

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 543 Concealed Carry of Weapons and Firearms Without a License

SPONSOR(S): Judiciary Committee, Brannan and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	10 Y, 5 N	Padgett	Williamson
2) Judiciary Committee	16 Y, 7 N, As CS	Padgett	Kramer

SUMMARY ANALYSIS

With specified exemptions, a person is prohibited from carrying a concealed weapon or concealed firearm (CWCF) on or about his or her person unless he or she has a valid license to carry a concealed weapon (CWL). Carrying a concealed weapon without a CWL is a first degree misdemeanor. Carrying a concealed firearm without a CWL is a third degree felony.

CS/HB 543 amends s. 790.01, F.S., to authorize a person to carry a CWCF if he or she has a valid CWL, or does not have a CWL, but otherwise satisfies the criteria for receiving and maintaining a CWL, except that such person is not required to demonstrate competency with a firearm or affirmatively state that he or she desires a legal means to carry a CWCF for lawful self-defense.

The bill creates s. 790.013, F.S., to require a person who carries a CWCF without a CWL to:

- Carry valid identification at all times when he or she is in actual possession of a CWCF and display such identification upon demand by a law enforcement officer, a violation of which is punishable as a noncriminal violation and a \$25 fine; and
- Obey the prohibition against carrying a CWCF in certain locations where a person with a CWL is not currently authorized to carry a CWCF, a violation of which is punishable as a second degree misdemeanor.

The bill amends s. 790.06, F.S., to require a CWL holder, like a person authorized to carry a CWCF without a license under the bill, to carry only a valid identification while in actual possession of a CWCF. The bill leaves the remainder of the CWL licensing scheme in place to allow a person who chooses to obtain a CWL to continue to receive the benefits of licensure, such as the ability to carry a CWCF in another state through reciprocity agreements or to receive an exemption from the required three day waiting period between the purchase and delivery of a firearm.

The bill amends ss. 790.015, 790.053, 790.115, 790.25, and 790.251, F.S., to extend the benefits granted to a CWL holder to a person who is authorized to carry a CWCF without a CWL under the bill.

The bill continues Florida's work of improving school safety and security by:

- Amending s. 1001.212, F.S., to:
 - Require the Department of Education (DOE) to implement new behavioral threat management operational processes, a threat assessment instrument, and a threat management portal; and
 - Update the membership and responsibilities of school district and charter school threat assessment teams, and rename such teams threat management teams to align with new threat management processes.
- Amending s. 1002.42, F.S., to authorize private schools to implement safe-school officers.
- Requiring the DOE to adopt emergency rules establishing which School Environmental Safety Incident Reporting incidents require referral to law enforcement.

The bill further strengthens the safety and security of Florida schools by:

- Creating s. 1006.121, F.S., to establish the Florida Safe Schools Canine Program; and
- Creating s. 943.6873, F.S., to require all law enforcement agencies to adopt a written active assailant response policy.

Any government entity that receives a fee for processing a CWL application or renewal may have decreased revenues since the bill authorizes a person to carry a CWF without a license. The bill includes appropriations, totaling \$11,677,846, to fund the programs and initiatives established by the bill along with \$42 million for school hardening grants.

The bill provides an effective date of July 1, 2023, except as otherwise provided.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Carrying a Concealed Weapon or Concealed Firearm Without a License

Background

Possession and Use of Weapons and Firearms Generally

The Florida Constitution guarantees “the right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state...except that the manner of bearing arms may be regulated by law.”¹ Generally, a person does not need a license to possess or use a firearm² in Florida. Section 790.25(3), F.S., authorizes the following persons to own, possess, openly carry, and lawfully use firearms and other weapons in specified circumstances, including:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under article X, section 2 of the Florida Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;
- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;
- A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;

¹ Art. I, s. 8(a), Fla. Const.

² A “firearm” means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime. S. 790.001(6), F.S.

- A person possessing arms at his or her home or place of business;
- Investigators employed by a public defender or capital collateral regional counsel, while carrying out official duties, provided such investigators meet specified criteria;
- A tactical medical professional³ who is actively operating in direct support of a tactical operation by a law enforcement agency, provided such tactical medical professionals meet specified criteria.

Section 790.25(5), F.S., also authorizes a person who is at least 18 years old to possess a concealed firearm⁴ or other weapon⁵ without a license within the interior of a private conveyance if such concealed firearm or other weapon is securely encased⁶ or is otherwise not readily accessible for immediate use.⁷ This authorization does not permit an unlicensed person to carry a concealed firearm or other weapon on his or her person.⁸

Concealed Carry of Weapons and Firearms

With specified exemptions,⁹ a person is prohibited from carrying a concealed weapon¹⁰ or concealed firearm on or about his or her person unless he or she has a valid license to carry a concealed weapon (CWL) issued by the Department of Agriculture and Consumer Services (DACS).¹¹ Carrying a concealed weapon without a CWL is a first degree misdemeanor.¹² Carrying a concealed firearm without a CWL is a third degree felony.¹³

Concealed Weapon or Concealed Firearm License

Section 790.06(2), F.S., requires DACS to issue a CWL to any applicant that meets specified criteria. For purposes of s. 790.06, F.S., the term “concealed weapons or concealed firearms” means a handgun, electronic weapon or device, tear gas gun, knife, or billie. The term does not include a machine gun as defined in s. 790.001(9), F.S.¹⁴ DACS must issue a CWL to an applicant if he or she:

- Is a resident and a citizen of the United States or a permanent resident alien of the United States, or is an eligible consular security official;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm because of a felony conviction;
- Has not been committed under ch. 397, F.S., for abusing a controlled substance;
- Has not been found guilty of a crime relating to a controlled substance within a three-year period immediately preceding the application date;

³ A “tactical medical professional” means a paramedic, as defined in s. 401.23, F.S., a physician, as defined in s. 458.305, F.S., or an osteopathic physician, as defined in s. 459.003, F.S., who is appointed to provide direct support to a tactical law enforcement unit by providing medical services at high-risk incidents, including, but not limited to, hostage incidents, narcotics raids, hazardous surveillance, sniper incidents, armed suicidal persons, barricaded suspects, high-risk felony warrant service, fugitives refusing to surrender, and active shooter incidents. S. 790.25(3)(q)5., F.S.

⁴ A “concealed firearm” means any firearm which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person. S. 790.001(2), F.S.

⁵ “Weapon” means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife. S. 790.001(13), F.S.

⁶ “Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access. S. 790.001(17), F.S.

⁷ “Readily accessible for immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person. S. 790.001(16), F.S.

⁸ S. 790.25(5), F.S.

⁹ Persons exempted from the prohibition against carrying a concealed weapon or concealed firearm in s. 790.01, F.S., include a law enforcement officer; correctional officer; correctional probation officer; a person who carries a concealed weapon or concealed firearm on or about his or her person while in the act of evacuating during a mandatory evacuation order issued by the Governor under ch. 252, F.S.; or a person who carries concealed a self-defense chemical spray or nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes. Ss. 790.01(3), 790.051, and 790.06(5)(b), F.S.

¹⁰ A “concealed weapon” means any dirk, metallic knuckles, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. S. 790.001(3)(a), F.S.

¹¹ S. 790.01, F.S.

¹² S. 790.01(1), F.S. A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Ss. 775.082 and 775.083, F.S.

¹³ S. 790.01(2), F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082 and 775.083, F.S.

¹⁴ S. 790.06(1), F.S.

- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency with a firearm;¹⁵
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution under ch. 394, F.S.;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not been issued an injunction that is currently in force and effect restraining the applicant from committing acts of domestic violence or acts of repeat violence;
- Is not prohibited from purchasing or possessing a firearm by any other provision of law;¹⁶ or
- Has not had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor,¹⁷ unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.¹⁸

Section 790.06(3), F.S., requires DACS to suspend a CWL or the processing of a CWL application if the CWL holder or applicant is:

- Arrested or formally charged with a crime that would disqualify such person from having a license under s. 790.06, F.S., until final disposition of the case; or
- Issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.

Section 790.06(10), F.S., requires DACS to suspend or revoke a CWL if a CWL holder:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S.;
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make him or her ineligible to possess a firearm under s. 790.23, F.S.;
- Is found guilty of a crime under ch. 893, F.S., or similar laws of any other state, relating to controlled substances;

¹⁵ A person may demonstrate competency with a firearm by:

- Completing any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;
- Completing any National Rifle Association firearms safety or training course;
- Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school, using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services;
- Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement;
- Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
- Being licensed or having been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or
- Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor. S. 790.06(2)(h), F.S.

