

By: Villalba

H.B. No. 1009

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of a new category of law enforcement
3 officer who shall be designated a school marshal, the training and
4 appointment of certain employees of a school district or
5 open-enrollment charter school as school marshals, and the rights,
6 restrictions, limitations, and responsibilities of school
7 marshals; authorizing the imposition of a fee.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. This Act shall be known as The Protection of
10 Texas Children Act.

11 SECTION 2. Chapter 2, Code of Criminal Procedure, is
12 amended by adding Article 2.127 to read as follows:

13 Art. 2.127. SCHOOL MARSHALS. (a) Except as provided by
14 Subsection (b), a school marshal may make arrests and exercise all
15 authority given peace officers under this code, subject to written
16 regulations adopted by the board of trustees of a school district or
17 the governing body of an open-enrollment charter school under
18 Section 37.0811, Education Code, and only act as necessary to
19 prevent or abate the commission of an offense that threatens
20 serious bodily injury or death of students, faculty or visitors on
21 school premises.

22 (b) A school marshal may not issue a traffic citation for a
23 violation of Chapter 521, Transportation Code, or Subtitle C, Title
24 7, Transportation Code.

1 (c) A school marshal is not entitled to state benefits
2 normally provided by the state to a peace officer.

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

5 (1) licensed under Section 1701.260, Occupations
6 Code; and

7 (2) appointed by the board of trustees of a school
8 district or the governing body of an open-enrollment charter school
9 under Section 37.0811, Education Code.

10 SECTION 3. Subchapter C, Chapter 37, Education Code, is
11 amended by adding Section 37.0811 to read as follows:

12 Sec. 37.0811. SCHOOL MARSHALS. (a) The board of trustees
13 of a school district or the governing body of an open-enrollment
14 charter school may appoint not more than one school marshal per 400
15 students in average daily attendance per campus.

16 (b) The board of trustees of a school district or the
17 governing body of an open-enrollment charter school may select for
18 appointment as a school marshal under this section an applicant who
19 is an employee of the school district or open-enrollment charter
20 school and certified as eligible for appointment under Section
21 1701.260, Occupations Code. The board of trustees or governing body
22 may, but shall not be required to, reimburse the amount paid by the
23 applicant to participate in the training program under that
24 section.

25 (c) A school marshal appointed by the board of trustees of a
26 school district or the governing body of an open-enrollment charter
27 school may carry or possess a handgun on the physical premises of a

1 school, but only:

2 (1) in the manner provided by written regulations
3 adopted by the board of trustees or the governing body; and

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

6 (d) Any written regulations adopted for purposes of
7 Subsection (c) must provide that a school marshal may carry a
8 concealed handgun as described by Subsection (c), except that if
9 the primary duty of the school marshal involves regular, direct
10 contact with students, the marshal may not carry a concealed
11 handgun but may possess a handgun on the physical premises of a
12 school in a locked and secured safe within the marshal's immediate
13 reach when conducting the marshal's primary duty. The written
14 regulations must also require that a handgun carried by or within
15 access of a school marshal may be loaded only with frangible
16 ammunition designed to disintegrate on impact for maximum safety
17 and minimal danger to others.

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

21 (f) A school district or charter school employee's status as
22 a school marshal becomes inactive on:

23 (1) expiration of the employee's school marshal
24 license under Section 1701.260, Occupations Code;

25 (2) suspension or revocation of the employee's license
26 to carry a concealed handgun issued under Subchapter H, Chapter
27 411, Government Code;

1 (3) termination of the employee's employment with the
2 district or charter school; or

3 (4) notice from the board of trustees of the district
4 or the governing body of the charter school that the employee's
5 services as school marshal are no longer required.

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

10 SECTION 4. Subchapter H, Chapter 411, Government Code, is
11 amended by adding Section 411.1871 to read as follows:

12 Sec. 411.1871. NOTICE OF SUSPENSION OR REVOCATION OF
13 CERTAIN LICENSES. The department shall notify the Texas Commission
14 on Law Enforcement Officer Standards and Education if the
15 department takes any action against the license of a person
16 identified by the commission as a person certified under Section
17 1701.260, Occupations Code, including suspension or revocation.

18 SECTION 5. Subchapter F, Chapter 1701, Occupations Code, is
19 amended by adding Section 1701.260 to read as follows:

20 Sec. 1701.260. TRAINING FOR HOLDERS OF LICENSE TO CARRY
21 CONCEALED HANDGUN; CERTIFICATION OF ELIGIBILITY FOR APPOINTMENT AS
22 SCHOOL MARSHAL. (a) The commission shall establish and maintain a
23 training program open to any employee of a school district or
24 open-enrollment charter school who holds a license to carry a
25 concealed handgun issued under Subchapter H, Chapter 411,
26 Government Code. The training may be conducted only by the
27 commission staff or a provider approved by the commission.

1 (b) The commission shall collect from each person who
2 participates in the training program identifying information that
3 includes the person's name, the person's date of birth, the license
4 number of the license issued to the person under Subchapter H,
5 Chapter 411, Government Code, and the address of the person's place
6 of employment.

7 (c) The training program shall include 80 hours of
8 instruction designed to:

9 (1) emphasize strategies for preventing school
10 shootings and for securing the safety of potential victims of
11 school shootings;

12 (2) educate a trainee about legal issues relating to
13 the duties of peace officers and the use of force or deadly force in
14 the protection of others;

15 (3) introduce the trainee to effective law enforcement
16 strategies and techniques;

17 (4) improve the trainee's proficiency with a handgun;
18 and

19 (5) enable the trainee to respond to an emergency
20 situation requiring deadly force, such as a situation involving an
21 active shooter.

