



AN ACT CREATING THE MONTANA SCHOOL MARSHAL PROGRAM; PROVIDING QUALIFICATIONS TO BE APPOINTED AS A SCHOOL MARSHAL; 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 COSTS; AMENDING SECTION 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. (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) 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) be an active or retired peace officer as defined in 46-1-202(17).

(4) If an applicant for a school marshal position is an active or retired public safety officer from another state, the applicant must be certified by the Montana public safety officer standards and training council.

(5) For the purposes of [sections 1 through 4], 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 persons and to maintain order on public school property.

Section 2. 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 3. 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 2(3)].

- (2) 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 4. 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 5. 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 6. Codification instruction. [Sections 1 through 4] 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 4].

Section 7. Effective date. [This act] is effective July 1, 2021.

- END -

I hereby certify that the within bill,
HB 572, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 572

INTRODUCED BY D. SKEES

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