¹⁶ S. 790.06(2), F.S. As of Dec. 31, 2022, there are 2,611,646 active CWLs issued by DACS. Florida Department of Agriculture and Consumer Services, *Number of Licensees by Type*, https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Feb. 21, 2023).

¹⁷ A misdemeanor crime of violence includes any misdemeanor conviction involving the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. Crimes of violence constituting a misdemeanor may include but are not limited to, assault, battery, stalking, or an attempt or conspiracy to commit any of the foregoing offenses. Department of Agriculture and Consumer Services, *Misdemeanor Crime of Violence, Not Including Domestic Violence*, <https://www.fdacs.gov/Consumer-Resources/Consumer-Rights-and-Responsibilities/Concealed-Weapon-License/Applying-for-a-Concealed-Weapon-License/Eligibility-Requirements/Disqualifying-Conditions/Misdemeanor-Crime-of-Violence-Not-Including-Domestic-Violence> (Feb. 21, 2023).

¹⁸ S. 790.06(3), F.S.

- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within three years after a first conviction of such section or similar law of another state, even though the first violation may have occurred before the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state;
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state; or
- Has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding three years.¹⁹

A CWL is valid for seven years from the date of issuance and subject to a nonrefundable fee of \$55 for a new CWL and \$45 for a CWL renewal.²⁰ A new applicant must also submit a set of fingerprints for processing by the Florida Department of Law Enforcement (FDLE) with his or her application, subject to a processing fee of \$42.²¹ A county tax collector that has been appointed by DACS to accept CWL applications may also charge a \$22 convenience fee for new applications and \$12 for renewal applications.²² DACS must make a decision on whether to issue or deny a CWL within 90 days from the date of receipt of all required application materials.²³ The average time for DACS to process a CWL application is approximately 50 to 55 days.²⁴

A CWL holder must carry his or her CWL, as well as valid identification, at all times when he or she is in actual possession of a concealed weapon or concealed firearm and must display the CWL and identification upon demand by a law enforcement officer.²⁵ Failure to comply with this requirement is a noncriminal violation,²⁶ punishable by a \$25 fine.²⁷

A CWL does not authorize a person to carry a concealed weapon or concealed firearm in all locations. A CWL does not authorize a person to carry a concealed weapon or concealed firearm into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom, except that a judge may carry a concealed weapon and determine who may carry a concealed weapon in his or her courtroom;
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;

¹⁹ S. 790.06(3) and (10), F.S.

²⁰ S. 790.06(5)(b), F.S.

²¹ S. 790.06(6)(a), F.S. Florida Department of Agriculture and Consumer Services, *Fee Schedule*, <https://www.fdacs.gov/content/download/7438/file/Concealed-Weapons-License-Fees-06-26-2017.pdf> (last visited Feb. 21, 2023).

²² S. 790.0625, F.S.

²³ S. 790.06(6)(c), F.S. In circumstances where DACS receives criminal history information with no final disposition related to a crime that would disqualify a person from eligibility for a CWL, the 90 day requirement may be suspended.

²⁴ Florida Department of Agriculture and Consumer Services, *Concealed Weapon License FAQ*, <https://www.fdacs.gov/Consumer-Resources/Concealed-Weapon-License/Concealed-Weapon-License-FAQ/I-submitted-my-application-for-a-concealed-weapon-or-firearm-license.-How-long-will-processing-take#:~:text=The%20turnaround%20time%20for%20processing,approximately%2050%20to%2055%20days> (last visited Feb. 21, 2023).

²⁵ S. 790.06(1), F.S.

²⁶ A “noncriminal violation” means any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. S. 775.08(3), F.S.

²⁷ S. 790.06(1), F.S.

- Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Any place where the carrying of firearms is prohibited by federal law.²⁸

A CWL holder who knowingly and willfully carries a concealed weapon or concealed firearm into any unauthorized location commits a second degree misdemeanor.²⁹

In addition to authorizing a person to carry a concealed weapon or concealed firearm in Florida, a CWL also grants additional benefits to the CWL holder. A CWL holder is authorized to carry a concealed weapon or concealed firearm in another state if the state has a reciprocity agreement that honors a Florida CWL.³⁰ A CWL holder is also exempt from the mandatory three day waiting period between the purchase and delivery of a handgun as required by article I, section 8(b) of the Florida Constitution, or a firearm as required under s. 790.0655, F.S.³¹

Effect of Proposed Changes – Carrying a Concealed Weapon or Concealed Firearm Without a License

CS/HB 543 amends s. 790.01, F.S., to authorize a person to carry a concealed weapon or concealed firearm if he or she:

- Has a valid CWL; or
- Does not have a CWL, but otherwise satisfies the criteria for receiving and maintaining a CWL, except that such person is not required to demonstrate competency with a firearm or affirmatively state that he or she desires a legal means to carry a concealed weapon or concealed firearm for lawful self-defense.

Although the bill requires a person to satisfy the criteria for receiving and maintaining a CWL to carry a concealed weapon or concealed firearm without a license, the bill does not require such person to submit fingerprints or to complete a background check.

Under the bill, in any prosecution for carrying a concealed weapon or carrying a concealed firearm, the state bears the burden of proving, as an element of such offenses, that a person does not have a CWL and that he or she is ineligible to receive and maintain a CWL, with the exception of demonstrating competency with a firearm or affirmatively stating that he or she desires a legal means to carry a concealed weapon or concealed firearm for lawful self-defense.

The bill defines a “concealed weapon or concealed firearm” as a handgun, electronic weapon or device, tear gas gun, knife, or billie.³² This is the same kind of firearm and same type of weapons authorized to be carried under current law by a CWL holder.

The bill creates s. 790.013, F.S., to require a person who carries a concealed weapon or concealed firearm without a CWL to:

²⁸ S. 790.06(12)(a), F.S.

²⁹ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. Ss. 775.082 and 775.083, F.S.

³⁰ Reciprocity agreements with other states vary in terms of the types of weapons and firearms that a Florida CWL holder is authorized to carry in another state. For example, a Florida CWL holder is authorized to carry a concealed firearm in Georgia, but is prohibited from carrying other types of concealed weapons, such as a concealed stun gun or knife. Some states also only recognize a Florida CWL that is issued to a Florida resident. Department of Agriculture and Consumer Services, *Concealed Weapon License Reciprocity*, <https://www.fdacs.gov/Consumer-Resources/Concealed-Weapon-License/Concealed-Weapon-License-Reciprocity> (last visited Feb. 21, 2023).

³¹ Section 790.0655, F.S., requires a mandatory waiting period between the purchase and delivery of a firearm from a licensed importer, licensed manufacturer, or licensed dealer of at least three days or until the completion of a criminal background is completed, whichever occurs later. S. 790.0655(1)(a), F.S.

³² This definition mirrors the definition of “concealed weapon or concealed firearm” in s. 790.06(1), F.S., which provides the statutory scheme for issuing CWLs.

- Carry valid identification at all times when he or she is in actual possession of a concealed weapon or concealed firearm and display such identification upon demand by a law enforcement officer, a violation of which is punishable as a noncriminal violation and a \$25 fine; and
- Obey the prohibition against carrying a concealed weapon or concealed firearm in certain locations where a person with a CWL is not authorized to carry a concealed weapon or concealed firearm, a violation of which is punishable as a second degree misdemeanor.

The bill amends s. 790.06(1), F.S., to delete the requirement for a CWL holder to carry his or her CWL when he or she is in actual possession of a concealed weapon or concealed firearm. A CWL holder is still required to carry valid identification when carrying a concealed weapon or concealed firearm and must display such identification to a law enforcement officer upon demand. The bill leaves the remainder of the CWL licensing scheme in place, which allows a person to receive a CWL to obtain the additional benefits of licensure including the ability to carry a concealed weapon or concealed firearm in another state through a CWL reciprocity agreement and to receive an exemption from the three day waiting period between the sale and purchase of a handgun.

The bill amends s. 790.25(5), F.S., to provide that a person who is authorized to carry a concealed weapon or concealed firearm under the bill may carry such concealed weapon or concealed firearm on his or her person while in the interior of a private conveyance, regardless of whether the person has a CWL.

Definitions

Background

Section 790.001, F.S., defines terms applicable to the entirety of ch. 790, F.S. However, the term “handgun,” which is used throughout ch. 790, F.S., is undefined in this section.³³

Effect of Proposed Changes – Definitions

The bill amends s. 790.001, F.S., to define the term “handgun” as a firearm capable of being carried and used by one hand, such as a pistol or revolver.³⁴ The bill also reorders existing definitions to place them in alphabetical order.

