

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7035 PCB ELE 21-03 School Safety

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

**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Early Learning & Elementary Education Subcommittee	18 Y, 0 N	Wolff	Brink
1) Education & Employment Committee	18 Y, 0 N, As CS	Wolff	Hassell

### SUMMARY ANALYSIS

In 2018, the Legislature enacted the “Marjory Stoneman Douglas High School Public Safety Act” to address school safety and security and establish the Marjory Stoneman Douglas High School Public Safety Commission. The bill improves transparency around school safety and security, addresses student mental health and clarifies juvenile diversion policies by:

- Requiring district school boards and charter school governing boards to adopt a plan that guides family reunification when K-12 public schools are closed or unexpectedly evacuated due to natural or manmade disasters.
- Creating a parental right in the Florida Education Code to timely notification of school safety and emergency threats and incidents and to access school safety and environmental incident reporting data.
- Revising emergency notification procedures to include certain threats and specified unlawful acts or significant emergencies.
- Requiring all safe-school officers, not just school resource officers, to complete mental health crisis intervention training.
- Adding school-related data to the annual Baker Act report issued by the Department of Children and Families.
- Strengthening school mental health coordination and implementation by authorizing school districts to enter into contracts or interagency agreements with managing entities for the provision of behavioral health services.
- Requiring the Department of Education to work with the Louis de la Parte Florida Mental Health Institute to produce an annual report on the availability and effectiveness of mental health services provided under the Mental Health Assistance Allocation.
- Clarifying what acts require a school to refer a student to law enforcement for civil citation or similar prearrest diversion program or assign a student to a school-based intervention program.

The bill reinforces the oversight and sanctioning authority of the Commissioner of Education to oversee school safety and security compliance in the state.

The fiscal impact of the bill is indeterminate. See Fiscal Comments, *infra*.

Except as otherwise provided, the bill has an effective date of July 1, 2021

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

In response to the shooting at Marjory Stoneman Douglas High School on February 14, 2018, the Florida Legislature passed SB 7026, the Marjory Stoneman Douglas High School Public Safety Act (Act).<sup>1</sup> The Act's provisions addressed school safety and security by creating the Office of Safe Schools (OSS) within the Florida Department of Education (DOE) and requiring increased coordination among state and local agencies serving students with or at-risk of mental illness, among other provisions.

The Act created the Marjory Stoneman Douglas High School Public Safety Commission (MSD Commission), composed of 16 members, to investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents and develop recommendations for system-wide improvements. The MSD Commission submitted its initial report on January 2, 2019, which contained numerous school safety and security recommendations<sup>2</sup> that the Legislature addressed in SB 7030 (2019), Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission.<sup>3</sup> The MSD Commission's second report, submitted on November 1, 2019, provided recommendations related to safe-school officers, threat assessments, juvenile diversion programs, and mental health, among other recommendations.<sup>4</sup> The MSD Commission is authorized to issue annual reports and is scheduled to sunset on July 1, 2023.<sup>5</sup>

In February 2019, Governor Ron DeSantis requested, and the Florida Supreme Court convened, a Grand Jury to study systemic school safety failures. The Grand Jury was tasked with investigating whether specific public entities failed to act or committed fraud that undermined the school safety activities the Act and subsequent legislation required.<sup>6</sup> The Grand Jury's third and most recent report, issued in December 2020, included an analysis of the state's mental health infrastructure and found that three systemic problems are impacting student mental health:<sup>7</sup> the current mental health system is underfunded leading to an inability to diagnose and properly treat mental health problems; the system is too decentralized with national, state, and local entities providing parallel and duplicative resources with little to no coordination; and the Department of Children and Families (DCF), the state agency tasked with oversight, is not currently equipped or empowered to exercise the degree of leadership and control necessary to correct problems in the system.<sup>8</sup>

#### School Safety Oversight and Compliance

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<sup>1</sup> Chapter 2018-3, L.O.F.

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

<sup>3</sup> Chapter 2019-22, L.O.F.

<sup>4</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (Nov. 1, 2020), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf>.

