

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: HB 7093 PCB EDC 19-02 School Safety

SPONSOR(S): Education Committee, Sullivan and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/CS/SB 7030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	11 Y, 5 N	Fudge	Hassell
1) Appropriations Committee	16 Y, 9 N	Potvin	Pridgeon
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Approved			
65	Y's 47	N's	

SUMMARY ANALYSIS

HB 7093 passed the House on May 1, 2019, as CS/CS/SB 7030. The Marjory Stoneman Douglas High School Public Safety Commission (Commission), established last year was required to investigate system failures and provide recommendations for improvement after a former student killed fourteen students and three staff members on February 14, 2018. The Commission released its initial report on January 2, 2019. The bill enacts the Commission's recommendations, clarifies school safety personnel requirements, and improves compliance and enforcement of the Marjory Stoneman Douglas High School Public Safety Act.

The bill removes the prohibition in current law against individuals who are employed solely as classroom teachers from volunteering to serve as guardians. The bill requires a sheriff whose county school board votes to establish a guardian program to provide, or contract with another sheriff, to provide guardian training. In counties where the school board declines to establish a guardian program, the bill authorizes charter schools in that county to request training from the sheriff or from the sheriff in another county. The bill also allows security guards who receive guardian training to serve as safe-school officers.

The bill enhances student safety by requiring schools to consult with law enforcement on all threats to school safety and requires all schools to complete a physical site security assessment using the Florida Safe Schools Assessment Tool (FSSAT). Every school district must adopt an active assailant policy and all school personnel must be trained annually. The bill provides timeframes and funding for at-risk students to be assessed and receive mental health services.

The bill strengthens compliance with school safety requirements by increasing the monitoring and enforcement authority of the Florida Department of Education's Office of Safe Schools (Office). The Office is responsible for providing training on the FSSAT and must make the tool available to school districts by May 1 each year. The Office is also required to develop a behavioral threat assessment tool by August 1, 2019. The bill directs the Florida Commissioner of Education to enforce school safety provisions by imposing sanctions available in current law for noncompliance.

The bill revises the funding formula for the Safe Schools Allocation and requires school districts to prioritize funding for safe-school officers from this allocation. The bill requires, among other things, the provision of direct mental health services and employment of school-based mental health professionals using funds from the Mental Health Assistance Allocation. See Fiscal Comments.

The bill was approved by the Governor on May 9, 2019, ch. 2019-22, L.O.F., and became effective on that date except as otherwise provided in the bill.

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

STORAGE NAME: h7093z.EDC.DOCX

DATE: 5/20/2019

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

In response to the shooting at Majory Stoneman Douglas High School on February 14, 2018, the Florida Legislature enacted SB 7026, the Majory Stoneman Douglas High School Public Safety Act (ch. 2018-3, L.O.F.).¹ The Act included provisions to address school safety and security including establishment of the school guardian program, creation of the Office of Safe Schools (Office) within the Florida Department of Education (DOE) and increased coordination among state and local agencies serving students with or at-risk of mental illness, among other provisions. Chapter 2018-3, L.O.F., created the Majory Stoneman Douglas High School Public Safety Commission (Commission) to investigate circumstances that may allow for mass incidences of violence in Florida. The Commission submitted its initial report (MSDHSPSC Initial Report) on January 2, 2019.² The report includes a timeline and summary of activity during and after the shooting and numerous school safety and security recommendations. The Commission is authorized to issue annual reports and is scheduled to sunset on July 1, 2023.

