

Florida's new school safety law is being used as a model for the rest of the country. On February 14, 2018, a 19-year-old, former student, walked into Marjory Stoneman Douglas Highschool in Parkland, Florida and shot 34 people. In less than four minutes, the gunman shot and killed 17 people and left another 17 injured. It was the deadliest school shooting since the December 2012 Sandy Hook Elementary School shooting in Connecticut that resulted in the death of 28 people. The Parkland shooter was 19 years old and used a legally purchased AR-15 semi-automatic rifle during the shooting spree, the same type of firearm used during the Sandy Hook shooting and the Pulse Nightclub shooting in Orlando that left 49 dead and 53 injured on June 12, 2016.

While this was not the first or last mass school shooting, this incident garnered national attention in part because the students at Marjory Stoneman Douglas Highschool were outspoken and savvy with their use of social media, but also because Florida's legislature acted swiftly after the shooting. Just twenty-three (23 days) after this tragic incident, Florida's legislature passed a sweeping new law titled the Marjory Stoneman Douglas High School Public Safety Act, CS/SB 7026. Florida is being watched closely by the rest of the country to see if its law should be replicated in other states.

The law has several important measures that are supported by gun violence prevention activists, such as raising the minimum age to purchase a firearm in Florida to 21, limiting the sale of bump fire stocks and clarifying and strengthening the three day wait period. The law also includes a provision known as a "red flag law" which allows law enforcement to obtain a risk protection order which empowers law enforcement to temporarily remove firearms and ammunition from a person who is deemed by a court to be a danger to themselves or others. This is a civil process similar to a domestic violence protection order.

This law, however, goes much further. The law includes new requirements for armed law enforcement or guardians to be on all school campuses, new training provisions, new reporting provisions, mandatory shooting drills in schools and the creation of several new departments.

Within the Florida Department of Education, the law establishes the Office of Safe Schools (OSS) and within the Florida Department of Law Enforcement the Marjory Stoneman Douglas (MSD) Safety Commission. The OSS is a central repository for best practices, training standard and compliance oversight in all matters related to school safety and security. s. 1001.212, Fla. Stat.; www.fldoe.org/safe-schools/. The MSD Safety Commission also known as the School Safety Commission was formed to analyze the Parkland shooting and other mass violence in Florida and make recommendations for system improvements. www.fdle.state.fl.us/MSDHS/Home.aspx. The Guardian Program, also known as the Coach Aaron Feis Guardian Program, trains and arms school personnel to help aid in the prevention and abatement of active assailant incidents on school premises. s. 30.15, Fla. Stat. Coach Feis was a football coach at Marjory Stoneman Douglas High School and was killed during the Parkland shooting by using himself as a shield to protect his students. The law allocated 67 million dollars for the guardian program, 97.5 million for the OSS and 98 million to "harden" the physical security of school buildings.

The **Marjory Stoneman Douglas (MSD) Safety Commission** also known as the School Safety Commission is housed within the Florida Department of Law Enforcement. The majority of people

who sit on this commission are law enforcement. The commission is made up of 16 voting members, and four non-voting members who were all appointed by the governor. The Commission began meeting in April 2018 and meets each month. The commission will be in place until 2023.

The original purpose of the commission was to review what happened at Parkland and provide recommendations as to what changes could be made to the system to prevent future school shootings. The Commission issued an initial report on January 2, 2019. The initial report was 458 pages and made recommendations for improvements in eleven different areas. Initial Commission Report at pg. 5. <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>. The report was critical of the Broward County school district and law enforcement. There was also a lot of public pressure put on the school districts to comply with certain provisions of the new law.

As a result of the Commission's recommendations the Florida legislature amended the law in 2019. The second version of the **MSD Safety Act (SB 7030)** builds on the first. This second iteration of the law makes some significant changes. First, the law now allows school districts to arm teachers. 21 school districts now allow school employees to be armed. Second, the law required the creation of a Centralized Integrated Data Repository to be up and running by August 1, 2019 before the start of the 2019-2020 school year. It also expanded who would have access to this information. Third, Districts are required to utilize and advertise "FortifyFL" – a reporting app to allows adults and students to report threats or suspicious student behavior. It went live October 2018. Fourth, create a uniformed threat assessment tool called the Florida Safe Schools Assessment Tool. This assessment tool is 22 pages. It assesses the student as well as the family. Fifth, the new version of the law now requires more reporting of incidents to law enforcement. In the first edition of the law, petty acts of misconduct and misdemeanors did not need to be reported to law enforcement at the discretion of the school administration. Only those which were "serious" were required to be reported. This new version removed the word serious and removed the misdemeanor and minor offense exclusion. Now all such incidents must be reported to law enforcement. Most, if not all, discretion has been taken away from school administrators. Sixth was a clarification of required active shooting drills in school and finally the law now allows for the superintendent's salary to be withheld for noncompliance.

