

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 931 School Chaplains
SPONSOR(S): McClain and others
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 1044

FINAL HOUSE FLOOR ACTION: 89 Y's 25 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 931 passed the House on February 22, 2024, as amended, and subsequently passed the Senate on March 7, 2024.

The bill authorizes each school district or charter school to adopt a policy to allow volunteer school chaplains to provide support, services, and programs, as assigned by the district school board or charter school governing board, to students. The bill requires each volunteer school chaplain to meet statutory background screening requirements for individuals who will have direct contact with students.

The bill requires that the volunteer school chaplain policy adopted by a school district or charter school must, at a minimum, describe the supports, services, or programs that volunteer school chaplains may be assigned; require that principals of schools with a volunteer school chaplain inform all parents of the availability of such supports, services, and programs; and require written parental consent before a student participates in or receives supports, services, and programs provided by a volunteer school chaplain. The bill requires that parents must be permitted to select a volunteer school chaplain from the list provided by the school district, which must include the chaplain's religious affiliation, if any. Any school district or charter school that adopts such a policy must publish the list of volunteer school chaplains, including any religious affiliation, on the school district's website.

The bill does not have a fiscal impact.

The bill was approved by the Governor on April 18, 2024, ch. 2024-103, L.O.F., and will become effective on July 1, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Student Mental Health

In 2018, the Marjory Stoneman Douglas High School Public Safety Act¹ created the Mental Health Assistance Allocation within the Florida Education Finance Program.² The allocation is intended to provide funding to assist school districts in establishing or expanding school-based mental health care, train educators and other school staff in detecting and responding to mental health issues, and connect children, youth, and families who may experience behavioral health issues with appropriate services.³ For the 2023-2024 school year, \$160 million was appropriated for the allocation.⁴ Each school district receives a minimum of \$100,000, and the remaining balance is allocated based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment.⁵ Eligible charter schools are entitled to a proportionate share of the school district's allocation.⁶ Currently, there are 6,754 school counselors, 1,393 school social workers, 1,571 school psychologists, and 396 other licensed mental health providers employed by Florida's school districts that may provide mental health services, with each school district having at least one such professional.⁷

School districts are prohibited from using the funds allocated under this section to supplant funds from other operating funds used for the provision of mental health services. These funds may not be used for salary increases or bonuses.⁸

To receive allocation funds, a school district must develop and submit to the district school board for approval a detailed plan outlining its local program and planned expenditures.⁹ A school district's plan must include all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district.¹⁰ Each approved plan must be submitted to the Commissioner of Education by August 1 each year.¹¹

The plan must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services. Supports and services under the allocation are provided to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care.¹²

¹ Chapter 2018-3, L.O.F.

² Section 1011.62(14), F.S.

³ *Id.*

⁴ Specific Appropriations 5 and 80, s. 2, ch. 2023-239, L.O.F.

⁵ Section 1011.62(14), F.S.; *See also* Florida Department of Education, *Florida Education Finance Program 2023-24 Second Calculation*, at 28, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/2324FEFP2ndCalc.pdf>.

⁶ Section 1011.62(14), F.S.

⁷ Email, Daniel Ellinger, Legislative Affairs, Florida Department of Education, (Jan. 22, 2024), on file with the Education Quality Subcommittee.

⁸ Section 1011.62(14), F.S.

⁹ Section 1011.62(14)(a)1.-2., F.S.

¹⁰ *Id.*

¹¹ Section 1011.62(14)(c), F.S.

¹² Section 1011.62(14)(b), F.S.