The Office of Safe Schools

Present Situation

The Florida Office of Safe Schools (Office) within the Florida Department of Education (DOE) is fully accountable to the Commissioner of Education (Commissioner), and serves as the 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.³

The Office has the following duties:

- Establish and update as necessary a school security risk assessment tool for use by school districts.
- Award grants to schools to improve the safety and security of school buildings based upon recommendations of the security risk assessment tool.
- Provide ongoing professional development opportunities to school district personnel.
- Provide technical assistance and guidance to school districts on safety and security matters.
- Develop and implement a School Safety Specialist Training Program for district school safety specialists.
- Review and provide recommendations on the security risk assessments.
- Coordinate with the Florida Department of Law Enforcement (FDLE) to provide a centralized integrated data repository and data analytics resources by December 1, 2018.
- Disseminate, in consultation with the FDLE, awareness and education materials to schools participating in the School Safety Awareness Program.⁴

The Office contracted with a security consulting firm that has experience in conducting security assessments of public facilities to develop, implement, and update a risk assessment tool, which is known as the Florida Safe Schools Assessment Tool (FSSAT).⁵

¹ Chapter 2018-3, L.O.F.

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

³ Section 1001.212, F.S.

⁴ Section 21, ch. 2018-3, L.O.F.

⁵ Section 1006.1493(1), F.S.

The FSSAT must be used by school officials to conduct a security assessment at each public school site in the state to help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools they supervise by addressing 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;
- school and community collaboration on school safety; and
- a return-on-investment analysis of the recommended physical security controls.⁶

On March 23, 2018, then-Governor Rick Scott issued a letter directing all school districts to complete a security risk assessment for each public school by August 1, 2018, and to complete a district school board action report based on the security risk assessments by October 31, 2018.⁷ The Office testified before the Commission that as of November 16, 2018, only 62 districts had complied with this requirement.⁸ By January 22, 2019, the Office reported that all districts had completed this requirement.⁹

District school boards must formulate and prescribe emergency drills and actual emergency policies and procedures, including active shooter and hostage situations, with the appropriate public safety agencies.¹⁰ District school boards must conduct active shooter drills with the same frequency as other emergency drills.¹¹

School districts are required to report to DOE 26 types of crime, violence, and disruptive behavior (school safety incidents) that occur on school grounds, on school transportation, and at off-campus, school-sponsored events 365 days per year. These school safety incidents are tracked through the School Environmental Safety Incident Reporting (SESIR) system on the Office website.¹²

School principals must ensure school staff is properly trained and using the correct forms to report school safety incident data accurately and timely.¹³ The MSDHSPHC *Initial Report* indicates schools and school districts are failing to properly report school safety incidents, and testimony to the Commission suggested that DOE be given oversight and sanction authority to hold accountable districts and administrators that fail to report these school safety incidents fully and correctly.¹⁴

⁶ Section 1006.1493(2), F.S.

⁷ Florida Department of Education, *Florida Safe Schools Assessment Tool Training and Deadlines*, Memorandum to School District Superintendents from Education Commissioner Pam Stewart, April 27, 2018, available at: <https://info.fldoe.org/docushare/dsweb/Get/Document-8248/dps-2018-69.pdf>.

⁸ Florida Department of Education, *Office of Safe Schools Update*, Marjory Stoneman Douglas High School Public Safety Commission Meeting, November 16, 2018, p. 6, available at: <http://www.fdle.state.fl.us/MSDHS/Meetings/November-Meeting-Documents/Nov-16-1015am-Office-of-Safe-Schools-Damien-Kelly.aspx>

⁹ Florida Department of Education, Office of Safe Schools, *School Safety and Security Update for the House Education Committee*, January 22, 2019, pp. 20-22, available at: <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2996&Session=2019&DocumentType=Meeting%20Packets&FileName=edc%201-22-19.pdf>.

¹⁰ Section 1006.07(4)(a), F.S.

¹¹ *Id.*

¹² Florida Department of Education, Discipline Data, *School Environmental Safety Incident Reporting System – District and State Reports*, (February 21, 2019), available at: <http://www.fldoe.org/safe-schools/discipline-data.stml>

¹³ Sections 1001.54(3) and 1006.09(6), F.S.

¹⁴ *Supra*, MSDHSPSC *Initial Report*, note 2, pp. 307-314.

