

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 383 Involuntary Examinations of Minors

**SPONSOR(S):** Education & Employment Committee, Early Learning & Elementary Education Subcommittee, Plasencia, LaMarca and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 590

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**FINAL HOUSE FLOOR ACTION:** 116 Y's

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**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/CS/HB 383 passed the House on April 27, 2021, as CS/SB 590. The bill includes portions of CS/HB 7035.

The bill revises parental notification requirements for public and charter schools relating to initiating involuntary examinations (Baker Act) of students and school safety threats and incidents. The bill provides additional supports to students in crisis and clarifies student discipline policies.

Prior to initiating a Baker Act, school personnel or law enforcement must make a reasonable attempt to contact a mental health professional and use de-escalation and crisis intervention techniques. Prior to a student's removal for transport to a Baker Act receiving facility, the public or charter school principal must make a reasonable attempt to notify the student's parent. The bill authorizes a principal to delay the parental notification up to 24 hours if the principal believes such delay is necessary for the health and safety of the student.

The bill revises Baker Act reporting data requirements to include the number of students at school, on school transportation, or at a school-sponsored activity, for whom a Baker Act is initiated and the number of children for whom a Baker Act examination is initiated. The bill adds reporting requirements for school districts and requires the Department of Education to share this data with the Department of Children and Families for inclusion and analysis in its biannual report on Baker Acts of minors.

The bill requires public and charter schools to provide timely parental notification for certain threats and significant emergencies that occur on school grounds, school transportation, or school-sponsored activities. Parental notification is also required for unlawful acts including weapons possession or use when there is intent to harm another person, death of a student or personnel, sex offenses, and natural and man-made emergencies.

The bill revises requirements for certified law enforcement personnel working on school grounds by requiring crisis intervention training for school safety officers. For public school students in grades 6 through 12, identification cards issued to those students must include the telephone numbers for national or statewide crisis and suicide hotlines and textlines.

The bill clarifies what acts require a school to refer a student to law enforcement for civil citation or prearrest diversion or assign a student to a school-based intervention program.

The bill has an indeterminate fiscal impact. See fiscal comments.

The bill was approved by the Governor on June 29, 2021, ch. 2021-176, L.O.F., and will become effective on July 1, 2021.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Involuntary Examinations of Minors**

##### Present Situation

A student with an acute mental health crisis may require emergency treatment to stabilize his or her condition. Florida law specifies criteria that a person must meet to be transported to a receiving facility for an involuntary examination (Baker Act); it also limits who may initiate the exam.<sup>1</sup> School personnel are not among those authorized to initiate an involuntary examination, unless they are one of the professional certificate holders identified in law, such as certain nurses, mental health counselors or social workers.<sup>2</sup> In a school setting, it is often a law enforcement officer who evaluates the student and determines if he or she appears to meet statutory criteria.<sup>3</sup> When the determination is made in the affirmative, then law enforcement removes the student from campus and provides transport to a receiving facility.

Students removed from school must be taken to either a public or a private facility designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.<sup>4</sup> During that 72 hours, an involuntary patient must be examined by a physician, a clinical psychologist, or a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility, to determine if criteria for involuntary services are met.<sup>5</sup> If the patient is a minor, the examination must be initiated within 12 hours.<sup>6</sup> Immediately after arrival, the facility is required to notify the minor's parent, guardian, caregiver, or guardian advocate.<sup>7</sup> The facility may delay notification for up to 24 hours if the facility believes it is in the minor's best interest and a report has been made to the central abuse hotline.<sup>8</sup> The facility must continue notification attempts until notification is satisfied.<sup>9</sup>

In 2017, the Legislature created a task force within DCF<sup>10</sup> to address involuntary examination of minors age 17 years or younger.<sup>11</sup> The task force found that specific causes of increases in involuntary examinations of children are unknown. However, the task force provided a number of recommendations, including: increasing funding for mobile crisis teams; funding an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis; and requiring crisis intervention training for school resource officers and other law enforcement officers who initiate Baker Acts from schools.<sup>12</sup>

As a follow up to the 2017 task force report, in 2019, the Legislature required the DCF to publish a report every other odd-numbered year to examine the initiation of Baker Acts for minors. The initial report

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<sup>1</sup> Section 394.463, F.S.

<sup>2</sup> Section 394.463(2)(a), F.S.

<sup>3</sup> Section 394.463(2)(a)2., F.S.

<sup>4</sup> Section 394.463(2)(g), F.S.

<sup>5</sup> Section 394.463(2)(f), F.S.

<sup>6</sup> Section 394.463(2)(g), F.S.

<sup>7</sup> Section 394.4599(2)(c)1., F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 394.4599(2)(c)2., F.S.

<sup>10</sup> Chapter 2017-151, L.O.F.