<sup>5</sup> Section 943.687(9), F.S.

<sup>6</sup> Ron Desantis, Governor of Florida, *Petition for Order to Impanel a Statewide Grand Jury*, (Feb. 13, 2019), available at [https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240\\_petition\\_72393\\_e83.pdf](https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_petition_72393_e83.pdf); *In re Statewide Grand Jury #20*, No. SC19-240, 2019 WL 908518 (Fla. Feb. 25, 2019), available at [https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240\\_disposition\\_145442\\_d04i.pdf](https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_disposition_145442_d04i.pdf).

<sup>7</sup> Statewide Grand Jury # 20, *Third Interim Report of the Twentieth Statewide Grand Jury*, (Dec. 10, 2020), available at [https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240\\_miscdoc\\_365089\\_e20.pdf](https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_miscdoc_365089_e20.pdf).

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

## Present Situation

Florida's Commissioner of Education is required by law to oversee compliance with the safety and security requirements of the Act by school districts, district school superintendents, and public schools, including charter schools.<sup>9</sup> The commissioner must facilitate compliance to the maximum extent provided under law, identify incidents of noncompliance, and impose or recommend enforcement and sanctioning actions to the State Board of Education (SBE), the Governor, or the Legislature.<sup>10</sup>

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>11</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 SBE.<sup>12</sup>

District school boards and superintendents each have responsibilities related to school safety and security. District school superintendents must designate a school safety specialist for the district who is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district, including conducting and reporting the recommendations from the annual school security risk assessment at each public school using the Florida Safe Schools Assessment Tool (FSSAT).<sup>13</sup> District school boards must adopt policies that guide many aspects of school safety including the establishment of threat assessment teams (TAT) and emergency procedures and emergency preparation drills. The TATs assess and provide intervention recommendations for individuals whose behavior may pose a threat to the safety of school staff or students.<sup>14</sup> The TAT members must include individuals with expertise in counseling, instruction, school administration, and law enforcement.<sup>15</sup> To conduct its work, a TAT must use the standardized, statewide behavioral threat assessment instrument developed by the OSS<sup>16</sup> and may use the Florida Schools Safety Portal (FSSP).<sup>17</sup>

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 and hostage situations, and bomb threats.<sup>18</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>19</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>20</sup>

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<sup>9</sup> Section 1001.11(9), F.S.

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

<sup>11</sup> Section 1001.212, F.S.

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

<sup>13</sup> *Id.*

<sup>14</sup> Section 1006.07(7), F.S. The OSS is required to develop model policies for the operation of threat assessment teams. *Id.* See Florida Department of Education, *Model Behavioral Threat Assessment Policies and Best Practices for K-12 Schools*, available at <http://www.fldoe.org/core/fileparse.php/18612/urlt/threat-assessment-model-policies.pdf>.

<sup>15</sup> Section 1006.07(7)(a), F.S.

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

<sup>17</sup> Section 1006.07(7)(f), F.S.; See also Florida Department of Education, *Department of Education Announces the Florida Schools Safety Portal* (Aug. 1, 2019), available at <http://www.fldoe.org/newsroom/latest-news/department-of-education-announces-the-florida-schools-safety-portal.stml>.

<sup>18</sup> Section 1006.07(4)(a), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Section 1006.07(4)(b)1., F.S.

In 2020, the Legislature passed HB 23, requiring all public and charter schools to have a mobile panic alert system.<sup>21</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.

### Effect of Proposed Changes

The bill expands the membership of the MSD Commission by three for a total of 19 members with the Governor, the President of the Senate, and the Speaker of the House of Representatives each appointing one of the three new members. To the maximum extent possible, the bill provides that the MSD Commission should have equal representation of school district, law enforcement, behavioral health care professionals, and parents.

