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FISCAL IMPACT REPORT

SPONSOR Lord LAST UPDATED 02/22/2023
ORIGINAL DATE 02/09/2023
BILL
SHORT TITLE School Marshal Act NUMBER House Bill 283
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$1,586.3	\$1,454.3	\$3,040.6	Largely Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Partially duplicates and partially conflicts with House Bill 254

Sources of Information

LFC Files

Responses Received From

Department of Public Safety (DPS)
Public Education Department (PED)

SUMMARY

Synopsis of House Bill 283

House Bill 283 establishes a school marshal program and sets criteria for training through the New Mexico Law Enforcement Training Council for a training course for school marshals, who would be empowered to carry concealed weapons.

The effective date of this bill is July 1, 2023.

Section 1 of the act establishes its name. Section 2 establishes definitions, including that for “school premises” to include school buildings, playgrounds, and the buses used to transport children to school.

Section 3 of the bill establishes qualifications and training requirements for school marshals. They must be qualified to be school security personnel and must have a concealed handgun carry license and have the permission of the school board and the public school insurance authority to carry a gun, acting only to prevent serious injury or death on public school property.

Section 4 empowers school boards to establish a school marshal program, to ensure that all

applicants for the program meet the criteria in this act, and to provide appropriate policies including those related to the handgun. The school marshal is not entitled to public retirement benefits. His/her status as a school marshal would end if deprived of the concealed-carry license, or for other named misconduct.

Section 5 requires the school to notify DPS, PSIA, and any other local law enforcement agency of the demographic details of each school marshal.

Section 6 amends Section 22-10A-40 NMSA 1978, which regards training of school security personnel. The definition of “school security personnel,” to include school marshals, specifies that these former law enforcement officers would be employed by or contracted to work with a school district. Otherwise, that section of statute remains unchanged.

Section 7 adds to the Law Enforcement Training Act, Section 29-7 NMSA 1978, specifies components of a required curriculum for school marshals. This would include proper use of a handgun and means of dispelling problems without use of the handgun by de-escalating confrontations and dealing with a school shooting incident and with those injured in such an incident.

Section 8 amends Section 30-7-2 NMSA 1978, which deals with unlawful carrying of a deadly weapon on school grounds. The bill would exempt school marshals and other law enforcement officers from otherwise being considered to be illegally carrying a weapon, although “peace officers” and several other categories of persons are currently exempted from the provisions of this section.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 283.

DPS indicates a continuing yearly cost of \$1,586,300 and a one-time cost of \$132 thousand for the following:

Annual costs:

- Four FTEs
- Firearms range gear
- Ammunition
- Software support
- Classroom space
- Psychological testing

One-time cost

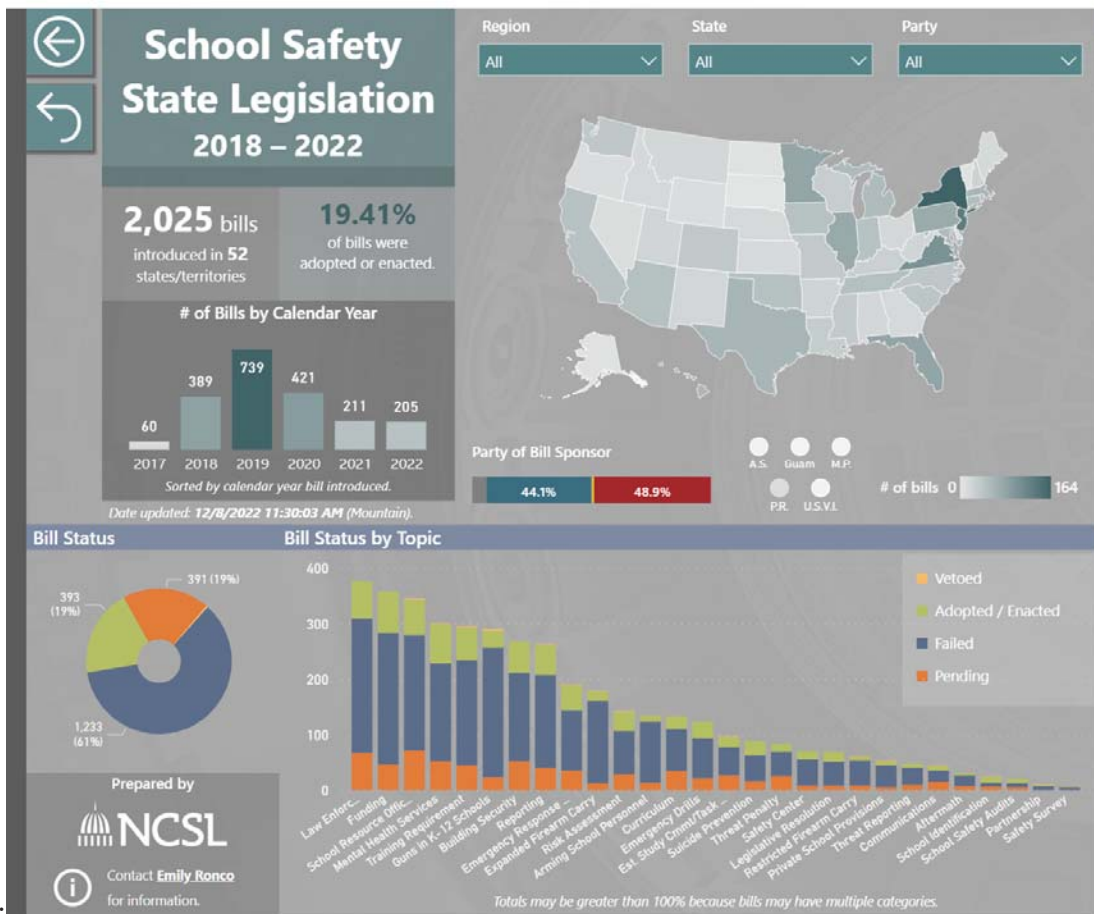
- Computer-based firearms simulator
- Van
- Development of a psychological testing model

