

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.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: CS/SB 788

INTRODUCER: Infrastructure and Security Committee and Senator Book

SUBJECT: Statewide Active Shooter Response Planning

DATE: January 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 788 requires the Florida Department of Law Enforcement (FDLE), in consultation with law enforcement agencies throughout the state, to establish a uniform statewide rule on preparing for and responding to an active assailant. The CS also requires each law enforcement agency to adopt an active shooter policy or rule, as appropriate, by July 1, 2021, and directs FDLE to adopt rules to administer the statewide active assailant response planning.

FDLE advised the estimated cost to work with law enforcement partners to develop the minimum standards will have a fiscal impact of approximately \$15,000, based on current estimates for multiple stakeholder workshops to develop the standards for incorporation into rule.¹

There is also an unknown fiscal impact to local governments to develop, implement and train personnel according to rules developed by FDLE.

The CS requires the district school board of any school district that has local law enforcement officers on school grounds under the safe-schools officers statute² to develop and execute certain interlocal agreements.

¹ Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

² Section 1006.12, F.S.

The CS provides the State Board of Education, in consultation with the State Fire Marshal and the FDLE, must adopt rules to administer the development and execution of interlocal agreements and protocols for school district communications with first responders.

The CS provides a statement that the legislation fulfills an important state interest.

Section 2 of the CS related to school district communications with a first responder takes effect on July 1, 2020, the remainder of the CS takes effect upon becoming law.

II. Present Situation:

9-1-1 Calls

Calling 9-1-1 during an emergency is not difficult; however, calling the number, staying on the line, and trying to explain what is happening during a time of distress may be challenging for some.

While wireless phones can be an important public safety tool, they also create unique challenges for emergency first responders and wireless service providers. Since wireless phones are mobile, they are not associated with one fixed location or address. While the location of the cell site closest to the 9-1-1 caller may provide a general indication of the caller's location, that information is not always specific enough for first responder personnel to deliver assistance to the caller quickly.³ Although the authorities might be aware of a disturbance in a general area, they will not know exactly what the threat is, where it is coming from, and the level of the threat, unless the caller is able to stay on the call and relay that information to the operator.

In many cases of school shootings, there are already fatalities before a 9-1-1 call is placed. The average shooting lasts 12 minutes,⁴ while the national average response time by authorities to be on scene in response to a 9-1-1 call is approximately 15 minutes and 19 seconds after an incident is reported.⁵

Marjory Stoneman Douglas High School Public Safety Commission

The Marjory Stoneman Douglas High School (MSDHS) Public Safety Commission (MSD Commission) is entrusted with investigating system failures in the MSDHS shooting and prior mass violence incidents, and developing recommendations for system improvements.⁶ The MSD Commission submitted its initial report to the Governor and the Legislature on January 2, 2019,

³ Federal Communications Commission, *911 Wireless Services*, available at <https://www.fcc.gov/consumers/guides/911-wireless-services> (last visited December 26, 2019).

⁴ Ryan Sanchez, *How Columbine changed the way police respond to mass shootings*, available at <https://www.cnn.com/2018/02/15/us/florida-school-shooting-columbine-lessons/index.html> (last visited December 26, 2019).

⁵ Auto Insurance Center, *Emergency Response Times Across the U.S.*, available at <https://www.autoinsurancecenter.com/emergency-response-times.htm> (last visited December 26, 2019).

⁶ Section 943.687(3), F.S.

and its second report to the Governor and Legislature on November 1, 2019.^{7, 8} The MSD Commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.⁹

The MSD Commission's initial and second report includes numerous observations, which include the following:

“Deficiencies in the active assailant response policies and procedures for both the Broward County Sheriff's Office (BSO) and Broward County Public Schools (BCPS). Among the deficiencies identified for BSO were an ambiguous active shooter policy, inadequate active shooter training, and ineffective command and control. As for BCPS, they did not have a Code Red (lockdown) or hard corner (identification of the safest space in a classroom) policy; BCPS did not allow law enforcement direct access to school surveillance cameras; and MSDHS had not conducted a single active shooter drill in the year preceding the shooting. Each of these deficiencies manifested during and in response to the shooting and are highlighted in the Commission's initial report. The deficiencies had a negative effect on the school's and law enforcement's response to the shooting and some of these deficiencies resulted in unnecessary casualties.”¹⁰

Federal Planning and Response to an Active Shooter

The Interagency Security Committee (ISC), chaired by the U.S. Department of Homeland Security (DHS), and consisting of 54 Federal departments and agencies, had as its mission the development of security standards and best practices for nonmilitary Federal facilities in the United States titled *Planning and Response to an Active Shooter: An Interagency Security Committee Policy and Best Practices Guide*.¹¹ It streamlined existing ISC policy on active shooter incidents into one cohesive policy and guidance document to enhance preparedness, prevention, protection, mitigation, response, and recovery efforts related to an active shooter incident at Federal facilities.

