

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1097 School Safety
SPONSOR(S): Steube and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1418

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Beagle	Ahearn
2) Criminal Justice Subcommittee			
3) Education Appropriations Subcommittee			
4) Education Committee			

SUMMARY ANALYSIS

School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel, property, and students within the school district. School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. A school safety officer has the authority to carry weapons when performing official duties. Not all schools are assigned a school safety officer. The law does not specifically authorize a school principal to designate school district personnel to carry a concealed weapon or firearm for the protection of students and school employees.

Florida law authorizes the Department of Agriculture and Consumer Services (DACs) to issue a concealed weapons permit (CWP) to individuals who meet statutory qualifications. Among other criteria, applicants must pass a fingerprint-based criminal background check and complete a CWP training class.

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property in the conduct of official duties. Similar authority is provided to district school superintendents regarding school district administration buildings. Such personnel must complete private security officer licensing training and statewide firearms license recertification training, with exceptions. For purposes of such designation, "school" means any public elementary school, middle school, junior high school, or secondary school. The bill does not require designated personnel to hold a CWP issued by DACs.

The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized one or more school district personnel to carry a concealed weapon or firearm on school property. The bill requires the superintendent to recommend, and the school board to appoint, the school safety officers.

The bill does not have a fiscal impact on state government; however, the bill does have an indeterminate fiscal impact on school districts. See Fiscal Comments.

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on "school district property." The bill defines "school" as any public elementary school, middle school, junior high school, or secondary school and limits the carrying of a concealed weapon or firearm by designated personnel to "official school duties." However, use of the term "school district property" appears to grant the principal broader authority to designate personnel to carry a concealed weapon or firearm than just the school he or she oversees. The bill contains a number of other drafting issues. See Drafting Issues or Other Comments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Gun Free School Zones

Federal Law

Federal law prohibits the knowing possession of a firearm that has moved in or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By individuals licensed to possess a firearm by the state or a political subdivision of the state in which the school zone is located if the licensing law requires law enforcement verification that the individual meets the law's qualifications to receive the license before issuance;
- That is not loaded and stored in a locked container on a motor vehicle;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual;
- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual who is authorized by the school to cross school grounds for the purpose of gaining access to public or private lands open to hunting.¹

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm that has moved in or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to the discharge of a firearm:

- On private property not part of school grounds;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual; or
- By a law enforcement officer acting in his or her official capacity.²

Federal law further provides that it is not Congress' intent to occupy the field of firearms regulation, unless there is a direct, positive, and irreconcilable conflict between a federal and state firearms law regulating the same subject matter. Thus, states may regulate firearms in a manner that is consistent with federal law.³

Florida Law

Florida law prohibits, with exceptions, the possession or discharge of weapons or firearms at a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.⁴ The law prohibits:

- Exhibition of a weapon⁵ or firearm in the presence of another in a rude, careless, angry, or threatening manner on school property or a school bus, at a school bus stop or school-

¹ 18 U.S.C. s. 922(q)(2)(A)-(B).

² 18 U.S.C. s. 922(q)(3)(A)-(B).

³ 18 U.S.C. s. 927.

⁴ Section 790.115(2)(a), F.S. (flush left provision at end of paragraph).

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. Section 790.001(13), F.S. Exhibiting a

sponsored event, or within 1,000 feet⁶ of a K-12 public or private school, during school hours or at the time of a school activity.⁷ Such exhibition is a third degree felony,⁸ unless it is made in lawful self-defense.⁹

- Possession of a weapon¹⁰ or firearm, “except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop.” Penalties for such possession vary, as follows:
 - Willful and knowing unlawful possession of a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event is a third degree felony.¹¹
 - A person who fails to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree misdemeanor.¹²
 - A person who discharges a firearm while unlawfully possessing it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree felony,¹³ unless discharged for lawful defense of self or others or for a lawful purpose.¹⁴

The penalties for unlawful exhibition or possession of a firearm or weapon differ for licensed concealed weapons permit holders. Violations by such individuals constitute a second degree misdemeanor.¹⁵

The law provides several exceptions allowing individuals to carry a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event without express approval by school officials. A firearm may be carried:

- In a case to a school-approved firearms program;
- In a case to a career center having a firearms training range; or
- In a vehicle by a person who is at least 18 years of age and the firearm is securely encased or not readily accessible for immediate use.

School districts may adopt policies waiving the vehicle exception for purposes of student and campus parking privileges.¹⁶

Concealed Weapons Permits

Florida law authorizes the Department of Agriculture and Consumer Services (DACCS) to issue a concealed weapons permit (CWP) to individuals who meet statutory qualifications. Among other criteria, CWP applicants must pass a fingerprint-based criminal background check and complete a CWP training class. The CWP is a photo identification that enables the holder to carry a concealed weapon or firearm in public,

sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. Section 790.115(1), F.S.