The bill clarifies the commissioner’s existing authority to oversee compliance with requirements relating to school safety and security by school districts, district school superintendents, and public schools, including charter schools. Upon notification from OSS that a district school board has failed to comply with requirements relating to school safety and security, the commissioner must require the district school board to withhold further payment of the superintendent’s salary. Upon notification from OSS that a charter school has failed to comply with requirements relating to school safety, the commissioner must facilitate compliance by recommending corrective actions to the district school board. Additionally, when a school district is noncompliant with school safety requirements, the bill authorizes the SBE to direct the school district to suspend the salaries of the superintendent, and if the superintendent is appointed, the district school board members, until the noncompliance is remedied.

The bill requires the OSS to provide ongoing professional development opportunities to both school district and charter school personnel.

The bill authorizes district school board policies to provide accommodations for emergency drills conducted by Exceptional Student Education centers.

The bill requires active assailant drills, emergency notification and training as a part of school district duties for school safety.

The bill requires that all members of a TAT be involved in the threat assessment process and final decision regarding individual whose behavior may pose a threat to school safety. The bill provides that the members of a TAT should reflect the demographic makeup of the students at the school

## **Safe Schools Tools and Resources**

### Present Situation

In the Florida K-20 Education Code,<sup>22</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>23</sup> According to s. 1002.20, F.S., the K-12 Student and Parents Rights section of Florida law, “[p]arents of public school students must receive accurate and timely information regarding their child’s academic progress and must be informed of ways they can help their child to succeed in school.”<sup>24</sup> In furtherance, the code includes numerous statutory rights of students and their parents. Among other rights, the code establishes that parents

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<sup>21</sup> Chapter 2020-145, L.O.F.

<sup>22</sup> Chapters 1000–1013, F.S., are referred to as the K-20 Education Code.

<sup>23</sup> Section 1000.21(5), F.S.

<sup>24</sup> Section 1002.20, F.S.

have the right to seek education school choice options including charter schools, private schools that accept students who participate in a state scholarship program, and home education programs.<sup>25</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 actions, and allows parents to opt their child out of certain requirements for religious or other reasons.<sup>26</sup> Students and their parents must be notified regarding student promotion policies, including policies for whole grade and mid-year promotion, third grade retention, and remediating academic deficiencies.<sup>27</sup>

Florida law does not require school districts to adopt a family reunification plan as part of emergency preparedness policies and procedures. The MSD Commission identified the lack of a cohesive family reunification plan as a significant factor that exacerbated the trauma of the shooting and subsequent loss of life. The MSD Commission recommended that every school district adopt a plan that,<sup>28</sup> at a minimum, addresses the identification of potential reunification sites, training for employees, multiple methods to effectively communicate with family members of students and staff, and methods to aid law enforcement in student and staff identification.<sup>29</sup>

### *Incident Reporting*

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 school safety and environmental incident reporting (SESIR) and TAT utilization of the standardized behavioral assessment tool. The FSSP is available to individual TAT members with specific permissions and the OSS tracks the number of queries.<sup>30</sup> The FSSP provides a centralized repository to access student records across multiple disciplines including law enforcement and behavioral health care.<sup>31</sup>

Pursuant to s. 1006.07(9), F.S., SESIR data is collated 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>32</sup> SESIR reporting is required for all public schools.<sup>33</sup> Each district school board must adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline and the district school superintendent is responsible for the reporting of these incidents in SESIR.<sup>34</sup> The DOE revised the reporting rule in 2020 to direct how incidents are reported at regular intervals throughout the school year.<sup>35</sup> Superintendents must annually certify that the school district is in compliance with state board rule. Failure to report SESIR data by the survey deadlines can result in forfeiture of the superintendent's salary until the reporting is completed.<sup>36</sup> The DOE makes the data available annually through publication of summary excel files on its website.<sup>37</sup> The SESIR data is

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<sup>25</sup> Section 1002.20(6), F.S.

<sup>26</sup> See, e.g., s. 1002.20(3), F.S.

<sup>27</sup> Section 1008.25(2), (4), (5), and (7), F.S.

<sup>28</sup> Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (Nov. 1, 2020), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf>.

<sup>29</sup> *Id.*

<sup>30</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>31</sup> Section 1001.212, F.S.

<sup>32</sup> Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited April 2, 2021).

