



Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. H.B. 8

130th General Assembly
(As Passed by the House)

Reps. Roegner and Kunze, Brenner, Amstutz, Beck, Bishoff, Blair, Boose, Brown, Buchy, Burkley, Conditt, Green, C. Hagan, Hayes, Hood, Hottinger, Johnson, Landis, Lynch, Maag, Perales, Retherford, Rosenberger, Smith, Stebelton, Thompson, Wachtmann, Batchelder

BILL SUMMARY

- Authorizes a school district, community school, STEM school, or chartered nonpublic school board or governing authority to incorporate into its school safety plan the designation of employees who may carry concealed handguns in a school safety zone and to do so while in executive session.
- Prohibits the disclosure of the names of designated employees authorized to possess or use a handgun in a school safety zone.
- Grants qualified civil immunity to a school district, community school, STEM school, or chartered nonpublic school board or governing authority and its designated employees for injury, death, or loss arising from a designated employee's authorized possession or use of the handgun in a school safety zone.
- Requires the Attorney General to establish a model curriculum for training employees authorized to carry concealed handguns in a school safety zone.
- Authorizes off-duty peace officers to possess deadly weapons or dangerous ordnance in a school safety zone.
- Excludes from collective bargaining the subject of development and implementation of a protocol for the designation of school employees who may carry concealed weapons in a school safety zone.

CONTENT AND OPERATION

Background on school safety plans

Each school district, public community school, and public STEM school and each chartered nonpublic school is required to have in place a comprehensive school safety plan. The plan must focus on potential hazards to student and staff safety and propose operating changes to promote the prevention of potentially dangerous problems and circumstances. In developing the plan for each building, the district board or school governing authority must involve community law enforcement and safety officials, parents of students who are assigned to the building, and teachers and nonteaching employees who are assigned to the building. The board or governing authority must consider incorporating remediation strategies into the plan for any building where documented safety problems have occurred.

The plan also must include both of the following:

(1) A protocol for addressing serious threats to the safety of school property, students, employees, or administrators; and

(2) A protocol for responding to any emergency events that do occur and that compromise the safety of school property, students, employees, or administrators.

School safety plan designation of school employees to carry concealed handguns

The bill expressly permits the board or governing authority of a school district, community school, STEM school, or chartered nonpublic school to incorporate into its school safety plan a protocol for the designation of specific employees who may carry concealed handguns in school safety zones that are under the jurisdiction of the board or governing authority.¹ Continuing law already permits a state or federal officer, agent, or employee, a local law enforcement officer, a school security officer, or any other person who has written authorization from the district board of education or school governing authority to convey deadly weapons or dangerous ordnance into a school safety zone provided that the individual does so in accordance with the authorization.² A "school safety zone" consists of a school, school building, school premises, school activity, and a school bus.³

¹ R.C. 3313.536(A).

² R.C. 2923.122(D)(1)(a).

³ R.C. 2901.01(C)(1), not in the bill.



The bill prohibits a board or governing authority from requiring that an employee carry a firearm in the course of that employee's employment.⁴

The bill also establishes an exception to the prohibition against any public or private "educational institution" (or the superintendent of the state highway patrol) employing a person to carry a weapon while on duty if that person has not received a certificate in basic peace officer training or has not completed 20 years of active duty as a peace officer. The bill's exception applies to any person authorized to carry a concealed handgun under a school safety plan.⁵

Protocol

The bill specifies that, in developing its protocol, a board or governing authority must consult with the local law enforcement agency. Under the bill, "local law enforcement agency" means the police department of the municipal corporation having jurisdiction over a school safety zone if the school safety zone is located within a municipal corporation or the sheriff of the county in which the school safety zone is located if the school safety zone is not located within a municipal corporation. The protocol must: (1) prohibit a designated employee from carrying a concealed handgun in a school safety zone without a valid license to do so, (2) require a designated employee to have completed any firearms training that may be required by the protocol, and (3) provide that the names of designated employees remain confidential.⁶

The protocol may provide that the board or governing authority may designate or revoke designation during an executive session. The board or governing authority must give a designated employee written notice of the designation or revocation of that designation. A copy of that notice must also be given to the local law enforcement agency and the insurance company for the district or school.⁷

The protocol must require the board or governing authority to offer any employee authorized to carry a firearm who, during the course of the employee's employment, has been involved in an incident in which the employee's firearm was discharged the opportunity for a psychological assessment to ensure the individual's continued ability to carry a firearm in the course of that individual's employment. If the individual declines to undergo the psychological assessment, the board or governing authority may consider the individual's decision to decline that assessment in

⁴ R.C. 3313.536(A).

⁵ R.C. 109.78(D).

⁶ R.C. 3313.536(A).

