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IN THE CIRCUIT COURT IN AND FOR DUVAL COUNTY, FLORIDA

T. DOZIER, individually and on behalf of his
minor child, M.D.; D. PHILLIPS, individually
and on behalf of his minor child, B.P.; N.
KAVANAUGH, individually and on behalf of
her minor children, T.S. and A.S.; the
LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC.

Plaintiffs,

V.

Case No.: 2018-CA-8298
Division: CV-C

DUVAL COUNTY PUBLIC SCHOOLS,
DUVAL COUNTY SCHOOL BOARD,

Defendants.

COMPLAINT

Plaintiffs, T. DOZIER, M.D., D. PHILLIPS, B.P., N. KAVANAUGH, T.S., A.S., and
the LEAGUE OF WOMEN VOTERS OF FLORIDA, INC. file this Complaint against the
Defendants, Duval County Public Schools and Duval County School Board, and allege as
follows:

INTRODUCTION

1. This is an action to protect tens of thousands of elementary school children from
the serious risk of harm posed by an unlawful decision of the Duval County School Board (“the
Board”). The Board adopted a program to hire inadequately trained individuals who are not law
enforcement officers to carry guns while policing public schools. While perhaps a well-intended
effort to comply with a new state school safety law, the program is based on an incorrect
interpretation of—and is contrary to—law. Florida law clearly prohibits anyone other than law

enforcement officers from carrying guns on school campuses. The Board's program, which arms non-law-enforcement officers with guns, is thus illegal and should be enjoined.

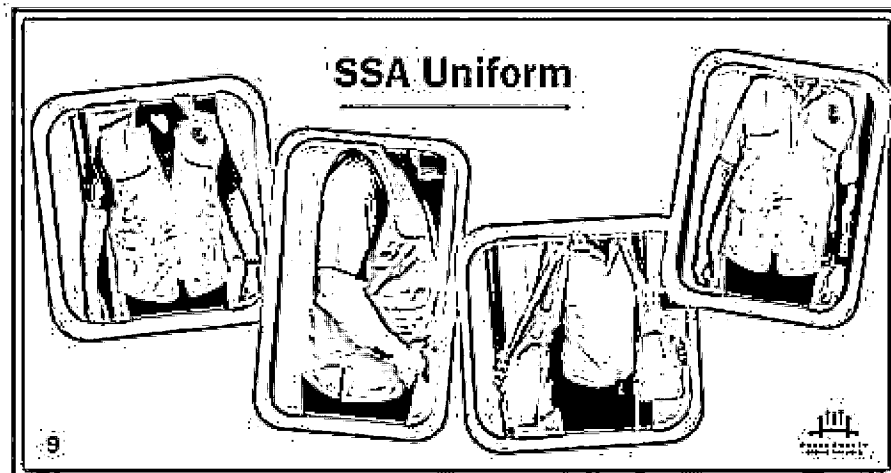
2. In March 2018, the Florida Legislature passed, and Governor Rick Scott signed, Senate Bill 7026, the Marjory Stoneman Douglas High School Public Safety Act ("SB 7026" or the "Act"). The Act, named for the high school in Parkland, Florida where a gunman killed 17 students and staff on February 14, 2018, contained a series of measures intended to regulate guns and amend the state's school safety laws.

3. One provision of the Act requires school districts to provide a "Safe-School Officer" at every school (the "Safe-School Officer Requirement"). The Act gives school districts three ways to fulfill this requirement. The first two options are to use police officers employed by the sheriff's department or the school district. The third option is to commission school employees as "school guardians" who take on security functions in addition to their other school duties. However a school chooses to comply with the Act, no provision requires Safe-School Officers to carry guns, and no provision allows school guardians to do so.