<sup>33</sup> Sections 1001.212(8) and 1006.07(6), F.S.

<sup>34</sup> Section 1006.07(9), F.S.

<sup>35</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>36</sup> Rule 6A-1.0017, F.A.C.

<sup>37</sup> Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited April 2, 2021).

separate from other DOE databases that provide public visibility into school accountability and performance metrics.<sup>38</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>39</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>40</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 “campus community.”<sup>41</sup> The acts that must be reported include criminal offenses,<sup>42</sup> hate crimes,<sup>43</sup> Violence Against Women Act offenses,<sup>44</sup> and arrests and referrals for discipline for weapons, drug, or liquor law violations.<sup>45</sup>

FortifyFL is a mobile suspicious activity reporting tool, launched on October 8, 2018,<sup>46</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>47</sup> The tool is a computer and mobile phone application that is free to all public and private schools in Florida.<sup>48</sup> A district school board and charter school must promote the use of FortifyFL by advertising it on school campuses and in school publications, by installing it on all mobile devices issued to students, and by bookmarking the website on all computer devices issued to students.<sup>49</sup>

Any tips submitted via FortifyFL are sent to local school, district, and law enforcement officials to take action on the tip.<sup>50</sup> The identity of the reporting party received on FortifyFL is confidential and exempt from public records disclosure requirements.<sup>51</sup> As of March 2021, 12,244 tips have been submitted through FortifyFL.<sup>52</sup>

## Effect of Proposed Changes

### *Family Reunification Plans*

The bill requires the OSS to develop, in coordination with the Division of Emergency Management, other federal, state, and local law enforcement agencies, fire and rescue agencies, first-responder agencies, and local governments, a model family reunification plan for use by child care facilities, public K-12 schools, and public postsecondary institutions, which are closed or unexpectedly evacuated due to natural or manmade disasters. Each district school board and charter school governing board must adopt a family reunification plan in coordination with local law enforcement agencies and local governments. Through its annual FSSAT review, the OSS is required to confirm each school district’s adoption of a plan.

### *Incident Notification*

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<sup>38</sup> See Florida Department of Education, *Information Portal*, <https://edstats.fldoe.org/> (last visited April 2, 2021); and Florida Department of Education, *Know Your Schools*, <https://edudata.fldoe.org/> (last visited April 2, 2021).

<sup>39</sup> Section 1006.07(4), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Pub. L. No. 101-152, 104 Stat. 2381 (Nov. 8, 1990).

<sup>42</sup> *Id.* Criminal offenses include criminal homicide, sexual assault, robbery, burglary, motor vehicle theft, and arson.

<sup>43</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>44</sup> *Id.* Violence Against Women Act offenses include domestic violence, dating violence, and stalking.

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

<sup>46</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>47</sup> Section 943.082(1), F.S.

<sup>48</sup> *School Safety Awareness Program*, *supra* note 45.

<sup>49</sup> Sections 943.082(4)(b) and 1002.33(16)(b)13., F.S.

<sup>50</sup> *School Safety Awareness Program*, *supra* note 45.

<sup>51</sup> Section 943.082(6), F.S.

<sup>52</sup> Email, Florida Department of Education, Office of Safe Schools (March 10, 2021).

For parents of public school students, the bill adds to s. 1002.20, F.S., the right to timely notification of school safety and emergency incidents, including certain threats, unlawful acts, and significant emergencies, and the right to access SESIR data as reported by school districts to the DOE.

The bill requires timely notice to parents of the following unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities:

- Weapons possession or use, hostage and active assailant situations.
- Murder, homicide, or manslaughter.
- Sex offenses, including rape, sexual assault, or sexual misconduct with a student by school personnel.
- Aggravated assault or battery, as defined in statute.
- Natural emergencies, including hurricanes, tornadoes, and severe weather.
- Exposure as a result of a manmade emergency.

The bill also requires school districts to adopt policies, consistent with the OSS's model policies and best practices, for parental notification for certain threats as identified by a school's threat assessment team. When permitted by law to disseminate such information, the notification must include resolution and actions taken.