⁷ R.C. 3313.536(A).



determining whether to revoke the individual's designation as an employee permitted to carry a concealed handgun in a school safety zone.⁸

Executive session

As stated above, under the bill, a district board or school governing authority that incorporates into a school safety plan a protocol for the designation of specific employees who may carry concealed handguns in a school safety zone may hold executive session to designate an employee to carry that concealed handgun or to revoke that designation.⁹

Background

The state Open Meetings Law requires all public bodies (including school district boards, community school governing authorities, and STEM school governing bodies) to take official action and to conduct all deliberations upon official business only in open meetings unless a specific exclusion exists.¹⁰ However, a public body may hold an executive session, which is a portion of a public meeting from which the public is excluded, only after a majority of a quorum of the public body determines to hold such a session during a regular or special meeting, for the sole purpose of considering several specified matters.

The other specified matters that may be considered in executive session, under current law, include:

(1) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, public official, licensee, or regulated individual, unless the employee, official, licensee, or regulated individual requests a public hearing;

(2) The purchase of property, or the sale of property by competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public;

(3) Conferences with an attorney for the public body concerning disputes involving it that are the subject of pending or imminent court action;

⁸ R.C. 3313.536(A).

⁹ R.C. 121.22(G)(8) and 3313.536.

¹⁰ R.C. 121.22.



(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or rules or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters to be discussed in executive session could reasonably be expected to jeopardize the security of the public body or public office; and

(7) In the case of a county or municipal hospital, to consider trade secrets.¹¹

Continuing law mandates that, regardless of whether a matter is considered in executive session, a resolution, rule, or formal action of *any* kind is invalid unless adopted in an open meeting of the public body.¹²

Public records exemption

Under current law, a district's or school's safety plan is not a public record. The bill prescribes further that a record made of the designation of an employee as authorized to carry a concealed handgun in a school safety zone under the plan is also not a public record.¹³ (A public record is a record kept by a public office that documents the operation and activities of that office. Generally, unless an exemption applies, a public office must make its public records available to the public.¹⁴)

Confidentiality

Under the bill, a district or school board or governing authority is required to keep the names of designated employees in confidential records and is prohibited from including those names in the school safety plan. No member of the board or governing authority is permitted to disclose those names to anyone, except that disclosure is permitted to those designated employees, the local law enforcement agency, the

¹¹ R.C. 121.22(G)(1) to (7).

¹² R.C. 121.22(H).

¹³ R.C. 149.433.

¹⁴ R.C. 149.43, not in the bill.



insurance company for the school, and any other persons to whom disclosure is required by a court order.¹⁵

Immunity from civil liability

The bill provides a qualified immunity for district or school boards or governing authorities and certain designated employees from civil tort liability for acts related to a designated employee's use of a handgun in a school safety zone. Under the bill, the following entities are not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a designated employee's possession or use of a handgun in compliance with the school safety plan, unless the injury, death, or loss resulted from the designated employee's reckless or wanton conduct:

- A school district, member of a school district board of education, chartered nonpublic school, or governing authority of a chartered nonpublic school;¹⁶
- A community school, community school governing authority, or member of a community school governing authority;¹⁷
- A STEM school or member of a STEM school governing body;¹⁸
- Any employee of the district or schools, as described above, who is authorized to carry a concealed handgun in a school safety zone under that district's or school's safety plan.¹⁹

Model curriculum

The bill requires the Attorney General to establish a model curriculum for training employees authorized to carry concealed handguns in a school safety zone. One component of the model curriculum must be active shooter training. Under the bill, a board or governing authority may use the model curriculum in consultation with local law enforcement to determine any additional training requirements for an employee authorized to carry a concealed handgun in a school safety zone.²⁰

¹⁵ R.C. 3313.536(A).

¹⁶ R.C. 3313.94.

¹⁷ R.C. 3314.43.

¹⁸ R.C. 3326.28.

¹⁹ R.C. 3313.94, 3314.43, and 3326.28.

²⁰ R.C. 3313.536(E).



The bill further expressly states that the Attorney General's duty to establish the model curriculum is a "public duty" under the State Sovereign Immunity Law (R.C. Chapter 2743.).²¹ Under that law, generally, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty.²²

Peace officers authorized to carry weapons in a school safety zone

The bill expands the list of individuals to whom the prohibition against knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a school safety zone does not apply to include an off-duty peace officer. The bill also defines "peace officer," for purposes of such authorization, as a sheriff, deputy sheriff, police constable of any township, police officer of a township or joint police district, marshal, deputy marshal, member of the organized police department of any municipal corporation, or state highway patrol trooper.²³

Collective bargaining

Under continuing law, all matters pertaining to wages, hours, or terms and other conditions of employment are subject to collective bargaining between a public employer and the exclusive representative for that employer's employees, unless a matter is specified in statute as not appropriate for collective bargaining. The bill specifies that the development and implementation of a protocol for the designation of school employees who may carry concealed weapons in a school safety zone is not an appropriate matter for collective bargaining.²⁴

HISTORY

ACTION	DATE
Introduced	01-30-13
Reported, H. Education	11-07-13
Passed House (63-29)	01-22-14

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²¹ R.C. 3313.536(E).

²² See R.C. 2743.01(E) and 2743.02(A)(3), neither section in the bill.

²³ R.C. 2923.122(D) and (G).

²⁴ R.C. 4117.08.