4. It has long been illegal for anyone other than law enforcement officers to carry guns on Florida school campuses. SB 7026 was widely mischaracterized in the news media as altering this rule and authorizing school guardians to carry guns. It did not. Although early drafts of the bill contained language that would have armed school guardians, that language was not included in the bill that the Legislature passed and the Governor signed into law. The Act contains no provision authorizing any individuals to carry guns in schools. Rather, school personnel who are not law enforcement officers—including school guardians—remain subject to Florida's ban on carrying guns in schools.

5. Prior to the passage of SB 7026, Duval County Public Schools (“DCPS”) employed law enforcement officers at middle and high schools in the district (and DCPS continues to do so). However, DCPS historically did not employ law enforcement officers in the vast majority of elementary schools. The Board has repeatedly asserted that the Legislature has not appropriated, and the Board does not have, enough money to hire law enforcement officers for the elementary schools where DCPS had not traditionally posted law enforcement officers before the Legislature enacted SB 7026. So the Board concluded that the only way to comply with SB 7026 was by relying on non-law-enforcement personnel—*i.e.*, school guardians.

6. The Board interpreted SB 7026 to require that school guardians be armed. But the Board did not want to arm existing employees. Instead, the Board created a program not anticipated—or authorized—by the Legislature, hiring “School Safety Assistants” (SSAs) to serve as guardians and to carry concealed weapons on all 107 public elementary school campuses, as shown in the following illustration from DCPS:



7. As noted, Florida law generally prohibits individuals other than law enforcement officers from carrying guns in schools. SSAs are not law enforcement officers. They lack the

power of arrest, earn roughly half the salary of school police officers (known as School Resource Officers (“SROs”)), and receive less than one-fifth of the training that SROs receive. The Board nonetheless adopted a policy that purports to authorize SSAs to carry guns in schools. That was illegal. Florida law expressly requires local governments to follow the state’s general ban on guns in schools and prohibits them from crafting an exception to that uniform law. Local officials are not free to rewrite these state laws.

8. Moreover, the unlawful SSA program places children in DCPS at significant and unnecessary risk. There is a broad public health consensus, based on extensive research, that introducing firearms into an environment increases the risk of death or injury from firearms. Where, as here, those given the firearms lack the necessary training to handle the guns or interact with the young people they are assigned to protect, the risk of injury or death escalates.

9. Even arming trained law enforcement officers in a school environment presents significant risks. Trained officers have accidentally fired weapons or used excessive force in addressing incidents on school campuses. Trained officers have also mistaken students’ manifestations of disabilities for threats or criminal conduct. Trained officers have arrested students for misbehavior that should be dealt with in principals’ or guidance counselors’ offices rather than in courtrooms—sending young people, particularly young people of color and youth with disabilities, into the school-to-prison pipeline.

10. Arming SSAs increases the risk of these incidents because SSAs are asked to carry out quasi-law enforcement duties without the training and experience that law enforcement officers have. According to the chief of DCPS’s police department, SSAs will have a broad but undefined mandate to patrol campuses, assist with discipline, and break up fights. However, the

program provides SSAs with little to no training in how to communicate with and manage children in a manner appropriate to their development, work in diverse school communities, engage with vulnerable students, or de-escalate conflicts.

11. Comprehensive and effective school safety requires an approach far different from the DCPS approach. Mental health professionals, law enforcement officers, researchers, and educators have reached a broad consensus about the tools and techniques that work to build safe, supportive, and inclusive environments for all students and reduce the risks of school violence. This consensus approach includes: making high-quality mental health treatment widely available; developing proactive crisis and emergency plans; creating communication networks among school employees, community members, law enforcement, and mental health professionals to identify and intervene with potentially at-risk students while respecting student privacy; developing policies to de-escalate school-based conflicts; and relying on trained law enforcement to manage serious disasters.

