

BILL ANALYSIS

C.S.S.B. 386
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that many school districts have adopted a school marshal program and that the junior college community has expressed a growing interest in having access to such a program as an alternative to the expensive measures of creating their own police department or hiring private security. C.S.S.B. 386 seeks to provide for the safety of the junior college community in a way that is economically feasible.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 386 amends the Education Code to authorize the governing board of a public junior college to appoint one or more school marshals. The bill authorizes the governing board of a public junior college to select for appointment as a school marshal an applicant who is an employee of the public junior college and certified by the Texas Commission on Law Enforcement as eligible for appointment. The bill authorizes, but does not require, the governing board to reimburse the amount paid by the applicant to participate in the school marshal training program.

C.S.S.B. 386 authorizes a school marshal appointed by the governing board of a public junior college to carry or possess a handgun on the physical premises of a public junior college campus but only in the manner provided by written regulations adopted by the governing board and at a specific public junior college campus as specified by the governing board. The bill requires any such written regulations to provide that a school marshal may carry a concealed handgun at a specific public junior college campus as specified by the governing board, except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a public junior college campus in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The bill requires the written regulations to require a handgun carried by or within access of a school marshal to be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others. The bill authorizes a school marshal to access a handgun only under circumstances that would justify the use of deadly force as provided under Penal Code provisions relating to the justified use of deadly force in defense of a person or in defense of a third person.

C.S.S.B. 386 establishes that a public junior college employee's status as a school marshal becomes inactive on expiration of the employee's school marshal license, suspension or revocation of the employee's license to carry a concealed handgun, termination of the employee's employment with the public junior college, or notice from the governing board of the public junior college that the employee's services as school marshal are no longer required. The bill makes the identity of a school marshal appointed by the governing board of a public junior college confidential, with certain exceptions, and not subject to a request under state public information law. The bill requires the governing board of a public junior college, if a parent or guardian of a student enrolled at the public junior college inquires in writing, to provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal but prohibits such notice from disclosing information that is confidential under the bill's provisions.

C.S.S.B. 386 amends the Occupations Code to apply statutory provisions relating to the training and licensure of school marshals appointed by the board of trustees of a school district or the governing board of an open-enrollment charter school to school marshals appointed by the governing board of a public junior college. The bill changes the information collected or submitted under those provisions that is confidential from identifying information about a person to all information.

C.S.S.B. 386 amends the Code of Criminal Procedure to make conforming changes.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 386 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Articles 2.127(a) and (d), Code of Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection (b), a school marshal may make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by the board of trustees of a school district, ~~[or]~~ the governing body of an open-enrollment charter school, or the governing board of a public junior college under Section 37.0811, Education Code, and only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

(d) A person may not serve as a school marshal unless the person is:

- (1) licensed under Section 1701.260, Occupations Code; and
- (2) appointed by the board of trustees of a

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Substantially the same as engrossed version.

school district, [ø] the governing body of an open-enrollment charter school, or the governing board of a public junior college under Section 37.0811, Education Code.

SECTION 2. Sections 37.0811(a), (b), (c), and (f), Education Code, are amended to read as follows:

(a) The board of trustees of a school district, [ø] the governing body of an open-enrollment charter school, or the governing board of a public junior college may appoint not more than one school marshal per 400 students in average daily attendance per campus.

(b) The board of trustees of a school district, [ø] the governing body of an open-enrollment charter school, or the governing board of a public junior college may select for appointment as a school marshal under this section an applicant who is an employee of the school district, [ø] open-enrollment charter school, or public junior college and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees, [ø] governing body, or governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district, [ø] the governing body of an open-enrollment charter school, or the governing board of a public junior college may carry or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees, [ø] the governing body, or the governing board; and

(2) at a specific school as specified by the board of trustees, [ø] governing body, or governing board, as applicable.

