

BILL ANALYSIS

H.B. 1009
By: Villalba
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In light of the recent Sandy Hook Elementary School shooting, reported to be the most deadly shooting at a public elementary school and the second-deadliest school shooting in U.S. history, school safety and the protection of America's children have become critical issues of concern for parents, administrators, lawmakers, and members of the public. Interested parties note that there are limited school safety options for school districts in Texas. Some larger school districts employ a dedicated police force tasked with protecting all schools in the district, and others use school resource officers. It has been observed that a few schools have adopted policies that allow teachers who are concealed handgun license holders to carry a firearm in school buildings and on school grounds.

In an effort to provide an additional option for protecting students, faculty, and other staff in Texas schools, H.B. 1009 seeks to authorize a school district or open-enrollment charter school to appoint school marshals to prevent or abate the commission of an offense in the event of a life-threatening situation that occurs on school premises. School marshals would be required to successfully complete a rigorous training course administered by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and required to be certified by TCLEOSE to be eligible for appointment.

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

H.B. 1009 amends the Education Code to authorize the board of trustees of a school district or the governing body of an open-enrollment charter school to appoint a maximum of one school marshal per 400 students in average daily attendance per campus and to select for appointment as a school marshal an applicant who is an employee of the school district or charter school and certified by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) as eligible for appointment. The bill authorizes the board or governing body to reimburse the amount paid by the applicant to participate in the school marshal training program established by TCLEOSE under the bill's provisions. The bill authorizes an appointed school marshal 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 applicable board of trustees or the governing body and only at a specific school as specified by the board or governing body. The bill requires the written regulations to authorize a school marshal to carry a concealed handgun, unless the marshal's primary duty involves regular, direct contact with students, in which case the marshal is authorized only 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. The bill requires the written regulations to require that a handgun carried by or within access of a school marshal be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

H.B. 1009 authorizes a school marshal to access a handgun only under circumstances that would justify the use of deadly force as provided under certain Penal Code provisions. The bill specifies that a school district or charter school employee's status as a school marshal becomes inactive on expiration of the employee's school marshal license, on suspension or revocation of the employee's license to carry a concealed handgun, on termination of the employee's employment with the district or charter school, or on notice from the board of trustees of the school district or the governing body of the charter school that the employee's services as school marshal are no longer required. The bill specifies that the identity of an appointed school marshal is confidential, except to certain persons and entities, and is not subject to a request under public information law.

H.B. 1009 amends the Code of Criminal Procedure to authorize a school marshal to make arrests, exercise all authority given to peace officers subject to written regulations adopted by the board of trustees of a school district or the governing body of an open-enrollment charter school, 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. The bill prohibits a school marshal from issuing a traffic citation for a violation of certain Transportation Code provisions, specifies that a school marshal is not entitled to state benefits normally provided by the state to a peace officer, and prohibits a person from serving as a school marshal unless licensed by TCLEOSE as a school marshal and appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school.

H.B. 1009 amends the Government Code to require the Department of Public Safety (DPS) to notify TCLEOSE if DPS takes any action, including suspension or revocation, against the concealed handgun license of a person identified by TCLEOSE as a person certified as a school marshal.

H.B. 1009 amends the Occupations Code to require TCLEOSE to establish, not later than January 1, 2014, and maintain a training program open to any employee of a school district or open-enrollment charter school who holds a concealed handgun license. The bill authorizes the training to be conducted only by TCLEOSE staff or a provider approved by TCLEOSE and requires the training program to include 80 hours of specified instruction.

H.B. 1009 requires TCLEOSE, in consultation with psychologists, to devise and administer to each trainee a psychological examination to determine whether the trainee is psychologically fit to carry out the duties of a school marshal in an emergency shooting or situation involving an active shooter. The bill authorizes TCLEOSE to license a person as a school marshal only if the results of the examination indicate that the trainee is psychologically fit to carry out those duties. The bill sets out provisions relating to a fee to cover the cost of conducting the program, a school marshal license renewal fee, and issuance of a license to an eligible person who completes the training program and is psychologically fit to carry out the duties of a school marshal.

H.B. 1009 specifies that a school marshal license expires on the first birthday of the license holder occurring after the second anniversary of the date TCLEOSE licenses the license holder and that a renewed school marshal license expires on the license holder's birth date, two years after the expiration of the previous license. The bill sets out minimum training and aptitude requirements for school marshal license renewal. The bill requires TCLEOSE to revoke a person's school marshal license if TCLEOSE is notified by DPS that the person's concealed handgun license has been suspended or revoked and sets out the manner in which a person whose school marshal license is revoked may obtain recertification.

H.B. 1009 requires TCLEOSE to collect certain identifying information from each person who participates in the training program and to submit that information to the public safety director of DPS, the person's employer if the person is employed by a school district or open-enrollment charter school, 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 located within a municipality, the sheriff of the county if the person is employed at a campus of a school district or open-enrollment charter school that is not located within a municipality, and the chief administrator of any school district peace officer if the person is employed at a school district that has commissioned such a peace officer. The bill requires TCLEOSE to immediately report the expiration or revocation of a school marshal license to those persons and specifies that such identifying information is confidential, except to those persons, and not subject to disclosure under public information law.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.