

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JDC 23-01 Public Records

SPONSOR(S): Judiciary Committee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	22 Y, 0 N	Padgett	Kramer

SUMMARY ANALYSIS

Section 1006.12, F.S., requires district school boards and school district superintendents 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. A safe-school officer may be a school resource officer, school safety officer, school guardian, or a school security guard. Each of these safe-school officers must meet specified training and eligibility requirements and be certified for a specified safe-school officer position. Documentation of a person’s training and certification as a safe-school officer is maintained by the sheriff, school district, or charter school. Section 1006.12(8), F.S., provides a public records exemption for information held by a law enforcement agency, school district, or charter school that would identify whether a person has been appointed as a safe-school officer.

CS/HB 543 (2023), to which this bill is linked, amends s. 1002.42, F.S., to authorize a private school to partner with a law enforcement or security agency to establish or assign a safe-school officer to a private school. A private school electing to implement a safe-school officer program must comply with the same statutory requirements for such officers as school districts and charter schools, including providing training and certification records to the sheriff.

PCB JDC 23-01, which is linked to the passage of CS/HB 543, creates a public records exemption for any information that is held by a law enforcement agency that may identify whether a particular individual has been assigned as a safe-school officer pursuant to s. 1006.12, F.S., at a private school. This public records exemption mirrors the existing public records exemption for information that is 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 at a public or charter school.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill does not appear to have a fiscal impact.

The bill will become effective on the same date that CS/HB 543 (2023) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution.¹ The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish its purpose.²

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act (Act)³ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁴ In addition, the exemption may be no broader than is necessary to meet one of the following purposes:⁵

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption. When considering reenacting an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. If continued and expanded, the exemption requires a public necessity statement and a two-thirds vote of the members present.

Safe-school Officers

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.⁶

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:⁷

¹ Art. I, s. 24(c), Fla. Const.

² *Id.*

³ S. 119.15, F.S.

⁴ S. 119.15(6)(b), F.S.

⁵ *Id.*

⁶ S. 1006.12, F.S.

⁷ S. 1006.12(1)-(4), F.S.

- 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 officer⁸ who is employed by a law enforcement agency and is required to undergo criminal backgrounds checks, drug testing, and a psychological evaluation.⁹ 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.¹⁰
- 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 officer¹¹ 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.¹²
- 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.¹³ Guardians do not have arrest powers.¹⁴
- 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.¹⁵ A security guard must aid in the prevention or abatement of active assailant incidents on school premises,¹⁶ but does not have arrest powers.¹⁷

Section 1006.12(8), F.S., provides a public records exemption for 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.

CS/HB 543 (2023)

CS/HB 543 (2023), to which this bill is linked, amends s. 1002.42, F.S., to authorize a private school to partner with a law enforcement or security agency to establish or assign a safe-school officer to a private school. A private school electing to implement a safe-school officer program is required to comply with the same statutory requirements for such officers as school districts and charter schools.

⁸ See s. 943.10(1), F.S.

⁹ S. 1006.12(1)(a), F.S.

¹⁰ S. 1006.12(1)(b), F.S.

¹¹ See s. 943.10(1), F.S.

¹² S. 1006.12(2), F.S.

¹³ S. 1006.12(3), F.S.

¹⁴ S. 30.15(1)(k), F.S.

¹⁵ S. 1006.12(4), F.S.

¹⁶ S. 1006.12(4)(c), F.S.

¹⁷ S. 30.15(1)(k), F.S.

As such, documentation of a person's training and certification as a safe-school officer will be maintained by the sheriff and private school.

Effect of Proposed Changes

PCB JDC 23-01, which is linked to the passage of CS/HB 543, creates a public records exemption for any information that is held by a law enforcement agency that may identify whether a particular individual has been assigned as a safe-school officer pursuant to s. 1006.12, F.S., at a private school. This public records exemption mirrors the existing public records exemption for information that is 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 at a public or charter school.

The bill provides the public records exemption is a public necessity because disclosure of the identity of a safe-school officer could affect his or her ability to adequately respond to an active assailant situation.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill will become effective on the same date that CS/HB 543 (2023) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.42, F.S., relating to private schools.

Section 2: Provides a public necessity statement as required by the Florida Constitution.

Section 3: Provides that the bill is effective on the same date that HB 543 (2023) or similar legislation takes effect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article 1, section 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public records exemption for any information that is held by a law enforcement agency that may identify whether a particular individual has been assigned as a safe-school officer pursuant to s. 1006.12, F.S., at a private school. This public records exemption mirrors the existing public records exemption for information held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed a safe-school officer at a public or charter school. The exemption does not appear to be broader than necessary to accomplish the purpose of the exemption.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES