

HOUSE BILL 283

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Stefani Lord

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE SCHOOL MARSHAL ACT;
PROVIDING POWERS AND DUTIES; REQUIRING QUALIFICATIONS, TRAINING
AND LAW ENFORCEMENT CERTIFICATION; REQUIRING THE NEW MEXICO LAW
ENFORCEMENT STANDARDS AND TRAINING COUNCIL TO DEVELOP A SCHOOL
MARSHAL TRAINING COURSE; ALLOWING SCHOOL MARSHALS TO CARRY
CONCEALED WEAPONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 5 of this
act may be cited as the "School Marshal Act"."

SECTION 2. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the School

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Marshal Act:

A. "firearm" means a handgun recommended by the department of public safety and authorized by the public school insurance authority;

B. "local school board" includes governing bodies of charter schools;

C. "school district" includes charter schools;

D. "school premises" means:

(1) the buildings and grounds of a public school, including playgrounds, playing fields and parking areas and any school bus of a public school, whether owned by the school district or under contract, in or on which school or school-related or school-sanctioned activities are being conducted; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which school-related and school-sanctioned activities are being conducted; and

E. "school marshal" means a retired or former certified and commissioned law enforcement officer who was certified and commissioned for no less than three years and left law enforcement in good standing and who is employed by a school district."

SECTION 3. A new section of the Public School Code is enacted to read:

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1 "[NEW MATERIAL] SCHOOL MARSHAL PROGRAM--QUALIFICATIONS--
2 TRAINING REQUIREMENTS.--

3 A. A school district may employ school marshals who
4 meet the requirements for school security personnel. School
5 marshals shall be trained by the New Mexico law enforcement
6 academy or in a program approved by the academy and certified
7 as a school marshal by the law enforcement certification board.

8 B. To be eligible to serve as a school marshal, the
9 school employee shall:

10 (1) have a license to carry a concealed
11 handgun pursuant to the Concealed Handgun Carry Act; and

12 (2) meet other qualifications required for
13 school security personnel who are not school resource officers.

14 C. A school marshal shall carry a firearm only with
15 the permission of the local school board and the public school
16 insurance authority.

17 D. A school marshal shall act only as necessary to
18 prevent or stop the commission of an offense that threatens
19 serious bodily injury or death of persons on public school
20 property."

21 SECTION 4. A new section of the Public School Code is
22 enacted to read:

23 "[NEW MATERIAL] SCHOOL MARSHAL PROGRAM--LOCAL SCHOOL BOARD
24 POWERS AND DUTIES.--

25 A. To implement a school marshal program, the local
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1 school board shall:

2 (1) ensure that a school district employee who
3 is appointed as a school marshal meets the qualifications
4 provided in the School Marshal Act, in Section 22-10A-40 NMSA
5 1978 and in rules promulgated by the department or the local
6 school board; and

7 (2) notify the department.

8 B. The local school board, in consultation with the
9 public school insurance authority, shall promulgate a policy
10 describing a school marshal's duties and responsibilities. The
11 policy shall:

12 (1) provide procedures for how a school
13 marshal possesses, carries and stores a firearm on school
14 premises;

15 (2) provide alternate procedures regarding the
16 possession, carrying and storage of a firearm by a school
17 marshal based on the amount of time the school marshal has
18 regular, direct contact with students;

19 (3) specify the types of firearms, ammunition,
20 and other related equipment that a school marshal is
21 authorized to possess, carry and store on school premises; and

22 (4) specify requirements regarding the subject
23 matter and frequency of additional professional development and
24 training.

25 C. A school marshal is not entitled to accrue

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1 retirement benefits from the educational retirement board or
2 the public employees retirement association.

