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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB129/HJCS/aSJC/aSF1</u>	Sponsor	<u>HJC</u>
Tracking Number	<u>.213198.7</u>	Committee Referrals	<u>HEC/HJC; SEC/SJC</u>
Short Title	<u>School Security Personnel & Deadly Weapons</u>		
Analyst	<u>Force</u>	Original Date	<u>2/25/19</u>
		Last Updated	<u>3/15/19</u>

BILL SUMMARY

Synopsis of Senate Floor Amendment 1

Senate Floor Amendment 1 to House Judiciary Committee Substitute for HB129 as amended (HB129/HJCS/aSJC/aSF1) adds another disqualifying factor for employment as school security personnel, that of having been formally disciplined for excessive use of force during their tenure as law enforcement officers.

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to the House Judiciary Committee Substitute for HB129 (HB129/HJCS/aSJC) changes the bill's defined terms. "Firearm," for purposes of the bill, now means a handgun recommended by the Department of Public Safety and authorized by the New Mexico Public School Insurance Authority (NMPSIA). The definition of "armed security personnel" has been stricken in favor of "security personnel," which means retired or former certified and commissioned law enforcement officers who are employed by a school district and authorized by Public Education Department (PED) rules and local school board policy to carry a firearm on school premises. Unlike the original bill, HB129/HJCS/aSJC bars security personnel from having other job titles or duties than school security only when carrying their firearm. While the original bill required PED to approve one or more nationally recognized armed school security training programs, the amended bill assigns that duty to PED and NMPSIA, which must include training on working with students who have special needs.

Synopsis of Original Bill

House Judiciary Committee Substitute to HB129 (HB129/HJCS) proposes several new sections of the Public School Code to address the issue of school security personnel and under what circumstances they may carry firearms. Specifically, the bill proposes new sections of Chapter 22, Article 5 NMSA 1978 (powers and duties of local school boards) and the Charter Schools Act, which would limit authority to authorize school security personnel to carry firearms on school

premises to local school boards or the governing bodies of charter schools, respectively. The bill also proposes another new section of the Public School Code that defines terms and outlines training requirements for armed school security personnel. Finally, the bill notes that none of its provisions should be construed to permit armed school security personnel to carry firearms on school property if it would be in violation of state or federal law, and that the bill should not be interpreted as applying to school resource officers.

FISCAL IMPACT

HB129/HJCS/aSJC /aSF1 does not contain an appropriation.

SUBSTANTIVE ISSUES

While under current law, “school security personnel” are permitted to carry weapons on campus, the lack of a definition for that term created a loophole through which a superintendent could appoint anyone to serve as school security, who would thus be exempted from the weapons prohibition. HB129/HJCS/aSJC/aSF1 would close this loophole by permitting only school boards and governing authorities to decide who may carry firearms on their school premises – in an open meeting – rather than leaving it up to individual superintendents. Decisions made regarding this issue are to be made formal policies of the respective school boards and governing bodies.

The bill directs PED to promulgate rules pertaining to persons prohibited from serving as armed school security personnel, including persons who: have been convicted of a felony or a misdemeanor involving moral turpitude related to their employment as security personnel; or who have been convicted of trafficking in controlled substances, criminal sexual penetration, or related sexual offenses or child abuse; misconduct or crimes involving inappropriate touching or sexual harassment, discrimination, contributing to the delinquency of a child, abuse, or sexual exploitation of minors; or the negligent or illegal use of firearms. PED must also approve at least one nationally recognized armed school security personnel training program that includes cultural competency and prohibited profiling practices.

School districts would have to require proof from retired law enforcement applicants for employment as armed school security personnel that they were certified and commissioned for at least three years and left law enforcement in good standing. Applicants must show completion of school security training and up-to-date firearms training and licensure. Applicants must submit to a background check, as most persons working with schoolchildren must, to ensure the applicant has not been convicted of a crime or been engaged in ethical misconduct or violations of the Public School Code. Finally, applicants would be required to show they have no other job title or duties in the district and undergo physical and psychological evaluation.

According to the National Center for Education Statistics, in the 2015-2016 school year, the percentage of public schools with security staff increased by 15 percent since 2005, from 42 percent to 57 percent. The percentage of sworn law enforcement in public schools also increased over that period, from 36 percent to 48 percent. During that period, 69 percent of public schools reported one or more violent incidents of crime.

NMPSIA insures the public schools and issued mandatory standards for armed school security personnel in an effort to limit risk and liability. Given the rural and sometimes isolated locations of many schools in New Mexico and the accompanying potential wait time for emergency personnel to arrive, NMPSIA issued the standards to allow for an armed security presence on

school grounds while maintaining high standards of training and competence for potential security guards. According to these standards, there are three permissible options for security guards in the public schools, in order of preference:

“Option 1 encourages schools to seek a contract with local certified law enforcement, or other sworn law enforcement, to act as school resource officers (SROs) in schools whenever possible.

Option 2, if no SRO is feasible, requires the execution of a contract with a private security firm, licensed through the Regulation and Licensing Department pursuant to the Private Investigations Act, for personnel specifically trained to be stationed among students in a school setting.

Option 3, to be employed as a last resort, is for the execution of a separate contract for a school employee or volunteer who is licensed as a level three security guard. Level three guards must have completed training for levels one and two as well as three.”

NMPSIA’s third option, however, is problematic. School employees and volunteers cannot be licensed as level three security guards, as Section 61-27B-18 NMSA 1978 of the Private Investigations Act limits registration as a level three security guard to individuals who are “employed by a private patrol company under the direct supervision of a licensed private patrol operator, another level three security guard, or a private patrol operations manager.” Thus, a level three security guard can never be a direct employee of a school district or a charter school. In fact, NMPSIA’s second option, which includes a contract for personnel licensed under the Private Investigations Act, would necessarily include level three security guards, only, because level one and two security guards are not permitted to carry firearms.

RELATED BILLS

SB146, Create Crime of School Threat, makes threatening a school shooting a fourth degree felony, commensurate with making a bomb threat.

SB147, School Safety Drill Requirements, reduces the number of school emergency drills from 13 to eight per year, and requires that one be preparation for response to active shooters.

SB148, Former Officers as School Safety Personnel, permits retired law enforcement officers to work as school security personnel without having their cost of living adjustment for retirement benefits suspended during the period of their employment with the public schools.

SOURCES OF INFORMATION

- LESC Files
- Homeland Security and Emergency Management Department (HSEMD)
- Regulation and Licensing Department (RLD)

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