

State of South Dakota

EIGHTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2013

466U0482

SENATE ENGROSSED NO. **HB 1087** - 02/27/2013

Introduced by: Representatives Craig, Bolin, Campbell, Ecklund, Gosch, Heinemann (Leslie), Hickey, Kopp, Lust, May, Olson (Betty), Qualm, Schoenfish, Sly, Stalzer, Steele, Verchio, and Wick and Senators Tieszen, Begalka, Bradford, Ewing, Jensen, Kirkeby, Lederman, Maher, Novstrup (Al), Omdahl, and Rhoden

1 FOR AN ACT ENTITLED, An Act to provide for the creation of school sentinel programs and
2 for the training of school sentinels.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any school board may create, establish, and supervise the arming of school
5 employees, hired security personnel, or volunteers in such manner and according to such
6 protocols as the board may believe to be most likely to secure or enhance the deterrence of
7 physical threat and defense of the school, its students, its staff, and members of the public on
8 the school premises against violent attack. Those so authorized shall be referred to as school
9 sentinels.

10 Section 2. Before any school board may implement any school sentinel program pursuant
11 to section 1 of this Act, or effect any material changes in the personnel or protocols of the school
12 sentinel program, the school board shall obtain the approval of the law enforcement official who
13 has jurisdiction over the school premises. Any material changes in the school sentinel program's



1 personnel or protocols shall be reported to all law enforcement agencies with jurisdiction over
2 the school premises forthwith.

3 Section 3. Any person who acts as a school sentinel, pursuant to section 1 of this Act, shall
4 first successfully complete a school sentinel training course as defined by the Law Enforcement
5 Officers Standards Commission pursuant to subdivision 23-3-35(16).

6 Section 4. No school board, in implementing the provisions of section 1 of this Act, may
7 arm any individual teacher or other school employee without the latter's free, willing, and
8 voluntary consent. No individual teacher or other school employee may be censured, criticized,
9 or discriminated against for unwillingness or refusal to carry firearms pursuant to this Act.

10 Section 5. No provision of § 13-32-7 or any other provisions of state statute is effective to
11 restrict or limit the provisions of this Act. However, nothing in this Act authorizes any person
12 to carry a concealed weapon without a valid permit.

13 Section 6. The failure or refusal of any school board to implement a school sentinel program
14 does not constitute a cause of action against the board, the school district, or any of its
15 employees.

16 Section 7. That § 23-3-35 be amended to read as follows:

17 23-3-35. In addition to powers conferred upon the Law Enforcement Officers Standards
18 Commission elsewhere in this chapter, the commission may:

19 (1) Promulgate rules for the administration of §§ 23-3-26 to 23-3-47, inclusive, including
20 the authority to require the submission of reports and information by law enforcement
21 agencies within this state;

22 (2) Establish minimum educational and training standards for admission to employment
23 as a law enforcement officer:

24 (a) In permanent positions; and

1 (b) In temporary or probationary status;

2 (3) Certify persons as being qualified under the provisions of §§ 23-3-26 to 23-3-47,
3 inclusive, to be law enforcement officers, and by rule to establish criteria and
4 procedure for the revocation or suspension of the certification of officers who have
5 been convicted of a felony or misdemeanor involving moral turpitude, have
6 intentionally falsified any application or document to achieve certification, or have
7 been discharged from employment for cause, or have engaged in conduct
8 unbecoming of a law enforcement officer;

9 (4) Establish minimum curriculum requirements for preparatory, in-service, and
10 advanced courses and programs for schools operated by or for the state or any
11 political subdivisions of the state for the specific purpose of training recruits or other
12 law enforcement officers;

13 (5) Consult and cooperate with counties, municipalities, agencies of this state, other
14 governmental agencies, and with universities, colleges, junior colleges, and other
15 institutions concerning the development of law enforcement training schools and
16 programs or courses of instruction;

17 (6) Approve institutions and facilities for school operation by or for the state or any
18 political subdivision of the state for the specific purpose of training law enforcement
19 officers and recruits;

20 (7) Make or encourage studies of any aspect of police administration;

21 (8) Conduct and stimulate research by public and private agencies which is designed to
22 improve police administration and law enforcement;

23 (9) Make recommendations concerning any matter within its purview pursuant to §§ 23-
24 3-26 to 23-3-47, inclusive;

