

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 Infrastructure and Security

BILL: SB 788

INTRODUCER: Senator Book

SUBJECT: Statewide Active Shooter Response Planning

DATE: January 9, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 788 requires the Florida Department of Law Enforcement (FDLE), in consultation with law enforcement agencies throughout the state, to establish a uniform statewide rule on preparing for and responding to active shooters. The bill also requires each law enforcement agency to adopt an active shooter policy or rule, as appropriate, by January 1, 2021.

FDLE advised the estimated cost to work with law enforcement partners to develop the minimum standards will have a fiscal impact of approximately \$15,000, based on current estimates for multiple stakeholder workshops to develop the standards for incorporation into rule.¹

There is also an unknown fiscal impact to local governments to develop, implement and train personnel according to rules developed by FDLE.

The bill may have a local mandate and require the approval of two-thirds of the membership in each house of the Legislature. See Section IV.

The bill will take effect upon becoming law.

¹ Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

II. Present Situation:

9-1-1 Calls

Calling 9-1-1 during an emergency is not difficult; however, calling the number, staying on the line, and trying to explain what is happening during a time of distress may be challenging for some.

While wireless phones can be an important public safety tool, they also create unique challenges for emergency first responders and wireless service providers. Since wireless phones are mobile, they are not associated with one fixed location or address. While the location of the cell site closest to the 9-1-1 caller may provide a general indication of the caller's location, that information is not always specific enough for first responder personnel to deliver assistance to the caller quickly.² Although the authorities might be aware of a disturbance in a general area, they will not know exactly what the threat is, where it is coming from, and the level of the threat, unless the caller is able to stay on the call and relay that information to the operator.

In many cases of school shootings, there are already fatalities before a 9-1-1 call is placed. The average shooting lasts 12 minutes,³ while the national average response time by authorities to be on scene in response to a 9-1-1 call is approximately 15 minutes and 19 seconds after an incident is reported.⁴

Marjory Stoneman Douglas High School Public Safety Commission

The Marjory Stoneman Douglas High School (MSDHS) Public Safety Commission (MSD Commission) is entrusted with investigating system failures in the MSDHS shooting and prior mass violence incidents, and developing recommendations for system improvements.⁵ The MSD Commission submitted its initial report to the Governor and the Legislature on January 2, 2019, and its second report to the Governor and Legislature on November 1, 2019.^{6,7} The MSD Commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.⁸

² Federal Communications Commission, *911 Wireless Services*, available at <https://www.fcc.gov/consumers/guides/911-wireless-services> (last visited December 26, 2019).

³ Ryan Sanchez, *How Columbine changed the way police respond to mass shootings*, available at <https://www.cnn.com/2018/02/15/us/florida-school-shooting-columbine-lessons/index.html> (last visited December 26, 2019).

⁴ Auto Insurance Center, *Emergency Response Times Across the U.S.*, available at <https://www.autoinsurancecenter.com/emergency-response-times.htm> (last visited December 26, 2019).

⁵ Section 943.687(3), F.S.

⁶ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited December 27, 2019).

⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (November 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf> (last visited December 27, 2019).

⁸ Section 943.687(9), F.S.

The MSD Commission's initial and second report includes numerous observations, which include the following:

“Deficiencies in the active assailant response policies and procedures for both the Broward County Sheriff's Office (BSO) and Broward County Public Schools (BCPS). Among the deficiencies identified for BSO were an ambiguous active shooter policy, inadequate active shooter training, and ineffective command and control. As for BCPS, they did not have a Code Red (lockdown) or hard corner (identification of the safest space in a classroom) policy; BCPS did not allow law enforcement direct access to school surveillance cameras; and MSDHS had not conducted a single active shooter drill in the year preceding the shooting. Each of these deficiencies manifested during and in response to the shooting and are highlighted in the Commission's initial report. The deficiencies had a negative effect on the school's and law enforcement's response to the shooting and some of these deficiencies resulted in unnecessary casualties.”⁹

Federal Planning and Response to an Active Shooter

The Interagency Security Committee (ISC), chaired by the U.S. Department of Homeland Security (DHS), and consisting of 54 Federal departments and agencies, had as its mission the development of security standards and best practices for nonmilitary Federal facilities in the United States titled *Planning and Response to an Active Shooter: An Interagency Security Committee Policy and Best Practices Guide*.¹⁰ It streamlined existing ISC policy on active shooter incidents into one cohesive policy and guidance document to enhance preparedness, prevention, protection, mitigation, response, and recovery efforts related to an active shooter incident at Federal facilities.

The ISC guidance is designed to be applicable to all buildings and facilities in the United States occupied by Federal employees. These include existing buildings, new construction, or major modernizations; facilities owned, or being purchased, or leased; stand-alone facilities; Federal campuses; where appropriate, individual facilities on Federal campuses; and special-use facilities.¹¹

Due to the nature of an active shooter event, the ISC guide contains guidance for all who might be involved, including law enforcement agencies, facility tenants, and the public. Certain responsibilities outlined within the guide are specific to designated law enforcement officers or personnel possessing the authority and training to take immediate action to contain, apprehend, or neutralize an active threat. Other sections of the guide are meant to educate facility tenants regarding actions they can take to save themselves or others.¹²

⁹ *Supra*, note 7 at page 77.