The ISC guidance is designed to be applicable to all buildings and facilities in the United States occupied by Federal employees. These include existing buildings, new construction, or major modernizations; facilities owned, or being purchased, or leased; stand-alone facilities; Federal campuses; where appropriate, individual facilities on Federal campuses; and special-use facilities.¹²

⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited December 27, 2019).

⁸ Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (November 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf> (last visited December 27, 2019).

⁹ Section 943.687(9), F.S.

¹⁰ *Supra*, note 7 at page 77.

¹¹ U.S. Department of Homeland Security, *Planning and Response to an Active Shooter: An Interagency Security Committee Policy and Best Practices Guide* (November 2015), available at <https://www.dhs.gov/sites/default/files/publications/isc-planning-response-active-shooter-guide-non-fouo-nov-2015-508.pdf> (last visited December 27, 2019).

¹² *Id.*

Due to the nature of an active shooter event, the ISC guide contains guidance for all who might be involved, including law enforcement agencies, facility tenants, and the public. Certain responsibilities outlined within the guide are specific to designated law enforcement officers or personnel possessing the authority and training to take immediate action to contain, apprehend, or neutralize an active threat. Other sections of the guide are meant to educate facility tenants regarding actions they can take to save themselves or others.¹³

Statewide Active Shooter Response Plan

Currently, there is no Florida Statute requiring law enforcement agencies to create and adopt a uniform statewide rule on preparing for and responding to active shooter situations.¹⁴ Although the Criminal Justice Standards & Training Commission does list a Specialized Instructor Course entitled Single Officer Response to Active Threat and Shooter Incidents Instructor, and a Specialized Course entitled Single Officer Response to Active Threat and Shooter Incidents.¹⁵

Florida Highway Patrol

The Florida Highway Patrol (FHP) has a policy that generally addresses active shooter situations. The current FHP policy empowers responding troopers with the authority and responsibility to take immediate action, consistent with their training and experience, to contain and, if necessary, to neutralize active threats, including active shooters. It is the goal of the FHP to intervene in active threat situations to neutralize the threat by preventing access to potential victims and to rescue injured persons and potential victims.¹⁶

School District Communications with First Responders

In Florida, there are currently seven school districts (Seminole, Brevard, Lake, Osceola, Orange, Sumter and Walton County)¹⁷ and four higher education institutions (Florida State University, Seminole State College, University of Central Florida, Valencia College)¹⁸ that have established instant emergency communications coordination platforms in order to enhance safety, readiness and response. These platforms ensure, “schools are instantly connected to public safety the moment a crisis starts, providing emergency voice communications between school personnel and police as well as real-time video sharing from school CCTV [closed circuit television]. Additionally, other responding agencies can be linked together to communicate and see information even if they have different radio and video systems. The ability to instantly communicate, see what is happening and allow for coordinated collaboration eliminates many of

¹³ *Id.*

¹⁴ Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

¹⁵ Florida Department of Law Enforcement, *Active Courses*, available at <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses> (last visited December 27, 2019).

¹⁶ *Supra*, note 13.

¹⁷ Gabriela Lechin and Valerie Christopherson, *Brevard Public Schools Implement Instant Emergency Communications System with First Responders* (January 2, 2019), BusinessWire available at <https://www.businesswire.com/news/home/20190102005170/en/> (last visited January 15, 2020).

¹⁸ *Id.*

the problems identified in school shooting after action reports that cite delayed and ineffective response efforts.”¹⁹

In Florida both, “Orange and Seminole Counties led this school safety communications initiative when they assessed school emergency response readiness, deficiency reports from other incidents and recognized the necessity of enabling instant communications and coordination between the Sheriff’s Office and their schools.”²⁰

III. Effect of Proposed Changes:

CS/SB 788 creates s. 943.688, F.S., requiring the FDLE, in consultation with law enforcement agencies throughout the state and considering the unique needs of different geographic regions where those agencies are located, to establish a uniform statewide rule on minimum standards and requirements for how each law enforcement agency in the state must prepare and respond to active shooter situations within their jurisdictions. At a minimum, the uniform statewide rule must address the following:

- Detailed procedures for how to respond to a report of an alleged active shooter;
- Detailed procedures for how communications and notifications will be handled with all affected parties and the media;
- Detailed procedures indicating who from the appropriate law enforcement agency will respond and how they will do so, including having a designated person and an alternate person who have been trained or certified on how to handle active shooter situations; and
- Primary and alternate routes to potential targets within each law enforcement agency’s jurisdiction.

Each law enforcement agency in the state will be required to enact a policy or rule on active shooter preparedness and response no later than January 1, 2021. At a minimum, each such policy or rule must include the uniform statewide rule adopted by FDLE.

The CS also requires the FDLE to adopt rules to administer statewide active shooter response planning.

Having a statewide active shooter response plan may help to improve response times to emergency calls reporting shooting incidents, and may help to further provide guidance on how to best respond to emergency calls with limited resources and limited information on an active shooter incident.