To address concerns about timely and accurate information sharing, ch. 2018-3, L.O.F., required the Office to coordinate with the FDLE to provide a centralized, integrated data repository and data analytics resource. By December 2018, the repository should include data from, at a minimum: social media; Florida Department of Children & Families; FDLE; Florida Department of Juvenile Justice; and local law enforcement.

Chapter 2018-3, L.O.F., authorized a competitive procurement to develop “FortifyFL,” a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. Information received through the tool must be promptly forwarded to the appropriate law enforcement agency or school official. According to DOE, the application launched on October 8, 2018,¹⁵ and received 919 tips as of May 15, 2019.¹⁶

Effect of the Bill

The bill provides monitoring and compliance enforcement authority to the Office for school safety. The bill makes the Florida Commissioner of Education responsible for overseeing compliance for school security provisions in ch. 2018-3, L.O.F. The bill provides that noncompliance is subject to penalties in current law imposed by the Commissioner of Education and the State Board of Education.

The bill identifies the Florida Safe School Assessment Tool (FSSAT) as the primary tool for schools to use to assess physical site security. The bill requires the Office to provide annual training on the tool and publish the FSSAT by May 1 each year. Each school-based Safe School Specialist must conduct an assessment using the FSSAT by October 1 and the district must report full compliance by October 15.

The bill requires the Office to develop a tool for public and charter schools to use when assessing behavior threats (Tool) by August 1, 2019, and requires school districts to adopt the Tool upon its availability. The behavioral threat assessment tool must address early identification, evaluation, and student support. The tool and associated forms must include, but are not limited to, the following elements:

- An assessment of the threat, which includes an assessment of the student, family, and school and social dynamics.
- An evaluation to determine if the threat is transient or substantive.
- The response to a substantive threat, which includes the school response and the role of law enforcement agencies.
- The response to a serious substantive threat, including mental health and law enforcement referrals.

The bill requires the Tool to include ongoing monitoring to assess implementation of safety strategies and training for school administrators and threat assessment team members on the use of the Tool. Beginning on August 1, 2020, the Office must evaluate school district and charter school governing boards’ procedures for behavioral threat assessment and use of the Tool. For those districts and charter schools not using the Tool, the Office is required to report noncompliance to the Commissioner, superintendent, and charter school governing board, as applicable. The Office must report annually on schools’ safety measures implementation.

¹⁵ Florida Department of Education, *FortifyFL School Safety Awareness Program*, October 26, 2018, available at <https://info.fl DOE.org/docushare/dsweb/Get/Document-8397/dps-2018-157.pdf>.

¹⁶ Email, Florida Department of Education, (May 15, 2019).

The bill creates a Statewide Threat Assessment Database Workgroup to complement work on the centralized data repository and make recommendations about the development of a statewide threat assessment database. The database must include information from the behavior threat assessment Tool. This workgroup shall provide a report by December 31, 2019, that includes recommendations related to:

- data that should be entered into the database and design;
- personnel authorized to access the database and other restrictions;
- interagency agreements;
- cost; and
- implementation plan and timeline.

The bill requires active shooter drills to be age and developmentally appropriate. The bill requires school districts to adopt active assailant policies, requires annual training, and use of the threat assessment instrument developed by the Office.

The bill creates the School Hardening and Harm Mitigation Workgroup (Workgroup) to review school hardening and harm mitigation policies. The Workgroup is required to provide a report by August 1, 2020, to the Office director that includes a prioritized list of school hardening and harm mitigation strategies, the estimated cost and timeframe for implementation of these strategies and a review of specified policies related to school hardening. For implementation of the strategies, the bill requires the Office to provide the Commissioner with recommendations for monitoring and compliance procedures. The Commissioner is required to provide a summary of the report to the Governor, President of the Senate and Speaker of the House of Representatives by September 1, 2020.

