

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 1509 Public Records/School Guardians

SPONSOR(S): State Affairs Committee

TIED BILLS: CS/CS/HB 1473 **IDEN./SIM. BILLS:** SB 7056

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Rando	Williamson

SUMMARY ANALYSIS

Current law 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 safe-school officer 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. Current law also provides a public record 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, and, similarly, provides a public record exemption for any information held by a law enforcement agency that may identify whether a particular individual has been assigned as a safe-school officer at a private school.

CS/CS/HB 1473 (2024), to which this bill is linked, requires a sheriff's office that certifies individuals to serve as school guardians, and school districts, charter schools, and private schools that appoint school guardians, to report specified information to the Florida Department of Law Enforcement (FDLE). Based on these reports, the FDLE must maintain a list of each person who is appointed as a school guardian, including the school guardian's name, the date on which he or she was certified as a school guardian, and the date on which he or she was appointed a school guardian, including the name of the school to which the guardian is appointed, and, as applicable, the date his or her appointment as a school guardian ended.

This bill creates a public record exemption for any information held by the FDLE, a law enforcement agency, a school district, or a charter school that would identify whether an individual has been certified to serve as a school guardian. The bill provides a statement of public necessity as required by the Florida constitution. The bill provides that the exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill provides an effective date that is contingent upon the passage of CS/CS/HB 1473.

Article I, s. 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 exemption. The bill creates 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

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹ The Legislature, however, may provide by general law an exemption² from public record requirements provided that the exemption passes by a two-thirds vote, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.³

Current law also addresses the public policy regarding access to government records by guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.⁴ Furthermore, the Open Government Sunset Review (OGSR) Act⁵ provides that a public record exemption may be created, revised, 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."⁶ An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect 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.⁷

Pursuant to the OGSR Act, a new public record exemption, or the substantial amendment of an existing public record exemption, is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.⁸

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.⁹

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 and may:¹⁰

¹ Art. I, s. 24(a), FLA. CONST.

² A "public record exemption" means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. See s. 119.011(8), F.S.

³ Art. I, s. 24(c), FLA. CONST.

⁴ See s. 119.01, F.S.

⁵ Section 119.15, F.S.

⁶ Section 119.15(6)(b), F.S.

⁷ *Id.*

⁸ Section 119.15(3), F.S.

⁹ S. 1006.12, F.S.

¹⁰ S. 1006.12(1)-(4), F.S.

- Establish a school resource officer program through a cooperative agreement with law enforcement agencies. A school resource officer is a certified law enforcement officer¹¹ who is employed by a law enforcement agency and is required to undergo criminal background checks, drug testing, and a psychological evaluation.¹² 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.¹³
- 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 officer who may be employed by a district school board or law enforcement agency and is required to undergo criminal background 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.¹⁴
- Appoint a school guardian under the Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel 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.¹⁵ Guardians do not have arrest powers.¹⁶
- 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 in 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 complete guardian program training, including 144 training hours.¹⁷ A security guard must aid in the prevention or abatement of active assailant incidents on school premises,¹⁸ but does not have arrest powers.¹⁹

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.²⁰

All safe-school officers are required to receive mental health crisis intervention training. Safe-school officers who are sworn law enforcement officers must complete such 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 related to incidents involving students with emotional disturbance or mental illness, including de-escalation skills. Safe-school officers who are not sworn law enforcement officers must receive training to improve their knowledge and skills related to incident response and de-escalation.²¹

¹¹ See s. 943.10(1), F.S.

¹² S. 1006.12(1)(a), F.S.

¹³ S. 1006.12(1)(b), F.S.

¹⁴ S. 1006.12(2), F.S.

¹⁵ S. 1006.12(3), F.S.

¹⁶ S. 30.15(1)(k), F.S.

¹⁷ S. 1006.12(4), F.S.

¹⁸ S. 1006.12(4)(c), F.S.

¹⁹ S. 30.15(1)(k), F.S.

²⁰ S. 1006.12(4)(b), F.S.

²¹ S. 1006.12(6), F.S.

A district school superintendent or charter school administrator, or designee, must notify the county sheriff and the Office of Safe Schools (OSS) within 72 hours after a safe-school officer is dismissed for misconduct, is disciplined, or discharged a firearm in the exercise of duties during a non-training incident.²² 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.²³

Florida law provides a public record 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.²⁴

Under Florida law, it is a third-degree felony to falsely impersonate a school guardian or a law enforcement officer or licensed security officer acting in the capacity of a safe-school officer.²⁵

Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program

The Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program (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.²⁶

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 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 the Criminal Justice Standards and Training Commission-certified instructors, and ongoing training, weapon inspection, and firearm qualification on at least an annual basis.²⁷

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.²⁸

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.²⁹

A sheriff who establishes a program may consult with the Florida Department of Law Enforcement (FDLE) on programmatic guiding principles, practices, and resources to assist in the development and implementation of the Guardian Program.³⁰

²² S. 1006.12(5), F.S.

