

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 180

INTRODUCER: Senator Evers

SUBJECT: School Safety

DATE: March 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	<b>Pre-meeting</b>
2.			ED	
3.			AP	

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**I. Summary:**

SB 180 authorizes school boards to implement armed security measures on school property. It expands the definition of “school” within s. 790.115, F.S., to include adult education facilities and any combination of schools, facilities, or centers listed in the definition of school.

The bill creates restrictions and requirements related to persons who are authorized to provide armed security in the school setting.

The “school safety designees” must be licensed to carry a concealed weapon or firearm pursuant to the requirements of s. 790.06, F.S., and be:

- An honorably discharged military veteran with no firearm-related disciplinary infraction;
- An active-duty member of the military, National Guard, or reserves, with no firearm-related disciplinary infraction; or
- A law enforcement officer in good standing or a former officer who has retired or terminated employment in good standing and not during the course of an internal investigation.

The designee is required to carry the weapon or firearm, on his or her person, in a concealed manner at all times while performing official school or school safety designee duties.

School safety designees must undergo a Level 2 background screening. They must also complete a training program created by the Florida Department of Law Enforcement (FDLE).

An appropriation of nonrecurring funds from General Revenue in the amount of \$157,927 is made to FDLE for FY 2015-2016. The funds are designated for the Criminal Justice Standards and Training Commission to develop the school safety training curriculum required by the bill. The school safety program will be created by January 1, 2016.

The bill requires school boards to coordinate or consult with local law enforcement about active-shooter situation procedures. The bill also provides that both public and private schools must allow campus tours by law enforcement first responders at least every three years.

## II. Present Situation:

### Gun Free School Zones

#### *Federal Law*

Federal law prohibits the knowing possession of a firearm that has been transported across state lines in interstate commerce 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 in 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.<sup>1</sup>

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm that has been transported across state lines in interstate commerce 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.<sup>2</sup>

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.<sup>3</sup>

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<sup>1</sup> 18 U.S.C. s. 922(q)(2)(A)-(B).

<sup>2</sup> 18 U.S.C. s. 922(q)(3)(A)-(B).

<sup>3</sup> 18 U.S.C. s. 927.

***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.<sup>4</sup> The law prohibits:

- Exhibition of a weapon<sup>5</sup> 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-sponsored event, or within 1,000 feet<sup>6</sup> of a K-12 public or private school, during school hours or at the time of a school activity.<sup>7</sup> Such exhibition is a third degree felony,<sup>8</sup> unless it is made in lawful self-defense.<sup>9</sup>
- Possession of a weapon<sup>10</sup> 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:
  - A person who willfully and knowingly unlawfully possesses a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event commits a third degree felony.<sup>11</sup>
  - 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.<sup>12</sup>
  - 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,<sup>13</sup> unless discharged for lawful defense of self or others or for a lawful purpose.<sup>14</sup>

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:

- To a school-approved firearms program;
- To a career center having a firearms training range; or

<sup>4</sup> s. 790.115(2)(a), F.S. (flush left provision at end of paragraph).

<sup>5</sup> “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. s. 790.001(13), F.S. Exhibiting a sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. s. 790.115(1), F.S.

<sup>6</sup> 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. s. 790.115(1), F.S.

<sup>7</sup> s. 790.115(1), F.S.

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

<sup>9</sup> s. 790.115(1), F.S.

<sup>10</sup> 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.

<sup>11</sup> s. 790.115(2)(e), F.S.

<sup>12</sup> s. 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. Also exempt from this section are members of the Armed Forces, National Guard, State Militia, or law enforcement officers, if the minor gains possession during or incidental to the performance of their official duties.

<sup>13</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding \$10,000. ss. 775.082 and 775.083, F.S.

<sup>14</sup> s. 790.115(2)(d), F.S.