<sup>11</sup> Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf>.

<sup>12</sup> *Id.*

published pursuant to this requirement found that of the 36,078 Baker Acts of minors in FY 2017-2018,<sup>13</sup> only 20 percent were initiated while the child was in a school setting.<sup>14</sup> Of the number of all Baker Acts in that year, minors represented only 18 percent of the total.<sup>15</sup> As compared to young adults (ages 18-24) and adults, from FY 2013-2014 to FY 2017-2018, statewide Baker Acts increased 18.85% for children, 3 through 5 percentage points higher than other age groups.<sup>16</sup>

Regarding an increase in Baker Acts of children, the 2017 task force confirmed that an increase is consistent with state and national statistics, and noted that the increase could be a reflection of the increase in the identification of mental health disorders among children and young adults.<sup>17</sup> Additionally, the task force suggested that the increase in Baker Acts among children could be the result of recent initiatives designed to improve Florida's mental health system and provide earlier diagnosis and treatment.<sup>18</sup>

### *Parental Notification of Baker Acts*

Florida law requires a traditional public or charter school principal to immediately notify the parent of a student who is removed from school grounds, school transportation, or a school-sponsored activity and transported to a Baker Act receiving facility.<sup>19</sup> However, the principal may delay notification for up to 24 hours if the principal believes it is in the student's best interest and a report has been made to the central abuse hotline.<sup>20</sup> Prior to involving law enforcement, the principal, or his or her designee, must verify that de-escalation strategies have been utilized and outreach to a mobile response team has occurred, unless the principal reasonably believes that any delay in removing the student will increase the likelihood of harm to the student or others.<sup>21</sup>

### *Baker Act Data Reporting & Analysis*

Professionals who initiate Baker Acts are required to capture the circumstances of the mental health crisis and make an affirmative statement that the person examined meets statutory criteria.<sup>22</sup> This information is recorded on a standardized form and reported to the DCF.<sup>23</sup> The DCF contracts with the Louis de la Parte Florida Mental Health Institute at the University of South Florida (Institute) to analyze data and provide an annual report using, among other things, the information provided on the forms.<sup>24</sup> The Institute also analyzes other information relating to mental health and acts as a provider of crisis services to certain patients.<sup>25</sup> Among other sources of information and data, current law requires the Office of Safe Schools (OSS) to provide data to the Institute to support the evaluation of mental health services in the state.<sup>26</sup>

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<sup>13</sup> Florida Department of Children and Families, *Report on Involuntary Examinations of Minors*, (Nov. 2019), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf>.

<sup>14</sup> *Id.* at 14.

<sup>15</sup> *Id.* at 25.

<sup>16</sup> *Id.*

<sup>17</sup> Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, pgs. 21-22 (Nov. 2017), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf>.

<sup>18</sup> *Id.* at 24.

<sup>19</sup> Sections 1002.20(3)(l) and 1002.33(9)(q), F.S.

<sup>20</sup> Sections 1002.20(3)(l) and 1002.33(9)(q), F.S.

<sup>21</sup> Sections 1002.20(3)(l) and 1002.33(9)(q), F.S.

<sup>22</sup> Rule 65E-5.280, F.A.C.

<sup>23</sup> Rule 65E-5.120, F.A.C.

<sup>24</sup> University of South Florida, Baker Act Reporting Center, *About Us*, <https://www.usf.edu/cbcs/baker-act/about/index.aspx> (last visited May 6, 2021).

<sup>25</sup> See University of South Florida, Baker Act Reporting Center, *What We Do*, <https://www.usf.edu/cbcs/baker-act/about/whatwedo.aspx> (last visited May 6, 2021); and University of South Florida, Louis de la Parte Florida Mental Health Institute, *About the Institute*, <https://www.usf.edu/cbcs/fmhi/about/> (last visited May 6, 2021).

<sup>26</sup> Section 1001.212(7), F.S.

## *School Health Services Program*

Current law provides for the cooperation of the Department of Health and the Department of Education (DOE) to supervise the administration of the school health services program under the School Health Services Act.<sup>27</sup> Each county health department is required to jointly develop a school health services plan with the district school board and the local school health advisory committee.<sup>28</sup> Among other mandatory components of the school health services plan, the plan must provide for immediate notification to the parent of a student removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination.<sup>29</sup>

### Effect of the Bill

For traditional public and charter schools, the bill requires the school principal or designee to make “a reasonable attempt to notify” a student’s parent before the student is removed from school grounds, school transportation or a school-sponsored activity and transported to a Baker Act receiving facility. The bill allows parental notification to be delayed up to 24 hours if the principal believes such delay is necessary for the health and safety of the student.