The bill requires district school boards to promote the use of the FortifyFL application through advertising it on school district websites, in newsletters, on school campuses and in school publications. For all mobile devices issued to students, the bill requires the application to be installed prior to issuance.

The bill adds two data sources to the centralized integrated data repository and requires completion of the data repository by August 1, 2019. The additional data sources are information reported through FortifyFL and school environmental safety incident reports (SESIR). The bill re-codifies existing confidentiality and data sharing guidance.

The Office is required to provide technical assistance to school districts and charter schools for SESIR reporting. The bill requires the Office to review and monitor SESIR reports on incidents that occur on school campuses, on school transportation, and at off-campus, school-sponsored events. The bill requires a district superintendent to comply with accurate and timely SESIR reporting and provides a penalty of withholding salary and other current law sanctions for a superintendent that is noncompliant.

The bill modifies several provisions related to threat assessment teams and limits access to students' criminal history records to authorized members of the threat assessment team. For students transferring schools and receiving mental health intervention services that the threat assessment team of the originating school verify that services remain in place until the receiving school's threat assessment team independently determines the need for services continuation.

The bill requires the Office to provide data to support the evaluation of mental health services by the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

Safe-School Officers

Present Situation

District school boards and school district superintendents are required to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district.

A safe-school officer may be a school resource officer (SRO), school safety officer (SSO), or a school guardian. A school resource officer is a certified law enforcement officer¹⁷ who is employed by a law enforcement agency. A school safety officer is also a certified law enforcement officer,¹⁸ but may be employed by a district school board or law enforcement agency. A school guardian is a school employee who volunteers and completes the program requirements of the Coach Aaron Feis Guardian Program (guardian program) to serve as a guardian. Excluded from participation are school employees who exclusively perform classroom duties as teachers. Guardians must hold a valid concealed weapon permit, complete 144 hours of specified training, pass a psychological evaluation, and pass an initial and on-going, random drug tests. The sheriff provides the guardian training, issues a guardian certificate to school employees who complete the program, appoints the guardian, and retains all guardian-related records and documentation.¹⁹

Florida law exempts from disclosure any information held by a law enforcement agency, school district, or charter school which would identify whether a particular individual has been appointed as a safe-school officer.²⁰

There are 3,648 public school facilities, including charter schools. There are a total of 2,923 SROs and SSOs and 891 guardians assigned to schools, for a total of 3,814 safe-school officers. Thirty sheriffs established guardian programs to provide guardians to school districts.²¹

Effect of the Bill

The bill provides, “There is a proper and legitimate state interest served when district school boards are afforded options for the provision of safe-school officers for the protection and safety of school personnel, property, students, and visitors. School guardians must be available to any district school board that chooses such an option. Therefore, the Legislature determines and declares that this act fulfills an important state interest.”²²

The bill repeals the limitation that prohibits an individual whose sole duty is classroom teacher from volunteering to serve as a school guardian. The bill provides that school guardians must be certified by the sheriff and appointed by the superintendent or charter school principal as applicable. The bill clarifies that school guardians serve in support of school-sanctioned activities. The bill makes the impersonation of a school guardian a third degree felony.

The bill requires sheriffs to offer guardian training if the district school board votes to establish a guardian program. To satisfy the required training, the bill authorizes a sheriff to contract with another sheriff to offer the training. For a sheriff that establishes a guardian program, the bill requires the sheriff to consult with the FDLE on programmatic elements and training for the program.

The bill authorizes charter schools to have guardians. In counties in which the district school board does not establish a guardian program, a charter school is authorized to request training from the

¹⁷ See ch. 943, F.S.

¹⁸ See s. 943.10(1), F.S.

¹⁹ Section 30.15, F.S.

²⁰ Section 3, ch. 2018-1, L.O.F, codified at s. 1006.12(4), F.S.

²¹ *Supra*, note 16.

²² Section 17, Chapter 2019-22, L.O.F.

county sheriff or, if the county sheriff denies the request, the charter school is authorized to contract with a sheriff in a different county.

