

## HOUSE BILL NO. 567

INTRODUCED BY D. SKEES, S. BERGLEE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA SCHOOL MARSHAL PROGRAM;  
5 PROVIDING QUALIFICATIONS TO BE APPOINTED AS A SCHOOL MARSHAL; PROVIDING TRAINING AND  
6 CERTIFICATION REQUIREMENTS; PROVIDING SCHOOL MARSHAL DUTIES; PROVIDING DUTIES FOR  
7 SCHOOL DISTRICT BOARDS OF TRUSTEES; ~~REQUIRING THE IDENTITY OF A SCHOOL MARSHAL TO BE~~  
8 ~~KEPT CONFIDENTIAL;~~ REQUIRING NOTIFICATION TO LAW ENFORCEMENT; ALLOWING THE SCHOOL  
9 DISTRICT TO PAY FOR CERTAIN PROGRAM COSTS; REQUIRING THE MONTANA LAW ENFORCEMENT  
10 ACADEMY TO DEVELOP A SCHOOL MARSHAL TRAINING COURSE; EXEMPTING SCHOOL MARSHALS  
11 FROM CERTAIN CONCEALED CARRY PROHIBITIONS; AMENDING SECTIONS 44-4-401 ~~AND~~, 44-10-303,  
12 45-8-328, AND 45-8-361, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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16 NEW SECTION. Section 1. School marshal program -- qualifications -- training requirements. (1)  
17 The board of trustees may appoint AN INDEPENDENT CONTRACTOR OR a school district employee to be certified as  
18 a school marshal. The appointed employee must be a full-time employee of the district.

19 (2) Upon completion of the required training program and certification by the Montana public safety  
20 officer standards and training council, ~~the employee~~ A SCHOOL MARSHAL may be employed:

- 21 (a) EMPLOYED full-time as a school marshal; or  
22 (b) ~~half-time in the employee's original position and half-time as a school marshal. For a half-time school~~  
23 ~~marshal, the employee's original position must remain the employee's primary duty.~~

24 (B) RETAINED ON A FULL-TIME OR PART-TIME BASIS AND MAY HAVE OTHER ASSIGNED DUTIES IN THE DISCRETION  
25 OF THE BOARD OF TRUSTEES.

26 (3) To be eligible to serve as a school marshal, the INDEPENDENT CONTRACTOR OR school district  
27 employee must:

- 28 (a) have a permit to carry a concealed weapon pursuant to 45-8-321;  
29 (b) meet the qualifications required for peace officers pursuant to 7-32-303; and  
30 (c) complete the training and certification required under [section 2].

1 (4) For purposes of [sections 1 through 5], the following definitions apply:

2 (a) "Montana public safety officer standards and training council" means the council established in  
3 2-15-2029.

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

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

8  
9 **NEW SECTION. Section 2. School marshal training and certification.** (1) To be eligible to serve as  
10 a school marshal, a school employee shall first:

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

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

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

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

18  
19 **NEW SECTION. Section 3. School marshal duties and responsibilities.** (1) A school marshal may  
20 act only as necessary to prevent or stop the commission of an offense that threatens serious bodily injury or death  
21 of persons on public school property.

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

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

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

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

30 (c) specify the types of firearms, ammunition, and other related equipment that a school marshal is

1 authorized to possess, carry, and store on public school property; and

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

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

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

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

10 (2) A school marshal ~~is an employee of the school district and~~ is not entitled to retirement benefits  
11 normally provided by the state to a peace officer.

12 (3) An ~~employee's~~ INDIVIDUAL'S status as a school marshal ends if:

13 (a) the ~~employee's~~ INDIVIDUAL'S license to carry a concealed weapon is suspended or revoked;

14 (b) THE SCHOOL MARSHAL IS AN EMPLOYEE OF THE SCHOOL DISTRICT AND the employee's employment with  
15 the school district ends; or

16 (c) the board of trustees sends written notice to the ~~employee~~ INDIVIDUAL that the ~~employee's~~ INDIVIDUAL'S  
17 services as a school marshal are no longer required.