- 1 (10) Make such evaluations as may be necessary to determine if governmental units are
2 complying with the provisions of §§ 23-3-26 to 23-3-47, inclusive;
- 3 (11) Adopt and amend bylaws, consistent with law, for its internal management and
4 control;
- 5 (12) Enter into contracts or do such things as may be necessary and incidental to the
6 administration of its authority pursuant to §§ 23-3-26 to 23-3-47, inclusive;
- 7 (13) License and regulate the activities of private or law enforcement polygraph and
8 computer voice stress analyzer examiners;
- 9 (14) Certify canine teams; and
- 10 (15) Establish minimum educational and training standards for newly selected county
11 coroners and advanced training standards for ~~incumbant~~ incumbent county coroners;
- 12 (16) Establish minimum educational and training standards for school sentinels authorized
13 in section 1 of this Act.

14 Section 8. That § 13-32-7 be amended to read as follows:

15 13-32-7. Any person, other than a law enforcement officer or school sentinel acting pursuant
16 to section 1 of this Act, who intentionally carries, has in his possession, stores, keeps, leaves,
17 places, or puts into the possession of another person, any firearm, or air gun, whether or not the
18 firearm or air gun is designed, adapted, used, or intended primarily for imitative or noisemaking
19 purposes, or any dangerous weapon, on or in any elementary or secondary school premises,
20 vehicle, or building or any premises, vehicle, or building used or leased for elementary or
21 secondary school functions, whether or not any person is endangered by such actions, is guilty
22 of a Class 1 misdemeanor. This section does not apply to starting guns while in use at athletic
23 events, firearms, or air guns at firing ranges, gun shows, and supervised schools or sessions for
24 training in the use of firearms. This section does not apply to the ceremonial presence of

1 unloaded weapons at color guard ceremonies.

2 Section 9. A decision by a school board to implement a school sentinel program pursuant
3 to section 1 of this Act may be referred to a vote of the qualified voters of the school district by
4 the filing of a petition signed by five percent of the registered voters in the school district, based
5 upon the total number of registered voters at the last preceding general election. The board shall
6 allow sufficient time for the referendum process authorized in this section.

7 Section 10. A petition to refer a school board decision pursuant to section 9 of this Act may
8 be filed with the business manager of the school district within twenty days after its publication.
9 The filing of the petition shall require the submission of the decision to a vote of the qualified
10 voters of the school district for its rejection or approval.

11 Section 11. The petition shall contain the school board decision regarding the school sentinel
12 program and the date of its passage.

13 Section 12. Voters signing a referendum petition under section 9 of this Act shall comply
14 with the same requirements provided for counties under § 7-18A-11, and the petition shall be
15 verified in the same manner as provided for counties in § 7-18A-12.

16 Section 13. The election shall be held with the regular school district election.

17 Section 14. The business manager of the school district shall have the entire referred
18 decision published once a week for two successive weeks immediately preceding the election.
19 The publication shall include a notice stating the date of election.

20 Section 15. The business manager of the school district shall have ballots printed for the
21 vote upon the referred school board decision and have them distributed as other official ballots
22 are distributed. Such ballots shall conform as near as may be to the law governing the
23 submission of questions by the Legislature, except that the statement required to be printed on
24 the ballots shall be prepared by the state's attorney. All questions to be voted upon at the same

1 election may be submitted upon the same ballot.

2 Section 16. No referred school board decision regarding the school sentinel program
3 becomes operative unless approved by a majority of the votes cast for or against the same. If
4 approved, the decision shall take effect upon completion of the canvass of the election returns
5 relating to the school sentinel program.

6 Section 17. No law enforcement officer or county sheriff, nor the Law Enforcement Officers
7 Standards Commission, Division of Criminal Investigation, Office of Attorney General, the
8 State of South Dakota, nor any agents, employees, or members thereof, is liable for any injury
9 caused by, related to, or resulting from:

- 10 (1) The implementation of the school sentinel program established by this Act;
- 11 (2) The adoption, promulgation, administration, or implementation of educational and
12 training standards for school sentinels;
- 13 (3) The training provided by the Law Enforcement Officers Standards Commission, the
14 Division of Criminal Investigation, the Office of Attorney General, or the state;
- 15 (4) The approvals required by the county sheriff under this Act; or
- 16 (5) The performance, administration, or implementation of any services or programs that
17 assist a school district in carrying out its duties under this Act.

18 Section 18. Nothing in this Act shall be deemed to waive the sovereign immunity of the
19 public entities of the State of South Dakota or of their employees.