Plans must include elements such as:¹³

- Direct employment of school-based mental health service providers to expand and enhance school-based student services and reduce the ratio of students to staff to align with nationally recommended ratio models.
- Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide behavioral health staff presence and services at district schools.
- Policies and procedures which ensure that students who are referred to a school-based or community-based mental health service provider for mental health screening are:
 - assessed within 15 days of referral, and that school-based mental health services are initiated within 15 days after identification and assessment and community-based mental health services are initiated within 30 days after school or district referral;
 - provided information about other behavioral health services available through the student's school or local community-based behavioral health services providers;
 - provided information about behavioral health services available through other delivery systems or payors for which individuals living in the household of the referred student may qualify, if such services appear to be needed or enhancements in such individuals' behavioral health would contribute to the improved well-being of the student;
- Policies and procedures, to be implemented prior to the initiation of an involuntary examination by a mental or behavioral health provider or school-based law enforcement officer who has completed crisis intervention training, that includes attempting to verbally de-escalate a student in crisis, including strategies to de-escalate a student with a developmental disability in crisis.
- Policies requiring that school or law enforcement personnel, prior to initiating an involuntary examination, make a reasonable attempt to contact a mental health professional authorized to initiate an involuntary examination, unless the student in crisis poses an imminent danger to him- or herself or others.

School districts are also required to report program outcomes and expenditures for the previous fiscal year by September 30 each year.¹⁴ The report must, at a minimum, provide the number of each of the following:¹⁵

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

Youth Mental Health Awareness and Assistance

The Department of Education (DOE) is responsible for developing and maintaining an evidence-based youth mental health awareness and assistance training program. The program must be designed to help school personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health, or substance use problem.¹⁶ At a minimum the training must include:¹⁷

- An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness.
- Information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis,

¹³ *Id.*

¹⁴ Section 1011.62(14)(d), F.S.

¹⁵ *Id.*

¹⁶ Section 1012.584(1), F.S.

¹⁷ Section 1012.584(3), F.S.

eating disorders, and self-injury, as well as common treatments for those conditions and how to assess those risks.

- Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies, including, but not limited to, peer, social, or self-help care.

The DOE must partner with a national organization with expertise in youth mental health to provide the training to all school personnel in Florida's elementary, middle, and high schools. Each school district school safety specialist must ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.¹⁸

School District Mental Health Coordinator

Each school district is required to identify a mental health coordinator that will serve as the primary point of contact regarding the district's student mental health policies, procedures, responsibilities, and reporting.¹⁹ The mental health coordinator's responsibilities include:

- Coordinating with the Office of Safe Schools.
- Maintaining records and reports regarding student mental health as it relates to school safety and the mental health assistance allocation.
- Facilitating the implementation of school district policies relating to the respective duties and responsibilities of the school district, the superintendent, and district school principals.
- Coordinating with the school safety specialist on the staffing and training of threat assessment teams and facilitating referrals to mental health services, as appropriate, for students and their families.
- Coordinating with the school safety specialist on the training and resources for students and school district staff relating to youth mental health awareness and assistance.
- Reviewing annually the school district's policies and procedures related to student mental health for compliance with state law and alignment with current best practices and make recommendations, as needed, for amending such policies and procedures to the superintendent and the district school board.²⁰

School Counselors

Current law requires that all school counselors be certified as required by the rules of the State Board of Education (SBE).²¹ The SBE defines school counselors as staff members certified by the DOE who are responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; and similar functions.²² SBE provides the following two methods for an individual to be certified in school counseling:

- A master's or higher degree with a graduate major in guidance and counseling or school counseling that includes a minimum of six-hundred (600) clock hours of supervised internship serving school-aged students in a prekindergarten, an elementary or a secondary school setting; or
- A master's or higher degree with a graduate major in counseling other than guidance and counseling or school counseling as specified in subsection (1) of this rule that includes a minimum of six-hundred (600) clock hours of supervised internship with school-aged children and their families with at least nine (9) semester hours of graduate credit to include the following areas:

¹⁸ Section 1012.584(2), F.S.

¹⁹ Section 1006.07(6)(b), F.S.

²⁰ *Id.*

²¹ Section 1012.55(1)(b), F.S.

²² Rule 6A-5.079(2)(a), F.A.C.