“A reasonable attempt to notify” is defined in the bill as the exercise of reasonable diligence and care by the principal or designee to make contact with the student’s parent, guardian, or other known emergency contact who is authorized to receive Baker Act notification. At a minimum, the principal must use available telephonic and electronic methods of communication such as text or email and must document the methods used, number of attempts made, and the outcome of each attempt. If the principal successfully notifies an emergency contact, he or she may only share the information necessary to alert such contact that the parent or guardian must be contacted.

The bill conforms Baker Act notification provisions in the school health services plan with procedural changes made for public and charter schools.

The bill requires the DCF to include the number of students removed from school as well as the number of children for whom Baker Act examinations are initiated in its biannual Baker Act of minors report. School districts must collect this data and provide it to the OSS, which then must share it with the Institute for inclusion in the report. The report must separate children and students when studying the patterns, trends, and cases of minors who are repeatedly Baker Acted.

## **Student Mental Health**

### Present Situation

#### *Mental Health Assistance Allocation*

The Marjory Stoneman Douglas High School Public Safety Act<sup>30</sup> created the Mental Health Assistance Allocation (MHAA) within the Florida Education Finance Program.<sup>31</sup> The allocation is intended 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.<sup>32</sup> For the 2020-2021 school year, \$100 million was appropriated for the allocation,<sup>33</sup> with each school

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<sup>27</sup> Section 381.056(1) and (3), F.S.

<sup>28</sup> Section 381.056(4)(a), F.S.

<sup>29</sup> Section 381.056(4)(a)19., F.S.

<sup>30</sup> Chapter 2018-3, L.O.F.

<sup>31</sup> Section 1011.62(16), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F.

district receiving a minimum of \$100,000 and the remaining balance of funds allocated based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment.<sup>34</sup> Eligible charter schools are entitled to a proportionate share of the school district's allocation.<sup>35</sup> The General Appropriations Act for FY 2021-2022 appropriated \$120,000,000 for the allocation, with the same distribution methodology as the prior year, raising the total amount provided for the allocation to more than \$364 million since 2018.<sup>36</sup>

School districts may not use MHAA funds to supplant funds from other operating funds used for the provision of mental health services. MHAA funds also may not be used for salary increases or bonuses.<sup>37</sup>

In order to receive MHAA funds, a school district must develop and submit to the district school board for approval a detailed plan outlining its local program and planned expenditures.<sup>38</sup> A school district's plan must include all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district.<sup>39</sup> Each approved plan must be submitted to the commissioner by August 1 each year.

The plan must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services. Supports and services under the allocation are provided to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care.<sup>40</sup> School districts are also required to report allocation expenditures and outcomes annually for the previous fiscal year by September 30.<sup>41</sup>

Plans must include elements such as:

- direct employment of school-based mental health service providers to expand and enhance school-based student services and reduce the ratio of students to staff to align with nationally recommended ratio models;
- contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide behavioral health staff presence and services at district schools; and
- policies and procedures that ensure students who are referred to a school-based or community-based mental health service provider for mental health screening are assessed within 15 days of referral, and that school-based mental health services are initiated within 15 days after identification and assessment and community-based mental health services are initiated within 30 days after school or district referral.<sup>42</sup>

### *Youth Mental Health Crises Supports and Suicide Prevention*

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<sup>34</sup> Section 1011.62(16), F.S.; *See also* Florida Department of Education, Office of Safe Schools, *2020-2021 FEFP – Revised Final Conference Calculations as funded in Chapter 2020-111 (Mental Health Assistance Allocation)*, available at <http://www.fldoe.org/core/fileparse.php/18612/urlt/2021DistrictMHAssisAllocation.pdf>.

<sup>35</sup> Section 1011.62(16), F.S.

<sup>36</sup> In 2018, \$69,237,286 was appropriated by s. 36, ch. 2018-3, L.O.F. In 2019, \$75,000,000 was appropriated by Specific Appropriations 6 and 93, s. 2, ch. 2019-115, L.O.F. In 2020, \$100,000,000 was appropriated by Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F. In 2021, \$120,000,000 was appropriated by Specific Appropriations 7 and 90, s. 2, of the General Appropriations Act (SB 2500) that is awaiting approval by the Governor.

<sup>37</sup> *Id.*

<sup>38</sup> Section 1011.62(16)(a)1.-2., F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 1011.61(16)(b), F.S.

<sup>41</sup> Section 1011.62(16)(c)-(d), F.S.

<sup>42</sup> Section 1011.62(16)(b)1.-3., F.S.

