a training course to meet the minimum requirements of SB 968, facilitated curriculum development workshops will need to be conducted, followed by field-testing of the curriculum. This would require staffing and resources not currently within the Department. It is estimated that the development of the training as prescribed would cost a minimum of \$200,000. This is based on current estimates for curriculum development workshops and curriculum drafting by FDLE staff for courses that are 40 hours in length.

The Commission’s training programs are administered through 40 Commission-certified training academies at state colleges or within a Florida school district. Administration of training for a school safety designee program would impact the resources currently dedicated to providing up-to-date and relevant training to Florida’s criminal justice officers.

In addition, FDLE serving as staff to the Commission is supported by the Criminal Justice Standards and Training Trust Fund. This fund has diminished significantly over the past decade, impacting dramatically the training resources available for certified officers. Additional training mandates supported by this trust fund would further diminish the dollars expended for officers.”³⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The course development responsibility assigned to FDLE by the bill may require statutory expansion of the Department’s scope of authority. It is also possible that FDLE will need rulemaking authority corresponding to the expectations of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 790.115, 1006.07, 1006.12, 435.04, 790.251, 921.0022, and 1012.315.

³⁵ Agency Bill Analysis, March 5, 2014.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on March 10, 2014:**

- Provides for volunteers to be designated by a district school principal to carry a concealed firearm on campus. School superintendents are authorized to designate volunteers to carry concealed firearms in administration buildings.
- Modifies the criteria a volunteer must meet in order to be designated by eliminating the possibility that a volunteer who possesses a concealed carry license could be designated without additional qualifications being met.
- Requires that if a retired or former law enforcement officer becomes a designee, he or she must have retired or terminated employment in good standing.
- The designee training course as set forth in the bill will be developed by the Criminal Justice Standards and Training Commission, and be administered by Criminal Justice Training Centers, rather than FDLE.
- Provides for a tour of each school, including private schools, by first responder law enforcement agencies every three years.
- The provision in the bill for law enforcement review and modification of new school building plans is eliminated.

B. Amendments:

None.