The bill requires the DOE to annually publish the most recently available SESIR data, along with other school accountability and performance data, in a uniform, statewide format that is easy to read and understand.

Beginning October 1, 2021, the bill requires FortifyFL to notify individuals that the IP address of the device on which a false tip is submitted will be provided to law enforcement agencies for further investigation. If an investigation reveals that an individual knowingly submitted a false tip, they may be subject to criminal penalties for a false report. In all other circumstances, unless the individual reporting a tip has chosen to disclose his or her identity, the report must remain anonymous.

## **Student Mental Health**

### Present Situation

#### *Mental Health Assistance Allocation*

The Act created the Mental Health Assistance Allocation within the Florida Education Finance Program.<sup>53</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 connecting children, youth, and families who may experience behavior health issues with appropriate services.<sup>54</sup> For the 2020-2021 school year, \$100 million was appropriated for the allocation,<sup>55</sup> with each school district receiving a minimum of \$100,000 with 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>56</sup> Eligible charter schools are entitled to a proportionate share of the school district's allocation.<sup>57</sup>

School districts are prohibited from using the funds allocated under this section to supplant funds from other operating funds used for the provision of mental health services. These funds may not be used for salary increases or bonuses.<sup>58</sup>

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<sup>53</sup> Section 1011.62(16), F.S.

<sup>54</sup> *Id.*

<sup>55</sup> Specific Appropriation 8 and 92, s. 2, ch. 2020-111, L.O.F.

<sup>56</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>57</sup> Section 1011.62(16), F.S.

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

In order to receive allocation 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>59</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>60</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>61</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 which 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>62</sup>

School districts are also required to report program outcomes and expenditures annually for the previous fiscal year by September 30.<sup>63</sup> The report must, at a minimum, provide the number of each of the following:<sup>64</sup>

- Students who receive screenings or assessments.
- Students who are referred to either school-based or community-based providers for services.
- Students who receive either school-based or community based interventions.
- School-based or community-based mental health providers that were paid out of the mental health assistance allocation.
- Contract-based collaboration efforts or partnerships with community mental health programs.

### Effect of Proposed Changes

The bill revises requirements for a school district's annual allocation plan to add the managing entities, as defined in s. 394.9082, F.S., as an entity with whom school districts may contract or execute an interagency agreement to provide behavioral health services or staff at district schools.

School district plans must also include policies and procedures that ensure access to mental health services and resources for specific persons. The bill requires:

- Safe-school officers to use mental health crisis intervention and de-escalations skills learned through mandatory training.
- School districts to provide a parent of a student receiving services information about available behavioral health services through the school or local community-based behavioral health

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<sup>59</sup> Section 1011.62(16)(a)1.-2., F.S.

<sup>60</sup> *Id.*

<sup>61</sup> Section 1011.61(16)(b), F.S.

<sup>62</sup> Section 1011.62(16)(b)1.-3., F.S.

<sup>63</sup> Section 1011.62(16)(c)-(d), F.S.

<sup>64</sup> Section 1011.62(16)(d), F.S.



providers. To meet this requirement, a school may provide Internet addresses of online directories or guides for local behavioral health services.

- School districts to provide individuals living in the same household as a student receiving services under this section information about behavioral health services available through other delivery systems or payors for which he or she may qualify, if such services appear to be needed or enhancements in those individuals' behavioral health would contribute to the improved well-being of the student.

The bill expands the data school districts must include in the program outcome and expenditures annual report to include the number of students receiving assessments from mobile response teams and the number of involuntary examinations initiated on school grounds, school transportation, or from school-sponsored activities, by grade, and whether the student's parent was notified. The bill requires the OSS to share all of the program and outcome expenditures data it receives through these reports with the Louis de la Parte Florida Mental Health Institute.

## Present Situation

### *Mental Health Data Reporting & Analysis*

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>65</sup> School personnel are not among those authorized to initiate a Baker Act, unless they are one of the professional certificate holders identified in law, such as certain nurses, mental health counselors or social workers.<sup>66</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>67</sup> When the determination is made in the affirmative, then law enforcement removes the student from campus and provides transport to a receiving facility.

