

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 487 Carrying of Firearms by Tactical Medical Professionals
SPONSOR(S): Criminal Justice Subcommittee, Smith
TIED BILLS: IDEN./SIM. **BILLS:** SB 722

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Padgett	Hall
2) Health Quality Subcommittee	10 Y, 0 N	Siples	McElroy
3) Judiciary Committee	13 Y, 1 N	Padgett	Poche

SUMMARY ANALYSIS

A paramedic or physician acting in support of a law enforcement agency may carry a concealed firearm during a law enforcement operation if he or she has a valid concealed weapons license. However, because paramedics and physicians are not currently exempted from firearm requirements in the same manner as law enforcement officers, a paramedic or physician is prohibited from openly carrying a firearm or carrying a firearm at certain places like a school or college campus.

CS/HB 487 defines a tactical medical professional (TMP) as a paramedic, physician, or osteopathic physician who has been appointed to provide medical services to a tactical law enforcement unit. To be qualified as a TMP, a medical professional must:

- Be lawfully able to carry a firearm and have a concealed weapons permit;
- Be appointed to the tactical law enforcement unit;
- Be trained and deployed pursuant to established law enforcement agency policies;
- Complete a firearm and tactical training course; and
- Participate in annual firearm training provided by the law enforcement agency.

The bill allows a TMP to carry a firearm in the same manner and in the same location as a law enforcement officer while the TMP is actively operating in direct support of a law enforcement operation. A TMP has no duty to retreat and may only use force for self-defense or in the defense of others. The bill grants a TMP the same criminal and civil immunity as a law enforcement officer when the TMP is acting in the scope of his or her official duties.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Concealed Carry

Unless exempted, a person may not carry a concealed firearm or weapon in public without a license issued by the Department of Agriculture and Consumer Services.¹ The licensing scheme requires the department to issue a license to any applicant that meets statutory criteria,² which includes that the person:

- Is a resident and a citizen of the United States or a permanent resident alien of the United States, or is an eligible consular security official;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm because of a felony conviction;
- Has not been committed for abusing a controlled substance;
- Has not been found guilty of a crime relating to a controlled substance within a three year waiting period immediately preceding the application date;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires the legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of law.
 - For example, federal law prohibits a person convicted of misdemeanor domestic violence from purchasing a firearm,³ so a person convicted of misdemeanor domestic violence is ineligible for a license to carry a concealed firearm or weapon in Florida.

Despite being licensed, a licensee may not carry a concealed firearm or weapon into several enumerated locations, including schools and colleges.⁴ Both Florida and federal laws criminalize possession of a firearm on school property.⁵

¹ S. 790.01, F.S.

² S. 790.06(2), F.S.

³ 18 U.S.C. § 922(g)(9).

⁴ Ss. 790.06(12)(a)10. and 790.06(12)(a)13., F.S.

⁵ S. 790.115(2)(a), F.S. and 18 U.S.C. § 922(q)(2).

Privileges and Immunities of Law Enforcement Officers

Due to the nature of the occupation, a law enforcement officer enjoys certain protections and exceptions to certain provisions of law. A law enforcement officer:

- May openly carry a firearm while on duty;⁶
- May carry a firearm on school property;⁷
- May carry a concealed firearm without a license while off duty;⁸
- May use deadly force in more circumstances than a civilian, such as when capturing an escaped felon;⁹
- Is entitled to special privileges and rights while under investigation,¹⁰
- Is entitled to have certain death benefits paid to his or her survivors when killed in the line of duty;¹¹ and
- Is immune from certain actions taken within the scope of employment.¹²

Effect of Proposed Changes

CS/HB 487 defines a tactical medical professional (TMP) as a paramedic¹³, physician¹⁴, or osteopathic physician¹⁵ who has been appointed to provide medical services to a tactical law enforcement unit.¹⁶ To be qualified as a TMP, a medical professional must:

- Be lawfully able to carry a firearm and have a concealed weapons permit;
- Be appointed to the tactical law enforcement unit;
- Be trained and deployed pursuant to established law enforcement agency policies;
- Complete a firearm and tactical training course; and
- Participate in annual firearm training provided by the law enforcement agency.

The bill allows a TMP to carry a firearm in the same manner and in the same location as a law enforcement officer while the TMP is actively operating in direct support of a law enforcement operation. A TMP has no duty to retreat and may only use force for self-defense or in the defense of others. The bill grants a TMP the same criminal and civil immunity as a law enforcement officer when the TMP is acting in the scope of his or her official duties.

B. SECTION DIRECTORY:

Section 1: Amends s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons.

Section 2: Provides an effective date of July 1, 2019.

⁶ S. 790.051, F.S.

⁷ S. 790.115(3), F.S.

⁸ S. 790.06(5)(b), F.S.

⁹ S. 776.05, F.S.

¹⁰ S. 112.532, F.S.

¹¹ S. 112.19, F.S.

¹² See generally *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

¹³ S. 401.23(17), F.S.

¹⁴ S. 458.305(4), F.S.

¹⁵ S. The "practice of osteopathic medicine" is the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health. S. 459.003(3), F.S.

¹⁶ I.e. SWAT team

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2019, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Allowed an osteopathic physician to be designated as a TMP;
- Permitted a TMP to carry a firearm in the same manner and in the same locations as a law enforcement officer only while the TMP is acting in support of a law enforcement operation;
- Provided the TMP can only use a firearm for self-defense or defense of others; and

- Granted a TMP acting in the scope of his or her duties in a law enforcement operation the same criminal and civil immunity from liability as a law enforcement officer

This analysis is drafted to the committee substitute as passed by the Criminal Justice Committee.