- Student appraisal and evaluation methods in prekindergarten, elementary and secondary schools including interpretation and analysis of standardized tests and other assessment results that assist students in career exploration, academic skills and personal and social skill development;
- College and career planning for prekindergarten, elementary and secondary school students including college and career exploration and knowledge of financial aid and financing of postsecondary education options;
- Principles, philosophy, organization and administration of a comprehensive school counseling program in prekindergarten, elementary and secondary schools; and
- Consultation skills and techniques for conferring with groups such as agencies, teachers and parents.²³

Applicants for certification using the second method above must also be assigned a mentor, who is a state certified school counselor, by their employing school district for their first two years of employment.²⁴

The SBE has further adopted the Florida School Counseling Standards consisting of the seven following standards:

- Professional, Legal, and Ethical Expectations. School counselors act ethically and according to professional standards to promote the academic success and well-being of all students.
- Data-Driven Planning. Effective school counselors utilize resources including available school data to guide decision making and counseling services.
- School Counseling Program. Effective school counselors develop, implement, and evaluate programs that cultivate a school environment that promotes the academic success and well-being of all students.
- Consultation, Collaboration, and Coordination. Effective school counselors utilize multiple means of communication to promote the academic success and well-being of all students.
- Counseling Services. Effective school counselors provide direct and indirect services that support the safety, mental health, and well-being of all students.
- Academic Advising and Planning. Effective school counselors cultivate a caring, rigorous, and supportive school community that promotes the academic success and well-being of all students.
- Career Development and Postsecondary Planning. Effective school counselors provide opportunities for all students to develop the behaviors necessary to learn work-related skills, resilience, perseverance, an understanding of lifelong learning as a part of long-term career success, the value of volunteerism and mentorship, and a strong work ethic.²⁵

Background Screening of Individuals at Schools

Individuals who work in or provide services to school districts, charter schools, alternative schools, and private schools participating in state school choice scholarship programs²⁶ must undergo a fingerprint-based background screening before being permitted access to school grounds.²⁷ The individuals who must undergo background screening fall under three personnel classifications: instructional and noninstructional personnel;²⁸ noninstructional school district employees and contracted personnel;²⁹ and

²³ Rule 6A-4.0181(1)-(2), F.A.C

²⁴ Rule 6A-4.0181(3), F.A.C.

²⁵ Rule 6A-5.079(2)(a)-(g), F.A.C.

²⁶ The background screenings conducted by such private schools are conducted through the VECHS.

²⁷ Sections 1002.421, 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S

²⁸ Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

²⁹ Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

noninstructional contractors.³⁰ Candidates for educator certification must also undergo background screening.³¹

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.³² Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must be screened against a distinct list of 52 disqualifying offenses applicable to employment with public schools and school districts.³³ Existing law authorizes the cost of the state and federal criminal history check required by level 2 screening to be borne by the district school board or the person fingerprinted.³⁴

Establishment Clause

Two First Amendment clauses, the Free Exercise Clause and the Establishment Clause, protect religious freedom. Together, they permit neither bias favoring nor bias disfavoring religion.³⁵ When examining issues related to religion, courts generally do not examine the reasonableness or truth of a particular religious belief, but may inquire into its sincerity or genuineness.³⁶ Similarly, courts generally do not prefer organized religion.³⁷

The judiciary has indicated that the First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.³⁸ In general, in order to overcome a claim that a law violates the Establishment Clause, the law must have a secular purpose; its primary effect must not advance or inhibit religion; and it must not result in excessive entanglement between church and state.³⁹

In general, the Establishment Clause prevents public schools from engaging in activities which could be construed as sponsoring or endorsing religion. Prayer and Bible readings in public schools during school hours are impermissible.⁴⁰ The U.S. Supreme Court has held that even encouraging voluntary silent prayer may violate the Establishment Clause.⁴¹ Courts have permitted released-time programs in which students attend religious instruction off public school property.⁴²

The Florida Constitution provides that "[t]here shall be no law respecting the establishment of religion" and that "[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of . . . any sectarian institution."⁴³ This clause is similar to, but more detailed than, the Establishment Clause within the U.S. Constitution. The Florida Supreme Court has indicated that Florida courts generally treat Florida's free exercise clause under the

³⁰ Noninstructional contractors are vendors or contractors who are not school district employees, are permitted access to school grounds when students are present, and have little or no direct contact with students. Section 1012.467(1)(a), F.S.