22 (d) The commission, in consultation with psychologists,
23 shall devise and administer to each trainee a psychological
24 examination to determine whether the trainee is psychologically fit
25 to carry out the duties of a school marshal in an emergency shooting
26 or situation involving an active shooter. The commission may
27 license a person under this section only if the results of the

1 examination indicate that the trainee is psychologically fit to
2 carry out those duties.

3 (e) The commission shall charge each trainee a reasonable
4 fee to cover the cost to the commission of conducting the program.
5 The commission shall charge each person seeking renewal of school
6 marshal license a reasonable fee to cover the cost to the commission
7 of renewing the person's license.

8 (f) The commission shall license a person who is eligible
9 for appointment as a school marshal who:

10 (1) completes training under this section to the
11 satisfaction of the commission staff; and

12 (2) is psychologically fit to carry out the duties of a
13 school marshal as indicated by the results of the psychological
14 examination administered under this section.

15 (g) A person's license under this section expires on the
16 first birthday of the person occurring after the second anniversary
17 of the date the commission licenses the person. A renewed school
18 marshal license expires on the person's birth date, two years after
19 the expiration of the previous license.

20 (h) A person may renew the school marshal license under this
21 section by:

22 (1) successfully completing a renewal course designed
23 and administered by the commission, which such license renewal
24 training will not exceed 16 hours combined of classroom and
25 simulation training;

26 (2) demonstrating appropriate knowledge on an
27 examination designed and administered by the commission;

1 (3) demonstrating handgun proficiency to the
2 satisfaction of the commission staff; and

3 (4) demonstrating psychological fitness on the
4 examination described in Subsection (d).

5 (i) The commission shall revoke a person's school marshal
6 license if the commission is notified by the Department of Public
7 Safety that the person's license to carry a concealed handgun
8 issued under Subchapter H, Chapter 411, Government Code, has been
9 suspended or revoked. A person whose school marshal license is
10 revoked may obtain recertification by:

11 (1) furnishing proof to the commission that the
12 person's concealed handgun license has been reinstated; and

13 (2) completing the initial training under Subsection
14 (c) to the satisfaction of the commission staff, paying the fee for
15 the training, and demonstrating psychological fitness on the
16 psychological examination described in Subsection (d).

17 (j) The commission shall submit the identifying information
18 collected under Subsection (b) for each person licensed by the
19 commission under this section to:

20 (1) the director of the Department of Public Safety;

21 (2) the person's employer, if the person is employed by
22 a school district or open-enrollment charter school;

23 (3) the chief law enforcement officer of the local
24 municipal law enforcement agency if the person is employed at a
25 campus of a school district or open-enrollment charter school
26 located within a municipality;

27 (4) the sheriff of the county if the person is employed

1 at a campus of a school district or open-enrollment charter school
2 that is not located within a municipality; and

3 (5) the chief administrator of any peace officer
4 commissioned under Section 37.081, Education Code, if the person is
5 employed at a school district that has commissioned a peace officer
6 under that section.

7 (k) The commission shall immediately report the expiration
8 or revocation of a school marshal license to the persons listed in
9 Subsection (j).

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

14 SECTION 6. Chapter 1701.001, Occupations Code, is amended
15 to read as follows:

16 Sec. 1701.001. DEFINITIONS. In this chapter:

17 (1) "Commission" means the Commission on Law
18 Enforcement Officer Standards and Education.

19 (2) "County jailer" means a person employed as a
20 county jail guard under Section 85.005, Local Government Code.

21 (3) "Officer" means a peace officer or reserve law
22 enforcement officer.

23 (4) "Peace officer" means a person elected, employed,
24 or appointed as a peace officer under Article 2.12, Code of Criminal
25 Procedure, or other law.

26 (5) "Public security officer" means a person employed
27 or appointed as an armed security officer by this state or a

1 political subdivision of this state. The term does not include a
2 security officer employed by a private security company that
3 contracts with this state or a political subdivision of this state
4 to provide security services for the entity.

5 (6) "Reserve law enforcement officer" means a person
6 designated as a reserve law enforcement officer under Section
7 85.004, 86.012, or 341.012, Local Government Code, or Section
8 60.0775, Water Code.

9 (7) "Telecommunicator" means a person acknowledged by
10 the commission and employed by or serving a law enforcement agency
11 that performs law enforcement services on a 24-hour basis who
12 receives, processes, and transmits public safety information and
13 criminal justice data for the agency by using a base radio station
14 on a public safety frequency regulated by the Federal
15 Communications Commission or by another method of communication.

16 (8) "School Marshal" means a person employed and
17 appointed by the board of trustees of a school district or the
18 governing body of an open-enrollment charter school under Article
19 2.127 of the Code of Criminal Procedure and in accordance with and
20 having the rights provided by Section 37.0811 of the Education
21 Code.

22 SECTION 7. Subchapter G, Chapter 1701, Section 301 of the
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER G. LICENSE REQUIREMENTS; DISQUALIFICATIONS AND
25 EXEMPTIONS

26 Sec. 1701.301. LICENSE REQUIRED. Except as provided by
27 Sections 1701.310 and 1701.311, a person may not appoint a person to

1 serve as an officer, county jailer, school marshal, or public
2 security officer unless the person appointed holds an appropriate
3 license issued by the commission.

4 SECTION 8. The Commission on Law Enforcement Officer
5 Standards and Education shall establish a school marshal training
6 program as required by Section 1701.260, Occupations Code, as added
7 by this Act, not later than January 1, 2014.

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.