The bill clarifies who may serve as a safe-school officer to include a school guardian and a security guard hired for this purpose, in addition to a school resource officer or school safety officer. A security guard must complete the 144-hour school guardian training, pass a psychological evaluation, pass an initial and on-going, random drug tests, and complete annual firearm training.

The bill requires district school boards to collaborate with charter school governing boards to provide access to all safe-school officer options available to the school district. If a district restricts a charter school's access to safe-school officer options, then the school district must assign an SRO or SSO to that charter school. In that circumstance, the bill caps the cost of the respective officer to the charter school's safe school allocation amount; the cost difference is the responsibility of the school district.

The bill establishes safe-school officer incident reporting within 72-hours of dismissal for misconduct or other discipline and firearm discharge, except in case of training. The school district must report each incident to the county sheriff and the Office of Safe Schools. The Office must publish an annual incident report.

Student Discipline and School Safety

Present Situation

Currently, upon initial registration for school in a school district a student must disclose previous expulsions, arrests resulting in a charge, or action by the Florida Department of Juvenile Justice and any mental health referral.²³

Each district school superintendent must designate a school administrator as a school district school safety specialist for the district.²⁴ The school safety specialist must conduct an annual school security risk assessment at each district public school, and provide recommendations to the school board which identify strategies and activities to improve school safety and security.²⁵ The school safety specialist must review policies and procedures for compliance with state law and rules.²⁶

Each district school board must adopt policies consistent with model policies developed by the Office for establishing threat assessment teams at each school. A threat assessment team's duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to student or school safety.²⁷

Threat assessment team members have access only to a sheriff-maintained identification file on serious habitual juvenile offenders and on juveniles who are at-risk of becoming serious habitual juvenile offenders.²⁸ Each threat assessment team is required to report quantitative data on its activities to the Office in accordance with guidance issued by the Office.²⁹

²³ Section 24, ch. 2018-3, L.O.F.

²⁴ Section 1006.07(6)(a), F.S.

²⁵ Section 1006.07(6)(a)4., F.S.

²⁶ Section 1006.07(6)(a)1., F.S.

²⁷ Section 1006.07(7), F.S.

²⁸ Section 985.047, F.S.

²⁹ Section 1006.07(7)(f), F.S.

School principals are required to supervise public school personnel as the district school board determines necessary,³⁰ and are responsible for student, staff and school compliance with most matters related to student discipline and school safety.³¹ The principal is the school's chief executive officer.

Each school principal is responsible for maintaining a permanent, cumulative record for each student.³² While the DOE prescribes in rule what information is contained in the records,³³ there is no established timeframe for records transfer when a student begins attending a different school.

Effect of the Bill

For school safety specialists, the bill maintains current law that each district must have a specialist who is a school administrator designated by the district superintendent. The bill expands who may serve as a school safety specialist to include a law enforcement officer employed and authorized by the sheriff. The bill authorizes the sheriff and the school district to share the cost of a law enforcement-employed school safety specialist.

The bill requires charter schools to comply with the following school safety and security requirements:

- safe-school officers;
- threat assessment teams;
- SESIR incident reporting;
- annual FSSAT completion;
- active assailant plan;
- FortifyFL advertisement; and
- youth mental awareness and assistance training.

For students who transfer schools within the district or to other school districts, the bill requires student records transfer within three days of the transfer. The records must include verified reports of serious or recurrent behavior patterns, threat assessment team evaluations, psychological evaluations, and therapeutic treatment plans and notes created and maintained by the school district.

The bill limits the disclosure required of a student at registration to only those mental health referrals made by the previous school district.