Nonresidents

Background

A nonresident of Florida may carry a concealed weapon or concealed firearm in Florida if he or she:

- Is 21 years of age or older;³⁵
- Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued by his or her state of residence, if such state honors a Florida CWL;³⁶ and
- Is a resident of the United States.³⁷

A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a Florida resident with a CWL.³⁸

³³ The term “handgun” is defined in s. 790.31, F.S., which prohibits specified types of ammunition, however the definition is only applicable to that section.

³⁴ This definition is identical to the definition of “handgun” in article I, section 8(b) of the Florida Constitution and the definition of “handgun” in s. 790.31(1)(c), F.S.

³⁵ The minimum age of 21 does not apply to a nonresident servicemember or veteran of the United States Armed Forces who was discharged under honorable conditions. S. 790.015(5), F.S.

³⁶ Florida has CWL reciprocity agreements with 37 states. Florida Department of Agriculture and Consumer Services, *Concealed License Weapon Reciprocity*, <https://www.fdacs.gov/Consumer-Resources/Concealed-Weapon-License/Concealed-Weapon-License-Reciprocity#:~:text=Section%20790.015%2C%20Florida%20Statutes%2C%20allows,recognize%20Florida%20concealed%20weapon%20licenses> (last visited Feb. 21, 2023).

³⁷ S. 790.015(1), F.S.

³⁸ S. 790.015(2), F.S.

Effect of Proposed Changes – Nonresidents

The bill amends s. 790.015, F.S., to authorize a nonresident without a CWL issued by his or her state of residence to carry a concealed weapon or concealed firearm in Florida if he or she satisfies the criteria for receiving and maintaining a Florida CWL, except that such person is not required to demonstrate competency with a firearm or affirmatively state that he or she desires a legal means to carry a concealed weapon or concealed firearm for lawful self-defense. This aligns the requirements for a nonresident to carry a concealed weapon or concealed firearm in Florida with those for a Florida resident.

The bill also deletes the reciprocity requirement that limits recognition of a CWL issued by other states to only those states that honor a Florida CWL. Thus, a person who holds a CWL from any state will be authorized to carry a concealed weapon or concealed firearm while in Florida if such person is also at least 21 years old and a resident of the United States.

Carrying Concealed Firearms – Off-Duty Law Enforcement Officers

Background

Section 790.052, F.S., authorizes a law enforcement officer or correctional officer who holds an active certification from the Criminal Justice Standards and Training Commission³⁹ to carry a concealed firearm on or about his or her person during off-duty hours at the discretion of a supervising officer. Such a law enforcement officer or correctional officer is authorized to perform law enforcement duties that an on-duty officer would reasonably be expected to perform.⁴⁰ A law enforcement officer, correctional officer, or correctional probation officer may also carry a concealed weapon as a private citizen under the exemption in s. 790.06(5)(b), F.S., that authorizes a law enforcement officer, correctional officer, or correctional probation officer to carry a concealed weapon or concealed firearm without a CWL. In such cases where a law enforcement officer, correctional officer, or correctional probation officer is carrying a concealed weapon or concealed firearm as a private citizen, the officer's employing agency is not liable for the officer's use of such weapon or firearm.⁴¹

Effect of Proposed Changes – Carrying Concealed Firearms – Off-Duty Law Enforcement Officers

The bill amends s. 790.052, F.S., to conform this section to changes made by the bill that authorize a person to carry a concealed weapon or concealed firearm without a CWL. The bill clarifies that a law enforcement officer, correctional officer, or correctional probation officer is authorized to carry a concealed weapon or concealed firearm as a private citizen under the exemption in s. 790.06(5)(b), F.S., with a CWL issued under s. 790.06, F.S., or without a license under s. 790.01, F.S. The bill also provides that the appointing or employing agency of such an officer is not liable for the use of a firearm carried when the officer is off-duty and acting as a private citizen.

Open Carrying of Weapons

Background

³⁹ The Criminal Justice Standards and Training Commission is responsible for establishing uniform minimum standards for the employment of law enforcement officers and correctional officers and certifying that such officers meet the specified minimum standards for employment. Florida Department of Law Enforcement, *Criminal Justice Standards & Training Commission (CJSTC)*, <http://www.fdle.state.fl.us/CJSTC/Commission.aspx> (last visited Feb. 21, 2023).

⁴⁰ S. 790.052(1)(a), F.S.

⁴¹ S. 790.052(1)(d), F.S.

Section 790.053, F.S., prohibits a person from openly carrying a firearm or electric weapon or device⁴² on or about his or her person unless the person is a law enforcement officer or engaged in one of the activities listed in s. 790.25(3), F.S., such as hunting, camping, or military service. A violation of this prohibition is punishable as a second degree misdemeanor.⁴³ The open carry prohibition does not apply to a person who is:

- Openly carrying a self-defense chemical spray⁴⁴ or a nonlethal stun gun or dart-firing stun gun⁴⁵ or other nonlethal electric weapon or device that is designed solely for defensive purposes;⁴⁶ or
- A CWL holder, who briefly and openly displays a firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.⁴⁷

Effect of Proposed Changes – Open Carrying of Weapons

The bill amends s. 790.053, F.S., to expand the exemption to the criminal penalty for openly carrying a firearm that applies to a CWL holder who briefly and openly displays a firearm to the ordinary sight of another person to also apply to a person who is authorized to carry a concealed weapon or concealed firearm without a license if he or she displays a firearm in the same manner.

Possessing or Discharging Weapons or Firearms on School Property

Background

Section 790.115(2), F.S., prohibits a person from willfully and knowingly possessing any firearm, electric weapon or device, destructive device,⁴⁸ or other weapon, including a razor blade or box cutter, at a school-sanctioned event or on the property of any school,⁴⁹ school bus, or school bus stop.⁵⁰ A violation is punishable as a third degree felony, except that a CWL holder is subject only to a second degree misdemeanor.⁵¹ A person who discharges a weapon or firearm at a school-sanctioned event or on the property of any school, school bus, or school bus stop is subject to a second degree felony⁵² regardless of whether he or she has a CWL.

⁴² An “electric weapon or device” means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury. S. 790.001(14), F.S.

⁴³ S. 790.053(3), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. Ss. 775.082 and 775.083, F.S.

⁴⁴ A “self-defense chemical spray” means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical. S. 790.001(3)(b), F.S.

⁴⁵ A “dart-firing stun gun” means any device having one or more darts that are capable of delivering an electrical current. S. 790.001(15), F.S.

⁴⁶ S. 790.053(2), F.S.

⁴⁷ S. 790.053(1), F.S.

⁴⁸ “Destructive device” means any bomb, grenade, mine, rocket, missile, pipe bomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. A “destructive device” does not include: a device which is not designed, redesigned, used, or intended for use as a weapon; any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device; any shotgun other than a short-barreled shotgun; or any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game. S. 790.001(4), F.S.

⁴⁹ “School” means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic. S. 790.115(2)(a), F.S.

⁵⁰ A person may carry a firearm at a school or school-related location:

- In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;
- In a case to a career center having a firearms training range; or
- In a vehicle pursuant to s. 790.25(5), F.S., except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges. S. 790.115(2)(a)1.–3., F.S.

⁵¹ S. 790.115(b), (c), and (e), F.S.

⁵² A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

Effect of Proposed Changes – Possessing or Discharging Weapons or Firearms on School Property

The bill amends s. 790.115(2)(e), F.S., to expand the reduced penalty for knowingly and willfully possessing a specified weapon or firearm at a school or school-related location by a CWL holder to include any person who is authorized to carry a concealed weapon or concealed firearm under the bill, regardless of licensure. Discharging a weapon or firearm at a school or school-related location remains a second degree felony, regardless of whether a person is authorized to carry a concealed weapon or concealed firearm.

Crimes in Pharmacies

Background

Section 790.145, F.S., prohibits a person from possessing a concealed firearm or a destructive device within the premises of a pharmacy,⁵³ a violation of which is punishable as a third degree felony, unless such person is a:

- Law enforcement officer;
- Person employed and authorized by the owner, operator, or manager of the pharmacy to carry a firearm or destructive device on such premises; or
- CWL holder.