- 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.<sup>15</sup>

### **Concealed Weapon and Firearm Permits**

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons and firearm license to individuals who meet statutory qualifications. Among other criteria, applicants must pass a fingerprint-based criminal background check and complete a firearm proficiency training class. The concealed carry license is a photo identification that enables the holder to carry a concealed weapon or firearm in public, except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.<sup>16</sup>

The Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training Commission certifies law enforcement officers and correctional probation officers after training curriculum has been successfully completed and other conditions are met.<sup>17</sup> Officers who hold an active certification are not required to possess a concealed carry license in order to carry a concealed weapon or firearm while they are off-duty.<sup>18</sup>

### **Concealed Carry Licenses for Retired Law Enforcement, Active and Discharged Military**

With a passing score on the firing range testing component of the minimum firearms proficiency course for active law enforcement officers, a retired law enforcement officer is authorized under federal law to carry a concealed firearm with proper state identification.<sup>19</sup>

Military firearms training is recognized as evidence of competence with a firearm for purposes of the concealed carry license but all other requirements must be met for both active and retired military.<sup>20</sup> A person applying for a concealed carry license may show proficiency with a firearm by presenting evidence of experience with a firearm during military service.<sup>21</sup>

### **Safe Storage**

Florida law requires persons to store loaded firearms securely to prevent minors from gaining access to them.<sup>22</sup>

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<sup>15</sup> s. 790.115(2)(c), F.S.; *see, e.g.*, Policy 7217, Leon County School Board.

<sup>16</sup> s. 790.06, F.S.

<sup>17</sup> s. 943.13, F.S., and related provisions within chapter 943, F.S. The curriculum includes “high liability training” which requires the recruit to demonstrate safety and marksmanship with a firearm.

<sup>18</sup> s. 790.052, F.S., applies to officers defined in ss. 943.10(1), (2), (6), (7), (8) and (9), F.S.

<sup>19</sup> Generally, retired in good standing after at least 15 years of service. s. 943.132, F.S.

<sup>20</sup> The 21 years of age requirement has been waived for active and honorably discharged veteran military. ss. 790.06(2)(b) and 790.062, F.S.

<sup>21</sup> s. 790.06(2)(h)5., F.S.

<sup>22</sup> ss. 790.115(2)(c)2. and 790.174, F.S.

## **School Safety**

### ***Emergency Policies***

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>23</sup>

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other “best practices,” the self-assessment suggests that school districts:

- Develop a district-wide plan for potential attacks against school sites.
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes, among other things, procedures for weapons and hostage situations.
- Share emergency plans and procedures with designated school and school district personnel, identify training for all types of school staff and staff that require specialized training, and incorporate such training into the Master Plan for In-Service Training.<sup>24</sup>

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.<sup>25</sup>

### ***School Resource Officers***

School resource officers are employed by a law enforcement agency. They are certified law enforcement officers who retain all the powers and duties of a law enforcement officer during their tenure as a school resource officer.<sup>26</sup>

### ***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. A school safety officer has the authority to carry weapons when performing official duties.<sup>27</sup> School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel,

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<sup>23</sup> s. 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. s. 1006.07(4)(b), F.S.

<sup>24</sup> s. 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 12, 2013). The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. *Id.*

<sup>25</sup> s. 1006.07(6), F.S.

<sup>26</sup> s. 1006.12(1)(a), F.S.

<sup>27</sup> ss. 1006.12(2)(a) and (c), F.S.

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.<sup>28</sup>

### ***Background Screening***

Florida law requires school district employees to undergo a fingerprint-based background screening as a condition of employment.<sup>29</sup> Instructional and noninstructional personnel<sup>30</sup> and noninstructional school district employees and contracted personnel<sup>31</sup> must undergo a Level 2 background screening.<sup>32</sup> A Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 criminal offenses.<sup>33</sup> Such employees must be rescreened every five years.<sup>34</sup>

### **III. Effect of Proposed Changes:**

Section 790.115, F.S., is amended by the bill to allow certain school district employees or volunteers to carry a concealed firearm on school property. These persons must be licensed to carry a concealed weapon or firearm pursuant to the requirements of s. 790.06, F.S., and be:

- An honorably discharged military veteran with no firearm-related disciplinary infraction;
- An active-duty member of the military, National Guard, or reserves, with no firearm-related disciplinary infraction; or
- A law enforcement officer in good standing or a former officer who has retired or terminated employment in good standing and not during the course of an internal investigation.

The school district employees or volunteers who meet the criteria are called “school safety designees” in the bill. They may be authorized to carry a concealed firearm on school property by a school superintendent with the approval of the school board.

School safety designees are specifically exempted from current law that prohibits possessing a firearm on school property, school buses, or school bus stops. The designee is required to carry the weapon or firearm, on his or her person, in a concealed manner at all times while performing official school or school safety designee duties.