3 D. A person's status as a school marshal ends if:

4 (1) the person's license to carry a concealed
5 weapon is suspended or revoked;

6 (2) the person has received formal discipline
7 for the use of excessive force or misconduct or is convicted of
8 a felony; a misdemeanor involving moral turpitude that has
9 bearing on the job of school marshal; crimes that include
10 inappropriate touching, sexual harassment, sexual assault,
11 sexual abuse, discrimination, behavior intended to induce a
12 child into engaging in illegal, immoral or other prohibited
13 behavior, crimes against children and dependents or sexual
14 exploitation of children; or negligent or illegal use of a
15 firearm; or

16 (3) the person's employment with the school
17 district ends."

18 SECTION 5. A new section of the Public School Code is
19 enacted to read:

20 "[NEW MATERIAL] SCHOOL MARSHALS--LAW ENFORCEMENT
21 NOTIFICATION.--The local school board shall submit every school
22 marshal's name, date of birth and address of the school
23 marshal's place of employment to:

24 A. the department and the public school insurance
25 authority;

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- 1 B. the law enforcement certification board; and
- 2 C. all applicable law enforcement and safety
- 3 agencies in the school district, including federal law
- 4 enforcement agencies located in New Mexico and, in the case of
- 5 a school district that has a public school located within the
- 6 boundaries of a federally recognized Indian nation, tribe or
- 7 pueblo, the chief tribal law enforcement officer."

8 **SECTION 6.** Section 22-10A-40 NMSA 1978 (being Laws 2019,
9 Chapter 189, Section 3) is amended to read:

10 "22-10A-40. SCHOOL SECURITY PERSONNEL--DEFINITIONS--
11 REQUIRED TRAINING.--

12 A. As used in this section:

13 (1) "firearm" means a handgun recommended by
14 the department of public safety and authorized by the public
15 school insurance authority;

16 (2) "local school board" includes governing
17 bodies of charter schools;

18 (3) "school district" includes charter
19 schools;

20 (4) "school premises" means:

21 (a) the buildings and grounds, including
22 playgrounds, playing fields and parking areas and any school
23 bus of a public school, whether owned by the school district or
24 under contract, in or on which school or school-related
25 activities are being conducted under the supervision of the

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1 local school board; or

2 (b) any other public buildings or
3 grounds, including playing fields and parking areas that are
4 not public school property, in or on which school-related and
5 school-sanctioned activities are being performed; and

6 (5) "school security personnel" means school
7 marshals or other security personnel who are retired or former
8 certified and commissioned law enforcement officers who are
9 employed by or on contract with a school district and
10 authorized by department rules and local school board policy to
11 carry a firearm on school premises.

12 B. The department shall promulgate rules to carry
13 out the purposes of this section.

14 C. The department shall promulgate rules pertaining
15 to persons who are prohibited from employment as school
16 security personnel, including:

17 (1) the applicability of [~~Paragraph (1) or (3)~~
18 ~~of~~] Subsection A of Section 28-2-4 NMSA 1978 for criminal
19 offenders;

20 (2) the commitment of a felony; a misdemeanor
21 involving moral turpitude that has bearing on the job of school
22 security personnel; formal discipline for the use of excessive
23 force; or misconduct or crimes that include inappropriate
24 touching, sexual harassment, sexual assault, sexual abuse,
25 discrimination, behavior intended to induce a child into

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1 engaging in illegal, immoral or other prohibited behavior,
2 crimes against children and dependents or sexual exploitation
3 of children; and

4 (3) negligent or illegal use of a firearm.

5 D. Prior to an offer of employment or contract, the
6 school district shall require for each potential school
7 security personnel:

8 (1) proof that the retired or former law
9 enforcement officer was certified and commissioned for no less
10 than three years and left law enforcement in good standing;

11 (2) successful completion of school security
12 personnel training;

13 (3) proof of up-to-date firearms training;

14 (4) a background check that indicates the
15 person has not been convicted of a crime or engaged in behavior
16 that violates the School Personnel Act; and

17 (5) any other conditions required by law,
18 department rule or school district policy.

19 E. School security personnel shall not perform any
20 other job in the school district, by title or duty, other than
21 school security while carrying a firearm.

