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Bill Analysis
Legislative Service Commission

Am. Sub. H.B. 422

126th General Assembly
(As Passed by the House)

Reps. Hughes, Flowers, Reidelbach, Latta, D. Evans, Boccieri, Yuko, Chandler, Wolpert, Setzer, Barrett, Williams, Carano, Cassell, Combs, DeBose, Domenick, C. Evans, Fende, Gilb, Hagan, Harwood, Key, J. McGregor, Otterman, T. Patton, Sayre, G. Smith, D. Stewart, Widener

BILL SUMMARY

- Requires community schools and chartered nonpublic schools to adopt school safety plans in the same manner as school districts.
- Requires each school safety plan to be updated every three years or whenever a major modification to the school building necessitates changes in the plan's procedures.
- Requires that a copy of the building blueprint of each public and chartered nonpublic school (along with the school safety plan, as under current law) be filed with each law enforcement agency that has jurisdiction over the school.
- Requires that school safety plans and building blueprints also be filed with the Attorney General for posting on the Ohio Law Enforcement Gateway (OLEG) database and, upon request, with the local fire department.
- Directs school districts, community schools, and chartered nonpublic schools to grant access to school buildings to law enforcement personnel conducting emergency response training sessions.
- Exempts school safety plans and school building blueprints from the Public Records Law.
- Requires the principal or director of each public or nonpublic school or preschool program to conduct, once each school year, a school safety

drill to instruct students in procedures to follow when students need to be secured in their school building rather than evacuated.

- Directs the State Fire Marshal to conduct annual inspections of schools and preschool programs to determine compliance with fire drill requirements.
- Increases the fine for failure to conduct a required fire, tornado, or school safety drill to \$1,000 (from a maximum of \$20 under current law).
- Expresses the intent of the General Assembly to encourage changes to federal law to enable the U.S. Department of Homeland Security to integrate school buildings into its plans for protecting critical infrastructure.

CONTENT AND OPERATION

Adoption of school safety plans

(R.C. 3313.536 and 3314.03(A)(11)(d))

Current law

Current law requires each city, exempted village, and local school district to adopt a comprehensive school safety plan for each school building under its control. The district must examine the environmental conditions and operations of the building to determine potential hazards to student and staff safety and propose operating changes to prevent dangerous circumstances. Community law enforcement and safety officials, parents, and school employees must be involved in developing the plan. If the building has had documented safety problems before, the district must consider incorporating remediation strategies into the plan. The plan also must include protocols for addressing serious threats to the safety of school property, students, or staff and for responding to actual emergencies. These protocols must describe procedures for notifying law enforcement, obtaining assistance from emergency response personnel, informing parents of affected students, and taking other appropriate actions. A copy of the plan must be filed with each law enforcement agency that has jurisdiction over the school building.

The bill

The bill adds several new requirements regarding school safety plans. First, it extends the requirement to adopt school safety plans to community

(charter) schools and chartered nonpublic schools. Those schools must develop their safety plans in the same manner as school districts. Second, it requires all safety plans to be updated at least every three years and whenever a major modification to the school building necessitates changes in the plan's procedures.

Third, the bill requires that a copy of the school building blueprint be included with the current school safety plan when it is filed with law enforcement agencies. Fourth, it requires that all school safety plans and blueprints also be filed with the Attorney General and, upon request, with the fire department serving the political subdivision in which the building is located. The Attorney General must post the information on the Ohio Law Enforcement Gateway (OLEG) or its successor.¹ Each school district, community school, chartered nonpublic school, law enforcement agency, and fire department and the Attorney General must keep school safety plans and blueprints in a secure place.

Finally, the bill requires each district or school to grant access to school buildings so that law enforcement personnel may hold emergency response training sessions. The training sessions must occur outside of student instructional hours and an employee of the district or school must be present during the sessions.

Public records exemption for school safety plans and blueprints

(R.C. 149.433 and 3313.536(C))

Under current law, a record kept by a public office, including a school district or community school, that is a "security record" or an "infrastructure record" is not a public record under the Public Records Law and is not subject to mandatory release or disclosure under that Law.² A "security record" is (1) any record that contains information directly used for protecting the security of a public office against attack, interference, or sabotage or (2) any record prepared or maintained by a public office to prevent, mitigate, or respond to acts of terrorism, including vulnerability assessments, response plans, communication codes or deployment plans of emergency response personnel, intelligence information provided by the U.S. or a foreign government, and classified national security records. An "infrastructure record" is any record that discloses the structural configuration or security codes of a building housing a public office or the

¹ *The Ohio Law Enforcement Gateway is a closed electronic database exclusively for law enforcement personnel.*

² *A "public office" includes "any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by [Ohio law] for the exercise of any function of government" (R.C. 149.011, not in the bill).*

configuration of the building's critical systems, such as communication, computer, electrical, mechanical, ventilation, water, and plumbing systems.³

It is likely that school safety plans and school building blueprints of *public* schools would be considered security records and infrastructure records, respectively, under current law. Therefore, those documents likely are not public records. As private entities, chartered nonpublic schools are not required to disclose internal documents, including safety plans and blueprints, to the public. However, when a chartered nonpublic school provides a copy of its safety plan or blueprint to a public office, such as a law enforcement agency or fire department (see above), that document currently could be subject to mandatory disclosure by the public office that receives it. The bill specifies that school safety plans and school building blueprints of public and chartered nonpublic schools are security records and infrastructure records for the purposes of the Public Records Law, thereby prohibiting disclosure of those documents when they are in the possession of a public office.

