

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 831 Enhanced Firearms Training Facilities

SPONSOR(S): Criminal Justice Subcommittee, Yarkosky

TIED BILLS: IDEN./SIM. BILLS: SB 1586

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 2 N, As CS	Padgett	Hall
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

CS/HB 831 creates s. 790.501, F.S., to authorize the Department of Agriculture and Consumer Services (DACS) to issue an applicant a license to be designated as an Enhanced Firearms Training Facility (EFTF) if he or she submits an application to DACS and:

- Successfully passes a Level 2 background screening;
- Has no felony convictions;
- Successfully completes a National Rifle Association Chief Range Safety Officer training program or equivalent program; and
- Holds a Class "K" Firearms Instructor License.

Under the bill, an owner may provide, along with the application to DACS, a written attestation from the sheriff who has jurisdiction over the property on which the EFTF is or will be located, if the sheriff, at his or her sole discretion, agrees to provide such attestation, confirming that the sheriff or his or her designee has:

- Visited the property and facilities upon which the EFTF is or will be located;
- Determined the property and facilities are large enough and sufficient enough to be designated as an EFTF; and
- Determined the property and facilities may fulfill a public safety training need, including providing a place for law enforcement agencies to provide firearms or other training to the public.

An EFTF license is valid for 12 months and must be renewed annually to remain valid. DACS may revoke an EFTF license if the owner is no longer in compliance with the minimum requirements to be designated as an EFTF.

The bill authorizes a sheriff, under an agreement with an EFTF, to provide training and certification for the school guardian program at an EFTF, and provides that an EFTF, once licensed, is exempt from any local government planning and zoning or public works restrictions if the EFTF is located in the unincorporated area of a county.

The bill provides the following definitions:

- Enhanced firearms training facility" means a facility located on land zoned for agricultural use or the equivalent which is used to train people in the use of firearms and personal safety.
- "Owner" means a person who:
 - Holds the legal title to the land and facilities upon which the enhanced firearms training facility will be licensed; or
 - Holds a percentage interest in the agricultural land and facilities that is equal to or greater than the other persons who also hold a legal interest, if the legal title is held in the name of two or more people.

The bill may have a negative fiscal impact on state government by requiring DACS to implement an EFTF licensing program and to monitor EFTF licensees for compliance with specified requirements, and requiring FDLE to conduct background checks on EFTF applicants. The bill may have a positive fiscal impact on EFTFs as it allows a sheriff to provide school guardian training at an EFTF, authorizes a sheriff or other law enforcement agency provide firearm or other training to the public at an EFTF, and exempts an EFTF located in the unincorporated area of a county from any from local government planning and zoning or public works restrictions.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Department of Agriculture – Division of Licensing

The Division of Licensing (DOL) within the Department of Agriculture and Consumer Services (DACS) administers Florida's concealed weapon or concealed firearms licensing program¹ and oversees Florida's private investigative, private security, and recovery services industries.² The DOL's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.³

Class "K" Firearms Instructor License Application and Training Requirements

Class "K" Firearms Instructor Licensees provide classroom or range instruction to applicants for a Class "G" Statewide Firearm License.⁴ Applicants for an initial Class "K" Firearms Instructor License must:

- Be at least 18 years of age;
- Be of good moral character;
- Not have been adjudicated incapacitated under s. 744.331, F.S., or been involuntarily committed to a treatment facility for the mentally ill under ch. 394, F.S., unless his or her competency has been restored by a court;
- Not be a chronic and habitual user of alcoholic beverages or have been involuntarily committed for substance abuse treatment under ch. 394, F.S.;
- Not not have been found guilty of a crime under ch. 893, F.S., relating to controlled substances, within three years of the date of the application;
- Be a citizen or permanent legal resident alien of the United States; and
- Not be prohibited from purchasing or possessing a firearm by state or Federal law.

Applicants for an initial Class "K" Firearms Instructor License must submit one of the following certificates to demonstrate his or her qualifications:⁵

- A Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by such Commission that the applicant possesses an active firearms certificate.
- A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the application.
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the application.
- A valid DD Form 214 issued not more than three years before the submission of the application, indicating that the applicant has been honorably discharged and served no less than three years in the military as a firearms instructor.