22 F. Prior to school security personnel being allowed
23 to carry firearms authorized by department rules and local
24 school board policy, the school security personnel must
25 successfully pass a physical and psychological evaluation as

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1 prescribed by the department in consultation with the public
2 school insurance authority to determine suitability to carry a
3 firearm. The school district shall pay the cost of the
4 physical and psychological evaluations for current and
5 potential school security personnel.

6 G. The department and the public school insurance
7 authority shall approve one or more school security personnel
8 and firearms training programs. Approved programs must include
9 working with students with special needs, cultural competency
10 and prohibited profiling practices. The department of public
11 safety shall make recommendations for firearms training."

12 SECTION 7. A new section of the Law Enforcement Training
13 Act is enacted to read:

14 "[NEW MATERIAL] SCHOOL MARSHAL TRAINING PROGRAM.--The
15 council shall develop curriculum and standards for training of
16 school marshals. The curriculum shall include:

17 A. relevant elements from the basic law enforcement
18 training course, including firearms training, first aid,
19 defensive tactics, crowd-control tactics, crisis intervention
20 and police, human and community relations;

21 B. proper procedures for how a school marshal may
22 possess, carry and store a firearm while on public school
23 property, including providing alternative procedures based on
24 the amount of time a school marshal spends in regular, direct
25 contact with students; and

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1 C. an understanding of the particular
2 responsibilities of school-based policing, including training
3 in:

4 (1) developing successful relationships with
5 diverse students;

6 (2) how to interact with students with
7 disabilities and behavioral health challenges;

8 (3) relevant public safety topics such as
9 digital safety, human trafficking, mental health and substance
10 abuse;

11 (4) best practices for de-escalation,
12 behavioral threat assessment, emergency operations planning and
13 armed assailant response;

14 (5) how to identify, assess and advise
15 mitigation of school safety and security vulnerabilities and
16 other concerns;

17 (6) strategies to identify potential risks and
18 prevent school shootings;

19 (7) strategies to secure the safety of
20 potential victims of a school shooting or other emergency
21 situation that threatens to cause injury or death to persons on
22 public school property;

23 (8) how to respond to an emergency situation
24 that requires deadly force, including a situation involving an
25 active shooter; and

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1 (9) education about legal issues, including
2 issues related to:

3 (a) the duties of a school marshal or
4 other peace officers on school premises; and

5 (b) the use of force or deadly force in
6 the protection of others."

7 SECTION 8. Section 30-7-2.1 NMSA 1978 (being Laws 1987,
8 Chapter 232, Section 1, as amended) is amended to read:

9 "30-7-2.1. UNLAWFUL CARRYING OF A DEADLY WEAPON ON SCHOOL
10 PREMISES.--

11 A. Unlawful carrying of a deadly weapon on school
12 premises consists of carrying a deadly weapon on school
13 premises except by:

14 (1) a [~~peace officer;~~
15 ~~(2) school security personnel~~] school marshal
16 or other law enforcement officer;

17 [~~(3)~~] (2) a student, instructor or other
18 school-authorized personnel engaged in army, navy, marine corps
19 or air force reserve officer training corps programs or
20 state-authorized hunter safety training instruction;

21 [~~(4)~~] (3) a person conducting or participating
22 in a school-approved program, class or other activity involving
23 the carrying of a deadly weapon; or

24 [~~(5)~~] (4) a person older than nineteen years
25 of age on school premises in a private automobile or other

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1 private means of conveyance, for lawful protection of the
2 person's or another's person or property.

3 B. As used in this section, "school premises"
4 means:

5 (1) the buildings and grounds, including
6 playgrounds, playing fields and parking areas and any school
7 bus of any public elementary, secondary, junior high or high
8 school in or on which school or school-related activities are
9 being operated under the supervision of a local school board;
10 or

11 (2) any other public buildings or grounds,
12 including playing fields and parking areas that are not public
13 school property, in or on which public school-related and
14 sanctioned activities are being performed.

15 C. Whoever commits unlawful carrying of a deadly
16 weapon on school premises is guilty of a fourth degree felony."

17 SECTION 9. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2023.