

House Bill 867
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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;

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

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

(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:

(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

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37.0813, Education Code; [7] or
(C) the governing board of a public junior college under
Section 51.220, Education Code.

SECTION 2. The heading to Section 37.0811, Education
Code, is amended to read as follows:
Sec. 37.0811. SCHOOL MARSHALS: PUBLIC SCHOOLS.

No equivalent provision.

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SECTION 2. Same as House version.

SECTION __. Sections 37.0811(a) and (d), Education Code,
are amended to read as follows:

(a) The board of trustees of a school district or the governing
body of an open-enrollment charter school may appoint not
more than the greater of:

(1) one school marshal per 200 [400] students in average
daily attendance per campus; or

(2) for each campus, one school marshal per building of the
campus at which students regularly receive classroom
instruction.

(d) Any written regulations adopted for purposes of
Subsection (c) must provide that a school marshal may carry a
concealed handgun as described by Subsection (c), 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 school 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 duty ammunition
approved for that purpose by the Texas Commission on Law

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Enforcement [~~designed to disintegrate on impact for maximum safety and minimal danger to others~~]. [CA1]

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

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

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

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

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

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

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students in a classroom setting, the marshal may not carry a concealed handgun but may 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 written regulations must also require that a handgun carried by or

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within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) 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.

(f) A private school 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 handgun issued under Subchapter H, Chapter 411, Government Code;

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

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

(g) 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.

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

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

No equivalent provision.

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SECTION __. Section 51.220(e), Education Code, is

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amended to read as follows:

(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 duty ammunition approved for that purpose by the Texas Commission on Law Enforcement ~~[designed to disintegrate on impact for maximum safety and minimal danger to others]~~. [CA1]

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

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

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

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

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

(iii) 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 or]~~ 51.220, Education Code;

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(B) is licensed under Section 1701.260; and
(C) has powers and duties described by Article 2.127, Code of Criminal Procedure.

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

(a) The commission shall establish and maintain a training program open to any employee of a school district, open-enrollment charter school, private school, or public junior college who holds a license to carry a 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.

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

(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, open-enrollment charter school, private 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, open-enrollment charter school, private 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, open-enrollment charter school, private school, or public junior college that is not located within a municipality; and

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(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 section.

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

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SECTION 6. Same as House version.

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