A second commission report was issued on November 1, 2019. It is 389 pages and also contained recommendations for changes in policies and procedures. These changes are expected to be presented to the Florida Legislature which began on January 14, 2020. More changes to the law can be expected.

The **Centralized Integrated Data Repository** includes internet and social media posts, the mobile suspicious activity tool (FortifyFL), school incident reporting data known as School Environment Safety Incident Reporting (SESIR), school discipline records, threat assessments, information from the Department of Children and Families, Department of Law Enforcement, local law enforcement and the Department of Juvenile Justice. The changes allow for a social media monitoring tool, revising the content of student records related to student behavior and services and establishing timely transfer of student records between schools, along with requiring improved school safety incident reporting and expanding data sources to be included in the centralized data repository. There is a requirement for information to be included but does not appear to include a

mechanism to make corrections or deletions. There is no ability for a parent or student to review what is in the data base or correct the information if it is wrong or incomplete. There is no evidence that such a data base will be able to predict the next shooter, so is this heightened scrutiny necessary?

The **Statewide Grand Jury** was impaneled on February 25, 2019. At the same time the Commission was issuing its scathing report about noncompliance, the governor empaneled a Statewide Grand Jury to hold those failing to comply with the new law criminally responsible. The Grand Jury was impaneled in Broward County, Florida where the Parkland shooting took place but will review actions and inactions of school districts across the entire state. The grand jury issued their first report on July 19, 2019. The report, while mostly confidential, was also scathing. It was issued just 24 days before the start of the 2019-2020 school year. Districts, while not individually named, were publicly shamed for failing to comply with the provisions in 7026 and 7030. The Grand Jury found that that law enforcement and school district officials have had “sufficient time” to bring their districts into compliance with these laws, and “we fully expect that these officials will use the remaining days before the first day of the 2019-20 school year to do whatever it takes to bring these districts into full compliance.” This Statewide Grand Jury will continue to investigate, monitor and exercise its authority to ensure full compliance with SB 7026 and SB 7030. Districts fear not only public shaming but criminal prosecution. Does this fear make students safer?

This law is having a great **Impact On Discipline** in schools. Before this law went into effect, discipline already had a disproportional impact on students with disabilities. Safety will trump disability protections. Nationally, children with disabilities make up 12% of the public-school student population but make up 28% of students referred to law enforcement. *See U.S. Department of Education Office for Civil Rights Civil Rights Data Collection: 2015-16*. This number does not include those students who have 504 plans. It is expected that the disparity would be even higher if 504 students were included. Students with disabilities make up 26% of all students who receive one or more out-of-school suspension. *Id.* Students with disabilities make up a shocking 71% of students placed in seclusion or involuntary confinement, and 66% of those physically restrained at school to immobilize them or reduce their ability to move freely. *Id.* 26% of students expelled from school have a disability. The new law now requires even more law enforcement involvement and less discretion by school administrators. What is not yet known is what kind of disparate impact, if any, the implementation of the new law is having on students with disabilities. Anecdotally the impact has been swift, widespread and devastating for students in Florida.

Several examples include a 13-year-old who was interrogated and then Baker Acted for drawing a picture at school. Another student who was in a photograph taken by someone else and posted by some else that showed him holding a toy gun while on spring break was suspended from school and forever removed from his magnet school program. Neither of these students had a history of discipline referrals or had ever before been in trouble at school or at home. In neither case were criminal charges filed. In both cases the children are still suffering from the consequences of this discipline. Before this new law was passed neither one of these students would have had law enforcement involvement and both would have been handled at the discretion of the school administrators. I suspect that neither student would have been removed from the school through suspension or Baker Act.

The Parkland law, while it may have been drafted with good intentions, it is not yet known if it will actually keep students safer. Between February 2018 and February 2019, there were nearly 1,200 gun violence deaths of victims 18 and under. In the year following Parkland there was a school shooting, on average, every 12 days. Of the 31 school shootings, three of those were in Florida. Will this law prevent the next shooting?

Historically students with disabilities are disproportionately impacted by zero tolerance type policies. The trauma of zero tolerance type policies, removal of any discretion from school administrators, heighten surveillance of our students and increased law enforcement involvement in every aspect of public school life has created more fear and anxiety in students and families, especially for those students with disabilities. Will it have been worth it? Only time will tell.