Policy of Zero Tolerance for Crime and Victimization

Present Situation

Florida Law

Florida enacted a "policy of zero tolerance" to comply with the federal Gun-Free Schools Act of 1994, which required each district school board to adopt a policy that any student found in possession of a firearm at school, at school functions, or on school transportation be expelled for a minimum of one year and referred to the criminal justice or juvenile justice system.³⁴ The same penalty now applies to any student making threats or false reports regarding explosives, bombs, weapons of mass destruction, and destructive devices involving school or school personnel's property, school transportation, or

³⁰ Section 1012.28(1), F.S.

³¹ Section 1006.09, F.S.

³² Section 1003.25, F.S.

³³ Rule 6A-1.0955, F.A.C.

³⁴ Section 7, ch. 2000-235, L.O.F.

school sponsored activities.³⁵ District school boards may assign the student to a disciplinary program to receive continuing education services during the period of expulsion.³⁶ In 2002, Florida expanded its zero-tolerance policy to require each district school board to adopt zero-tolerance policies for crime, substance abuse, and victimization of students.³⁷

In 2009, the law was amended to encourage the use of alternatives to expulsion or referral to law enforcement, required that zero-tolerance policies apply equally to all students regardless of economic status, race, or disability, and declared, “Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than \$300, trespassing, and vandalism of less than \$1000.”³⁸

Federal Activity

In January 2014, the United States Department of Education (ED) and the Department of Justice (DOJ) released joint legal guidance to assist all public schools in administering student discipline to meet their legal obligations under Title IV and Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, or national origin.³⁹

Critics claimed the joint legal guidance encouraged ED’s Office for Civil Rights (OCR) to examine “statistical evidence from every school district looking for evidence of racial disparate impact in discipline. When a school district was found to be disciplining African-American students at a significantly higher rate than Asian or white students, the district could expect to be subjected to an [OCR] investigation.”⁴⁰

To reduce the likelihood of costly investigations, schools would need to avoid a disparate impact that would attract OCR’s attention. The easiest and safest strategy would be to make their discipline numbers look acceptable by reducing suspensions for minority students.⁴¹

On March 12, 2018, President Donald Trump established the Federal Commission on School Safety (FCSS) “to review safety practices and make meaningful and actionable recommendations of best practice to keep students safe.”⁴²

The FCSS evaluated the ED and DOJ school discipline guidance and criticized it on three points: 1) it created a chilling effect on classroom teachers’ and administrators’ use of discipline by improperly imposing, through the threat of federal investigation and loss of federal funding, a forceful federal role in what is a local issue; 2) legal authorities, including the United States Supreme Court, have questioned the legal basis of its school discipline policy; and 3) the threat of OCR investigations has likely had a strong, negative impact on school discipline and safety.⁴³

³⁵ Section 1006.13(3), F.S.

³⁶ *Id.*

³⁷ Section 283, ch. 2002-387, L.O.F.

³⁸ Section 3, ch. 2009-53, L.O.F.

³⁹ United States Departments of Education and Justice, *Dear Colleague Letter*, December 21, 2018, available at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201812.pdf>.

⁴⁰ Gail L. Heriot and Alison Somin, *The Department of Education’s Obama-Era Initiative on Racial Disparities in School Discipline: Wrong for Students and Teachers, Wrong on the Law*, University of San Diego School of Law, p. 473, Legal Studies Research Paper Series, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3104221.

⁴¹ *Id.* at 474.

⁴² U.S. Departments of Education, Health and Human Services, Homeland Security, and Justice, *Final Report of the Federal Commission on School Safety*, December 18, 2018, p. 6., available at: <https://www2.ed.gov/documents/school-safety/school-safety-report.pdf>.

⁴³ *Id.* at 67.

The FCSS reported that teacher surveys confirmed the guidance's chilling effect has forced teachers to resort to non-exclusionary discipline, even when such methods are inadequate to the student misconduct, with significant consequences for student and teacher safety.⁴⁴

The FCSS recommended that ED and DOJ rescind its guidance documents, and that ED should develop information and resources to assist schools in improving school climate and to understand how ED will vigorously investigate and resolve cases of intentional discrimination.⁴⁵ On December 21, 2018, ED and DOJ issued a joint letter informing all public schools that the policy and guidance documents had been withdrawn.⁴⁶

Effect of the Bill

The bill clarifies that petty acts of misconduct are not subject to zero tolerance. The bill repeals the discretion to consult with law enforcement by requiring consultation for misdemeanors and acts that pose a threat to school safety.