The creation and adoption of a uniform statewide rule on preparing for and responding to active shooter situations by law enforcement may address some of the deficiencies observed by the MSD Commission.

The CS creates s. 1006.121, F.S., related to school district communication with first responders to require the district school board of any school district that has local law enforcement officers

¹⁹ *Id.*

²⁰ *Id.*

on school grounds under the safe-schools officers statute²¹ to develop and execute an interlocal agreement with the local sheriff office or other local law enforcement agency (LEA), the local fire department (FD), and the local emergency medical services (EMS) organization to create, at a minimum:

- Protocols to connect the school district to the appropriate dispatch centers;
- Protocols for proper communication between LEA's, the local FD, and the local EMS organization and the school district;
- Protocols to share resources relating to mental health services;
- Protocols and requirements for joint recurrent training of local LEA officers assigned to a school and the local LEA, the local FD, and the local EMS organization; and
- Protocols and requirements for interoperable communication between the school district and the local LEA, the local FD, and the local EMS organization.

The CS requires the State Board of Education, in consultation with the State Fire Marshal and the FDLE, to adopt rules to administer the development and execution of interlocal agreements and protocols for school district communications with first responders.

The CS also contains an undesignated section of law stating that the Legislature finds and declares that the act fulfills an important state interest.

Section 2 of the CS related to school district communications with first a responder takes effect on July 1, 2020, the remainder of the CS takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides, in pertinent part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments.

The bill expressly finds that the law fulfills an important state interest. The bill applies to all state and local law enforcement agencies in this state by requiring each agency to enact a policy or rule on active shooter preparedness and response by no later than January 1, 2021.

B. Public Records/Open Meetings Issues:

None.

²¹ Section 1006.12, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Interoperable communication systems for school districts would be sold and installed by private sector vendors, and would therefore have a positive impact on those vendors.

C. Government Sector Impact:

The CS requires the FDLE to develop uniform minimum standards and requirements for preparing and responding to active shooter situations in consultation with law enforcement agencies throughout the state. The estimated cost to coordinate with law enforcement partners to develop the minimum standards is approximately \$15,000, based on current estimates for multiple stakeholder workshops to develop the standards for incorporation into rule.²²

The CS may have an indeterminate negative fiscal impact to local government due to anticipated expenditures to develop, implement and train personnel according to local policies or rules required by the CS.

The CS may have an indeterminate negative fiscal impact to school districts that have local law enforcement officers on school grounds under the safe-schools officers statute, due to the requirements to enact protocols, joint recurring training with local law enforcement, and interoperable communication between school districts and first responders.

VI. Technical Deficiencies:

None.

²² Florida Department of Law Enforcement, *Senate Bill 788 Bill Analysis* (November 14, 2019) (on file with the Senate Committee on Infrastructure and Security).

VII. Related Issues:

The FDLE provided the following additional comments:²³

- Replace “active shooter” with “active assailant” since all events of mass violence do not involve a firearm;
- Not place detailed procedures in Florida Administrative Code, because individuals who may have ill intentions will have easy access to procedures and processes in place to prevent an active assailant situation, and this would also identify potential targets an assailant may not have considered and provide information that could be used to counter law enforcement response;
- Change the rules adoption date to July 1, 2021;
- Amend the CS from a mandatory rule-making posture to a best practices/guidance model similar to the approach utilized in the implementation of best practices and guidelines pertaining to eyewitness identification and Rachel’s law to address a uniform approach to active assailant(s). The unique needs and available resources of different geographical areas and urban/rural composition of the state make it impractical for one rule or policy to meet the needs of Florida’s diverse law enforcement community; and
- While the CS requires law enforcement agencies to comply with its provisions and rules, it does not provide any ramifications for failure to comply, and as such, any rules created by the FDLE may not hold much practical authority.

VIII. Statutes Affected:

This CS creates the following sections of the Florida Statutes: 943.688

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Infrastructure and Security on January 13, 2020:

- Replaces “active shooter” with “active assailant”;
- Creates a new section of statute for school district communications with first responders;
- Requires that district school boards that have local law enforcement officers on school grounds under the safe-schools officers statute must develop and execute an interlocal agreement with the local sheriff office or other LEA, the local FD, and the local EMS organization to create, at a minimum:
 - Protocols to connect the school district to the appropriate dispatch centers;
 - Protocols for proper communication between LEA’s, the local FD, and the local EMS organization and the school district;
 - Protocols to share resources relating to mental health services;
 - Protocols and requirements for joint recurrent training of local LEA officers assigned to a school and the local LEA, the local FD, and the local EMS organization; and

²³ *Id.*

- Protocols and requirements for interoperable communication between the school district and the local LEA, the local FD, and the local EMS organization.
- Requires the State Board of Education, in consultation with the State Fire Marshal and the FDLE, to adopt rules to administer the development and execution of interlocal agreements and protocols for school district communications with first responders.
- Provides a statement that the legislation fulfills an important state interest.

B. Amendments:

None.