Nationally, the suicide rate among youth aged 10 through 24 is increasing and suicide is the second leading cause of death for individuals ages 10 through 14, 15 through 19, and 20 through 24.<sup>43</sup> In Florida in 2019, the year for which the most recent data is available, 319 children and young adults (ages 5 through 24) committed suicide.<sup>44</sup> Among Floridians of all ages, 3,427 committed suicide and over 20,000 incidents of self-harm were reported.<sup>45</sup> For students, the DCF measures behavioral health concerns and suicide risk every two years. In 2020,<sup>46</sup> 38 percent of student-respondents experienced sadness or hopelessness for two or more weeks in a row, 16 percent seriously considered committing suicide, 12 percent made plans to commit suicide, and 8 percent attempted suicide.<sup>47</sup>

In recognition of the prevalence of suicide among children and the need for an integrated, statewide prevention program for all Floridians, the First Lady Casey DeSantis, in collaboration with stakeholders, created the Florida Suicide Prevention Interagency Action Plan, August 2020 – June 2023, and identified four focus areas to reduce suicide rates: awareness, prevention, intervention, and caring follow-up and support.<sup>48</sup> Additionally, the Florida Suicide Prevention Coordinating Council is charged with increasing support for Floridians and decreasing suicide rates. The DCF's Statewide Office of Suicide Prevention provides resources for both individuals in crisis as well as their support network of friends and family.<sup>49</sup> Among the resources provided are the telephone numbers for the national and statewide crisis response hotlines.<sup>50</sup> Many of these resources now offer online chat or text options for individuals in crisis.<sup>51</sup>

Several other states have included crisis hotline information on student identification cards in an effort to address suicide risk among students.<sup>52</sup> For example, Wisconsin requires student identification cards include the number for the National Suicide Prevention Lifeline and other similar resources that are available 24 hours a day, 7 days a week.<sup>53</sup> California implemented a similar requirement in 2018.<sup>54</sup> Both

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<sup>43</sup> U.S. Department of Health and Human Services, *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2000-2017* (October 2019), available at <https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf>.

<sup>44</sup> Florida Department of Children and Families, Office of Substance Abuse and Mental Health, *Suicide Prevention Coordinating Council 2020 Annual Report*, p. 8, available at <https://www.myflfamilies.com/service-programs/samh/prevention/suicide-prevention/>.

<sup>45</sup> *Id.* at 7.

<sup>46</sup> Florida Department of Children and Families, *Suicide Prevention Coordinating Council Annual Report*, (Jan. 2021), available at <https://www.myflfamilies.com/service-programs/samh/prevention/suicide-prevention/>.

<sup>47</sup> *Id.* at 10.

<sup>48</sup> Florida Department of Children and Families, *Florida Suicide Prevention Interagency Action Plan August 2020-June 2023*, available at <https://www.myflfamilies.com/service-programs/samh/prevention/suicide-prevention/docs/2020%202023%20Florida%20Suicide%20Prevention%20Interagency%20Action%20Plan.pdf>. The Suicide Prevention Coordinating Council consisted of leadership from the DCF, the Agency for Health Care Administration, the Department of Health, the Department of Juvenile Justice, the Department of Veteran's Affairs, the Department of Law Enforcement, the Department of Elder Affairs, the Department of Economic Opportunity, and the Agency for Persons with Disabilities.

<sup>49</sup> Department of Children and Families, *Suicide Prevention*, <https://www.myflfamilies.com/service-programs/samh/prevention/suicide-prevention/index.shtml> (last visited May 6, 2021).

<sup>50</sup> See National Suicide Prevention Lifeline, *About*, <https://suicidepreventionlifeline.org/about/> (last visited May 6, 2021); Crisis Text Line, *About Us*, <https://www.crisistextline.org/about-us/> (last visited May 6, 2021); Rape, Abuse & Incest National Network, *About the National Sexual Assault Telephone Hotline*, <https://www.rainn.org/about-national-sexual-assault-telephone-hotline> (last visited May 6, 2021); and National Alliance on Mental Health Florida, *If in Crisis*, <https://namiflorida.org/crisis-info/> (last visited May 6, 2021).

<sup>51</sup> See National Suicide Prevention Lifeline, *About*, <https://suicidepreventionlifeline.org/about/> (last visited May 6, 2021); Crisis Text Line, *About Us*, <https://www.crisistextline.org/about-us/> (last visited May 6, 2021); Rape, Abuse & Incest National Network, *About the National Sexual Assault Telephone Hotline*, <https://www.rainn.org/about-national-sexual-assault-telephone-hotline> (last visited May 6, 2021); and National Alliance on Mental Health Florida, *If in Crisis*, <https://namiflorida.org/crisis-info/> (last visited May 6, 2021).

<sup>52</sup> See e.g. Lena Howland, *Why California student ID cards now include suicide prevention information*, available at <https://www.abc10.com/article/news/local/turlock/why-california-student-id-cards-now-include-suicide-prevention-information/103-3f237fd5-85c3-4303-a90c-f1648a68a388> (last visited May 6, 2021); and Andre Hudson, *Wisconsin student ID cards now required to feature suicide prevention hotlines*, available at <https://www.cr80news.com/news-item/wisconsin-student-id-cards-now-required-to-feature-suicide-prevention-hotlines/> (last visited May 6, 2021).