(f) A school district, [ø] charter school, or public junior college 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 concealed handgun issued under Subchapter H, Chapter 411, Government Code;

No equivalent provision. (*But see SECTION 2 below.*)

- (3) termination of the employee's employment with the district, [Ø] charter school, or public junior college; or
- (4) notice from the board of trustees of the district, [Ø] the governing body of the charter school, or the governing board of the public junior college that the employee's services as school marshal are no longer required.

No equivalent provision. (But see SECTION 2 above.)

SECTION 2. Subchapter E, Chapter 51, Education Code, is amended by adding Section 51.220 to read as follows:

Sec. 51.220. PUBLIC JUNIOR COLLEGE SCHOOL MARSHALS. (a) In this section, "public junior college" has the meaning assigned by Section 61.003.

(b) The governing board of a public junior college may appoint one or more school marshals.

(c) The governing board of a public junior college may select for appointment as a school marshal under this section an applicant who is an employee of the public junior college and certified as eligible for appointment under Section 1701.260, Occupations Code. The governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(d) A school marshal appointed by the governing board of a public junior college may carry or possess a handgun on the physical premises of a public junior college campus, but only:

(1) in the manner provided by written regulations adopted by the governing board; and

(2) at a specific public junior college campus as specified by the governing board.

(e) Any written regulations adopted for purposes of Subsection (d) must provide that a school marshal may carry a concealed handgun as described by Subsection (d), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a public junior college campus in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or

within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

(f) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(g) A public junior college 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 concealed handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the public junior college;

or

(4) notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

(h) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(i) If a parent or guardian of a student enrolled at a public junior college inquires in writing, the governing board of the public junior college shall provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (h).

SECTION 3. Sections 1701.260(a) and (j), Occupations Code, are amended to read as follows:

(a) The commission shall establish and maintain a training program open to any employee of a school district, ~~[or]~~ open-enrollment charter school, or public junior college who holds a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

(j) The commission shall submit the

SECTION 3. Sections 1701.260(a), (j), and (l), Occupations Code, are amended to read as follows:

(a) The commission shall establish and maintain a training program open to any employee of a school district, ~~[or]~~ open-enrollment charter school, or public junior college who holds a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

(j) The commission shall submit the

identifying information collected under Subsection (b) for each person licensed by the commission under this section to:

- (1) the director of the Department of Public Safety;
- (2) the person's employer, if the person is employed by a school district, ~~or~~ open-enrollment charter school, or public junior college;
- (3) the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college located within a municipality;
- (4) the sheriff of the county if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college that is not located within a municipality; and
- (5) the chief administrator of any peace officer commissioned under Section 37.081, Education Code, if the person is employed at a school district that has commissioned a peace officer under that section.

SECTION 4. Section 1701.001(8), Occupations Code, is amended to read as follows:

- (8) "School marshal" means a person employed and appointed by the board of trustees of a school district, ~~or~~ the governing body of an open-enrollment charter school, or the governing board of a public junior college under Article 2.127, Code of Criminal Procedure, and in accordance with and having the rights provided by Section 37.0811, Education Code.

SECTION 5. This Act takes effect September 1, 2015.

identifying information collected under Subsection (b) for each person licensed by the commission under this section to:

- (1) the director of the Department of Public Safety;
- (2) the person's employer, if the person is employed by a school district, ~~or~~ open-enrollment charter school, or public junior college;
- (3) the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college located within a municipality;
- (4) the sheriff of the county if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college that is not located within a municipality; and
- (5) the chief administrator of any peace officer commissioned under Section 37.081 or 51.203, Education Code, if the person is employed at a school district or public junior college that has commissioned a peace officer under either ~~that~~ section.

(1) All ~~Identifying~~ information ~~about a person~~ collected or submitted under this section is confidential, except as provided by Subsection (j), and is not subject to disclosure under Chapter 552, Government Code.

SECTION 4. Substantially the same as engrossed version.

SECTION 5. Same as engrossed version.