



AN ACT CREATING THE MONTANA SCHOOL MARSHAL PROGRAM; PROVIDING QUALIFICATIONS TO BE APPOINTED AS A SCHOOL MARSHAL; PROVIDING TRAINING AND CERTIFICATION REQUIREMENTS; PROVIDING SCHOOL MARSHAL DUTIES; PROVIDING DUTIES FOR SCHOOL DISTRICT BOARDS OF TRUSTEES; REQUIRING NOTIFICATION TO LAW ENFORCEMENT; ALLOWING THE SCHOOL DISTRICT TO PAY FOR CERTAIN PROGRAM COSTS; REQUIRING THE MONTANA LAW ENFORCEMENT ACADEMY TO DEVELOP A SCHOOL MARSHAL TRAINING COURSE; EXEMPTING SCHOOL MARSHALS FROM CERTAIN CONCEALED CARRY PROHIBITIONS; AMENDING SECTIONS 44-4-401, 44-10-303, 45-8-328, AND 45-8-361, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. School marshal program -- qualifications -- training requirements. (1) The board of trustees may appoint an independent contractor or a school district employee to be certified as a school marshal. The appointed employee must be a full-time employee of the district.

(2) Upon completion of the required training program and certification by the Montana public safety officer standards and training council, a school marshal may be:

- (a) employed full-time as a school marshal; or
- (b) retained on a full-time or part-time basis and may have other assigned duties in the discretion of the board of trustees.

(3) To be eligible to serve as a school marshal, the independent contractor or school district employee must:

- (a) have a permit to carry a concealed weapon pursuant to 45-8-321;
 - (b) meet the qualifications required for peace officers pursuant to 7-32-303; and
 - (c) complete the training and certification required under [section 2].
- (4) For purposes of [sections 1 through 5], the following definitions apply:

- (a) "Montana public safety officer standards and training council" means the council established in

2-15-2029.

(b) "Public school property" has the meaning provided in 20-1-220.

(c) "School marshal" means a person who is appointed by the board of trustees and employed or retained by a school district to protect the health and safety of people and to maintain order on public school property.

Section 2. School marshal training and certification. (1) To be eligible to serve as a school marshal, a school employee shall first:

(a) meet the qualifications required under 44-10-301 for admission to the Montana law enforcement academy;

(b) successfully complete a basic course in school marshal training conducted by the Montana law enforcement academy pursuant to [section 7]; and

(c) be certified as a school marshal by the Montana public safety officer standards and training council.

(2) The trustees shall pay for the employee's expenses to complete the training required under this section pursuant to 44-10-303.

Section 3. School marshal duties and responsibilities. (1) A school marshal may act only as necessary to prevent or stop the commission of an offense that threatens serious bodily injury or death of persons on public school property.

(2) Pursuant to 45-8-361, with the consent of the trustees, a school marshal may possess, carry, and store a firearm on public school property.

(3) The trustees shall adopt a policy describing the school marshal's duties and responsibilities. The policy must:

(a) provide procedures for how a school marshal may possess, carry, and store a firearm on public school property as authorized pursuant to 45-8-361 and subsection (2) of this section;

(b) provide alternate procedures regarding the possession, carrying, and storage of a firearm by a school marshal based on the amount of time the school marshal has regular, direct contact with students;

(c) specify the types of firearms, ammunition, and other related equipment that a school marshal is authorized to possess, carry, and store on public school property; and

(d) specify requirements regarding the subject matter and frequency of additional professional development and training.

Section 4. School marshal program -- trustees' duties. (1) To implement a school marshal program, the trustees shall:

(a) ensure that a school district employee who is appointed as a school marshal satisfies the qualifications required under [section 1]; and

(b) adopt a written school marshal program policy as required under [section 3(3)].

(2) A school marshal is not entitled to retirement benefits normally provided by the state to a peace officer.

(3) An individual's status as a school marshal ends if:

(a) the individual's license to carry a concealed weapon is suspended or revoked;

(b) the school marshal is an employee of the school district and the employee's employment with the school district ends; or

(c) the board of trustees sends written notice to the individual that the individual's services as a school marshal are no longer required.