Current law stipulates that disclosure by a public office or public employee of a security record or infrastructure record to carry out construction or renovation work on a public building does not constitute public disclosure of the document and does not make the document a public record. The bill extends the same protections to instances in which a chartered nonpublic school or one of its employees discloses a security record or infrastructure record for a school construction or renovation project.

School safety drills

(R.C. 3301.56(A)(1)(b) and 3737.73)

Current law requires the principal or director of each public or private school with an average daily attendance of 50 or more students and each state-funded preschool program to conduct fire and tornado drills. Fire drills must be held at least once a month while the school or preschool program is in operation. There is no prescribed number of tornado drills.

In addition to the fire and tornado drills required by current law, the bill directs the principal or director of each public or private school and preschool program to conduct a school safety drill. This drill is to instruct students in procedures to follow in situations where students must be secured in their building (rather than evacuated), such as a threat to the school involving terrorism, a person

³ *A simple floor plan showing the spatial relationships of components of a building housing a public office is not considered an infrastructure record (R.C. 149.433(A)(2)).*

in possession of a deadly weapon or dangerous ordnance on school property, or other act of violence.⁴ At least one safety drill must be conducted on or before April 1, 2007, and on or before each December 1 thereafter. To allow time for the extra drill, the bill reduces the number of required fire drills from once a month while the school or preschool program is in operation (typically, ten times a school year) to nine times a school year, at the times and frequency prescribed by rules adopted by the State Fire Marshal. However, a fire drill need not be conducted in any month that a school safety drill is conducted.

The bill requires each principal or director (1) to provide advance notice of each school safety drill to the municipal or township police chief or other chief law enforcement officer, or in the absence of such a police chief or officer, to the county sheriff, (2) to keep a written record of the time and date of each safety drill, and (3) to hold annual training sessions for school employees regarding the conduct of the safety drills.

Enforcement of required drills

(R.C. 3737.73(C) and (D))

Current law

Under current law, the State Fire Marshal is responsible for ensuring that schools and preschool programs conduct fire and tornado drills and designate appropriate locations to shelter students from tornados. If the Fire Marshal determines that a principal or director is not conducting fire or tornado drills or designating tornado shelters as required, the Fire Marshal must issue a warning indicating the specific violation and a date by which the violation must be corrected.

The bill

Fire drill enforcement. The State Fire Marshal's existing authority to enforce the fire drill requirements presumably could include inspections of schools and preschool programs to ensure that they are carrying out the drills appropriately. However, the bill explicitly requires the Fire Marshal to conduct

⁴ A dangerous ordnance generally includes any automatic or sawed-off firearm; zip-gun; ballistic knife; explosive or incendiary device; explosive substance; firearm, rocket launcher, grenade, bomb, or other device designed for military use; firearm muffler or silencer; or combination of parts used to convert a firearm or other device into a dangerous ordnance (R.C. 2923.11, not in the bill).

annual inspections of each school and preschool program subject to the fire drill provisions to determine their compliance.⁵

Safety drill enforcement. The bill charges the police chief or other chief law enforcement officer of the municipal corporation or township, or in the absence of such a person, the county sheriff with monitoring compliance with the school safety drill requirement. In this capacity, the law enforcement officer has similar authority as the State Fire Marshal to issue warnings for violations and establish deadlines for compliance. The bill specifically states, however, that a warning for failure to conduct a school safety drill require correction of the violation by conducting a safety drill within 30 days after the warning is issued.⁶

Penalty for failure to conduct drills

(R.C. 3737.99)

Currently, if a school or preschool program receives a warning for a violation of the fire or tornado drill requirements and that violation is not corrected by the deadline specified in the warning, the principal or director of the school or program is subject to a fine from \$5 to \$20.

The bill increases the fine for failure to correct a violation from the current maximum fee of \$20 to a flat fee of \$1,000. That increase applies to violations related to any required drill, including fire drills, tornado drills, and the new school safety drills.

Intent language regarding integration of schools into homeland security efforts

(Section 3)

The federal Homeland Security Act of 2002 requires the U.S. Department of Homeland Security to conduct vulnerability assessments of key resources and critical infrastructure throughout the country and to prepare a comprehensive national plan for protecting those resources and infrastructure from terrorist

⁵ *Under the bill, the State Fire Marshal also must annually inspect any children's home or orphanage that houses 20 or more children to ensure their fire drill compliance (R.C. 3737.73(C)(1)).*

⁶ *The bill does not require that warnings be issued with respect to the conduct of employee training sessions, advance notice of safety drills, or the keeping of a written record of each safety drill. The duty of a law enforcement officer is limited to issuing a warning to a failure to conduct a school safety drill.*

attacks.⁷ Federal law defines "critical infrastructure" as "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, [or] national public health or safety."⁸ The bill expresses the intent of the General Assembly to encourage Congress and the U.S. Department of Homeland Security to broaden the definition of "critical infrastructure" to include school buildings because they are a potential target of terrorist attacks. The bill states that broadening the definition would enable the Department to prioritize the security of schools by integrating them into its risk assessments and security plans.

HISTORY

ACTION	DATE
Introduced	11-15-05
Reported, H. Education	03-29-06
Passed House (95-0)	05-10-06

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⁷ 6 U.S.C. 121(d).

⁸ 42 U.S.C. 5195c(e).