A school safety designee who stores or leaves a firearm within the reach or easy access of a minor who obtains the firearm commits a second degree misdemeanor.

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<sup>28</sup> ss. 1006.12(2)(b) and (d), F.S.

<sup>29</sup> ss. 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. See ss. 943.0542 and 1002.421(2)(i), F.S.

<sup>30</sup> Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. s. 1012.32(2), F.S.

<sup>31</sup> 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. s. 1012.465(1), F.S.

<sup>32</sup> ss. 1012.32(1)-(2), 1012.465(2), and 1012.56(10), F.S.

<sup>33</sup> ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

<sup>34</sup> ss. 1012.465(2) and 1012.56(10)(b), F.S.

A school safety designee must undergo a Level 2 background screening as described above. He or she may be required to submit to additional screenings by the school superintendent at any time. The fingerprints of the school safety designee must be forwarded to the Florida Department of Law Enforcement (FDLE) for retention and future searches against state and federal arrest records. Any fingerprint search or retention fees are payable by the school safety designee or school.

The bill requires the school safety designee to submit proof of completion of a school safety program to the superintendent. The school safety program will be created and defined by the Criminal Justice Standards and Training Commission. The Commission will also develop the program curriculum. The bill requires state-operated criminal justice training centers to administer the program. The school safety program may include, but is not limited to:

- Active-shooter training;
- Firearm proficiency;
- School resource officer training;
- Crisis intervention training; weapons retention training; and
- Continuing education and training.

The school board must develop and incorporate policies related to the use of school safety designees within its overall safety plan if such designees are utilized by the school system. Likewise, best practices shall be coordinated with the local law enforcement responders so that a school safety designee can be quickly identified in an emergency situation.

If there is an emergency, the school safety designee must be under the direction of the school resource officer, if any. When local law enforcement responds, the school safety designee will be under that agency's direction.

The school property where school safety designees are utilized may contain signs that read: "Authorized Armed Defense Present and Permitted."

The bill requires that active-shooter and hostage situations be part of school board policies and procedures related to school safety and security.

The bill requires district school boards and private school principals or governing boards to provide for the first responder law enforcement agencies to tour the campuses every three years. Any changes recommended by the law enforcement agency must be documented by school officials.

An appropriation of nonrecurring funds from General Revenue in the amount of \$157,927 is made to FDLE for FY 2015-2016. The funds are designated for the Criminal Justice Standards and Training Commission to develop the school safety training curriculum required by the bill. The school safety program will be created by January 1, 2016.

The bill expands the definition of "school" within s. 790.115, F.S., to include adult education facilities and any combination of schools, facilities, or centers listed in the definition of school.

The bill contains legislative intent language regarding school safety. It also makes technical, clarifying, and conforming changes in existing law. The bill will become effective July 1, 2015.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill specifies that either the school safety designee or the school will bear the cost of state and national fingerprint processing and retention fees. Current costs as reported by FDLE are \$40.50 for the background check, \$13 for lifetime federal retention of the fingerprints, and \$6 annually to FDLE for state retention. The cost of the background check is scheduled to decrease slightly in February 2015. Responsibility for the cost of completing the newly-created school safety designee program and any continuing education and training is not addressed in the bill. It is not known what the cost of the program will be. Persons who choose to become school safety designees may experience this fiscal impact.

C. Government Sector Impact:

FDLE reports that the appropriation in the bill is based on its analysis of HB 753 (2014) which provided for the development of three courses for the school safety designee program, two of which already exist. SB 180 does not require a specific curriculum for the school safety designee program, therefore FDLE's budget estimate from 2014 and the appropriation set forth in the bill will likely be adequate to create one course for the program.

It appears that local school districts that choose to implement the school safety designee program may be responsible for the cost of background checks, fingerprint retention, and training related to the program unless the designee bears those costs.



**VI. Technical Deficiencies:**

It appears that line 300 of the bill should read (7) CAMPUS TOURS BY LAW ENFORCEMENT AGENCIES.—A district school. Deleting “SAFETY IN CONSTRUCTION AND PLANNING” and inserting “CAMPUS TOURS BY LAW ENFORCEMENT AGENCIES” will more accurately reflect the content of the newly-created subsection.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 790.115, 1006.07, 1006.12, 435.04, 790.251, 921.0022, and 1012.315.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.