¹⁰ U.S. Department of Homeland Security, *Planning and Response to an Active Shooter: An Interagency Security Committee Policy and Best Practices Guide* (November 2015), available at <https://www.dhs.gov/sites/default/files/publications/isc-planning-response-active-shooter-guide-non-fouo-nov-2015-508.pdf> (last visited December 27, 2019).

¹¹ *Id.*

¹² *Id.*

Statewide Active Shooter Response Plan

Currently, there is no Florida Statute requiring law enforcement agencies to create and adopt a uniform statewide rule on preparing for and responding to active shooter situations.¹³ Although the Criminal Justice Standards & Training Commission does list a Specialized Instructor Course entitled Single Officer Response to Active Threat and Shooter Incidents Instructor, and a Specialized Course entitled Single Officer Response to Active Threat and Shooter Incidents.¹⁴

Florida Highway Patrol

The Florida Highway Patrol (FHP) has a policy that generally addresses active shooter situations. The current FHP policy empowers responding troopers with the authority and responsibility to take immediate action, consistent with their training and experience, to contain and, if necessary, to neutralize active threats, including active shooters. It is the goal of the FHP to intervene in active threat situations to neutralize the threat by preventing access to potential victims and to rescue injured persons and potential victims.¹⁵

III. Effect of Proposed Changes:

SB 788 creates s. 943.688, F.S., requiring the FDLE, in consultation with law enforcement agencies throughout the state and considering the unique needs of different geographic regions where those agencies are located, to establish a uniform statewide rule on minimum standards and requirements for how each law enforcement agency in the state must prepare and respond to active shooter situations within their jurisdictions. At a minimum, the uniform statewide rule must address the following:

- Detailed procedures for how to respond to a report of an alleged active shooter;
- Detailed procedures for how communications and notifications will be handled with all affected parties and the media;
- Detailed procedures indicating who from the appropriate law enforcement agency will respond and how they will do so, including having a designated person and an alternate person who have been trained or certified on how to handle active shooter situations; and
- Primary and alternate routes to potential targets within each law enforcement agency's jurisdiction.

Each law enforcement agency in the state will be required to enact a policy or rule on active shooter preparedness and response no later than January 1, 2021. At a minimum, each such policy or rule must include the uniform statewide rule adopted by FDLE.

The bill also requires the FDLE to adopt rules to administer statewide active shooter response planning.

Having a statewide active shooter response plan may help to improve response times to emergency calls reporting shooting incidents, and may help to further provide guidance on how

¹³ Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

¹⁴ Florida Department of Law Enforcement, *Active Courses*, available at <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses> (last visited December 27, 2019).

¹⁵ *Supra*, note 14.

to best respond to emergency calls with limited resources and limited information on an active shooter incident.

The creation and adoption of a uniform statewide rule on preparing for and responding to active shooter situations by law enforcement may address some of the deficiencies observed by the MSD Commission.

The bill would take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Under Article VII, s. 18(a), Florida Constitution, a mandate includes a general bill requiring counties or municipalities to spend funds. The bill would require municipalities or counties to take action that may require the expenditure of an indeterminate amount of funds due to anticipated development, implementation and training of personnel according to local policies or rules required by the bill. As such, the bill may contain a mandate. If the bill does contain a mandate, the Legislature may wish to amend the bill to state that the bill fulfills an important state interest, since all state and local law enforcement agencies in this state are required to comply by enacting a policy or rule, as appropriate, on active shooter preparedness and response by no later than January 1, 2021. If the bill does contain a mandate, it must be approved by a two-thirds vote of each house of the Legislature to be binding on counties and municipalities.

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 bill requires the FDLE to develop uniform minimum standards and requirements for preparing and responding to active shooter situations in consultation with law enforcement agencies throughout the state. The estimated cost to coordinate with law enforcement partners to develop the minimum standards is approximately \$15,000, based on current estimates for multiple stakeholder workshops to develop the standards for incorporation into rule.¹⁶

The bill may have an indeterminate negative fiscal impact to local government due to anticipated expenditures to develop, implement and train personnel according to local policies or rules required by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDLE provided the following additional comments:¹⁷

- Replace “active shooter” with “active assailant” since all events of mass violence do not involve a firearm;
- Not place detailed procedures in Florida Administrative Code, because individuals who may have ill intentions will have easy access to procedures and processes in place to prevent an active assailant situation, and this would also identify potential targets an assailant may not have considered and provide information that could be used to counter law enforcement response;
- Change the rules adoption date to July 1, 2021;
- Amend the bill from a mandatory rule-making posture to a best practices/guidance model similar to the approach utilized in the implementation of best practices and guidelines pertaining to eyewitness identification and Rachel’s law to address a uniform approach to active assailant(s). The unique needs and available resources of different geographical areas and urban/rural composition of the state make it impractical for one rule or policy to meet the needs of Florida’s diverse law enforcement community; and
- While the bill requires law enforcement agencies to comply with its provisions and rules, it does not provide any ramifications for failure to comply, and as such, any rules created by the FDLE may not hold much practical authority.

¹⁶ Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

¹⁷ *Id.*

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 943.688

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