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>68</sup> This information is recorded on a standardized form and reported to the DCF.<sup>69</sup> The DCF contracts with the Louis de la Parte Florida Mental Health Institute at the University of South Florida (Institute) to perform the data analysis and provide an annual report using, among other things, the information provided on the forms.<sup>70</sup> The Institute also analyzes other information relating to mental health and acts as a provider of crisis services to certain patients.<sup>71</sup> Among other sources of information and data, current law requires the OSS to provide data to the Institute to support the evaluation of mental health services in the state.<sup>72</sup>

In addition to the annual report, the Legislature required the DCF to investigate the number of Baker Acts of minors and provide recommendations for process improvement. In 2017, a DCF task force issued a report concluding that specific causes of increases in Baker Acts of minors are unknown.<sup>73</sup> Possible factors cited in the task force report include an increase in mental health concerns, social stressors, and a lack of availability of mental health services.<sup>74</sup>

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<sup>65</sup> Section 394.463, F.S.

<sup>66</sup> Section 394.463(2)(a), F.S.

<sup>67</sup> Section 394.463(2)(a)2., F.S.

<sup>68</sup> Rule 65E-5.280, F.A.C.

<sup>69</sup> Rule 65E-5.120, F.A.C.

<sup>70</sup> University of South Florida, Baker Act Reporting Center, *About Us*, <https://www.usf.edu/cbcs/baker-act/about/index.aspx> (last visited April 2, 2021).

<sup>71</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 April 2, 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 April 2, 2021).

<sup>72</sup> Section 1001.212(7), F.S.

<sup>73</sup> Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), p. 21, <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf> [hereinafter *Task Force Report*].

<sup>74</sup> *Id.*

As a follow up to the 2017 task force report, in 2019, the Legislature required the DCF to publish a report every other year to examine the initiation of Baker Acts for minors. The initial report published pursuant to this requirement found that of the 36,078 Baker Acts of minors in FY 2017-2018,<sup>75</sup> only 20 percent were initiated while the child was in a school setting.<sup>76</sup> Of the number of all Baker Acts in that year, minors represented only 18 percent of the total.<sup>77</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>78</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>79</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>80</sup>

### Effect of Proposed Changes

The bill requires the DCF to include school-specific data in its annual Baker Act report. For K-12 public school students, the report must identify the number of children who were on school grounds, school transportation, or a school-sponsored activity when Baker Act was initiated. For professionals who are authorized to initiate such examinations, the report must include the number and type of professionals as well as whether they were school-based or community-based.

The bill requires the DOE, in consultation with the Institute, to analyze the availability and effectiveness of mental health services provided by school districts under the Mental Health Assistance Allocation. The report is due by December 1 each year.

## **Safe-School 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>81</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>82</sup> These options include:

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<sup>75</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>76</sup> *Id.* at 14.

<sup>77</sup> *See Task Force Report*, *supra* note 72 at 21.

<sup>78</sup> *Id.* at 25.

<sup>79</sup> *Id.* at 21-22.

<sup>80</sup> *Id.* at 24.

<sup>81</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>82</sup> Section 1006.12, F.S.

- Establishing a school resource officer (SRO) program, through a cooperative agreement with law enforcement agencies.<sup>83</sup> SROs are certified law enforcement officers<sup>84</sup> who must meet minimum screening requirements<sup>85</sup> and complete mental health crisis intervention training.<sup>86</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>87</sup>
- Participating in the Coach Aaron Feis Guardian Program.<sup>88</sup>
- Contracting with a security agency<sup>89</sup> to employ as a school security guard an individual who holds a class “D” and class “G” license,<sup>90</sup> who completes the same training required of a school guardian, and passes minimum screening requirements.<sup>91</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>92</sup>

As of March 2021, there are a total of 4,350 safe-school officers serving Florida’s 3,636 school facilities.<sup>93</sup>

SROs are the only safe-school officers required by law to complete mental health crisis intervention training.<sup>94</sup>

### Effect of Proposed Changes

The bill requires all safe-school officers, not just SROs, to complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in the topic. The training must improve the safe-school officers’ knowledge and skills as a first responder to incidents involving students with emotional disturbance or mental illness, to include de-escalation skills.

