

SUBJECT: Designating certain employees as school marshals

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 6 ayes — Pickett, Fletcher, Dale, Lavender, Sheets, Simmons
1 nay — Flynn
2 absent — Cortez, Kleinschmidt

WITNESSES: For — Ramiro Canales, Texas Association of School Administrators; Melanie Kriewaldt-Roth; Charley Wilkison, Combined Law Enforcement Associations of Texas; (*Registered, but did not testify:* Jay Arnold, Texas PTA; Lon Kraft, Texas Municipal Police Association; Frederick Frazier and James Parnell, Dallas Police Association; Dominic Giarratani, Texas Association of School Boards; and eight individuals)

Against — Read King; Ted Melina Raab, Texas AFT; Bridget Wiedenmeyer; (*Registered, but did not testify:* Portia Bosse, Texas State Teachers Association; Ashley Chadwick, Freedom of Information Foundation of Texas; Heather Fazio, Texans for Accountable Government; Caroline Gorman, Libertarian Party of Travis County; Jennifer Hall and Brandon Moore, Tarrant County Republican Party; Catherine Lamb, Cissy Sanders, and Lucien Zahendra, Moms Demand Action for Common Sense Gun Laws; Joseph Oliveri and Rosalie Oliveri, Community Committee Against Gun Violence; John Woods, Texas Gun Sense; and six individuals)

On — Thomas Just, Students for Gun Free Schools; Heather Ross, Gun and Mental Health Action Group; (*Registered, but did not testify:* RenEarl Bowie, Steve Moninger, and Sherrie Zgabay, Texas Department of Public Safety; John Woods, Texas Gun Sense; and four individuals)

DIGEST: HB 1009, The Protection of Texas Children Act, would establish a new category of law enforcement officer designated as a school marshal. The bill would allow school districts and open-enrollment charter schools to designate employees as school marshals and would set training standards and establish the rights, restrictions, limitations, and responsibilities of those marshals.

Designating marshals. The bill would permit school boards and charter school governing boards to appoint one employee per 400 students on a campus to serve as a school marshal. Those designated would be required to obtain certification by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

A marshal could act only as necessary to prevent or abate the commission of an offense that threatened serious bodily injury or death of students, faculty, or school visitors.

A marshal would be authorized to make arrests and exercise all authority given railroad peace officers under Code of Criminal Procedure, art. 2.121 subject to a district's written regulations. A school marshal could not issue a traffic citation.

The identity of a school marshal would be confidential and not subject to a request under the public information law. TCLEOSE would be required to disclose the identity to:

- the director of the Department of Public Safety;
- the employer school district or charter school;
- the police chief or sheriff; and
- the chief administrator of commissioned peace officers employed at a school district.

The school board could, but would not be required to, reimburse the amount paid by the applicant to participate in the training. A school marshal would not be entitled to state benefits normally provided to a peace officer.

Training and licensing. HB 1009 would authorize TCLEOSE to establish a training program open to school employees who hold a concealed handgun license (CHL). Only TCLEOSE staff could conduct the training, which would include 80 hours of specified instruction. Trainees would be subject to a psychological examination to determine whether they were fit to carry out the duties of a school marshal in an emergency shooting.

TCLEOSE would license individuals who completed the training and were deemed psychologically fit. The bill would require marshals be recertified every two years. It also would require the Department of Public Safety to

notify TCLEOSE if a school marshal's concealed handgun license was suspended or revoked.

The bill would provide for a training fee and would require TCLEOSE to establish the training program by January 1, 2014.

Handgun provisions. A school marshal would be allowed to carry or possess a handgun on school premises in accordance with written regulations by a school board. As an exception, those regulations would require a school marshal whose job involved regular, direct contact with students to keep the weapon in a locked and secured safe within the marshal's reach. A handgun could be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

A marshal could access the weapon only in situations involving an active shooter.

The bill would take immediate effect if passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 1009 is prompted by the terrible events of December 12, 2012, when a shooter killed 20 students and six adults at Sandy Hook Elementary School in Connecticut. The bill is designed to provide an option for districts to protect Texas students from any similar tragedy without the great expense of placing a law enforcement officer in every school building in the state.

The bill would allow local districts to designate a school employee as a school marshal, who would serve as the last line of defense should an armed attacker threaten the lives of children in public schools. A marshal on the premises could respond before police arrived, possibly saving many lives.

Districts would be limited to one school marshal for an average elementary school of 300 to 500 students. The marshals would be individuals who possessed concealed handgun licenses and had undergone 80 hours of training specific to school shooting situations. TCLEOSE, the state law enforcement licensing agency, would develop the training and screen candidates for psychological fitness.

Other law enforcement officers undergo more extensive training because their duties are much broader. HB 1009 would match the level of training to the limited duties of school marshals.

Some large school districts are able to afford a police force and school resource officers. However, those resource officers usually are stationed at middle schools and high schools to deal with routine problems involving drugs, gangs, and fights. Elementary schools frequently are left largely unprotected. In addition, district police and resource officers are usually in uniform, which would allow a school shooter to identify and target them. School marshals, like air marshals, are covert and have their weapons concealed, giving them a potential advantage over an armed intruder.

HB 1009 would prevent accidental shootings by requiring school employees who work in the classroom to keep their weapons in a lockbox. Other school marshals who work away from students could carry concealed handguns. The bill also requires a type of ammunition designed to disintegrate upon contact with hard surfaces, minimizing the risk of errant shots that might ricochet or go through an interior wall.

The identity of a school marshal would be known only to the head school administrator and local law enforcement authorities. Districts that chose to reimburse the marshals for their training expense or pay them a stipend could do so through their regular salary to protect their identity.

While it is true that school boards may adopt policies allowing employees to carry concealed weapons on school premises, HB 1009 offers a well-thought out template that districts could opt to follow. It was developed with input of law enforcement and school officials to cover a broad range of issues.

Districts could face liability for the actions of a school marshal but also could be subjected to lawsuits for failing to provide adequate security.

The issue of school safety and guns on campus has been studied and debated by the Legislature previously. Now is the time to act before the next shooting claims innocent lives.

**OPPONENTS
SAY:**

HB 1009 would allow school districts to pretend to be addressing school safety instead of truly providing the resources needed to make schools

safer.

Only fully certified law enforcement personnel should be dealing with weapons on campus. One teacher's group said that 65 percent of the 2,000 teachers who responded to an online survey agreed that security should be provided by local law enforcement and school security, rather than teachers and other school personnel. As has been shown in previous cases, confrontations with active shooters are challenging even for fully trained law enforcement officers. More guns in schools outside the hands of true law enforcement officers would invite more accidents.

Proponents claim HB 1009 is modeled after the federal air marshal program, but this is not true. Federal air marshals are full law enforcement personnel who undergo a 35-day basic training followed by a 43-day advanced training, including 155 hours of firearms training. School marshals would need only 80 hours of training.

It is inevitable that word will leak out at each school about the identity of the school marshal. At that point, the lack of anonymity would compromise the marshal's ability to be effective. In addition, school districts could face liability if a student or employee was injured or killed due to negligence or actions of a school marshal.

**OTHER
OPPONENTS
SAY:**

There is no need for a new state law prescribing detailed regulations for something that school districts already can do. While state law prohibits individuals from taking firearms onto school premises, districts may permit exceptions through written regulations or authorizations. Harrold ISD has a well-publicized program allowing staff to carry concealed weapons and other school boards are considering similar measures.

School shootings are a complex problem that should be studied further before enacting a law creating a new category of law enforcement. Other issues, such as the need for better mental health services, should be included in a comprehensive plan to address school violence.