Safe Schools Allocation

Present Situation

For Fiscal Year 2018-2019, the General Appropriations Act (GAA) appropriated \$64.5 million in the Safe Schools Allocation in the Florida Education Finance Program. These funds are provided to assist school districts in their compliance with s. 1006.07, F.S., with priority given to school districts implementing a school resource officer program pursuant to s. 1006.12, F.S. Each school district received a minimum allocation amount of \$62,660 as provided for in the GAA and, of the remaining balance, two-thirds was allocated to school districts based on the most recent official Florida Crime Index provided by the FDLE and one-third was allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment.⁴⁷

For Fiscal Year 2018-2019, Section 42 of ch. 2018-3, L.O.F., appropriated \$97.5 million to the DOE in the Aid to Local Governments Grants and Aids – Florida Education Finance Program for the Safe Schools Allocation. This is in addition to the funds appropriated in the Fiscal Year 2018-2019 GAA. From these funds, \$187,340 was distributed to each school district to increase each district's minimum allocation amount to \$250,000 when combined with the minimum amount appropriated in the GAA and with the balance of the funds distributed to school districts based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Each school district is required to use these funds exclusively for hiring or contracting for school resource officers pursuant to s. 1006.12, F.S.

Effect of the Bill

⁴⁴ *Id.* at 69.

⁴⁵ *Id.* at 72.

⁴⁶ United States Departments of Education and Justice, *Dear Colleague Letter*, December 21, 2018, available at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201812.pdf>.

⁴⁷ Section 1011.62(15), F.S.

The bill amends the Safe Schools Allocation for Fiscal Year 2018-2019 by requiring school districts to give priority to safe-school officers pursuant to s. 1006.12, F.S. This change is retroactive to allow school districts to use their Safe Schools Allocation to compensate school guardians.

The bill also revises the funding formula for the Safe Schools Allocation beginning in Fiscal Year 2019-2020 by requiring one-third (instead of two-thirds) be allocated to school districts based on the most recent 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.

Mental Health Assistance Allocation

Present Situation

Chapter 2018-3, L.O.F., created the Mental Health Assistance Allocation within the Florida Education Finance Program to annually fund school-based mental health programs.⁴⁸ Last year's allocation provided each school district with \$100,000 with the remaining balance based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Eligible charter schools are entitled to a proportionate share of the school district's allocation.

Section 1011.62, F.S., requires at least 90 percent of a school district's allocation be expended on the provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high-risk of such diagnoses. School districts are prohibited from using the funds allocated under this section from supplanting funds from other operating funds used for the provision of mental health services. These funds may not be used for salary increases or bonuses.

In order to receive allocation funds, a school district must develop and submit a detailed plan (plan) outlining the local program and planned expenditures to the district school board for approval. A charter school must annually develop and submit a detailed plan outlining the local program and planned expenditures of the funds in the plan to its governing body for approval. Each approved plan must be submitted to the Commissioner by August 1 each year and must focus on delivering evidence-based mental health care treatment to children for specific services. The plan must include the provision of direct community based services.

Each school district is required to submit an annual report to the DOE on its program outcomes and its expenditures, including services provided.

Effect of the Bill

The bill requires school district mental health assistance allocation plans to include all district schools including charter schools, unless a charter school chooses to develop its own plan. The bill requires charter schools that submit their own plans to receive a proportionate share of the allocation.

The bill authorizes school districts to use funds from this allocation to train educators and staff on detecting and responding to mental health issues. The bill also authorizes funds to be used to connect children and families to behavioral health services.