The conduct prohibited under s. 790.145, F.S., is prohibited generally in other sections. Section 790.01(2), F.S., prohibits carrying a concealed firearm in any location without a CWL and violation of such prohibition constitutes a third degree felony. Section 790.161, F.S., prohibits a person from willfully and unlawfully making, possessing, throwing, projecting, placing, discharging, or attempting to make, possess, throw, project, place, or discharge any destructive device, regardless of location. A violation of this prohibition is punishable as a third degree felony.⁵⁴ The owner of a pharmacy may also prohibit a person from carrying a firearm on his or her property regardless of whether the person has a CWL, a violation of which is punishable as an armed trespass, a third degree felony.⁵⁵

Effect of Proposed Changes – Crimes in Pharmacies

The bill repeals s. 790.145, F.S., in its entirety as the conduct prohibited under this section is prohibited in ss. 790.01(2), 790.161, and s. 810.08(2), F.S., with identical criminal penalties. Thus, this section is duplicative and unnecessary.

⁵³ The term “pharmacy” includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an Internet pharmacy as follows:

- “Community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.
- “Institutional pharmacy” includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as “health care institutions,” where medicinal drugs are compounded, dispensed, stored, or sold.
- “Nuclear pharmacy” includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term “nuclear pharmacy” does not include hospitals licensed under ch. 395, F.S., or the nuclear medicine facilities of such hospitals.
- “Special pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.
- “Internet pharmacy” includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. Any act described in this definition constitutes the practice of the profession of pharmacy. S. 465.003(20)(a), F.S.

⁵⁴S. 790.161(1), F.S.

⁵⁵ S. 810.08(2)(c), F.S.

Carrying of Firearms in Motor Vehicles – Employees

Background

Section 790.251(4), F.S.,⁵⁶ prohibits an employer⁵⁷ from:

- Prohibiting an employee⁵⁸ from possessing a legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot when the employee is lawfully in such parking lot;
- Making a verbal or written inquiry to an employee regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle;
- Conditioning employment upon the fact that an employee or prospective employee holds or does not hold a CWL, or an agreement by an employee or a prospective employee that prohibits the employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot when such firearm is kept for lawful purposes;
- Prohibiting or attempting to prevent any employee from entering the parking lot of the employer's place of business because the employee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the employee's private motor vehicle; or
- Terminating the employment of, or otherwise discriminating against, an employee for exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.

The restrictions in s. 790.251(4), F.S., do not apply to:

- Any school property as defined and regulated under s. 790.115, F.S.;
- Any correctional institution regulated under s. 944.47, F.S., or ch. 957, F.S.;
- Any property where a nuclear-powered electricity generation facility is located;
- Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security;
- Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C. § 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on such property;
- A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer;
- Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited pursuant to any federal law, contract with a federal government entity, or general law of this state.⁵⁹

⁵⁶ The employer prohibitions in s. 790.251(4), F.S., were originally drafted to apply to an employee, customer, or invitee. The provisions relating to customers or invitees were held to be unconstitutional. Thus, an employer may still prohibit a customer or invitee from possessing a firearm on its property. The summary in this analysis only discusses the provisions relating to employees. See *Fla. Retail Federation v. Atty. Gen. of Fla.*, 576 F.Supp. 2d 1281 (N.D. Fla. 2008).

⁵⁷ "Employer" means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution, or association, or public sector entity, that has employees. S. 790.251(2)(d), F.S.

⁵⁸ "Employee" means any person who possesses a valid license issued pursuant to s. 790.06, F.S., and:

- Works for salary, wages, or other remuneration;
- Is an independent contractor; or
- Is a volunteer, intern, or other similar individual for an employer. S. 790.251(2)(c), F.S.

⁵⁹ S. 790.251(7), F.S.

Effect of Proposed Changes – Carrying of Firearms in Motor Vehicles – Employees

The bill amends s. 790.251, F.S., to expand the definition of “employee” to include any person who is authorized to carry a concealed weapon or concealed firearm under the bill, regardless of whether such person has a CWL. Thus, the protections afforded an employee in s. 790.251, F.S., will apply equally to a CWL holder and a person who is authorized to carry a concealed weapon or concealed firearm without a CWL. Thus, an employer would be prohibited from barring an employee from carrying a firearm in a motor vehicle or taking specified employment actions if such employer employed at least one person who is authorized under the bill to carry a concealed weapon or concealed firearm.

School Safety

Background

In February 2018, a 19-year old gunman killed fourteen students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida.⁶⁰ The incident of mass violence was preceded by multiple, repeated interactions between the shooter and law enforcement agencies, social services agencies, and schools, over many years. This history was characterized by a lack of communication and coordination, preventing these many entities from understanding the whole problem and acting to prevent the mass violence incident.

In response, the Legislature created the Marjory Stoneman Douglas High School Public Safety Commission (Commission) within the Florida Department of Law Enforcement (FDLE).⁶¹ The Commission is composed of 16 voting members and four nonvoting members. The Governor appointed five voting members to the Commission, including the chair, and the President of the Senate and Speaker of the House of Representatives each appointed five voting members to the Commission. The Secretary of the Department of Children and Families (DCF), the Secretary of the Department of Juvenile Justice (DJJ), the Secretary of the Agency for Health Care Administration (AHCA), and the Commissioner of Education serve as ex officio, non-voting members of the Commission.⁶² The Commission meets, as necessary, to conduct its work at the call of the chair and at designated times and locations throughout the state.

The Commission published an initial report on its findings and recommendations on January 2, 2019. Many of the recommendations were adopted during the 2019 Legislative Session. The Commission issued its second report on November 1, 2019. The Commission may issue reports annually until it sunsets.⁶³

In 2022, the Legislature extended the sunset of the Commission until July 1, 2026, and substantially amended the responsibilities of the Commission.⁶⁴ The Commission must monitor the implementation of school safety legislation by:

- Evaluating the activities of the Office of School Safety (OSS) to provide guidance to school districts, identifying areas of noncompliance and mechanisms used to achieve compliance.
- Reviewing the findings of the Auditor General regarding school district school safety policies and procedures that need improvement to ensure and demonstrate compliance with state law.
- Reviewing school hardening grant expenditures and evaluating such expenditures based on the report of the School Hardening and Harm Mitigation Workgroup, recommendations of law enforcement agencies based on school campus tours and the required return on investment analysis component of the Florida Safe Schools Assessment Tool (FSSAT).
- Evaluating the utilization of the centralized integrated data repository by schools and its effectiveness in conducting threat assessments.

⁶⁰ Tonya Alanez, David Fleshler, Stephen Hobbs, Lisa J. Huriash, Paula McMahon, Megan O'Matz and Scott Travis, *Unprepared and Overwhelmed*, South Florida Sun-Sentinel.com, December 28, 2018, <https://projects.sun-sentinel.com/2018/sfl-parkland-school-shooting-critical-moments/> (last visited Feb. 21, 2023).

⁶¹ S. 943.687, F.S.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

- Assessing efforts by local governments to improve communication and coordination among regional emergency communications systems.
- Investigating any failures in incident responses by local law enforcement agencies and school resource officers.
- Investigating any failures in interactions with perpetrators preceding incidents of violence.⁶⁵

School Safety Oversight and Compliance

Background

Florida's Commissioner of Education is required by law to oversee compliance with school safety and security requirements by school districts, district school superintendents, and public schools, including charter schools.⁶⁶ 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.⁶⁷

The OSS 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.⁶⁸ 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.⁶⁹

District school boards and superintendents each have responsibilities related to school safety and security. District school superintendents must designate a school safety specialist 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 FSSAT.⁷⁰ 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.⁷¹ The TAT members must include individuals with expertise in counseling, instruction, school administration, and law enforcement.⁷² To conduct its work, a TAT must use the standardized, statewide behavioral threat assessment instrument developed by the OSS⁷³ and may use the Florida Schools Safety Portal (FSSP).⁷⁴

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.⁷⁵ Drills for active shooter and hostage situations must be conducted in accordance with developmentally appropriate and age-appropriate procedures at least

⁶⁵ *Id.*

⁶⁶ S. 1001.11(9), F.S.

⁶⁷ *Id.*

⁶⁸ S. 1001.212, F.S.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ S. 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*, <http://www.fldoe.org/core/fileparse.php/18612/urlt/threat-assessment-model-policies.pdf> (last visited Feb. 21, 2023).

⁷² S. 1006.07(7)(a), F.S.

⁷³ *Id.*

⁷⁴ S. 1006.07(7)(f), F.S.; See also Florida Department of Education, *Department of Education Announces the Florida Schools Safety Portal* <http://www.fldoe.org/newsroom/latest-news/department-of-education-announces-the-florida-schools-safety-portal.shtml> (last visited Feb. 21, 2023).