18  
19 **NEW SECTION. Section 5. School marshal identity to be kept confidential** LAW ENFORCEMENT

20 NOTIFICATION. (1) ~~Except as provided in subsection (2), the trustees shall keep the identity of a school marshal~~  
21 ~~confidential:~~

22 ~~—(2) The trustees shall submit the school marshal's name, date of birth, and address of the school~~  
23 ~~marshal's place of employment to:~~

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

25 ~~(b)(i)(2) ALL APPLICABLE LAW ENFORCEMENT AGENCIES WITH JURISDICTION AND EMERGENCY RESPONSE~~

26 AUTHORITY IN THE SCHOOL DISTRICT, INCLUDING:

27 (A) the chief law enforcement officer of the local municipal law enforcement agency if the school marshal  
28 ~~is employed by a school district~~ IS located within a municipality; ~~or~~

29 ~~(ii)(B) the sheriff of a county if the school marshal is employed by a school district that is not located~~  
30 ~~within a municipality~~ WHERE A SCHOOL DISTRICT IS LOCATED; AND

1 (C) IN THE CASE OF A DISTRICT LOCATED WITHIN THE BOUNDARIES OF A RESERVATION, THE CHIEF TRIBAL LAW  
 2 ENFORCEMENT OFFICER AND AREA FEDERAL LAW ENFORCEMENT AUTHORITIES.

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

5 **"44-4-401. Definitions.** For the purposes of this part, the following definitions apply:

6 (1) "Council" means the Montana public safety officer standards and training council established in  
 7 2-15-2029.

8 (2) "Public safety officer" means:

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

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

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

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

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

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

19 (g) a probation or parole officer who is employed by the department of corrections pursuant to  
 20 46-23-1002;

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

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

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

25  
 26 NEW SECTION. **Section 7. School marshal training program.** The Montana law enforcement  
 27 academy shall develop and offer a program to train school marshals as public safety officers. The curriculum for  
 28 the school marshal training must be developed by the department of justice in consultation with school districts  
 29 that employ or intend to employ a school marshal. The curriculum for the school marshal training must include:

30 (1) the relevant elements from the basic law enforcement training course, including but not limited to

1 firearms training, first aid, defensive tactics, crowd control tactics, juvenile procedures, crisis intervention, and  
2 police human and community relations;

3 (2) proper procedures for how a school marshal may possess, carry, and store a firearm while on public  
4 school property, including providing alternate procedures based on the amount of time a school marshal spends  
5 in regular, direct contact with students;

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

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

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

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

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

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

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

16

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

18 **"44-10-303. Expenditure of funds by local governments authorized.** ~~The expenditure of funds by~~  
19 ~~any~~ A city, town, municipality, or county, or school district may pay for the training costs, board, room, and travel  
20 expenses of the officers attending the academy shall be a lawful expenditure."

21

22 **SECTION 9. SECTION 45-8-328, MCA, IS AMENDED TO READ:**

23 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative  
24 security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k) or a  
25 person certified as a school marshal as provided in [section 2], a person commits the offense of carrying a  
26 concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

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

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

1 (i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or  
2 (ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person  
3 is inside the enclosure used for the institution's financial services or is using the institution's financial services.

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

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

9

10 **SECTION 10. SECTION 45-8-361, MCA, IS AMENDED TO READ:**

11 **"45-8-361. Possession or allowing possession of weapon in school building -- exceptions --**  
12 **penalties -- seizure and forfeiture or return authorized -- definitions.** (1) A person commits the offense of  
13 possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores  
14 a weapon in a school building.

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

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

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

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

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

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

30 (5) As used in this section:

1 (a) "school building" means all buildings owned or leased by a local school district that are used for  
2 instruction or for student activities. The term does not include a home school provided for in 20-5-109.

3 (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a  
4 straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other  
5 article or instrument possessed with the purpose to commit a criminal offense."  
6

7 NEW SECTION. Section 11. LEGISLATIVE INTENT. IT IS THE INTENT OF THE LEGISLATURE THAT THE  
8 DEPARTMENT OF JUSTICE FULFILL THE REQUIREMENTS OF [SECTION 7] WITHIN EXISTING RESOURCES.

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

13 (2) [Section 7] is intended to be codified as an integral part of Title 44, chapter 10, part 2, and the  
14 provisions of Title 44, chapter 10, part 2, apply to [section 7].  
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16 NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 2019.

17 - END -