SIGNIFICANT ISSUES

According to the National Council on State Legislatures 2022 summary of school safety legislative tracking, many states have begun to look seriously at legislation to improve the safety of children in schools: “The recent killing of 19 students and two teachers at Robb Elementary School in Uvalde, Texas, as well as a nationwide increase in violent incidents at schools, continue to bring attention to school safety challenges. State lawmakers are tasked with considering how to prevent, mitigate, and respond to acts of school violence.

Several states have considered legislation regarding who can and cannot carry firearms on school grounds. In some states, this may include school employees. Others have considered legislation related to staffing school safety officers, requiring or providing funding for emergency drills and school safety plans, structural or technology-related safety measures funding, and expanding mental health services to students and employees in schools.”

NCSL’s summary statistics are displayed



below:

In a 2018 LFC Hearing Brief, the authors note the multiple approaches states have taken to try to keep school children safe, including, in their list, physical security structures (including metal detectors and security cameras), trained school personnel, restricting access to guns, revising school disciplinary procedures, establishing early warning programs, checking for weapons on entrance into school facilities, expanding mental health services, and hiring armed personnel. The authors are concerned that such efforts may impede learning. They cite the importance of adverse childhood experiences, such as losing a parent, experiencing abuse or neglect, and poverty in conditioning children to violence. The study makes recommendations but does not

cite evidence on the effectiveness of hired, armed personnel. The report states that “Experts who study mass shootings, including those in schools, indicate these incidents are not happening more frequently, but are more deadly than past attacks.”

DPS notes that its New Mexico Law Enforcement Academy is only established to certify law enforcement officers, and that the new duty of providing training to prospective school marshals will require the development of new curricula. Further, DPS states,

Curriculum development, validation and implementation will be required for HB254 (a similar bill) to be implemented. Based upon the absence of a standard to be measured against, this will require a professionally developed curriculum, which will then be required to be accredited to be taught by NMLEA certified instructors.

Of great concern to DPS is the substance of HB254, in which non-certified persons are apparently established as quasi-law enforcement officials, encouraging the use of force or deadly force with handguns. There is an inherent danger to others, including school students, parents, visitors and staff, in encouraging unqualified individuals to act in what amounts to a law enforcement role. DPS also remains significantly concerned regarding the absence of other admission standards including drug testing, physical wellness, or mobility which may expose others, including the school marshal, to serious risk of harm.

PED indicates that:

Current PED rule requires that school security personnel, prior to employment, complete:

- A 16-hour program of training, approved by PED in collaboration with the New Mexico Public School Insurance Authority (NMPSIA), for working with students with special needs;
- A four-hour program of training approved by PED and NMPSIA on cultural competency and prohibited profiling practices;
- A background check; and
- Firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico Law Enforcement Academy certified firearms instructor, and ongoing annual firearms training.

PED rule specifies the requirements of the firearms training:

- An initial use-of-force training program of eight hours and details of what must be included;
- An initial firearms training program of 16 hours;
- An annual qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores; and
- An annual firearms manipulation training program of four hours.

Current rule also requires physical and psychological examination, and bars certain persons from serving as security personnel, including:

- Individuals convicted of felonies or misdemeanors involving moral turpitude and the conviction relates to employment as security personnel;
- Individuals convicted of drug trafficking, criminal sexual penetration, or related sexual offense, child abuse, or sexual exploitation of children;

- Individuals who have been subject to employment investigation resulting in a finding of ethical misconduct related to inappropriate touching, sexual harassment, sexual assault, sexual abuse, discrimination, or grooming;
- Individuals who have been convicted of battery of a household member or dependent, or stalking;
- Individuals convicted of negligent or illegal use of firearms; or
- Individuals who have received discipline for the excessive use of force.

ADMINISTRATIVE IMPLICATIONS

DPS states: “HB283 indicates that the DPS will recommend the firearms to be carried. DPS struggles to understand how this recommendation could be made by them as no objective criteria for this selection exists currently and needs certainly could vary by school district, population density, etc.”

CONFLICT AND DUPLICATION

Partially duplicates and partially conflicts with House Bill 254, which also sets up a School Marshal Act, with different specifics.

TECHNICAL ISSUES

PED raises the following issues:

- As noted, the current definition of school security personnel and the proposed definition of school marshals are identical, when considering existing PED rule. HB283 also adds school marshals to the statutory definition of school security personnel, and simultaneously requires that school marshals meet the requirements of school security personnel, thereby creating a circular reference.
- The bill would amend Section 30-7-2.1 NMSA 1978 of the Criminal Code so that carrying a weapon on school premises would be unlawful for anyone but a school marshal or other law enforcement officer, striking the current exception for school security personnel, as established in the Public School Code and PED rule. This would create a conflict between the Criminal Code, and the Public School Code, which still permits school security personnel other than school marshals to carry weapons on school premises.
- HB283 also refers to School Resource Officers, who are not currently defined or established in law or rule.