⁷⁵ S. 1006.07(4)(a), F.S.

as often as other emergency drills.⁷⁶ 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.⁷⁷

In 2020, the Legislature passed HB 23, requiring all public and charter schools to have a mobile panic alert system.⁷⁸ 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. The DOE completed the procurement and selected 11 vendors from which school districts may choose to satisfy this requirement.⁷⁹

In 2021, the Legislature clarified that school districts were required to conduct active assailant drills but may provide accommodations for emergency drills conducted by exceptional student education centers.⁸⁰

In 2022, to provide more statewide uniformity in emergency drills at Florida's schools, the Legislature required that the SBE adopt rules governing emergency drills by August 1, 2023. Such rules must be based on recommendations from the Commission and in consultation with state and local constituencies. The rules must require that all types of emergency drills be conducted at least once per school year. Additionally, the rules must define "emergency drill," "active threat," and "after-action report" and provide minimum requirements for school district emergency drill policies and procedures by incident type, school level, school type, and student and school characteristics, including:

- Timing;
- Frequency;
- Participation;
- Training;
- Notification;
- Accommodations; and
- Response to threat situations.⁸¹

Additionally, law enforcement responsible for responding to schools in the event of an active assailant emergency must be physically present and participate in active assailant emergency drills. School districts must provide notice to the law enforcement officers required to be present at such drills at least 24 hours before the drill.⁸²

Other than the above described consultation with school districts relating to active assailant policies and participation in school based active assailant drills, Florida law does not currently require that law enforcement agencies have active assailant policies.

Effect of Proposed Changes – School Safety Oversight and Compliance

The bill creates s. 943.6873, F.S., to require that all law enforcement agencies develop and maintain a written active assailant response policy. During the development of the policy, each law enforcement agency must review the model policy developed by the Commission. The policy must be consistent with the agency's response capabilities and include procedures setting forth the command protocol and coordination with other law enforcement agencies. Under the bill, each law enforcement agency must report to FDLE by October 1, 2023, that the agency has adopted a written active assailant response policy.

⁷⁶ *Id.*

⁷⁷ S. 1006.07(4)(b)1., F.S.

⁷⁸ Ch. 2020-145, Laws of Fla.

⁷⁹ Florida Department of Education, *Alyssa's Alert*, <https://www.fldoe.org/safe-schools/alyssas-alert.stm> (last visited Feb. 21, 2023).

⁸⁰ Ch. 2021-176, Laws of Fla.

⁸¹ S. 1006.07(4), F.S.

⁸² *Id.*

Following adoption of the active assailant policy, the bill requires each law enforcement agency to train all sworn personnel on the active assailant response policy and requires such training to be provided within 180 days of the adoption, or any amendments to, the policy. Following the initial training, all sworn personnel must receive training on the active assailant response policy at least annually.

The bill requires FDLE to make the model active assailant response policy developed by the Commission available on its website and authorizes FDLE to make available other examples of policies it deems appropriate. By January 1, 2024, FDLE must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives identifying each law enforcement agency that has not complied with these requirements.

The bill provides this section is effective upon becoming a law.

Incident Reporting and Threat Assessments

Background

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 SESIR requirements and TAT utilization of the standardized behavioral assessment tool, i.e., the FSSP. The FSSP is available to individual TAT members with specific permissions and the OSS tracks the number of queries.⁸³ The FSSP provides a centralized repository to access student records across multiple disciplines including law enforcement and behavioral health care.⁸⁴

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.⁸⁵ SESIR reporting is required for all public schools.⁸⁶ 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 reporting such incidents in SESIR.⁸⁷ The DOE revised the reporting rule in 2020 to direct how incidents are reported at regular intervals throughout the school year.⁸⁸ 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.⁸⁹ The DOE makes the data available annually through publication of summary excel files on its website,⁹⁰ which are separate from other DOE databases that provide public visibility into school accountability and performance metrics.⁹¹

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.⁹² 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.⁹³ 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

⁸³ Florida Department of Education, *Department of Education Announces the Florida Schools Safety Portal*, <http://www.fldoe.org/newsroom/latest-news/department-of-education-announces-the-florida-schools-safety-portal.stml> (last visited Feb. 21, 2023).

⁸⁴ S. 1001.212(12), F.S.

⁸⁵ Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Feb. 21, 2023).

⁸⁶ Ss. 1001.212(8) and 1006.07(6), F.S.

⁸⁷ S. 1006.07(9), F.S.

⁸⁸ R. 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 (FTE) General Instructions 2022-2023*, <https://www.fldoe.org/core/fileparse.php/7508/urlt/2223FTEGenInstruct.pdf> (last visited Feb. 21, 2023).

⁸⁹ R. 6A-1.0017, F.A.C.

⁹⁰ Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Feb. 21, 2023).

⁹¹ See Florida Department of Education, *Know Your Schools*, <https://edudata.fldoe.org/> (last visited Feb. 21, 2023).

⁹² S. 1006.07(4), F.S.

⁹³ *Id.*

community.⁹⁴ The acts that must be reported include criminal offenses,⁹⁵ hate crimes,⁹⁶ Violence Against Women Act offenses,⁹⁷ and arrests and referrals for discipline for weapons, drug, or liquor law violations.⁹⁸

In 2021,⁹⁹ the Legislature established the parental 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.¹⁰⁰ The DOE must 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.¹⁰¹

Additionally, school districts are required to provide timely notice to parents of the following unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities:¹⁰²

- Weapons possession or use or 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.
- Natural emergencies, including hurricanes, tornadoes, and severe weather.
- Exposure as a result of a manmade emergency.

In response to concerns that the SESIR reporting requirements were unclear and not aligned with Florida's criminal statutes regarding criminal offenses being reported by schools, the DOE substantially amended the SESIR reporting rule in January 2023.¹⁰³ The amendment updated a number of definitions, clarified the process for determining when incidents must be referred to law enforcement, and bolstered the annual school district reporting requirements to improve overall data quality.¹⁰⁴

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.¹⁰⁵ 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.¹⁰⁶ 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 poses a threat to school safety.¹⁰⁷

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.¹⁰⁸ The agreements must include the role of the SRO in handling reported incidents and procedures that require school personnel to consult with SROs concerning

⁹⁴ Pub. L. No. 101-152, 104 Stat. 2381 (Nov. 8, 1990).

⁹⁵ *Id.* Criminal offenses include criminal homicide, sexual assault, robbery, burglary, motor vehicle theft, and arson.

⁹⁶ *Id.* Hate crimes can include any of the covered criminal offenses and larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property.

⁹⁷ *Id.* Violence Against Women Act offenses include domestic violence, dating violence, and stalking.

⁹⁸ *Id.*

⁹⁹ Ch. 2021-176, Laws of Fla.

¹⁰⁰ Ss. 1002.20(25) and 1002.33(9)(r), F.S.

¹⁰¹ S. 1006.07(9), F.S.

¹⁰² S. 1006.07(4)(b), F.S.

¹⁰³ R. 6A-1.0017, F.A.C.

¹⁰⁴ *Id.*

¹⁰⁵ S. 1006.13(1), F.S.

¹⁰⁶ S. 1006.131(2)-(3), F.S.

¹⁰⁷ S. 1006.13(1) and (8), F.S.

¹⁰⁸ S. 1006.13(4)(a), F.S.

appropriate delinquent acts and crimes.¹⁰⁹ 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.¹¹⁰

Threat Assessment in Florida's Schools

Each district school board is required to adopt policies for establishing a TAT at each school, which is responsible for coordinating resources and threat assessments, and intervening with individuals whose behavior may pose a threat to the safety of students or school staff, consistent with model policies developed by OSS. The policies must include procedures for referrals to community mental health services or health care providers for evaluation or treatment, when appropriate, and for behavioral threat assessments in compliance with the standardized, statewide behavioral threat assessment instrument.¹¹¹ A TAT must include persons with expertise in counseling, instruction, school administration, and law enforcement and all members of the TAT must participate in the threat assessment process and final decisionmaking.¹¹² The TAT is required to:

- Identify school community members to whom threatening behavior should be reported;
- Provide guidance to students, faculty, and staff for recognizing threatening or aberrant behavior that may represent a threat to the community, school, or self; and
- Must use the model behavioral threat assessment instrument developed by the OSS.¹¹³

TATs must report quantitative data on their activities in accordance with guidance from the OSS, and are required to use the threat assessment database when the statewide threat assessment database becomes available.¹¹⁴

If a TAT determines that a student poses a threat of violence or physical harm to himself or herself or others, the team must immediately report its determination to the district school superintendent or his or her designee. The superintendent, or designee, must then immediately attempt to notify the student's parent or guardian. School district personnel may immediately address an imminent threat.¹¹⁵

TATs are also required to verify that any intervention services provided to an at-risk student remain in place when the student transfers to another school. This responsibility for the original TAT remains in place until the TAT at the new school independently determines the need for intervention services.¹¹⁶

Effect of Proposed Changes – Incident Reporting and Threat Assessments

Threat Management Processes

The bill amends s. 1001.212, F.S., to expand the duties of the OSS to include the development of a statewide behavioral threat management operational process, a Florida-specific behavioral threat assessment instrument, and a threat management portal.

