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FISCAL IMPACT REPORT

SPONSOR <u>Zamora</u>	LAST UPDATED <u>03/01/2023</u>	ORIGINAL DATE <u>02/08/2023</u>
SHORT TITLE <u>School Marshal Act</u>	BILL NUMBER <u>House Bill 254</u>	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS costs		\$1,969.0	\$1,529.0	\$3,498.0	Mostly recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent version of this legislation.

Largely duplicates Senate Bill 283

Sources of Information

LFC Files

Responses Received From

- Office of the Attorney General (NMAG)
- Public School Insurance Authority (PSIA)
- Department of Public Safety (DPS)
- Department of Health (DOH)
- Public Education Department (PED)

No Response Received

- Regional Education Cooperatives (REC)
- Albuquerque Public Schools (APS)

SUMMARY

Synopsis of Senate Bill 254

Senate Bill 254 establishes a program for school marshals, specifies training for prospective school marshals, and empowers them to carry a concealed handgun, establishing a new section of the Public School Code, Chapter 22 NMSA 1978.

Section 2 establishes definitions, including that of “school marshal”: a school employee who has completed a training program as a school marshal, has been selected by a school district to function as such, and has a permit to carry a concealed weapon.

Section 3 establishes requirements of school marshal training programs. Designed and maintained by DPS, and taught by DPS staff or their designated contractors, the 80-hour course would educate trainees on means of reducing school shootings, improve trainees' ability to use a handgun, and introduce the trainee to strategies used by law enforcement officers. DPS would also perform psychological testing to determine the trainee's fitness for this position, and if this and other aspects of the training were passed, would issue the trainee a two-year license as a school marshal. Renewal of the license would require another 16 hours of training. School marshals' licenses would be revoked for cause, including loss of permission to carry a concealed weapon, and such revocation or reinstatement would be reported to the county sheriff, the employing school district or charter or private school, and the secretary of DPS. School districts would be required to establish policies for marshals to carry a concealed weapon, which would have to be on the marshal's person or safely locked away. The identity of school marshals is to be kept confidential.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 254. DPS indicates needs for the following, with a yearly cost of \$1,529,000 and a one-time cost of \$360 thousand. These are needed for the following:

Annual costs:

- Four FTEs
- Firearms range gear
- Ammunition
- Software support
- Classroom space
- Psychological testing

One-time cost

- Computer-based firearms simulator
- Van
- Development of a psychological testing model

