

BILL ANALYSIS

Senate Research Center
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H.B. 867
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Education
5/18/2017
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2013, the legislature authorized public school districts and open-enrollment charter schools to appoint school marshals. This legislation was passed in response to the Sandy Hook Elementary School shooting in late 2012 and growing concern regarding mass shooting incidents on public school campuses. The purpose of this legislation was to provide public school districts and charter schools with an additional option for protecting students, faculty, and other staff on their campuses.

The 2013 law did not explicitly authorize private schools to establish a school marshal program. H.B. 867 authorizes the governing body of a private school to establish a school marshal program. This authorization is permissive; the governing body for a private school reserves the right to decide on whether or not to appoint a school marshal. H.B. 867 does not require that private schools appoint marshals. If a private school board elects to appoint a marshal, however, then the private school must follow the same rules applicable to public and charter school marshals. For example, as is required for public and charter schools, only individuals employed by a private school would be eligible for appointment as a school marshal. An appointed private school marshal may carry or possess a handgun on school premises in a manner provided by written regulations adopted by the school's governing body. Further, a private school's governing board may appoint no more than one school marshal per 200 enrolled students or per building at which students receive classroom instruction. Lastly, a private school marshal must undergo the same training and certification required for public and charter school marshals.

H.B. 867 amends current law relating to school marshals for private schools.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2.127, Code of Criminal Procedure, by amending Subsections (a) and (d) and adding Subsection (a-1), as follows:

(a) Authorizes a school marshal, except as provided by Subsection (b), to:

(1) creates this subdivision from existing text. Perform certain actions, subject to written regulations adopted by:

(A) creates this paragraph from existing text and makes a nonsubstantive change;

(B) the governing body of a private school under Section 37.0813, Education Code, which is added by this Act; or

(C) creates this paragraph from existing text and makes a nonsubstantive change; and

(2) creates this subdivision from existing text and makes no further changes to this subdivision.

(a-1) Defines "private school."

(d) Prohibits a person from serving as a school marshal unless the person is:

(1) makes no changes to this subdivision;

(2) appointed by:

(A) creates this paragraph from existing text and makes a nonsubstantive change.

(B) the governing body of a private school under Section 37.0813, Education Code; or

(C) creates this paragraph from existing text and makes no further changes to this paragraph.

SECTION 2. Amends the heading to Section 37.0811, Education Code, to read as follows:

Sec. 37.0811. SCHOOL MARSHALS: PUBLIC SCHOOLS.

SECTION 3. Amends Subchapter C, Chapter 37, Education Code, by adding Section 37.0813, as follows:

Sec. 37.0813. SCHOOL MARSHALS: PRIVATE SCHOOLS. (a) Authorizes the governing body of a private school to appoint not more than the greater of one school marshal per 200 students enrolled in the school, or one school marshal per building of the school at which students regularly receive classroom instruction.

(b) Authorizes the governing body of a private school to select for appointment as a school marshal an applicant who is an employee of the school and certified as eligible for appointment under Section 1701.260 (Training for Holders of License to Carry a Handgun; Certification of Eligibility for Appointment as School Marshal), Occupations Code.

(c) Authorizes a school marshal appointed by the governing body of a private school to carry or possess a handgun on the physical premises of a school, but only in the manner provided by written regulations adopted by the governing body.

(d) Requires that any written regulations provide that a school marshal may carry a concealed handgun, except that if the primary duty of the school marshal involves regular, direct contact with students in a classroom setting, the marshal is prohibited from carrying a concealed handgun but is authorized to possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. Requires that the written regulations also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement (TCOLE).

(e) Authorizes a school marshal to access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 (Deadly Force in Defense of Person) or 9.33 (Defense of Third Person), Penal Code.

(f) Provides that a private school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H (License to Carry a Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code;

(3) termination of the employee's employment with the private school; or

(4) notice from the governing body that the employee's services as school marshal are no longer required.

(g) Provides that the identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j) (relating to requiring TCOLE to submit the identifying information for each person licensed by TCOLE to certain officials), Occupations Code, and is not subject to a request under Chapter 552 (Public Information), Government Code.

(h) Requires a private school, if a parent or guardian of a student enrolled at the school inquires in writing, to provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. Prohibits the notice from disclosing information that is confidential under Subsection (g).

(i) Provides that this section does not apply to a school whose students meet the definition provided by Section 29.916(a)(1) (relating to the definition of "home-schooled student").

SECTION 4. Amends Section 1701.001(8), Occupations Code, to redefine "school marshal."

SECTION 5. Amends Section 1701.260, Occupations Code, by amending Subsections (a) and (j) and adding Subsection (a-1), as follows:

(a) Requires TCOLE to establish and maintain a training program open to any employee of a school-district, open-enrollment charter school, private school, or public junior college who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code.

(a-1) Defines "private school."

(j) Includes a private school who employs a person licensed by TCOLE under this section, the chief law enforcement officer of the local municipal law enforcement agency in the municipality where a private school is located, and the sheriff of the county in which a private school is located, if not located in a municipality, among certain persons to whom TCOLE is required to submit identifying information collected for each person licensed under this section.

SECTION 6. Effective date: upon passage or September 1, 2017.

SUMMARY OF COMMITTEE CHANGES

Adds the following appropriately numbered SECTIONS to the bill and renumbers the subsequent SECTIONS of the bill accordingly:

SECTION __. Amends Sections 37.0811(a) and (d), Education Code, as follows:

(a) Prohibits the board of trustees of a school district or the governing body of an open-enrollment charter school from appointing more than the greater of:

(1) one school marshal per 200, rather than 400, students in average daily attendance per campus. Creates this subdivision from existing text; or

(2) for each campus, one school marshal per building of the campus at which students regularly receive classroom instruction.

(d) Requires that the written regulations also require that a handgun carried by or within access of a school marshal is authorized to be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement (TCOLE), rather than only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

SECTION __. Amends Section 51.220(e), Education Code, to require that the written regulations also require that a handgun carried by or within access of a school marshal is authorized to be loaded only with frangible duty ammunition approved for that purpose by TCOLE, rather than only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.