The bill requires that the statewide behavioral threat management operational process be developed by December 1, 2023, and include, at least, the following:

- The establishment and duties of threat management teams.
- Defining behavior risks and threats.
- The use of the Florida-specific behavioral threat assessment instrument.
- The use and access specifications of the threat management portal.
- Procedures for the implementation of interventions, supports, and community services.

¹⁰⁹ S. 1006.13(4)(b), F.S.

¹¹⁰ S. 1006.13(4)(c), F.S.

¹¹¹ S. 1006.07(7), F.S. See also s. 1001.212(12), F.S.

¹¹² S. 1006.07(7)(a), F.S.

¹¹³ S. 1006.07(7)(a), F.S.; r. 6A-1.0018(10)(d), F.A.C.; Florida Department of Education, *Threat Assessment and Response Protocol*, <https://www.fldoe.org/core/fileparse.php/19958/urlt/8-3.pdf> (last visited Feb. 21, 2023).

¹¹⁴ S. 1006.07(7)(f), F.S.

¹¹⁵ S. 1006.07(7)(b), F.S.

¹¹⁶ S. 1006.07(7)(e), F.S.

- Guidelines for appropriate law enforcement intervention.
- Procedures for risk management.
- Procedures for disciplinary actions.
- Mechanisms for continued monitoring of potential and real threats.
- Procedures for referrals to mental health services identified by the school district or charter school.
- Procedures and requirements necessary for the creation of a threat assessment report and corresponding documentation required by the Florida-specific behavioral threat assessment instrument.

Once the process is available, the bill requires each school district and charter school to use the process and the OSS to provide training to all school districts and charter schools. The OSS must coordinate the ongoing development, implementation, and operation of the process.

The bill updates existing requirements for OSS to adopt a standardized, statewide threat assessment instrument to require that a Florida-specific threat assessment instrument be developed by August 1, 2023. The new instrument must provide, at a minimum:

- An assessment of the threat, which includes an assessment of the student, family, and school and social dynamics.
- An evaluation to determine whether a threat exists and if so, if the type of threat is transient or substantive.
- The response to a substantive threat, which includes the school response, and the role of law enforcement agencies in the response, and the response by mental health providers.
- The response to a serious substantive threat, including mental health and law enforcement referrals.
- Ongoing monitoring to assess implementation of threat management and safety strategies.
- A standardized threat assessment report, which must include, but need not be limited to, the evaluation, intervention, and management of the threat.

All school districts and charter schools are required to use the new instrument and the OSS must provide training on the use of the instrument.

Finally, the bill requires the OSS to develop, host, maintain, and administer a threat management portal and requires the portal to be operational by August 1, 2025. The portal must be designed to assist school districts and charter schools with the electronic collection and maintenance of information required by the new Florida-specific threat assessment instrument as well as assist with the coordination of interventions and services for students that are a subject of a threat assessment. The portal must include, at a minimum, the following:

- Workflow processes that align with the statewide behavioral threat management operational process.
- Direct data entry and file uploading as required by the Florida-specific behavioral threat assessment instrument.
- The ability to create a threat assessment report as required by the Florida-specific behavioral threat assessment instrument.
- The ability of authorized personnel to add to or update a student's record.
- The ability to create and remove connections between student records and authorized personnel.
- The ability to grant access to and transfer student records securely to other schools or charter schools in the district.
- The ability to grant access to and transfer student records securely to schools and charter schools not in the originating district.
- The ability to retain, maintain, and transfer student records as prescribed by SBE rule.
- The ability to restrict access to, entry of, modification of, and transfer of documentation to a school, district, charter school or charter school governing board, and authorized personnel as specified by the statewide behavioral threat management operational process.

- The ability to designate district or charter school governing board system administrators who may grant access to authorized district personnel and school and charter school system administrators.
- The ability to designate school or charter school system administrators who may grant access to authorized school or charter school personnel.
- The ability to notify the OSS's system administrators and district or charter school governing board system administrators of attempts to access any records by unauthorized personnel.

The bill specifies that all documentation included in the threat management portal are educational records and may only be maintained or transferred in accordance with SBE rule. The portal must be designed so that OSS and the OSS system administrator do not have access to the educational records. Access to educational records by school districts and charter schools must be provided only in accordance with SBE rule. The parent of a student may access his or her student's records maintained in the portal but are prohibited from accessing the portal directly. In order to ensure compliance with required access protocols, the OSS must develop and implement a quarterly access review audit process. All school districts and charter schools are required to comply with the audit process adopted by the OSS. The bill provides a noncriminal penalty of a fine of up to \$2,000 for anyone who uses or releases any information from the portal except as explicitly authorized by SBE rule or other applicable law.

To ensure that school districts and charter schools have the necessary information to provide appropriate support to students who transfers schools, any threat assessment report, and all corresponding documentation, that contains the evaluation, intervention and management of the threat assessment evaluations and intervention services must be transferred to the new school district or charter school.

The bill requires school districts and charter schools to use the threat management portal once it is operational. The OSS must provide training to school district, school, charter school governing board and charter school staff responsible for use of the portal by August 1, 2025, and annually thereafter.

The OSS must annually evaluate each school district's and charter school governing board's use of the statewide behavioral threat management operational process, the Florida-specific behavioral threat assessment instrument, and the threat management portal. The OSS must advise a district school superintendent or charter school governing board if their school district's or charter school's use of these new processes is not in compliance with the law. Continued failure to comply with statutory requirements must be reported to the commissioner and district school superintendent or charter school governing board, as applicable.

The bill authorizes the SBE to adopt emergency rules to implement these new processes and systems. Any such rules are effective for six months after adoption and may be renewed only during the pendency of proceedings to formally adopt permanent rules. The authorization for emergency rulemaking expires July 1, 2024.

The bill removes provisions related to the creation and maintenance of the FSSP as that system is being replaced with the new processes and systems described above.

The bill amends s. 1006.07, F.S., to update the responsibilities of school district and charter school TATs while renaming them as threat management teams (TMT). TMTs are required to use the statewide behavioral threat management operational process developed by the OSS, including the Florida-specific threat assessment instrument and the threat management portal. In addition to existing membership requirements, an instructional or administrative staff member personally familiar with the subject of the threat assessment must be involved in the threat management process. The TMT must prepare the required threat assessment report and include the report and corresponding documentation in the threat management portal.

The bill conforms several sections of law throughout the Education Code to the change from threat "assessment" processes to threat "management" processes.

The bill provides this section is effective upon becoming a law.

Incident Reporting

The bill amends s. 1006.13, F.S., to update requirements for school board policies of zero tolerance. Such policies must define criteria related to the reporting to law enforcement acts that pose a threat to school safety but are not required to be reported through SESIR.

To address under-reporting of serious crimes due to school district discretion, the bill authorizes the SBE to adopt emergency rules to establish which SESIR incidents must be reported to law enforcement. Any such rules are effective until permanent rules can be adopted, which must occur no later than July 1, 2024.

The bill provides this section is effective upon becoming a law.