<sup>53</sup> Wis. Stat. s. 118.169 (2020).

<sup>54</sup> Cal. Educ. Code s. 215.5 (2018).

Wisconsin and California authorize the inclusion of additional resources on the identification cards.<sup>55</sup> There are no similar requirements in Florida law for the provision of identification cards; thus school districts have broad authority to design and issue such cards to students.

### *Student Identification Numbers*

While current law requires each student to have an individual identification number, there is no requirement that each student possess a school-issued identification card. The Commissioner of Education must assist school districts with the assignment of identification numbers to avoid duplication of any number,<sup>56</sup> while the DOE is required to establish the process by which the number is assigned to each student in the state.<sup>57</sup> School districts are prohibited from using a student's social security number as the student identification number in their management information system.<sup>58</sup>

### Effect of the Bill

The bill requires that each school district's mental health assistance allocation plan include procedures to assist, prior to Baker Act initiation, a mental or behavioral health provider, or school-based law enforcement officer who has completed crisis intervention training, to verbally de-escalate a student in crisis. Procedures must specifically address strategies to de-escalate a student with a developmental disability in crisis.

School district policies adopted pursuant to the plan must also require, prior to Baker Act initiation, that school or law enforcement personnel make a reasonable attempt to contact a mental health professional who is authorized to initiate a Baker Act, unless the student poses an imminent danger to themselves or others. Qualifying mental health professionals may be provided through a contract or interagency agreement with the managing entity; local community behavioral health providers; the mobile response team; or a school district-based mental health professional.

The bill requires school districts that issue student identification cards, beginning with the 2021-2022 school year, to include numbers for national or state crisis and suicide hotlines and text lines on any identification card issued to students in grades 6 through 12.

## **Safe Schools Tools and Resources**

### Present Situation

#### *Parental Rights*

In the Florida K-20 Education Code,<sup>59</sup> parent is defined as, "either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent."<sup>60</sup> The code enumerates various rights of parents, including the right of "[p]arents of public school students [to] receive accurate and timely information regarding their child's academic progress and [to] be informed of ways they can help their child to succeed in school."<sup>61</sup>

To inform parents and enable them to direct and control their child's education, current law specifies various parental notice requirements, requires parental consent before public schools may take certain

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<sup>55</sup> See Wis. Stat. s. 118.169 (2020); and Cal. Educ. Code s. 215.5 (2018).

<sup>56</sup> Section 1008.386(1), F.S.

<sup>57</sup> Section 1008.386(2), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> Chapters 1000–1013, F.S., are referred to as the K-20 Education Code.

<sup>60</sup> Section 1000.21(5), F.S.

<sup>61</sup> Section 1002.20, F.S.

actions, and allows parents to opt their child out of certain requirements for religious or other reasons.<sup>62</sup> Parents are entitled to notice of specified issues, including written notice prior to a student being placed in drop out prevention programs,<sup>63</sup> written notice of a school's recommendation of expulsion,<sup>64</sup> and notice and due process related to services provided to students with disabilities.<sup>65</sup>

### *Incident Reporting*

The OSS within the DOE is fully accountable to the commissioner, and serves as a 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.<sup>66</sup> The OSS responsibilities include, among other duties: collecting school environmental safety incident reporting (SESIR) data; providing a School Safety Specialist Training Program; evaluating usage of the standardized, statewide behavioral threat assessment instrument; monitoring compliance with requirements relating to school safety; and reporting incidents of noncompliance to the commissioner and the State Board of Education.<sup>67</sup>

With respect to school safety, there are a number of tracking and reporting tools managed by the DOE to which school districts are required to report incident information. The OSS monitors school district compliance with SESIR and Threat Assessment Team (TAT) utilization of the standardized behavioral assessment tool. The Florida School Safety Portal (FSSP) is available to individual TAT members with specific permissions and the OSS tracks the number of queries.<sup>68</sup> The FSSP provides a centralized repository to access student records across multiple disciplines including law enforcement and behavioral health care.<sup>69</sup>

SESIR data is collected by a DOE electronic database to which school districts report on 26 incidents of crime, violence, and disruptive behaviors that occur on school grounds.<sup>70</sup> SESIR reporting is required for all public schools.<sup>71</sup> The DOE revised the reporting rule in 2020 to direct how SESIR data must be reported at regular intervals throughout the school year.<sup>72</sup> The DOE makes the SESIR data publically available annually through publication of summary excel files on its website.<sup>73</sup>

School districts are required to provide emergency notifications for a limited list of life-threatening emergencies that take place on a K-12 public school campus.<sup>74</sup> Incidents include weapon-use, hostage, and active shooter situations, hazardous materials or toxic chemical spills, weather emergencies, and exposure as a result of manmade emergencies.<sup>75</sup> For colleges and universities, the Clery Act prescribes a broader list of violent incidents or criminal acts for which notification is required to the

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<sup>62</sup> See, e.g., s. 1002.20(3), F.S.