The initial applicant must also pay a fee and pass an examination administered by DACS.⁶ A Class "K" Firearms Instructor License must be renewed every three years.⁷

Background Screening

¹ S. 790.06, F.S.

² Ch. 493, F.S.

³ Office of Program Policy Analysis and Government Accountability, Government Program Summaries, *Department of Agriculture and Consumer Services Licensing*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101> (last visited Jan. 31, 2024).

⁴ Ss. 493.6101(14) and 493.6115(7), F.S. A Class "G" license is a supplemental firearm license that authorizes a licensee to carry a firearm during the course of his or her employment as a private investigator or security officer. S. 493.6115(2), F.S.

⁵ S. 493.6105(6)(a), F.S.

⁶ S. 493.6105(6)(b), F.S.

⁷ S. 493.6113(1), F.S.

Florida provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.⁸ There are two levels of background screening:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,⁹ and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.¹⁰
- Level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.¹¹ These screenings typically take at least several days to complete.

Every person required to be screened under Florida's background screening statutes must submit a complete set of information necessary to conduct such a screening.¹² Such information for a Level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.¹³

Chief Range Safety Officer

The National Rifle Association (NRA) offers a 14 hour course that certifies a person to become a Chief Range Safety Officer.¹⁴ The course provides instruction in the following subjects related to firearms: standard operating procedures, inspections, emergency procedures, firearm stoppages and malfunctions, and safety briefings.

School Guardian Program

The Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel 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.¹⁵

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

- Hold a concealed weapons or concealed firearms license;
- 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.¹⁶

An individual must satisfy the background screening, psychological evaluation, and drug testing requirements prior to participating in the required guardian training. Under current law, *all training for*

⁸ Ch. 435, F.S.

⁹ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/>. (last visited Jan. 31, 2024).

¹⁰ Florida Department of Law Enforcement, *State of Florida Criminal History Records Check* <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited Jan. 31, 2024).

¹¹ S. 435.04, F.S.

¹² S. 435.05(1)(a), F.S.

¹³ Ss. 435.03(1) and 435.04(1)(a), F.S.

¹⁴ National Rifle Association, *NRA Chief Range Safety Officer*, <https://www.nrainstructors.org/CatalogInfo.aspx?cid=29> (last visited Jan. 31, 2024).

¹⁵ S. 30.15(1)(k), F.S.

¹⁶ *Id.*

*the guardian program must be conducted by a sheriff.*¹⁷ 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.¹⁸

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 school premises.¹⁹ 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.²⁰

The guardian training specified in statute is the statewide standard that must be used, however, sheriffs are authorized to supplement such training. 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.²¹

Firearm Training Grant Program

CS/HB 543 (2023) provided \$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.²² CS/HB 543 required FDLE to develop guidelines for administering the grant program and required law enforcement agencies who receive grant funding to document the use of such funding.

Land Use Regulation

Comprehensive Plans

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development.²³ A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.²⁴

The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²⁵ The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.²⁶

Zoning

¹⁷ S. 1006.12(7), F.S.

¹⁸ S. 30.15(1)(k), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ S. 30.15(1)(k)1.d., F.S.

²² Ch. 2023-18, Laws of Fla.

²³ Ch. 85-55, Laws of Fla.

²⁴ *Id.*

²⁵ S. 163.3177(6)(a), F.S.

²⁶ S. 163.3177(6)(f), F.S.

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, sign regulations, or any other regulations controlling the development of land.²⁷

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.²⁸ Common regulations on buildings within the zoning map districts include density,²⁹ height and bulk of buildings, setbacks, and parking requirements.³⁰ Zoning regulations will also include acceptable uses of property for other categories of land, such as agricultural or industrial.