⁶ The prohibition on exhibition of a firearm or weapon on private real property within 1,000 feet of a school does not apply to the property owner or those whose presence is authorized by the owner. Section 790.115(1), F.S.

⁷ Section 790.115(1), F.S.

⁸ A third degree felony is punishable by term of imprisonment not exceeding five years and a fine not exceeding \$5,000. Sections 775.082(3)(d) and 775.083(1)(c), F.S.

⁹ Section 790.115(1), F.S.

¹⁰ In addition to firearms and items defined as weapons, this provision also applies to possession of an electric weapon or device, destructive device, and a razor blade or box cutter. Section 790.115(2)(a), F.S.; *see footnote text, supra* note 4.

¹¹ Section 790.115(2)(e), F.S.

¹² Section 790.115(2)(c), F.S. This does not apply if the firearm was securely stored and the minor obtains the firearm as a result of an unlawful entry by any person or to members of the Armed Forces, National Guard, State Militia, or law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

¹³ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding \$10,000.

¹⁴ Section 790.115(2)(d), F.S.

¹⁵ Sections 790.115(2)(e) and 790.06(12)(a) and (d), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

¹⁶ Section 790.115(2)(c), F.S.; *see, e.g.*, Policies 1217, 3217, 4217, 5772, and 7217, Leon County School Board.

except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.¹⁷

School Safety Officers

School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. School safety officers have authority to make arrests for violations of law on school board property and to arrest persons, whether on or off such property, who violate any law on such property under the same conditions that deputy sheriffs are authorized to make arrests. A school safety officer has the authority to carry firearms or other weapons when performing official duties.¹⁸

School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel, property, and students within the school district. School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.¹⁹

Private Security Officer Training

Individuals seeking a Class "D" license as a private security officer must complete at least 40 hours of professional training by a provider licensed by DACS.²⁰ The training addresses legal liability issues and court procedures; personal security; traffic and crowd control; fire detection and life safety; crime and accident prevention; terrorism awareness; first aid; emergency response procedures; ethics; and patrol, communication, observation, report writing, and interviewing techniques.²¹

Individuals holding a Class "G" statewide firearm license must annually complete four hours of firearms recertification training taught by a licensed firearms instructor as a condition to license renewal.²² Such training includes a review of legal aspects of firearms use and when to use a gun, operational firearms safety and mechanical training, and range-based firearms requalification.²³ In lieu of proof of statewide firearms recertification training, such personnel may submit:

- Proof of current certification as a law enforcement officer or correctional officer and completion of law enforcement firearms requalification training annually during the previous two years of the licensure period;
- Proof of current certification as a federal law enforcement officer and receipt of law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- A Florida Criminal Justice Standards and Training Commission Instructor Certificate, National Rifle Association Private Security Firearm Instructor Certificate, or a firearms instructor certificate issued by a federal law enforcement agency and proof of having completed requalification training during the previous two years of the licensure period.²⁴

Effect of Proposed Changes

The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property. Similar authority is provided to district school superintendents regarding school district administration buildings. Weapons or firearms may

¹⁷ Section 790.06, F.S.

¹⁸ Section 1006.12(2)(a) and (c), F.S.

¹⁹ Section 1006.12(2)(b) and (d), F.S.

²⁰ Section 493.6303(4)(a), F.S.

²¹ Florida Department of Agriculture and Consumer Services, *Security Officer Training Curriculum Guide* (July 2010) [hereinafter *Security Officer Training*].

²² Section 493.6113(

²³ *Security Officer Training*, *supra* note 20.

²⁴ Section 493.6113(3)(b), F.S.

only be carried in a concealed manner while performing official school duties. For purposes of such designation, "school" means any public elementary school, middle school, junior high school, or secondary school. See Drafting Issues or Other Comments.

Designated personnel must submit to the authorizing principal or superintendent proof of completion of private security officer licensing training and annual statewide firearms license recertification training. As is currently authorized, proof of state or federal law enforcement certification or specified firearms certifications may be submitted in lieu of proof of statewide firearms license recertification training. Such personnel are not required to obtain the licenses associated with required training. The bill does not require designated personnel to hold a CWP, establish a badge or license identifying those designated to carry a weapon or firearm, or establish an application process or other standards for selecting personnel to designate. See Drafting Issues or Other Comments.

The bill exempts designated personnel from penalties related to unlawful possession of a weapon or firearm; allowing a minor access to a firearm; and rude, careless, angry, or threatening exhibition of a firearm or weapon on school property or at school functions. See Drafting Issues or Other Comments.

Currently, school boards have discretion to determine the number of school safety officers to commission and the schools in which to deploy them. The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized school district personnel to carry a concealed weapon or firearm. The bill requires the superintendent to recommend, and the school board to appoint, the school safety officers. See Fiscal Comments.