<sup>63</sup> Section 1002.20(2)(e), F.S.

<sup>64</sup> Section 1002.20(4)(b), F.S.

<sup>65</sup> Section 1002.20(8), F.S.

<sup>66</sup> Section 1001.212, F.S.

<sup>67</sup> *Id.*

<sup>68</sup> Florida Department of Education, *Department of Education Announces the Florida Schools Safety Portal*, (August 1, 2019), available at <http://www.fldoe.org/newsroom/latest-news/department-of-education-announces-the-florida-schools-safety-portal.stml>.

<sup>69</sup> Section 1001.212, F.S.

<sup>70</sup> Section 1006.07(9), F.S.; see Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited May 6, 2021).

<sup>71</sup> Sections 1001.212(8) and 1006.07(6), F.S.

<sup>72</sup> Rule 6A-1.0017, F.A.C. The survey periods for submission of data by school districts to the DOE are established in *Full-time Equivalent General Instructions 2020-2021*, available at <http://www.fldoe.org/core/fileparse.php/7508/urlt/2021FTEGeneralInstruct.pdf>.

<sup>73</sup> Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited May 6, 2021).

<sup>74</sup> Section 1006.07(4), F.S.

<sup>75</sup> *Id.*



“campus community.”<sup>76</sup> The acts that must be reported include criminal offenses,<sup>77</sup> hate crimes,<sup>78</sup> Violence Against Women Act offenses,<sup>79</sup> and arrests and referrals for discipline for weapons, drug, or liquor law violations.<sup>80</sup> When a crime covered by the Clery Act occurs, college and university officials are required to provide timely notification to all individuals for which the incident poses a serious or ongoing threat.<sup>81</sup> The notification can be to the entire campus or limited to a specific area determined to be at risk from the incident.<sup>82</sup>

FortifyFL is a public, mobile suspicious activity reporting tool,<sup>83</sup> which 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.<sup>84</sup> The tool is a computer and mobile phone application that is free to all public and private schools in Florida.<sup>85</sup> Any tips submitted via FortifyFL are sent to local school, district, and law enforcement officials to take action on the tip.<sup>86</sup> The identity of the reporting party received on FortifyFL is confidential and exempt from public records disclosure requirements.<sup>87</sup> As of May 2021, 13,187 tips have been submitted through FortifyFL.<sup>88</sup>

In 2020, the Legislature passed HB 23, requiring all public and charter schools to have a mobile panic alert system.<sup>89</sup> Known as Alyssa’s Law, the bill is named for Alyssa Alhadeff, a Marjory Stoneman Douglas High School student who was one of the 17 people killed during the shooting. The legislation required the DOE to procure a statewide, mobile panic alert system for school districts to facilitate an integrated E911 transmission or mobile activation during emergencies on public school campuses. As of March 2021, the DOE completed the procurement and 11 vendors were selected from which school districts may choose to satisfy this requirement.

### *Emergency Drills*

Emergency drills and procedures are guided by district school boards policies and procedures, which are formulated in consultation with the appropriate public safety agencies. These policies apply to all students and faculty at all K-12 public schools. Emergencies include fires, natural disasters, active shooter, hostage situations, and bomb threats.<sup>90</sup> 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.<sup>91</sup> The active shooter situation training for each school must engage the participation of the district school safety specialist, the TAT members, faculty, staff, and students, and must be conducted by the law enforcement agency or agencies that are designated as first responders to the school’s campus.<sup>92</sup>

### Effect of the Bill

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<sup>76</sup> Pub. L. No. 101-152, 104 Stat. 2381 (Nov. 8, 1990).

<sup>77</sup> *Id.* Criminal offenses include criminal homicide, sexual assault, robbery, burglary, motor vehicle theft, and arson.

<sup>78</sup> *Id.* Hate crimes can include any of the covered criminal offenses and larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property.

<sup>79</sup> *Id.* Violence Against Women Act offenses include domestic violence, dating violence, and stalking.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> 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> [hereinafter *School Safety Awareness Program*].

<sup>84</sup> Section 943.082(1), F.S.

<sup>85</sup> *School Safety Awareness Program*, *supra* note 83.

<sup>86</sup> *School Safety Awareness Program*, *supra* note 83.

<sup>87</sup> Section 943.082(6), F.S.