Agricultural Lands

Under Florida's greenbelt law,³¹ only lands that are used primarily for bona fide agricultural purposes may be classified agricultural. The law defines "bona fide agricultural purposes" to mean good faith commercial agricultural use of the land.³² Various factors are considered when determining whether land is being used for a bona fide agricultural use, including the length of time the land has been so used; whether the use has been continuous; the purchase price paid; size, as it relates to specific agricultural use, but a minimum acreage is not required; whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices; and whether the land is leased and, if so, the effective length, terms, and conditions of the lease.³³ Nonresidential buildings, structures, or facilities constructed on a farm for agritourism activities constitute a bona fide agricultural use of the land so long as the buildings, structures, or facilities are an integral part of the agricultural operation.³⁴

Effect of Proposed Changes

CS/HB 831 creates s. 790.501, F.S., to authorize DACS to issue an applicant a license to be designated as an Enhanced Firearms Training Facility (EFTF) if he or she:

- Completes and submits an application to DACS;
- Successfully passes a Level 2 background screening;
- Has no felony convictions;
- Successfully completes a National Rifle Association Chief Range Safety Officer training program or equivalent program conducted by a nationally recognized organization that provides similar firearms training; and
- Holds a Class "K" Firearms Instructor License.

Under the bill, an owner may provide, along with the application to DACS, a written attestation from the sheriff who has jurisdiction over the property on which the EFTF is or will be located, if the sheriff, at his or her sole discretion, agrees to provide such attestation, confirming that the sheriff or his or her designee has:

- Visited the property and facilities upon which the EFTF is or will be located;
- Determined the property and facilities are large enough and sufficient enough to be designated as an EFTF; and
- Determined the property and facilities may fulfill a public safety training need, including providing a place for the sheriff or other law enforcement agencies to provide firearms or other training to the public, including such firearms training under the FDLE firearms training grant program authorized in 2023.

²⁷ See ss. 163.3164 and 163.3213, F.S.

²⁸ Indian River County, *General Zoning Questions*, https://indianriver.gov/services/community_development/faq.php#collapse1250b1 (last visited Jan 31, 2024).

²⁹ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. S. 163.3164(12), F.S.

³⁰ *Supra*, note 27.

³¹ S. 193.461, F.S.

³² S. 193.461(3)(b), F.S.

³³ *Id.*

³⁴ S. 570.87(1), F.S.

An EFTF license is valid for 12 months and must be renewed annually to remain valid. DACS may revoke an EFTF license if the owner is no longer in compliance with the minimum requirements to operate an EFTF because he or she has been convicted of a felony or no longer holds a Class "K" Firearms Instructor License.

The bill authorizes a sheriff, under an agreement with an EFTF, to provide training and certification for the school guardian program at an EFTF.

Under the bill, an EFTF, once licensed, is exempt from any local government planning and zoning or public works restrictions if the EFTF is located in the unincorporated area of a county.

The bill provides the following definitions:

- "Enhanced firearms training facility" means a facility located on land zoned for agricultural use or the equivalent which is used to train people in the use of firearms and personal safety.
- "Owner" means a person who:
 - Holds the legal title to the land and facilities upon which the EFTF will be licensed; or
 - Holds a percentage interest in the agricultural land and facilities that is equal to or greater than the other persons who also hold a legal interest, if the legal title is held in the name of two or more people.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 790.501, F.S., relating to enhanced firearms training facilities; licensing.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on state government by requiring DACS to implement an EFTF licensing program and to conduct ongoing monitoring of EFTF licensees for compliance with specified requirements, and requiring FDLE to conduct background checks on EFTF applicants.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on EFTFs as it allows a sheriff to provide school guardian training at an EFTF, authorizes a sheriff or other law enforcement agency provide firearm or other training at an EFTF under the FDLE grant program, and exempts an EFTF located in the unincorporated area of a county any from local government planning and zoning or public works restrictions.

D. FISCAL COMMENTS:

None.

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 provides DACS with sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment differed from the bill in that it:

- Authorized, but did not require, the sheriff who has jurisdiction over the county in which the EFTF will be located to provide supporting documentation to DACS.
- Required an owner to complete an NRA Chief Range Safety Officer training program or equivalent program to be eligible to have his or her property to be designated as an EFTF.
- Authorized a law enforcement agency to provide firearm safety training to the public at an EFTF, including by using grant funds from FDLE for such training.
- Authorized a sheriff to provide school guardian training at an EFTF.
- Narrowed a licensed EFTF's exemption from specified local government requirements to apply only to an EFTF located in the unincorporated area of a county.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.