³¹ Sections 1012.315, 1012.32(2)(a), and 1012.56(10)(a), F.S.

³² See ss. 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

³³ Sections 1012.315, 1012.32, and 1012.465, F.S.

³⁴ Section 1012.465(2), F.S.

³⁵ *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203 (1963).

³⁶ *U.S. v. Ballard*, 322 U.S. 78 (1944).

³⁷ *Frazer v. Illinois Dep't of Emp't Sec.*, 489 U.S. 829 (1989).

³⁸ *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968).

³⁹ *Mitchell v. Helms*, 530 U.S. 793 (2000) (recognizing that the test of excessive entanglement is part of the primary purpose test).

⁴⁰ See *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203 (1963) (Bible readings); *Engel v. Vitale*, 370 U.S. 421 (1962) (prayer).

⁴¹ *Wallace v. Jaffree*, 472 U.S. 38 (1985).

⁴² *Zorach v. Clausone*, 343 U.S. 306 (1952) (upholding released-time program); but see *McCullum v. Bd. of Educ. of Sch. Dist. No. 71, Champaign Cnty., Ill.*, 333 U.S. 203 (1948) (prohibiting plan whereby privately-paid religious instructors were given classroom time in public schools).

⁴³ Art. I, s. 3, Fla. Const.

same standards as the U.S. Constitution's free exercise clause is treated.⁴⁴ The Florida Supreme Court has not firmly held that Florida's establishment clause is indistinguishable from the federal Establishment Clause, and has not announced that it would necessarily adhere to federal precedent when interpreting the Florida provision.⁴⁵

Chaplains

In modern usage the term *chaplain* is not confined to any particular church or denomination. Clergy and ministers appointed to a variety of institutions and corporate bodies—such as cemeteries, prisons, hospitals, schools, colleges, universities, embassies, legations, and armed forces—usually are called chaplains.⁴⁶

Chaplains serve in the armed forces of most countries, generally as commissioned officers who are not required to bear arms. Protestant, Roman Catholic, and Jewish chaplains serve in the armed forces of the United States.⁴⁷

A chaplain performs basically the same functions in most armed forces. A chaplain in the U.S. military must furnish or arrange for religious services and ministrations, advise his commander and fellow staff officers on matters pertaining to religion and morality, administer a comprehensive program of religious education, serve as counselor and friend to the personnel of the command, and conduct instruction classes in the moral guidance program of his service.⁴⁸

Effect of the Bill

The bill authorizes each school district or charter school to adopt a policy to allow volunteer school chaplains to provide support, services, and programs to students as assigned by the district school board or charter school governing board. Any such policy adopted by a school district or charter school must, at a minimum:

- Describe the supports, services, or programs that volunteer school chaplains may be assigned.
- Require that principals of schools with a volunteer school chaplain inform all parents of the availability of such supports, services, and programs.
- Require written parental consent before a student participates in or receives supports, services, and programs provided by a volunteer school chaplain. Parents must be permitted to select a volunteer school chaplain from the list provided by the school district, which must include the chaplain's religious affiliation, if any.

The bill requires each volunteer school chaplain to meet statutory background screening requirements for individuals who will have direct contact with students.

The bill requires any school district or charter school that adopts a volunteer school chaplain policy to publish the list of volunteer school chaplains, including any religious affiliation, on the school district's or charter school's website.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁴⁴ *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1030 (Fla. 2004) (citing *Toca v. State*, 834 So. 2d 204, 208 (Fla. 2d DCA 2002)).

⁴⁵ *See Warner*, 887 So. 2d at 1023-36.

⁴⁶ Britannica, *Chaplain*, <https://www.britannica.com/topic/chaplain> (last visited Mar. 12, 2024).

⁴⁷ *Id.*

⁴⁸ *Id.*

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.