The bill repeals the requirement that 90 percent of the district allocation be used for specified mental health activities.

⁴⁸ Section 1011.62(16), F.S.

The bill modifies the school district's plan to require the provision of a multi-tier system of supports that provides intervention, treatment and recovery direct services for students with mental illness or substance abuse disorders or at high-risk to develop these disorders.

The bill requires that the plan include:

- Expanding the direct employment of school-based mental health providers to align with nationally recommended provider-to-student ratios and strategies to increase the time school-based providers spend in direct services.
- Executing contracts or agreements with local community health providers or providers of Community Action Team services to provide a behavioral health staff presence at district schools. Services may include mental health screenings and assessments, individual counseling, family counseling, group counseling, psychiatric or psychological services, trauma-informed care, mobile crisis services, and behavior modification, and may be provided on or off the school campus, or by telehealth.
- Developing strategies and programs to reduce the likelihood of at-risk students developing specified disorders.
- Developing strategies and programs to improve early identification of social, emotional, or behavioral problems.

The bill clarifies the service data to be included in a school district's annual report on expenditures associated with the Mental Health Assistance Allocation.

The bill provides timeframes by which at-risk students must be assessed and begin receiving services:

- assessed within 15 days of the referral;
- school-based mental health services are initiated within 15 days after the assessment; and
- community-based mental health services are initiated within 30 days of the referral.

Categorical Funds

Present Situation

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida's public schools. The Base FEFP is determined by multiplying the number of full-time equivalent students in each of the funded education programs by cost factors and the multiplying by a base student allocation and by a district cost differential. In addition to the Base FEFP, the Legislature may appropriate categorical funding for specified programs, activities, or purposes.⁴⁹ If a district school board adopts a resolution declaring that certain categorical funding is needed to maintain academic classroom instruction or improve school safety, the district school board may approve an amendment to its operating budget to transfer the identified amount of the categorical funding to the appropriate account for expenditure. The categorical funding eligible for transfer includes:

- Student transportation funds.
- Research-based reading instruction funds if the required additional hour of instruction has been provided for the students in each of the 300 lowest-performing elementary schools.
- Instructional materials funds if all necessary and compliant instructional materials have been completed for the fiscal year.

Effect of the Bill

⁴⁹ Section 1011.62(6), F.S.

The expands the number of categorical funding that is eligible for transfer based upon a district school board's adopted resolution to include funds for the:

- Guaranteed allocation provided in s. 1011.62(1)(e)2., F.S.
- Supplemental academic instruction allocation provided in s. 1011.62(1)(f), F.S.
- Florida digital classroom allocation provided in s. 1011.62(12), F.S.
- Federally connected student supplement provided in s. 1011.62(13), F.S.
- Class size reduction provided in s. 1011.685, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Florida Department of Education (DOE) estimated the additional oversight and workload responsibilities established for the department in the bill will cost \$880,480. To address this fiscal, the Conference Report for the Fiscal Year 2019-2020 General Appropriations Act (GAA) includes:

- \$629,010 in Salaries and Benefits;
- \$157,580 in Expenses;
- \$3,290 in the Florida Department of Management Services HR Services Statewide Contract; and
- \$90,600 in Data Processing Services.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In addition to the \$880,480 appropriated to the DOE to address the departments' additional oversight and workload responsibilities, the Conference Report for Fiscal Year 2019-2020 GAA includes:

- \$180 million for the Safe Schools Allocation in the Florida Education Finance Program.
- \$75 million for the Mental Health Assistance Allocation in the Florida Education Finance Program.
- \$50 million for school hardening grants.
- \$5 million to the DOE for mental health awareness training.

Section 14 of the Conference Report for Fiscal Year 2019-2020 GAA states that the unexpended balance of funds provided to the DOE for the Coach Aaron Feis Guardian Program in s. 40, ch. 2018-3, L.O.F., is reverted and appropriated for Fiscal Year 2019-2020 to the DOE for the same purpose.