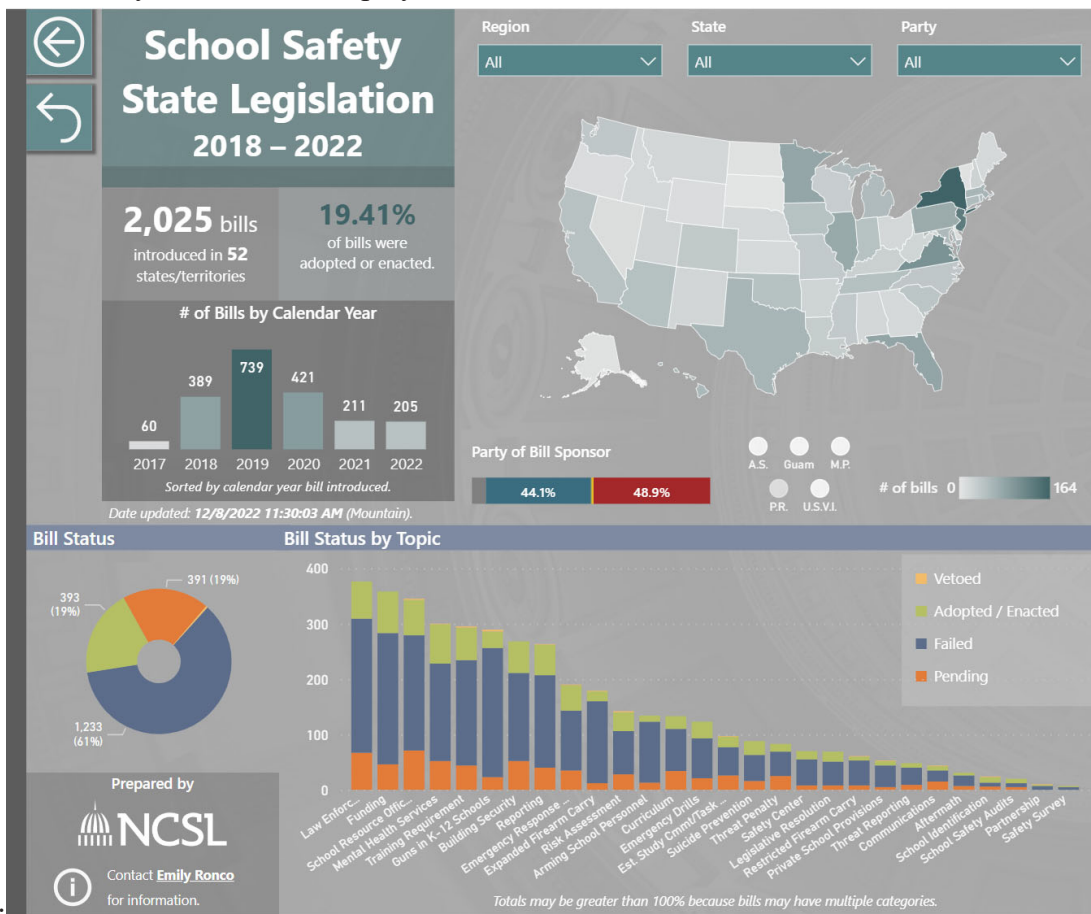
SIGNIFICANT ISSUES

According to the National Council on State Legislatures 2022 summary of school safety legislative tracking, many states have begun to look seriously at legislation to improve the safety of children in schools: "The recent killing of 19 students and two teachers at Robb Elementary School in Uvalde, Texas, as well as a nationwide increase in violent incidents at schools, continue to bring attention to school safety challenges. State lawmakers are tasked with considering how to prevent, mitigate, and respond to acts of school violence.

Several states have considered legislation regarding who can and cannot carry firearms on school grounds. In some states, this may include school employees. Others have considered legislation related to staffing school safety officers, requiring or providing funding for emergency drills and

school safety plans, structural or technology-related safety measures funding, and expanding mental health services to students and employees in schools.”

NCSL’s summary statistics are displayed



below:

In a 2018 LFC Hearing Brief, the authors note the multiple approaches states have taken to try to keep school children safe, including, in their list, physical security structures (including metal detectors and security cameras), trained school personnel, restricting access to guns, revising school disciplinary procedures, establishing early warning programs, checking for weapons on entrance into school facilities, expanding mental health services, and hiring armed personnel. The authors are concerned that such efforts may impede learning. They cite the importance of adverse childhood experiences, such as losing a parent, experiencing abuse or neglect, and poverty in conditioning children to violence. The study makes recommendations but does not cite evidence on the effectiveness of hired, armed personnel. The report states that “Experts who study mass shootings, including those in schools, indicate these incidents are not happening more frequently, but are more deadly than past attacks.

As noted by DOH, there are potential advantages and disadvantages to deploying school marshals:

Advantages	Disadvantages
<ul style="list-style-type: none"> Constant watchfulness and surveillance-Having a security guard monitoring school grounds can help prevent crime. 	<ul style="list-style-type: none"> Fear-School children may feel distressed when they see uniformed guards, particularly those with exposed firearms.

<ul style="list-style-type: none">• Internal crime prevention-Security guards can potentially protect students and staff from emotional, physical, or sexual abuse.• External crime prevention-Security guards can protect against unlawful trespassing, and by extension, prevent crimes associated with strangers on campus; and• Parental assistance-Adult interactions with parents may help end harassment or bullying quicker.	<ul style="list-style-type: none">• Cost-Hiring security guards, plus the equipment that might be needed, can have a large impact on a school's or school district's budget; and• Insuring-Those guards with certifications to carry guns and other weapons could warrant much higher premiums.
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DOH continues:

The presence of marshals on school grounds has the potential for both positive and negative health impacts. In moments of extreme crisis, like when an active shooter attacks, it's true that an armed guard could potentially end the terror. But the presence of security hasn't definitively deterred attacks in the first place. The National Association of School Psychologists has argued that armed guards increase student fear, rather than making them feel safer. This could harm the learning process, the NASP suggests. ([Do Armed Guards Prevent School Shootings? \(thetrace.org\)](http://thetrace.org))

DPS notes that its New Mexico Law Enforcement Academy is only established to certify law enforcement officers, and that the new duty of providing training to prospective school marshals will require the development of new curricula. Further, DPS states,

Curriculum development, validation and implementation will be required for HB254 to be implemented. Based upon the absence of a standard to be measured against, this will require a professionally developed curriculum, which will then be required to be accredited to be taught by NMLEA certified instructors.