Section 5. Law enforcement notification. The trustees shall submit the school marshal's name, date of birth, and address of the school marshal's place of employment to:

(1) the Montana public safety officer standards and training council; and

(2) all applicable law enforcement agencies with jurisdiction and emergency response authority in the school district, including:

(a) the chief law enforcement officer of the local municipal law enforcement agency if the school district is located within a municipality;

(b) the sheriff of a county where a school district is located; and

(c) in the case of a district located within the boundaries of a reservation, the chief tribal law enforcement officer and area federal law enforcement authorities.

Section 6. Section 44-4-401, MCA, is amended to read:

"44-4-401. Definitions. For the purposes of this part, the following definitions apply:

(1) "Council" means the Montana public safety officer standards and training council established in 2-15-2029.

(2) "Public safety officer" means:

(a) a corrections officer who is employed by the department of corrections, established in 2-15-2301, and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;

(b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a youth detention facility, as defined in 41-5-103;

(c) a peace officer, as defined in 46-1-202;

(d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

(e) a law enforcement officer or reserve officer, as the terms are defined in 7-32-201;

(f) a public safety communications officer, as defined in 7-31-201;

(g) a probation or parole officer who is employed by the department of corrections pursuant to 46-23-1002;

(h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; ~~and~~

(i) a school marshal, as defined in [section 1]; and

~~(j)~~(i) any other person required by law to meet the qualification or training standards established by the council."

Section 7. School marshal training program. The Montana law enforcement academy shall develop and offer a program to train school marshals as public safety officers. The curriculum for the school marshal training must be developed by the department of justice in consultation with school districts that employ or intend to employ a school marshal. The curriculum for the school marshal training must include:

(1) the relevant elements from the basic law enforcement training course, including but not limited to firearms training, first aid, defensive tactics, crowd control tactics, juvenile procedures, crisis intervention, and police human and community relations;

(2) proper procedures for how a school marshal may possess, carry, and store a firearm while on public

school property, including providing alternate procedures based on the amount of time a school marshal spends in regular, direct contact with students;

(3) how to identify, assess, and advise mitigation for school safety and security vulnerabilities and other concerns;

(4) strategies to identify potential risks and prevent school shootings;

(5) strategies to secure the safety of potential victims of a school shooting or other emergency situation that threatens to cause injury or death to persons on public school property;

(6) training to respond to an emergency situation that requires deadly force, including a situation involving an active shooter; and

(7) education about legal issues, including issues related to:

(a) the duties of a school marshal or other peace officers; and

(b) the use of force or deadly force in the protection of others.

Section 8. Section 44-10-303, MCA, is amended to read:

"44-10-303. Expenditure of funds by local governments authorized. ~~The expenditure of funds by any~~ A city, town, municipality, or county, or school district may pay for the training costs, board, room, and travel expenses of the officers attending the academy ~~shall be a lawful expenditure."~~

Section 9. Section 45-8-328, MCA, is amended to read:

"45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except for legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k) or a person certified as a school marshal as provided in [section 2], a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

(a) portions of a building used for state or local government offices and related areas in the building that have been restricted;

(b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal business hours. It is not an offense under this section to carry a concealed weapon while:

(i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

(ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person

is inside the enclosure used for the institution's financial services or is using the institution's financial services.

(c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.

(2) It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both."

Section 10. Section 45-8-361, MCA, is amended to read:

"45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions. (1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel, or to a school marshal in the school district where the school marshal is contracted or employed.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

(a) "school building" means all buildings owned or leased by a local school district that are used for

instruction or for student activities. The term does not include a home school provided for in 20-5-109.

(b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense."

Section 11. Legislative intent. It is the intent of the legislature that the department of justice fulfill the requirements of [section 7] within existing resources.

Section 12. Codification instruction. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13, apply to [sections 1 through 5].

(2) [Section 7] is intended to be codified as an integral part of Title 44, chapter 10, part 2, and the provisions of Title 44, chapter 10, part 2, apply to [section 7].

Section 13. Effective date. [This act] is effective July 1, 2019.

- END -

I hereby certify that the within bill,
HB 0567, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 567

INTRODUCED BY D. SKEES, S. BERGLEE

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