Safe-School Officers

Background

District school boards and school district superintendents are required to partner with law enforcement or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. To assist charter schools with fulfilling this requirement, a district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options.¹¹⁷

A safe-school officer may be a school resource officer, school safety officer, school guardian, or a school security guard. A school district may implement any combination of the following options based upon the needs of the school district:¹¹⁸

- **School Resource Officer:** Establish a school resource officer program through a cooperative agreement with law enforcement agencies. A school resource officer is a certified law enforcement officer¹¹⁹ who is employed by a law enforcement agency and is required to undergo criminal backgrounds checks, drug testing, and a psychological evaluation.¹²⁰ School resource officers abide by school board policies and consult with and coordinate activities through the school principal. They are responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a school board and a law enforcement agency. Activities conducted by the school resource officer, which are part of the regular instructional program of the school, are under the principal's direction.¹²¹
- **School Safety Officer:** Commission one or more school safety officers as recommended by the district school superintendent and appointed by the district school board. A school safety officer is a certified law enforcement officer¹²² who may be employed by a district school board or law enforcement agency and is required to undergo criminal backgrounds checks, drug testing, and a psychological evaluation. A school safety officer has and must exercise the power to make arrests for violations of law on school board property or on property owned or leased by a charter school under a charter contract. The officer may also make arrests off school board property if the law violation occurred on such property and may carry weapons when performing his or her official duties. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, as mutually agreed.¹²³

¹¹⁷ S. 1006.12, F.S.

¹¹⁸ S. 1006.12(1)–(4), F.S.

¹¹⁹ See s. 943.10(1), F.S.

¹²⁰ S. 1006.12(1)(a), F.S.

¹²¹ S. 1006.12(1)(b), F.S.

¹²² See s. 943.10(1), F.S.

¹²³ S. 1006.12(2), F.S.

- School Guardian: Appoint a school guardian under the Coach Aaron Feis School Guardian program who is certified by the sheriff after completing a psychological evaluation, drug testing, and specified training, which includes firearm instruction. A guardian may be a school district employee or charter school employee who volunteers to serve as a guardian, in support of school sanctioned activities, in addition to his or her official job duties. A qualifying individual may also be employed specifically as a guardian.¹²⁴ Guardians do not have arrest powers.¹²⁵
- School Security Guard: Contract with a security agency to employ a school security guard. A school security guard is an individual who is employed by a security agency and serves on a school facility as a safe-school officer in support of school sanctioned activities. Security guards are required to hold a concealed carry weapon permit and undergo drug testing and a psychological evaluation. An individual serving in this capacity must also complete guardian program training, including 144 training hours.¹²⁶ A security guard must aid in the prevention or abatement of active assailant incidents on school premises,¹²⁷ but does not have arrest powers.¹²⁸

A school district contract with a security agency must define the entity or entities responsible for training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification.¹²⁹

All safe-school officers are required to receive mental health training. Safe-school officers who are sworn law enforcement officers must 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. Safe-school officers who are not sworn law enforcement officers are required to receive training to improve their knowledge and skills related to incident response and de-escalation.¹³⁰

A district school superintendent or charter school administrator, or their designee, is required to notify its county sheriff and the OSS within 72 hours after a safe-school officer being dismissed for misconduct, being disciplined, or discharging a firearm in the exercise of duties during a non-training incident.¹³¹

The OSS must annually publish certain information about safe-school officers including the total number of:

- Officers;
- Officers disciplined or relieved of duty due to misconduct;
- Disciplinary incidents; and
- Incidents in which a safe-school officer discharged his or her firearm outside of a training situation or in the course of duty.¹³²

Florida law exempts from disclosure any information held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer.¹³³

Florida law prohibits a person from falsely impersonating a school guardian and a violation of the prohibition is a third degree felony. In addition, the law prohibits a person from impersonating a law enforcement officer or licensed security officer acting in the capacity of a safe-school officer.¹³⁴

¹²⁴ S. 1006.12(3), F.S.

¹²⁵ S. 30.15(1)(k), F.S.

¹²⁶ S. 1006.12(4), F.S.

¹²⁷ S. 1006.12(4)(c), F.S.

¹²⁸ S. 30.15(1)(k), F.S.

¹²⁹ S. 1006.12(4)(b), F.S.

¹³⁰ S. 1006.12(6), F.S.

¹³¹ S. 1006.12(5), F.S.

¹³² S. 1001.212(16), F.S.

¹³³ S. 1006.12(8), F.S.

¹³⁴ S. 843.08, F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

Coach Aaron Feis Guardian Program

The Coach Aaron Feis Guardian Program authorizes qualified school personnel to serve as an armed guard to aid in the prevention or abatement of active assailant incidents on school premises.¹³⁵

A school district or charter school employee may serve as a guardian if the individual is appointed by the district school superintendent or charter school principal and is certified by a sheriff. The individual must also satisfy the following requirements:

- Hold a CWL;
- Pass a psychological evaluation administered by a licensed psychologist;
- Pass an initial drug test and subsequent random drug tests;
- Successfully complete a 144-hour training program that includes:
 - at least 12 hours of a certified, nationally recognized diversity training program; and
 - 132 total hours of specified, comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, and ongoing training, weapon inspection, and firearm qualification on at least an annual basis.¹³⁶

An individual must satisfy the background screening, psychological evaluation, and drug testing requirements prior to participating in the required guardian training. All training for the guardian program must be conducted by a sheriff.¹³⁷

A county sheriff must establish a program if the district school board elects to participate. The sheriff may contract with another county sheriff who has already established a program to provide training. Charter school governing boards may directly request guardian training from the county sheriff even if the school district decides not to participate. Should the sheriff deny the request, the charter school may contract with a county sheriff who is willing to provide the training.¹³⁸

A sheriff who establishes a program may consult with the FDLE on programmatic guiding principles, practices, and resources.¹³⁹

A school guardian has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident on a school premises.¹⁴⁰ The sheriff who conducts the guardian training must issue a school guardian certificate to individuals who meet these requirements and maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified by the sheriff.¹⁴¹

Effect of Proposed Changes – Safe-school Officers

Safe-school Officers in Private Schools

The bill amends s. 1002.42, F.S., to authorize private schools to partner with a law enforcement or security agency to establish or assign a safe-school officer to their schools. The private school is responsible for any costs associated with implementing a safe-school officer, including training under the Coach Aaron Feis Guardian program. A private school electing to implement a safe-school officer must comply with the same statutory requirements for these officers as school districts and charter schools.

The bill outlines the procedures necessary for a private school to participate in the Coach Aaron Feis Guardian Program. If the county in which a private school operates does not currently participate in the guardian program, the private school may request that the sheriff initiate a guardian program for the

¹³⁵ S. 30.15(1)(k), F.S.

¹³⁶ *Id.*

¹³⁷ S. 1006.12(7), F.S.

¹³⁸ S. 30.15(1)(k), F.S.

¹³⁹ S. 943.03(16), F.S.

¹⁴⁰ S. 30.15(1)(k), F.S.

¹⁴¹ *Id.*

purpose of training private school employees. If the local sheriff declines, the private school may contract with a sheriff of a county that has implemented a guardian program to provide the necessary training. The private school is responsible for notifying the local sheriff prior to entering into such a contract and is responsible for all costs associated with the training of private school employees to serve as guardians. The sheriff providing guardian training to private school employees is prohibited from comingling funds received for such training with funds received from the state for the purposes of training school district or charter school employees to serve as guardians.

The bill clarifies that the guardian training specified in statute is the statewide standard that must be used, but that sheriffs are authorized to supplement such training if they desire. However, a guardian that has received the required training cannot be required to attend the training again unless there has been at least a one-year break in her or his employment as a guardian.

Florida Safe Schools Canine Program

The bill creates s. 1006.121, F.S., to establish the Florida Safe Schools Canine Program. The OSS is tasked with creating the program for the purpose of designating a person, school, or business entity as a Florida Safe Schools Canine Partner if the person, school, or business entity provides a monetary or in-kind donation to a law enforcement agency to purchase, train, or care for a firearm detection canine. The bill encourages K-12 schools and students to partner with law enforcement to raise funds in the local community for the monetary or in-kind donations needed to support a firearm detecting canine.

The bill defines a firearm detection canine as any canine that is owned or the service of which is employed by a law enforcement agency for use in K-12 schools for the primary purpose of aiding in the detection of firearms and ammunition. The bill requires that the firearm detecting canine be trained to interact with children and have completed behavior and temperament training.

Under the bill, a person, school, or business may be nominated by law enforcement, or apply through the OSS, for designation as a Florida Safe Schools Canine Partner. The OSS must establish a process for the nomination and application for such designation that requires the application, or nomination, to include:

- The name, address, and contact information of the person, school, or business entity.
- The name, address, and contact information of the law enforcement agency.
- Whether the donation was monetary or in-kind.
- The amount of the donation or type of in-kind donation.
- Documentation from the law enforcement agency certifying:
 - The date of receipt of the person's, school's or business entity's monetary or in-kind donation; and
 - The person's, school's, or business entity's monetary or in-kind donation is for the purchasing, training, or care of a firearm detection canine.