Of great concern to DPS is the substance of HB254, in which non-certified persons are apparently established as quasi-law enforcement officials, encouraging the use of force or deadly force with handguns. There is an inherent danger to others, including school students, parents, visitors and staff, in encouraging unqualified individuals to act in what amounts to a law enforcement role. DPS also remains significantly concerned regarding the absence of other admission standards including drug testing, physical wellness, or mobility, which may expose others, including the school marshal, to serious risk of harm.

DUPLICATION

Largely duplicates Senate Bill 283, which is also entitled "School Marshal Act," but differs in specifics.

OTHER SUBSTANTIVE ISSUES

PED specifies the current state of law regarding these matters:

In 2019, the School Personnel Act was amended to define school security personnel and the conditions under which firearms may be present on school grounds (22-10A-40 NMSA 1978). The act specifically requires that school security personnel shall not perform any other job in the school district, by title or duty, other than school security

while carrying a firearm. The act requires the Public Education Department (PED) to issue rules to implement the requirements ([6.12.12 NMAC, Armed Public School Security Personnel](#)).

HB254 does not amend the section on school security personnel, but rather creates new sections of the Public School Code to permit school employees to also carry weapons as “marshals.” School security personnel are currently defined as former certified and commissioned law enforcement personnel and are prohibited from performing any other duty while carrying a firearm; by contrast, school marshals as defined in HB254 could be serving in other roles.

DPS has the following concerns with the proposed bill:

Section 3(I) of HB254 calls for DPS to revoke the ability of someone to work as a School Marshal once they have had their concealed carry license suspended or revoked. DPS requests that the bill be amended to provide that DPS can immediately suspend the ability of someone to work as a School Marshal as soon as DPS initiates an action to suspend or revoke their concealed carry license. This will allow for DPS to act quickly to protect school children from having someone acting as a School Marshal who has, for example, recently been arrested for a crime.

DPS assumes either the individual applicant or their school district will pay for the psychological evaluation. The results of these evaluations would have to be reviewed and held confidential by DPS. DPS should not disclose these documents as part of the Inspection of Public Records Act (IPRA) as they are medical records. However, that could be disputed, as the confidentiality provision in Section 3(L) may be considered ambiguous, and the school marshals are not law enforcement officers nor are they the DPS’ employees.

The other issue is that the identity of a concealed carry licensee is currently protected information that is not subject to IPRA. Those statutory protections are not harmonious with IPRA requests seeking a list of all individuals who have applied to work as School Marshals, which is arguably not protected. In order to be considered as an applicant, a person must already have their concealed carry license. Releasing the names of applicants would necessarily reveal that licensee’s identity. Under these circumstances, it would be appropriate to exempt applicant’s names from disclosure under IPRA.

Overall, the confidentiality provision contained in Section 3 (L) should be made clearer. It would be simplest to plainly state: “Information about applicants, trainees, and emergency tactical training and plans shall be exempt from inspection or release under the Inspection of Public Records Act.”

TECHNICAL ISSUES

PED raises the following issues:

- Section 4, Subsection A of the bill states, “A local *school district* [emphasis added] may appoint one or more school marshals for each school campus,” and Subsection B states, “A local *school district* [emphasis added] may appoint an applicant who is a school employee of the *school district or charter school* [emphasis added] as a school marshal.”

This seems to clearly include locally chartered charter schools but technically does not include state-chartered charter schools. The definition of “school district” contained in the general provisions of the Public School Code is not helpful or applicable, here, as it refers to an area of land established as a political subdivision of the state. The sponsor may wish to amend the bill to clearly include state-chartered charter schools by adding “...and charter schools” to each reference to a school district. Alternatively, the sponsor may wish to use the terms “local school board” and “governing body” (which is defined in HB254), as those bodies set policy.

- Section 3 Subsection A of the bill refers to “school district, charter school or private school”; this is the only mention of private schools in the bill and the sponsor may wish to amend the bill to expand the definition of which schools may participate, such as adding a definition of “participating schools” to the act that would include public school districts, state-chartered charter schools and private schools.
- HB254 would require that the school marshal shall only carry a concealed handgun at “the specific school” as specified by the local school board or governing body; however, it’s conceivable that school districts may want the option for a school marshal be available to move between schools and this provision may not allow for that particular school’s choice.

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