The bill provides that an SSO has the power of arrest on district school board property or on property owned or leased by a charter school under the charter contract, as applicable. The bill requires school districts to provide a SRO or school safety officer to a charter school when: the charter school is unable to provide one of its own under the same terms and conditions as the school district; or if the charter school’s personnel are unable to complete the Coach Aaron Feis Guardian Program training in time to comply with the law.

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<sup>83</sup> Section 1006.12(1), F.S.

<sup>84</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>85</sup> Section 1006.12(1)(a), F.S. SROs must undergo criminal background checks, drug testing, and a psychological evaluation.

<sup>86</sup> Section 1006.12(1)(c), F.S.

<sup>87</sup> Section 1006.12(2)(a)-(b), F.S. SSOs must undergo criminal background checks, drug testing, and a psychological evaluation.

<sup>88</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.

<sup>89</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>90</sup> Chapter 493, F.S., specifies license requirements.

<sup>91</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>92</sup> Section 1006.12(5), F.S.

<sup>93</sup> Email, Florida Department of Education, Office of Safe Schools (March 10, 2021)

<sup>94</sup> See s. 1006.12, F.S.

The bill maintains a school district's flexibility to meet the safe-school officer requirements in law; however, the bill clarifies that any training required for the Coach Aaron Feis Guardian Program must be conducted by a sheriff. The bill clarifies that an individual must satisfy the background screening, psychological evaluation, and drug test requirements and be approved by the sheriff before participating in any training under the Coach Aaron Feis Guardian Program. The bill authorizes a sheriff to designate licensed professionals who may conduct the required psychological evaluation for those individuals seeking certification as a school guardian.

The bill specifies that a district school superintendent or charter school administrator, rather than the school district, generally, must notify the county sheriff and the OSS immediately, but not later than 72 hours after, a safe-school officer has been involved in specified incidents.

## **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>95</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 juvenile justice system.<sup>96</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>97</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>98</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 appropriate delinquent acts and crimes.<sup>99</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>100</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>101</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>102</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>103</sup>

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<sup>95</sup> Section 1006.13(1), F.S.

<sup>96</sup> Section 1006.131(2)-(3), F.S.

<sup>97</sup> Section 1006.13(1) and (8), F.S.

<sup>98</sup> Section 1006.13(4)(a), F.S.

<sup>99</sup> Section 1006.13(4)(b), F.S.

<sup>100</sup> Section 1006.13(4)(c), F.S.

<sup>101</sup> Section 985.12(2)(a) and (c), F.S.

<sup>102</sup> Section 985.12(2)(c), F.S.

<sup>103</sup> Section 985.12(2)(f), F.S.

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>104</sup> The DOE and Department of Juvenile Justice worked together to complete the audit and review of diversion programs.<sup>105</sup> The audit focused on identification of programs serving youth with offenses that could be deemed delinquent.<sup>106</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>107</sup> six school districts operate programs that supplement traditional handling through school-based discipline and/or referral to law enforcement,<sup>108</sup> and three school districts operate school-based diversion programs.<sup>109</sup>

### Effect of Proposed Changes

The bill requires that beginning in FY 2022-2023, law enforcement officers must have field access to civil citation and prearrest diversion information.

The bill provides that the code of student conduct adopted by a district school board include criteria for recommending to law enforcement a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to arrest or expulsion. The bill requires all civil citation or similar prearrest diversion programs used by a school district to comply with the civil citation or similar prearrest diversion programs established in each judicial circuit in the state as provided in s. 985.12, F.S. The bill also requires the student code of conduct to include criteria for assigning a student who commits a petty act of misconduct 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, when the assignment is based on a non-criminal offense.

