



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 122**

128th General Assembly  
(As Introduced)

Sen. Turner

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## **BILL SUMMARY**

- Authorizes school districts and educational service centers to employ public high school law enforcement officers to serve as peace officers in high schools.
- Specifies that to qualify for employment as a public high school law enforcement officer, a person must (1) have satisfactorily completed an approved peace officer basic training program, (2) provide a surety bond, and (3) not have pled guilty to or been convicted of a felony.
- Grants arrest powers to public high school law enforcement officers.
- Makes public high school law enforcement officers eligible for the Public Employees Retirement System.
- Prohibits the impersonation of a public high school law enforcement officer.

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## **CONTENT AND OPERATION**

### **Employment of public high school law enforcement officers**

(R.C. 3313.175(B))

The bill authorizes school districts (including joint vocational school districts) and educational service centers (ESCs) to employ public high school law enforcement officers to serve as peace officers for their high schools. Under the bill, the officers' duties are (1) to maintain the safety and welfare of students, staff, and other persons using a high school or its grounds, (2) to protect district or ESC property and the personal property of students and staff, and (3) to the extent required by the district board of education or ESC governing board, to enforce all rules, regulations, and

written policies of the board.<sup>1</sup> All officers must take an oath of office and wear the badge of office.<sup>2</sup>

### **Officer qualifications**

(R.C. 109.57, 109.77, and 3313.175(B)(2) and (C)(1))

To qualify for employment as a public high school law enforcement officer, a person must have satisfactorily completed a peace officer basic training program approved by the Executive Director of the Ohio Peace Officer Training Commission. Furthermore, the person must provide a surety bond to the school district or ESC board in an amount designated by the board. Finally, the person must never have been convicted of or pleaded guilty to a felony.

Under continuing law, all district and ESC employees must undergo a criminal records check prior to hiring.<sup>3</sup> A school district (but apparently not an ESC) may waive the records check for a job applicant who presents a certified copy of the results of a Bureau of Criminal Identification and Investigation (BCII) check that was conducted within the previous year. The bill prohibits a school district from exercising this option with respect to public high school law enforcement officers. Presumably, then, the district must request an updated criminal records check prior to hiring an officer.

### **Arrest and citation powers**

(R.C. 2935.01, 2935.03, 2935.031, and 2935.24)

The bill grants public high school law enforcement officers arrest powers within the boundaries of the employing school district or ESC. They have the same authority as other peace officers to make an arrest with or without a warrant. However, the bill prohibits a public high school law enforcement officer from arresting a person for a minor misdemeanor offense on the basis of a copy of the original arrest warrant issued by the court.

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<sup>1</sup> ESCs are regional entities that provide school districts with a broad spectrum of services, including curriculum development, professional development, purchasing, publishing, human resources, special education services, and counseling services. They do not operate their own schools, however, so it is not clear how the bill's authorization to employ law enforcement officers applies to them.

<sup>2</sup> Like other employers of peace officers, the employing district or ESC annually must provide a roster of all its public high school law enforcement officers to the Ohio Peace Officer Training Commission. Additionally, it must report to the Commission when it hires a new officer and when an officer is terminated, resigns, is convicted of a felony, or dies. (R.C. 109.761, not in the bill.)

<sup>3</sup> R.C. 3319.39, not in the bill.

A public high school law enforcement officer may pursue and arrest a person outside of the district's or ESC's boundaries if (1) the pursuit takes place without an unreasonable delay after an offense is committed, (2) the pursuit begins within those boundaries, and (3) the offense involved is a felony, first or second degree misdemeanor, or one for which points may be assessed under the Driver's License Points Suspension Law.<sup>4</sup> The district or ESC must adopt a policy regarding pursuits in a motor vehicle and advise its public high school law enforcement officers of that policy.

### **Termination or suspension for criminal activity**

(R.C. 3313.175(C))

Under the bill, a school district or ESC must terminate the employment of a public high school law enforcement officer who pleads guilty to a felony committed after 1996 or who, subject to a negotiated plea agreement, instead pleads guilty to a misdemeanor in exchange for surrendering the person's peace officer certification.<sup>5</sup> If an officer is *convicted* of a felony committed after 1996, the district or ESC must suspend the officer during the pendency of an appeal. If the conviction is upheld by the highest court to which the appeal is taken or the officer does not file an appeal, the district or ESC must terminate the officer's employment. If the appeal results in the officer's acquittal of the felony, in dismissal of the felony charge, or in conviction of a misdemeanor, the district or ESC must reinstate the officer. However, the officer is not entitled to back pay unless the felony conviction was overturned, or the charge was dismissed, due to insufficient evidence.

The bill requires the district or ESC to comply with the due process procedures of the Administrative Procedure Act in all termination and suspension actions involving public high school law enforcement officers. Presumably, then, those procedures must be used in place of the due process procedures prescribed by statute for other district and ESC employees.<sup>6</sup>

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<sup>4</sup> See R.C. 4510.036, not in the bill.

<sup>5</sup> Continuing law requires the Executive Director of the Ohio Peace Officer Training Commission to revoke a person's peace officer certification in either of these circumstances (R.C. 109.77(F)(1)).

<sup>6</sup> See R.C. 3319.081 and 3319.16, neither section in the bill. Nonteaching employees of city school districts are covered by the Civil Service Law (R.C. Chapter 124.).

## **PERS eligibility**

(R.C. 145.01 and 145.33)

Under the bill, public high school law enforcement officers are eligible for the Public Employees Retirement System (PERS), rather than the School Employees Retirement System that covers other public school personnel who are not licensed by the State Board of Education. The bill places officers in the PERS Law Enforcement Division (PERS-LE), which differs from regular PERS in terms of retirement eligibility, contribution rates, and computation of benefits. Generally, compared to regular PERS, PERS-LE participants qualify for retirement with fewer years of service, have higher employee and employer contribution rates, and have a maximum annual benefit of 90% of the participant's final average salary (rather than 100% for regular PERS).<sup>7</sup>

## **Prohibition on officer impersonation**

(R.C. 2921.51)

The bill prohibits the impersonation of a public high school law enforcement officer. Violation of the prohibition is a fourth degree misdemeanor, except in specified circumstances. If the perpetrator makes an arrest or searches another person or the person's property while committing the violation, the penalty is a first degree misdemeanor. If the perpetrator commits the violation with the purpose of committing or facilitating a criminal offense, the penalty is a first degree misdemeanor, unless the offense the perpetrator intends to commit or facilitate is a felony, in which case the penalty increases to a fourth degree felony. Finally, the actual commission of a felony while impersonating a public high school law enforcement officer is a third degree felony.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-30-09

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<sup>7</sup> R.C. 145.33 and 145.49 (latter section not in the bill).