²³ S. 1001.212(15), F.S.

²⁴ Ss. 1006.12(8) and 1002.42(18)(c), F.S.

²⁵ 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.

²⁶ S. 30.15(1)(k), F.S.

²⁷ S. 30.15(1)(k)2, F.S.

²⁸ S. 1006.12(7), F.S.

²⁹ S. 30.15(1)(k)1.b., F.S.

³⁰ S. 943.03(16), F.S.

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.³¹ The sheriff who conducts the guardian training must issue a school guardian certificate to individuals who meet the 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.³²

The guardian training specified in statute is the statewide standard that must be used; however, sheriffs may supplement such training. A guardian that has received the required training cannot be required to repeat the training unless there has been at least a one-year break in her or his employment as a guardian.³³

Safe-school Officers in Private Schools

In 2023, the Legislature expanded the Guardian Program by authorizing private schools to partner with a law enforcement or security agency to establish or assign a safe-school officer to their schools.³⁴ The private school is responsible for any training costs associated with implementing a school guardian program and must comply with the same statutory requirements for such officers as school districts and charter schools.³⁵

If the county in which a private school operates does not currently participate in the Guardian Program, the private school may request the sheriff to initiate a Guardian Program for the purpose of training private school employees.³⁶ 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.³⁷ 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.³⁸ 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.³⁹

CS/CS/HB 1473 (2024)

CS/CS/HB 1473, to which this bill is linked, amends s. 30.15, F.S., requiring sheriff offices that certify individuals to serve as school guardians and school districts, charter schools, and private schools that appoint school guardians, to report specified information to the FDLE. Based on these reports, the FDLE must maintain a list of each person who is appointed as a school guardian, including the school guardian's name, the date on which he or she was certified as a school guardian, and the date on which he or she was appointed as a school guardian, including the name of the school district, charter school, or private school to which the guardian is appointed, and, as applicable, the date his or her appointment as a school guardian ended.

Effect of Proposed Changes

This bill, which is linked to the passage of CS/CS/HB 1473, amends s. 30.15, F.S., to create a public record exemption for any information held by the FDLE, a law enforcement agency, a school district, or a charter school that would identify whether a person has been certified to serve as a school guardian.

The bill provides that the public record exemption is a public necessity because disclosure of the identity of persons certified as school guardians might compromise their safety along with the safety of

³¹ S. 30.15(1)(k), F.S.

³² *Id.*

³³ S. 30.15(1)(k)1.d., F.S.

³⁴ S. 2, ch. 2023-18, Laws of Fla.

³⁵ S. 30.15(1)(k)1.c., F.S.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

students by allowing ill-intentioned persons to compare the records of certified school guardians to information concerning school employees to discern whether a person has been appointed to serve as a school guardian.

The bill provides that the exemption is subject to the OGSR Act and stands repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides an effective date that is contingent upon the passage of CS/CS/HB 1473 or similar legislation.

B. SECTION DIRECTORY:

Section 1: Amends s. 30.15, F.S., regarding powers, duties, and obligations.

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

Section 3: Provides a contingent effective date.

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:

The bill may have a fiscal impact on state and local agencies responsible for responding to public record requests as their staff will require training in implementation of the new public record exemption; however, the costs should be absorbed within current resources.

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 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, s. 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 exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption; thus, it includes a public necessity statement. The public necessity statement states that the Legislature finds, in part, that the disclosure of the identity of persons certified as school guardians might compromise their safety along with the safety of students by allowing ill-intentioned persons to compare the records of certified school guardians to information concerning school employees to discern whether a person has been appointed to serve as a school guardian. Additionally, the public disclosure of such information would also adversely affect their ability to adequately respond to an active assailant incident as an assailant might be alerted in advance that a particular individual is certified as a school guardian.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any information held by the FDLE, a law enforcement agency, a school district, or a charter school that would identify whether a person has been certified to serve as a school guardian. The exemption does not appear to be broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Judiciary Committee adopted a proposed committee substitute (PCS) and one amendment to the PCS. The PCS, as amended, differed from the original bill in that it conformed a provision to an amendment made to the linked bill, HB 1473, relating to de-escalation training for school guardians.

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