

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1509 Public Records

SPONSOR(S): Judiciary Committee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee		Wolff	Kramer

SUMMARY ANALYSIS

Section 1006.12, F.S., requires district school boards and school district superintendents to partner with law enforcement or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. A safe-school officer may be a school resource officer, school safety officer, school guardian, or a school security guard. Each of these safe-school officers must meet specified training and eligibility requirements and be certified for a specified safe-school officer position. Documentation of a person’s training and certification as a safe-school officer is maintained by the sheriff, school district, or charter school. Section 1006.12(8), F.S., provides a public record exemption for information held by a law enforcement agency, school district, or charter school that would identify whether a person has been appointed as a safe-school officer. Similarly, s. 1002.42(18), F.S., provides a public record exemption for any information that is held by a law enforcement agency that may identify whether a particular individual has been assigned as a safe-school officer at a private school.

HB 1473 (2024), to which this bill is linked, amends s. 30.15, F.S., to require that a sheriff’s office that certifies individuals to serve as school guardians, and school districts, charter schools, and private schools that appoint school guardians, report specified information to the Florida Department of Law Enforcement (FDLE). Based on these reports, the FDLE is required to maintain a list of each person who is appointed as a school guardian, including the school guardian’s name, the date on which he or she was certified as a school guardian, and the date on which he or she was appointed a school guardian, including the name of the school to which the guardian is appointed, and, as applicable, the date their appointment as a school guardian ended.

PCS for HB 1509, which is linked to the passage of HB 1473 (2024), amends s. 30.15, F.S., to create a public record exemption for any information held by the FDLE or a law enforcement agency, school district, or charter school and reported to FDLE as required by HB 1473 that would identify an individual who has been certified to serve as a school guardian. The bill provides the public record exemption is necessary to effectuate the existing public record exemption for information that is held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer at a public, charter school, or private school, since such information is now required to be forwarded to the FDLE.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill does not appear to have a fiscal impact.

The bill will become effective on the same date that HB 1473 (2024) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution.¹ The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish its purpose.²

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act (Act)³ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁴ In addition, the exemption may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.⁵

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption. When considering reenacting an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. If continued and expanded, the exemption requires a public necessity statement and a two-thirds vote of the members present.

Safe-school Officers

District school boards and school district superintendents are required to partner with law enforcement or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. To assist charter schools with fulfilling this requirement, a district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options.⁶

A safe-school officer may be a school resource officer, school safety officer, school guardian, or a school security guard. A school district may implement any combination of the following options based upon the needs of the school district and may:⁷

¹ Art. I, s. 24(c), Fla. Const.

² *Id.*

³ S. 119.15, F.S.

⁴ S. 119.15(6)(b), F.S.

⁵ *Id.*

⁶ S. 1006.12, F.S.

⁷ S. 1006.12(1)-(4), F.S.

- School Resource Officer: Establish a school resource officer program through a cooperative agreement with law enforcement agencies. A school resource officer is a certified law enforcement officer⁸ who is employed by a law enforcement agency and is required to undergo criminal background checks, drug testing, and a psychological evaluation.⁹ School resource officers abide by school board policies and consult with and coordinate activities through the school principal. They are responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a school board and a law enforcement agency. Activities conducted by the school resource officer, which are part of the regular instructional program of the school, are under the principal's direction.¹⁰
- School Safety Officer: Commission one or more school safety officers as recommended by the district school superintendent and appointed by the district school board. A school safety officer is a certified law enforcement officer who may be employed by a district school board or law enforcement agency and is required to undergo criminal background checks, drug testing, and a psychological evaluation. A school safety officer has and must exercise the power to make arrests for violations of law on school board property or on property owned or leased by a charter school under a charter contract. The officer may also make arrests off school board property if the law violation occurred on such property and may carry weapons when performing his or her official duties. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, as mutually agreed.¹¹
- School Guardian: Appoint a school guardian under the Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program who is certified by the sheriff after completing a psychological evaluation, drug testing, and specified training, which includes firearm instruction. A guardian may be a school district employee or charter school employee who volunteers to serve as a guardian, in support of school sanctioned activities, in addition to his or her official job duties. A qualifying individual may also be employed specifically as a guardian.¹² Guardians do not have arrest powers.¹³
- School Security Guard: Contract with a security agency to employ a school security guard. A school security guard is an individual who is employed by a security agency and serves on a school facility as a safe-school officer in support of school sanctioned activities. Security guards are required to hold a concealed carry weapon permit and undergo drug testing and a psychological evaluation. An individual serving in this capacity must complete guardian program training, including 144 training hours.¹⁴ A security guard must aid in the prevention or abatement of active assailant incidents on school premises,¹⁵ but does not have arrest powers.¹⁶