<sup>88</sup> Email, Florida Department of Education, Office of Safe Schools (May 14, 2021).

<sup>89</sup> Chapter 2020-145, L.O.F.

<sup>90</sup> Section 1006.07(4)(a), F.S.

<sup>91</sup> *Id.*

<sup>92</sup> Section 1006.07(4)(b)1., F.S.

For parents of students attending public and charter schools, the bill creates the right to timely notification of certain threats, unlawful acts, and significant emergencies as identified in Florida law and the DOE's guidance on threat assessment. The bill creates the right to access SESIR data as reported by school districts to the DOE.

School districts must formulate policies, based on DOE guidance, that identify certain threats and govern parental notification for those threats. For unlawful acts and significant emergencies, the bill requires timely notice to parents for:

- Weapons possession or use with the intent to harm another person, hostage and active assailant situations.
- Murder, homicide, or manslaughter.
- Sex offenses, including rape, sexual assault, or sexual misconduct with a student by school personnel.
- Natural emergencies, including hurricanes, tornadoes, and severe weather.
- Exposure as a result of a manmade emergency.

The bill expands required training and drills at each school from active shooter to active assailant to address instances when an assailant uses a weapon other than a firearm.

The bill authorizes district school board policies to provide accommodations for emergency drills conducted by exceptional student education centers.

## **School Safety Officers**

### Present Situation

Florida law requires district school boards and school district superintendents to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools.<sup>93</sup> A school district may implement one or more safe-school officer options to best meet the needs of the school district and charter schools.<sup>94</sup> These options include:

- Establishing a School Resource Officer (SRO) program, through a cooperative agreement with law enforcement agencies.<sup>95</sup> SROs are certified law enforcement officers<sup>96</sup> who must meet minimum screening requirements<sup>97</sup> and complete mental health crisis intervention training.<sup>98</sup>
- Commissioning one or more school safety officers (SSO). SSOs 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.<sup>99</sup>
- Participating in the Coach Aaron Feis Guardian Program.<sup>100</sup>

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<sup>93</sup> Section 1006.12, F.S. See also *Renaissance Charter Sch., Ins., v. Sch. Bd. of Palm Beach Cnty.*, Case No. 18-6195RU, (DOAH March 12, 2019).

<sup>94</sup> Section 1006.12, F.S.

<sup>95</sup> Section 1006.12(1), F.S.

<sup>96</sup> Section 943.10(1), F.S., defines "law enforcement officer" as 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.

<sup>97</sup> Section 1006.12(1)(a), F.S. SROs must undergo criminal background checks, drug testing, and a psychological evaluation.

<sup>98</sup> Section 1006.12(1)(c), F.S.

<sup>99</sup> Section 1006.12(2)(a)-(b), F.S. SSOs must undergo criminal background checks, drug testing, and a psychological evaluation.

<sup>100</sup> Section 30.15(1)(k)2., F.S. The Coach Aaron Feis Guardian Program requires an individual to complete a 144-hour training program, have a license to carry a concealed weapon or firearm, pass a psychological evaluation, pass an initial drug test and subsequent random drug tests, and successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

- Contracting with a security agency<sup>101</sup> to employ as a school security guard an individual who holds a class “D” and class “G” license,<sup>102</sup> who completes the same training required of a school guardian, and passes minimum screening requirements.<sup>103</sup>

School districts must notify the county sheriff and the OSS immediately, but no later than 72 hours after:

- a safe-school officer is dismissed for misconduct or is otherwise disciplined; or
- a safe-school officer discharges his or her firearm in the exercise of the officer’s duties, other than for training purposes.<sup>104</sup>

As of May 2021, there are a total of 4,350 safe-school officers serving Florida’s 3,636 school facilities.<sup>105</sup>

SROs are the only safe-school officers required by law to complete mental health crisis intervention training.<sup>106</sup>

### Effect of the Bill

The bill expands the crisis intervention training requirement for SROs to include SSOs who are also certified law enforcement personnel working on school grounds.

## **Zero-Tolerance and Juvenile Diversion Programs**

### Present Situation

#### *Zero-Tolerance Policies*

District school boards must promote a safe and supportive learning environment in schools by protecting students and staff from conduct that poses a threat to school safety.<sup>107</sup> District school boards must adopt a policy of zero tolerance that, among other requirements, defines acts that pose a threat to school safety, defines criteria for reporting acts to law enforcement, and includes requirements for students found to have committed certain offenses to be expelled and referred to the criminal justice or the juvenile justice system.<sup>108</sup> A school’s TAT may use alternatives to expulsion or referral to law enforcement agencies through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs, unless the use of such alternatives will pose a threat to school safety.<sup>109</sup>

Each district school board must enter into agreements with the county sheriff’s office and local police department which specify the guidelines for ensuring that acts that pose a threat to school safety are reported to a law enforcement agency.<sup>110</sup> The agreements must include the role of the SRO in handling reported incidents and procedures that require school personnel to consult with SROs concerning

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<sup>101</sup> Section 493.6101, F.S., defines “security agency” to mean 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.

<sup>102</sup> Chapter 493, F.S., specifies license requirements.

<sup>103</sup> Section 1006.12(4), F.S. A school security guard must pass a psychological evaluation and an initial drug test, and subsequent random drug tests. A school security guard must also successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis and provide documentation.

<sup>104</sup> Section 1006.12(5), F.S.

<sup>105</sup> Email, Florida Department of Education, Office of Safe Schools (May 14, 2021).

<sup>106</sup> See s. 1006.12, F.S.

<sup>107</sup> Section 1006.13(1), F.S.

<sup>108</sup> Section 1006.131(2)-(3), F.S.

<sup>109</sup> Section 1006.13(1) and (8), F.S.

<sup>110</sup> Section 1006.13(4)(a), F.S.

appropriate delinquent acts and crimes.<sup>111</sup> The school principal must notify all school personnel of their responsibility to report incidents which pose a threat to school safety and crimes to the principal, or his or her designee, and that the disposition of the incident is properly documented.<sup>112</sup>

### *Juvenile Diversion Programs*

A civil citation or similar prearrest diversion program for misdemeanor offenses must be established in each judicial circuit in the state and operated by the state attorney of each circuit.<sup>113</sup> A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program as long as the program was in operation as of October 1, 2018, reviewed by the state attorney in the circuit, and determined to be substantially similar to the civil citation or similar prearrest diversion program developed by the circuit.<sup>114</sup> Each civil citation or similar prearrest diversion program must enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.<sup>115</sup>

In 2019, the Governor issued Executive Order 19-45, providing for an immediate statewide audit of all 67 county school districts to determine any and all types of school-based discipline diversion programs in place.<sup>116</sup> The DOE and Department of Juvenile Justice worked together to complete the audit and review of diversion programs.<sup>117</sup> The audit focused on identification of programs serving youth with offenses that could be deemed delinquent.<sup>118</sup> The audit found that as of July 1, 2019, 58 of the 67 school districts in Florida do not operate school-based diversion programs for potentially delinquent offenses,<sup>119</sup> six school districts operate programs that supplement traditional handling through school-based discipline and/or referral to law enforcement,<sup>120</sup> and three school districts operate school-based diversion programs.<sup>121</sup>

### Effect of the Bill

For a student that commits a criminal offense, the student code of student adopted by a district school board must include criteria for recommending to law enforcement that the student be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to arrest or expulsion. The bill requires these programs to comply with requirements established in each judicial circuit as provided in s. 985.12, F.S.

For a student that commits a petty act of misconduct, a noncriminal offense, the student code of conduct must include criteria for assigning the student to a school-based intervention program. The bill prohibits a school-based intervention program from entering a participating student's information into the Juvenile Justice Information System Prevention Web.

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<sup>111</sup> Section 1006.13(4)(b), F.S.

<sup>112</sup> Section 1006.13(4)(c), F.S.

<sup>113</sup> Section 985.12(2)(a) and (c), F.S.

<sup>114</sup> Section 985.12(2)(c), F.S.

<sup>115</sup> Section 985.12(2)(f), F.S.

<sup>116</sup> Fla. Exec. Order 19-45 (Feb. 13, 2019).

<sup>117</sup> *Id.*

<sup>118</sup> Florida Department of Juvenile Justice, *Statewide Audit of School-Based Diversion Programs* (July 1, 2019), at 6, available at <http://www.fdle.state.fl.us/MSDHS/Meetings/2019/August/August-14-1015am-Report-on-Statewide-Assessment-DJ.aspx>.

<sup>119</sup> *Id.* at 20 The 58 districts indicated that non-criminal infractions are handled through school-based consequences such as in-school suspension or out-of-school suspension, and youth who have committed misdemeanors or felonies are referred to law enforcement, typically the school resource officer.

<sup>120</sup> *Id.* at 6 The districts indicated that delinquent offenses are referred to law enforcement for handling, and youth may also participate in the overlay program; *Id.* at 21 The six districts include Duval, Hendry, Hillsborough, Levy, Marion and Martin Counties.

<sup>121</sup> *Id.* at 22-23. The three counties include Franklin, Broward, and Sarasota. The audit found that Sarasota operates a program that could be described as an "overlay" program but the program does not enter data into the Juvenile Justice Information System Prevention Web.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill requires all safe-school officers to complete mental health crisis intervention training. Previously, only SROs were required to complete this training. The fiscal impact of this requirement is indeterminate.