B. SECTION DIRECTORY:

Section 1. Amends s. 790.115, F.S., relating to Possessing or discharging firearms on school property prohibited; authorizes a school principal or school superintendent to designate school district personnel to carry a concealed weapon or firearm on school district property; specifies requirements.

Section 2. Amends s. 1006.12, F.S., relating to School resource officers and school safety officers; requires school boards to commission a school safety officer for each district school, except for schools in which the principal has authorized school district personnel to carry a concealed weapon or firearm.

Section 3. Amends s. 435.04, F.S., relating to Level 2 screening standards; conforms provisions.

Section 4. Amends s. 790.251, F.S., relating to Protection of the right to keep and bear arms in motor vehicles; conforms provisions.

Section 5. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; conforms provisions.

Section 6. Amends s. 1012.315, F.S., relating to Disqualification from employment; conforms provisions.

Section 7. Provides an effective date of July 1, 2013.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires each school board to commission a school safety officer for each school in the school district, except for schools in which the principal has authorized personnel to carry a concealed weapon or firearm. School boards are not granted authority to adopt district-wide requirements or an approval process for designating personnel to carry a concealed weapon or firearm. Thus, each principal gets to manage the process ad hoc.

The costs incurred by school boards to hire school safety officers are directly dependent upon whether a school principal is willing to designate personnel to carry a concealed weapon or firearm and personnel are willing to accept such designation and whether a school safety officer is otherwise assigned to that school.

School districts annually receive categorical safe schools funding, which may be used for various purposes related to school safety.²⁵ School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.²⁶

School district personnel who are designated to carry a concealed weapon or firearm must complete 40 hours of private security officer licensing training and an annual four hour statewide firearms license recertification course. A sampling of training provider websites indicates a cost of \$150 for private security officer license training²⁷ and \$99 for statewide firearms license recertification.²⁸ The bill does not specify whether the personnel or the school district bears the cost of such training.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

²⁵ Section 1011.62(6)(b)2., F.S.; *see, e.g.*, specific appropriations 6 and 84, ss. 1 and 2., ch. 2012-118, L.O.F.

²⁶ Section 1006.12(2)(b) and (d), F.S.

²⁷ ASK Bodyguard Training, *Prices*, <http://www.floridadlicensetraining.com/florida-d-license-prices/> (last visited March 21, 2013).

²⁸ Onsite Tactical Training Institute, *Class "G" Recertification*, <http://ostti.com/glicrecert.php> (last visited March 21, 2013).

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 49-67: The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on school district property. Although current law authorizes school officials to approve one's possession of a weapon or firearm "in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop," it provides no standards for a principal to rely for designating personnel under the bill. The bill does require designated personnel to complete private security officer training and statewide firearms license recertification training, but they are not required to obtain the licenses associated with the training. The bill does not require designated personnel to hold a CWP, establish an alternative identification for those designated to carry a weapon or firearm, or establish an application process or additional standards for vetting personnel similar to that required for a CWP. School boards are not directed to adopt district-wide requirements or an approval process for designating personnel to carry a concealed weapon or firearm. Thus, each principal gets to manage the process ad hoc. This could subject school districts and principals to liability if the actions of designated personnel result in harm to a student or others, especially if it cannot be shown that sufficient standards and procedures were in place for selecting personnel based upon their background, skills, and temperament.

Lines 49-53: The bill exempts designated personnel from penalties related to unlawful possession of a weapon or firearm; allowing a minor access to a firearm; and rude, careless, angry, or threatening exhibition of a weapon or firearm on school property or at school functions. Thus, there are no penalties for designated personnel who unlawfully exhibit a weapon or firearm or allow a minor to access a firearm while carrying it on school property. Limiting this exemption to unlawful possession would allow designated personnel to carry a weapon or firearm on school property, while still subjecting them to penalties for unlawful exhibition of a weapon or firearm or allowing a minor access to a firearm.

Lines 49-53 and 65-67: The bill authorizes a public school principal to designate a member of a school district's personnel to carry a concealed weapon or firearm on "school district property." The bill defines "school" as any public elementary school, middle school, junior high school, or secondary school and limits the carrying of a concealed weapon or firearm by designated personnel to "official school duties." However, use of the term "school district property" appears to grant the principal broader authority to designate personnel to carry a concealed weapon or firearm not just at the school the principal oversees, but any school property throughout the district.

Lines 54-58: Because the carrying of a concealed weapon is not limited to school hours, it appears that this would also be allowable at school events or any other time designated personnel are conducting official school duties.

Lines 58-61: Designated personnel must complete private security officer licensing training and annual statewide firearms license recertification training. These trainings do not involve simulated or "live fire" training in active shooter situations or defensive shooting tactics. While having an armed individual at the school could deter active shooters from selecting that school as a target, some training in active shooter situations would be beneficial to personnel who are designated to carry weapons or firearms at the school, should the scenario arise.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.