#### B. SECTION DIRECTORY:

- Section 1.** Amends s. 394.463, F.S., requiring the Department of Children and Families to analyze specified data relating to the initiation of involuntary examinations of certain students.
- Section 2.** Amends s. 943.082, F.S., requiring the FortifyFL reporting tool to notify reporting parties that submitting false information may subject them to criminal penalties; providing that certain reports shall remain anonymous.
- Section 3.** Amends s. 943.687, F.S., revising the membership of the Marjory Stoneman Douglas High School Public Safety Commission.
- Section 4.** Amends s. 985.12, F.S., requiring law enforcement officers to have access to specified information by a certain date for specified purposes.
- Section 5.** Amends s. 1001.11, F.S., requiring the Commissioner of Education to oversee compliance with requirements relating to school safety and security; requiring the commissioner to take specified actions under certain circumstances relating to noncompliance.

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<sup>104</sup> Fla. Exec. Order 19-45 (Feb. 13, 2019).

<sup>105</sup> *Id.*

<sup>106</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>107</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>108</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>109</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.

- Section 6.** Amends s. 1001.212, F.S., requiring the Office of Safe Schools to provide certain opportunities to charter school personnel and certain data to support the evaluation of mental health services; requiring such office to develop a model family reunification plan for certain purposes.
- Section 7.** Amends s. 1002.20, F.S., providing that parents of public school students have the right to timely notification of certain incidents and access to certain incident reports.
- Section 8.** Amends s. 1006.07, F.S., requiring codes of student conduct to include provisions relating to civil citation or similar prearrest diversion programs for specified purposes; requiring codes of student conduct to include provisions relating to the assignment of students to school-based intervention programs; prohibiting participation in such programs from being entered into a specified system; authorizing certain procedures to include accommodations for specified drills; requiring district school boards to establish a certain emergency response and emergency preparedness policy and provide timely notification to parents following certain incidents; requiring district school boards and charter school governing boards, in coordination with local law enforcement agencies, to adopt a family reunification plan for specified purposes; providing requirements for members of a threat assessment team; requiring the Department of Education to include certain data in a specified format.
- Section 9.** Amends s. 1006.12, F.S., revising provisions relating to the duties of school safety officers; requiring the district school superintendent or charter school administrator to provide certain notifications relating to safe-school officers; requiring safe-school officers to complete a specified training; providing requirements for such training; requiring individuals to meet certain criteria before participating in specified training; providing requirements for such training; requiring school districts to provide charter schools with specified safe-school officers under additional circumstances.
- Section 10.** Amends s. 1006.1493, F.S., requiring the Florida Safe Schools Assessment Tool to address policies and procedures relating to certain emergencies.
- Section 11.** Amends s. 1008.32, F.S., authorizing the state board to direct a school district to suspend the salaries of specified individuals under certain circumstances relating to school safety.
- Section 12.** Amends s. 1011.62, F.S., revising the mental health assistance allocation plans to include certain policies and procedures relating to certain behavioral health services available to students; requiring the department to publish on its website, in consultation with the Louis de la Parte Florida Mental Health Institute, a report on the availability and effectiveness of mental health services by a specified date, annually.
- Section 13.** Providing effective dates.

## 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 just SROs were required to complete this training. The fiscal impact of this requirement is indeterminate.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 6, 2021, the Education & Employment Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that health care professionals appointed to the MSD Commission should practice in the area of behavioral health and includes parents as one of the stakeholder groups who should have equal representation among the MSD Commission membership.
- Clarifies that assignment to school-based intervention programs for non-criminal offenses may not be entered into the Juvenile Justice Information System Prevention Web.
- Requires TATs to provide parental notification for certain threats consistent with the best practices of the OSS's Model Behavioral Threat Policies and Best Practices for K-12 Schools.
- Replaces the term "active shooter" with "active assailant" to expand emergency notification and staff and student training for situations in which the perpetrator may use a weapon other than a firearm.
- Requires the OSS and school districts to coordinate with local governments in the creation of the model family reunification plan and each district's adoption of such a plan respectively.
- Requires the composition of TATs reflect the demographic makeup of students at the school.

This analysis is drafted to the committee substitute as approved by the Education & Employment Committee.