The bill requires the OSS to develop procedures for the designation process that permit nominated persons or entities 30 days to accept or decline such designation and notify applicants of their receipt of such designation. The OSS must develop a logo that identifies a person, school, or business entity as having been designated a Florida Safe School Canine Partner. The logo may only be used by persons, schools, or business entities duly designated by the OSS. Additionally, the OSS must develop a page on the DOE website that provides a list of persons, schools, and businesses that have received the designation, by county, and information regarding the eligibility requirements and the methods of application or nomination for the designation.

The SBE is authorized to adopt rules to implement the Florida Safe School Canine Program.

The bill provides this section is effective upon becoming a law.

Technical Changes

The bill makes nonsubstantive technical changes to the following sections to conform cross-references, make other conforming changes, and correct terminology: ss. 27.53, 790.0655, 790.1612, 790.31, 810.095, 921.0022, 921.0024, 943.051, 943.0585, 943.059, 985.11, and 1002.33, F.S.

The bill provides an effective date of July 1, 2023, except as otherwise provided.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 27.53, F.S., relating to appointment of assistants and other staff; method of payment.
- Section 2:** Amends s. 30.15, F.S., relating to powers, duties, and obligations.
- Section 3:** Amends s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.
- Section 4:** Amends s. 790.001, F.S., relating to definitions.
- Section 5:** Amends s. 790.01, F.S., relating to unlicensed carrying of concealed weapons or concealed firearms.
- Section 6:** Creates s. 790.013, F.S., relating to carrying of concealed weapons or concealed firearms without a license.
- Section 7:** Amends s. 790.015, F.S., relating to nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.
- Section 8:** Amends s. 790.052, F.S., relating to carrying concealed firearms; off-duty law enforcement officers.
- Section 9:** Amends s. 790.053, F.S., relating to open carrying of weapons.
- Section 10:** Amends s. 790.06, F.S., relating to license to carry concealed weapon or firearm.
- Section 11:** Amends s. 790.0655, F.S., relating to purchase and delivery of firearms; mandatory waiting period; exceptions; penalties.
- Section 12:** Amends s. 790.115, F.S., relating to possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.
- Section 13:** Repeals s. 790.145, F.S., relating to crimes in pharmacies; possession of weapons; penalties.
- Section 14:** Amends s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons.
- Section 15:** Amends s. 790.251, F.S., relating to protection of the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes; prohibited acts; duty of public and private employers; immunity from liability; enforcement.
- Section 16:** Amends s. 790.31, F.S., relating to armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited.
- Section 17:** Creates s. 943.6873, F.S., relating to Active assailant response policy.
- Section 18:** Amends s. 1001.212, F.S., relating to Office of Safe Schools.
- Section 19:** Authorizes the State Board of Education to adopt rules.
- Section 20:** Amends s. 1002.42, F.S., relating to private schools.
- Section 21:** Amends s. 1003.25, F.S., relating to procedures for maintenance and transfer of student records.
- Section 22:** Amends s. 1006.07, F.S., relating to district school board duties relating to student discipline and school safety.
- Section 23:** Authorizes the State Board of Education to adopt rules.
- Section 24:** Creates s. 1006.121, F.S., relating to Florida Safe Schools Canine Program.
- Section 25:** Amends s. 1006.13, F.S., relating to policy of zero tolerance for crime and victimization.
- Section 26:** Amends s. 790.1612, F.S., relating to authorization for governmental manufacture, possession, and use of destructive devices.
- Section 27:** Amends s. 810.095, F.S., relating to trespass on school property with firearm or other weapon prohibited.
- Section 28:** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 29:** Amends s. 921.0024, F.S., relating to Criminal Punishment Code; worksheet computations; scoresheets.
- Section 30:** Amends s. 943.051, F.S., relating to criminal justice information; collection and storage;

fingerprinting.

Section 31: Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.

Section 32: Amends s. 943.059, F.S., relating to court-ordered sealing of criminal history records.

Section 33: Amends s. 985.11, F.S., relating to fingerprinting and photographing.

Section 34: Amends s. 1002.33, F.S., relating to charter schools.

Section 35: Provides appropriations.

Section 36: Provides appropriations.

Section 37: Provides appropriations.

Section 38: Provides appropriations.

Section 39: Provides appropriations.

Section 40: Provides appropriations.

Section 41: Provides an effective date of July 1, 2023, unless otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates the requirement for a person who is authorized to carry a concealed weapon or concealed firearm to pay a fee to obtain a CWL to carry a concealed weapon or concealed firearm.

D. FISCAL COMMENTS:

Carrying a Concealed Weapon or Concealed Firearm Without a License

DACS, FDLE, and some county tax collectors are involved in the CWL application and approval process and receive statutorily authorized fees for services provided. Since the bill authorizes a person to carry a concealed weapon or concealed firearm without a CWL, fewer people may apply for, or seek renewal of, a CWL. A decrease in CWL applications and renewals will result in reduced revenue from application and processing fees for the entities collecting such fees. However, the decrease in revenue may be offset by a decrease in expenditures due to the reduced workload resulting from fewer CWL applications.

Since the number of persons who will choose to carry a concealed weapon or concealed firearm without a license is unknown, the fiscal impact is indeterminate.

Florida Department of Law Enforcement – Firearm Safety Grant Program

The bill provides \$1.5 million in recurring general revenue funds to FDLE to implement a grant program for local law enforcement agencies to provide firearm safety training. The bill requires FDLE to develop guidelines for administering the grant program and requires law enforcement agencies who receive grant funding to document the use of such funding.

Department of Education

Office of Safe Schools

The bill provides DOE with eight full-time equivalent positions and \$1,207,321 in recurring general revenue funds and \$70,525 in nonrecurring general revenue funds to fund new and existing positions and additional workload expenses within OSS. The bill also provides \$400,000 in recurring general revenue funds to OSS to update school safety training infrastructure.

Threat Management Portal

The bill provides \$5 million in recurring general revenue funds and \$7 million in nonrecurring general revenue funds to DOE to procure a cloud-based secure statewide information sharing system that meets the requirements of the threat management portal as provided in the bill.

School Environmental Safety Incident Reporting System

The bill provides \$1.5 million in recurring general revenue funds and \$1.5 million in nonrecurring general revenue funds to DOE to procure a cloud-based secure School Environmental Safety Incident Reporting system.

School Hardening Programs

The bill provides \$42 million in nonrecurring general revenue funds to DOE for school hardening grant programs. The bill requires school districts and charter schools that receive school hardening grant funds to report to DOE by December 31, 2023 the total estimated costs of their unmet school campus hardening needs as identified by the Florida Safe Schools Assessment Tool in s. 1006.1493, F.S. DOE is required to award funds based on a district's application, which must be submitted to DOE by February 1, 2024. The bill limits the use of such funds to capital expenditures and requires the initial allocation of funds to be based on each district's capital outlay full-time equivalent and charter school full-time equivalent. The bill provides each district with a minimum allocation of \$42,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants sufficient rule-making authority to the State Board of Education for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 21, 2023, the Judiciary Committee adopted a proposed committee substitute (PCS) and one amendment to the PCS and reported the bill favorably as a committee substitute. The PCS differed from the original bill as it included several provisions relating to school safety. Specifically, the PCS:

- Amended s. 1001.212, F.S., to implement recommendations of the Marjory Stoneman Douglas High School Public Safety Commission to:
 - Require DOE to implement new behavioral threat management operational processes, a threat assessment instrument, and a threat management portal; and
 - Update the membership and responsibilities of school district and charter school threat assessment teams, and rename such teams threat management teams to align with new threat management processes.
- Amended s. 1002.42, F.S., to authorize private schools to implement safe-school officers.
- Required DOE to adopt emergency rules establishing which School Environmental Safety Incident Reporting incidents require referral to law enforcement.
- Created s. 1006.121, F.S., to establish the Florida Safe School Canine Program.
- Created s. 943.6873, F.S., to require all law enforcement agencies to adopt a written active assailant response policy.
- Provided appropriations totaling \$11,677,846, to fund the programs and initiatives established by the bill along with \$42 million for school hardening grants.

The amendment to the PCS required the state, in any prosecution for carrying a concealed weapon or carrying a concealed firearm, to bear the burden of proving, as an element of such offenses, that a person does not have a CWL and that he or she is ineligible to receive and maintain a CWL, with the exception of demonstrating competency with a firearm or affirmatively stating that he or she desires a legal means to carry a concealed weapon or concealed firearm for lawful self-defense.

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