A school district contract with a security agency must define the entity or entities responsible for training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification.¹⁷

All safe-school officers are required to receive mental health training. Safe-school officers who are sworn law enforcement officers must complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in the topic. The training must improve the safe-school officers' knowledge and skills as a first responder to incidents involving students with emotional disturbance or mental illness, to include de-escalation skills. Safe-school officers who are not sworn law enforcement officers are required to receive training to improve their knowledge and skills related to incident response and de-escalation.¹⁸

⁸ See s. 943.10(1), F.S.

⁹ S. 1006.12(1)(a), F.S.

¹⁰ S. 1006.12(1)(b), F.S.

¹¹ S. 1006.12(2), F.S.

¹² S. 1006.12(3), F.S.

¹³ S. 30.15(1)(k), F.S.

¹⁴ S. 1006.12(4), F.S.

¹⁵ S. 1006.12(4)(c), F.S.

¹⁶ S. 30.15(1)(k), F.S.

¹⁷ S. 1006.12(4)(b), F.S.

¹⁸ S. 1006.12(6), F.S.

A district school superintendent or charter school administrator, or their designee, is required to notify its county sheriff and the Office of Safe Schools (OSS) within 72 hours after a safe-school officer being dismissed for misconduct, being disciplined, or discharging a firearm in the exercise of duties during a non-training incident.¹⁹

The OSS must annually publish certain information about safe-school officers including the total number of officers, officers disciplined or relieved of duty due to misconduct, disciplinary incidents, and incidents in which a safe-school officer discharged his or her firearm outside of a training situation or in the course of duty.²⁰

Florida law exempts from disclosure any information held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer.²¹

Florida law prohibits a person from falsely impersonating a school guardian and a violation of the prohibition is a third degree felony. In addition, the law prohibits a person from impersonating a law enforcement officer or licensed security officer acting in the capacity of a safe-school officer.²²

Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program

The Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program (Guardian Program) authorizes qualified school personnel to serve as an armed guard to aid in the prevention or abatement of active assailant incidents on school premises.²³

A school district or charter school employee may serve as a guardian if the individual is appointed by the district school superintendent or charter school principal and is certified by a sheriff. The individual must satisfy the following requirements:

- Hold a concealed weapons or concealed firearms license;
- Pass a psychological evaluation administered by a licensed psychologist;
- Pass an initial drug test and subsequent random drug tests;
- Successfully complete a 144-hour training program that includes at least 12 hours of a certified, nationally recognized diversity training program and 132 total hours of specified, comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, and ongoing training, weapon inspection, and firearm qualification on at least an annual basis.²⁴

An individual must satisfy the background screening, psychological evaluation, and drug testing requirements prior to participating in the required guardian training. All training for the guardian program must be conducted by a sheriff.²⁵

A county sheriff must establish a program if the district school board elects to participate. The sheriff may contract with another county sheriff who has already established a program to provide training. Charter school governing boards may directly request guardian training from the county sheriff even if the school district decides not to participate. Should the sheriff deny the request, the charter school may contract with a county sheriff who is willing to provide the training.²⁶

A sheriff who establishes a program may consult with the FDLE on programmatic guiding principles, practices, and resources.²⁷

¹⁹ S. 1006.12(5), F.S.

²⁰ S. 1001.212(16), F.S.

²¹ Ss. 1006.12(8) and 1002.42(18)(c), F.S.

²² S. 843.08, F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

²³ S. 30.15(1)(k), F.S.

²⁴ *Id.*

²⁵ S. 1006.12(7), F.S.

²⁶ S. 30.15(1)(k), F.S.

²⁷ S. 943.03(16), F.S.

A school guardian has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident on school premises.²⁸ The sheriff who conducts the guardian training must issue a school guardian certificate to individuals who meet these requirements and maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified by the sheriff.²⁹

The guardian training specified in statute is the statewide standard that must be used, however, sheriffs are authorized to supplement such training. A guardian that has received the required training cannot be required to attend the training again unless there has been at least a one-year break in her or his employment as a guardian.³⁰

Safe-school Officers in Private Schools

In 2023, the Legislature expanded the Guardian Program by authorizing private schools to partner with a law enforcement or security agency to establish or assign a safe-school officer to their schools.³¹ The private school is responsible for any costs associated with implementing a safe-school officer, including training under the Guardian Program.³² A private school electing to implement a safe-school officer must comply with the same statutory requirements for such officers as school districts and charter schools.³³

If the county in which a private school operates does not currently participate in the Guardian Program, the private school may request the sheriff to initiate a Guardian Program for the purpose of training private school employees.³⁴ If the local sheriff declines, the private school may contract with a sheriff of a county that has implemented a Guardian Program to provide the necessary training.³⁵ The private school is responsible for notifying the local sheriff prior to entering into such a contract and is responsible for all costs associated with the training of private school employees to serve as guardians.³⁶ The sheriff providing guardian training to private school employees is prohibited from comingling funds received for such training with funds received from the state for the purposes of training school district or charter school employees to serve as guardians.³⁷

HB 1473 (2024)

HB 1473 (2024), to which this bill is linked, amends s. 30.15, F.S., requiring sheriff's offices that certify individuals to serve as school guardians and school districts, charter schools, and private schools that appoint school guardians, to report specified information to the FDLE. Based on these reports, the FDLE is required to maintain a list of each person who is appointed as a school guardian, including the school guardian's name, the date on which he or she was certified as a school guardian, and the date on which he or she was appointed a school guardian, including the name of the school district, charter school, or private school to which the guardian is appointed, and, as applicable, the date their appointment as a school guardian ended.

Effect of Proposed Changes

PCS for HB 1509, which is linked to the passage of HB 1473 (2024), amends s. 30.15, F.S., to create a public record exemption for any information held by the FDLE or a law enforcement agency, school district, or charter school and reported to FDLE as required by HB 1473 that would identify an individual

²⁸ S. 30.15(1)(k), F.S.

²⁹ *Id.*

³⁰ S. 30.15(1)(k)1.d., F.S.

³¹ S. 2, ch. 2023-18, Laws of Fla.

³² S. 30.15(1)(k)1.c., F.S.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

who has been certified to serve as a school guardian. This public record exemption supports the existing public record exemption for information that is held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer at a public school, charter school, or private school. The list, required to be maintained by the FDLE under HB 1473, if not protected, could identify a school guardian rendering the existing exemption ineffective.

The bill provides the public record exemption is a public necessity because disclosure of the identity of a safe-school officer could affect his or her ability to adequately respond to an active assailant situation.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill will become effective on the same date that HB 1473 (2024) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. SECTION DIRECTORY:

Section 1: Amends s. 30.15, F.S., regarding powers, duties, and obligations.

Section 2: Provides a public necessity statement as required by the Florida Constitution.

Section 3: Provides that the bill is effective on the same date that HB 1473 (2024) or similar legislation takes effect.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article 1, section 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any information held by FDLE, a school district, or charter school that would identify a person who is certified to serve as a school guardian. This public record exemption is an extension of the current exemption for school guardian information that is held by a law enforcement agency, school district, or charter school and applies to specified information that is required to be reported to FDLE by HB 1473. The exemption does not appear to be broader than necessary to accomplish the purpose of the exemption.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES