

By: Villalba, et al.

H.B. No. 867

A BILL TO BE ENTITLED

AN ACT

relating to school marshals for private schools.

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

SECTION 1. Article 2.127, Code of Criminal Procedure, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (b), a school marshal may:

(1) make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by:

(A) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(B) the governing body of a private school under Section 37.0813, Education Code; [ ] or

(C) the governing board of a public junior college under Section 51.220, Education Code; [ ] and

(2) 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.

(a-1) In this section, "private school" means a school that:

(1) offers a course of instruction for students in one or more grades from prekindergarten through grade 12;

1           (2) is not operated by a governmental entity; and

2           (3) is not a school whose students meet the definition  
3 provided by Section 29.916(a)(1), Education Code.

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

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

8           (2) appointed by:

9           (A) the board of trustees of a school district or  
10 the governing body of an open-enrollment charter school under  
11 Section 37.0811, Education Code;

12           (B) the governing body of a private school under  
13 Section 37.0813, Education Code; [7] or

14           (C) the governing board of a public junior  
15 college under Section 51.220, Education Code.

16           SECTION 2. The heading to Section 37.0811, Education Code,  
17 is amended to read as follows:

18           Sec. 37.0811. SCHOOL MARSHALS: PUBLIC SCHOOLS.

19           SECTION 3. Subchapter C, Chapter 37, Education Code, is  
20 amended by adding Section 37.0813 to read as follows:

21           Sec. 37.0813. SCHOOL MARSHALS: PRIVATE SCHOOLS. (a) The  
22 governing body of a private school may appoint not more than the  
23 greater of:

24           (1) one school marshal per 200 students enrolled in  
25 the school; or

26           (2) one school marshal per building of the school at  
27 which students regularly receive classroom instruction.

1       (b) The governing body of a private school may select for  
2 appointment as a school marshal under this section an applicant who  
3 is an employee of the school and certified as eligible for  
4 appointment under Section 1701.260, Occupations Code.

5       (c) A school marshal appointed by the governing body of a  
6 private school may carry or possess a handgun on the physical  
7 premises of a school, but only in the manner provided by written  
8 regulations adopted by the governing body.

9       (d) Any written regulations adopted for purposes of  
10 Subsection (c) must provide that a school marshal may carry a  
11 concealed handgun as described by Subsection (c), except that if  
12 the primary duty of the school marshal involves regular, direct  
13 contact with students in a classroom setting, the marshal may not  
14 carry a concealed handgun but may possess a handgun on the physical  
15 premises of a school in a locked and secured safe within the  
16 marshal's immediate reach when conducting the marshal's primary  
17 duty. The written regulations must also require that a handgun  
18 carried by or within access of a school marshal may be loaded only  
19 with frangible duty ammunition approved for that purpose by the  
20 Texas Commission on Law Enforcement.

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

24       (f) A private school employee's status as a school marshal  
25 becomes inactive on:

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

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

4           (3) termination of the employee's employment with the  
5 private school; or

6           (4) notice from the governing body that the employee's  
7 services as school marshal are no longer required.

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

12           (h) If a parent or guardian of a student enrolled at a  
13 private school inquires in writing, the school shall provide the  
14 parent or guardian written notice indicating whether any employee  
15 of the school is currently appointed a school marshal. The notice  
16 may not disclose information that is confidential under Subsection  
17 (g).

18           (i) This section does not apply to a school whose students  
19 meet the definition provided by Section 29.916(a)(1).

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

22           (8) "School marshal" means a person who:

23                   (A) is [employed and] appointed to serve as a  
24 school marshal by:

25                           (i) the board of trustees of a school  
26 district or[7] the governing body of an open-enrollment charter  
27 school under Section 37.0811, Education Code;

1                   (ii) the governing body of a private school  
2 under Section 37.0813, Education Code; [7] or

3                   (iii) the governing board of a public  
4 junior college under [~~Article 2.127, Code of Criminal Procedure,~~  
5 ~~and in accordance with and having the rights provided by]~~ Section  
6 [~~37.0811 or~~ 51.220, Education Code;

7                   (B) is licensed under Section 1701.260; and

8                   (C) has powers and duties described by Article  
9 2.127, Code of Criminal Procedure.

10           SECTION 5. Section 1701.260, Occupations Code, is amended  
11 by amending Subsections (a) and (j) and adding Subsection (a-1) to  
12 read as follows:

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

19           (a-1) In this section, "private school" has the meaning  
20 assigned by Article 2.127, Code of Criminal Procedure.

21           (j) The commission shall submit the identifying information  
22 collected under Subsection (b) for each person licensed by the  
23 commission under this section to:

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

25                   (2) the person's employer, if the person is employed by  
26 a school district, open-enrollment charter school, private school,  
27 or public junior college;

1           (3) the chief law enforcement officer of the local  
2 municipal law enforcement agency if the person is employed at a  
3 campus of a school district, open-enrollment charter school,  
4 private school, or public junior college located within a  
5 municipality;

6           (4) the sheriff of the county if the person is employed  
7 at a campus of a school district, open-enrollment charter school,  
8 private school, or public junior college that is not located within  
9 a municipality; and

10          (5) the chief administrator of any peace officer  
11 commissioned under Section 37.081 or 51.203, Education Code, if the  
12 person is employed at a school district or public junior college  
13 that has commissioned a peace officer under either section.

14          SECTION 6. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2017.