12. Unarmed school guardians could meaningfully contribute to these safety efforts, and the Legislature gave school districts that option in SB 7026. The Legislature did not authorize public schools to put inadequately trained, armed individuals in elementary schools to perform vague “security” functions, as the Board has done here. Because the SSA program is inconsistent with state law and endangers the lives of children attending Florida’s public schools, the Court should enjoin the Board’s SSA program.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action and venue is proper in this Court. Plaintiffs T. DOZIER, M.D., D. PHILLIPS, B.P., N. KAVANAUGH, T.S., and A.S. are residents of this State and County who attend or have minor children in DCPS’s elementary

schools. The League of Women Voters of Florida is an organization in this state with members in this County who have minor relatives in DCPS's elementary schools. Defendants are institutions and instrumentalities of this County charged by law with responsibility for the public schools in this County. Defendants' conduct took place in this County and relates to programs at public schools in this County. Defendants' conduct will subject Plaintiffs and others to injuries in this County.

PARTIES

14. Plaintiff M.D. is enrolled in an elementary school in DCPS. He brings suit through his next friend, his father Plaintiff T. DOZIER. M.D. is in fourth grade. He likes playing baseball and science is his favorite subject. He also has hearing loss—moderate in one ear and severe in the other. He has worn a hearing aid since he was four years old. Before his hearing loss diagnosis, his teachers sometimes thought, erroneously, that he was not listening to them. While he now has a device that generally helps his disability, his hearing aid sometimes runs out of batteries at school. Normally, his school replaces them, but sometimes he returns home with his hearing aid not working.

15. T. DOZIER is very concerned that if an SSA gives his son a command, M.D. will not be able to understand the command if his hearing aid is not functioning at that time. T. DOZIER is therefore frightened that the SSA would interpret that refusal as dangerous or threatening and potentially harm M.D.

16. M.D. is African American. T. DOZIER knows that because his son is a member of a racial minority group, M.D. is more likely to be viewed as older and more threatening by law enforcement and SSAs, compounding the increased risk caused by M.D.'s disability.

17. Plaintiff B.P. is enrolled in an elementary school in DCPS. She brings suit through her next friend, her father Plaintiff D. PHILLIPS. B.P. is in kindergarten. She enjoys rock climbing, making art, and traveling with her family in their RV. D. PHILLIPS is a decorated veteran who knows that gun violence is quick, unpredictable, and deadly, and that even the best-trained people can react to it unexpectedly poorly. He believes that the risks to B.P. from putting a gun in the hands of a poorly-trained individual in her school greatly outweigh any hypothetical security benefit.

18. Plaintiffs T.S. and A.S. are enrolled in an elementary school in DCPS. They bring suit through their next friend, their mother Plaintiff N. KAVANAUGH. T.S. is in third grade. She enjoys soccer, drawing and music. She has recently expressed her fear of shootings in public places to her mother, a fear that N. KAVANAUGH fears may be worsened by armed SSAs in T.S.'s school. A.S. is in fifth grade. She practices gymnastics and wants to be a lawyer or veterinarian when she grows up. She has recently been diagnosed with an anxiety disorder and her overall anxiety levels have increased significantly this school year. N. KAVANAUGH is deeply concerned that the planned presence of SSAs in her children's school places both children at risk of physical and psychological injury.

19. Plaintiff LEAGUE OF WOMEN VOTERS OF FLORIDA, INC. (the "League") is a statewide membership organization. At least one of the League's members has a child in a DCPS elementary school and at least one has a grandchild in a DCPS elementary school. The League is a nonpartisan political organization encouraging informed and active participation in government. It has consistently opposed allowing non-law-enforcement personnel to carry guns

in public schools. It has a long record of advocacy in favor of gun safety and public education and against gun violence across the state.

20. Defendant Duval County Public Schools is the school district for the public schools in Duval County pursuant to § 1001.30, Fla. Stat.

21. Defendant Duval County School Board is the official policymaking body for all education-related issues in Duval County Public Schools pursuant to §§ 1001.32(2), 1001.33, and 1001.34 *et seq.*, Fla. Stat., and Article IX, Section 4 of the Florida Constitution.

BACKGROUND

A. Florida Law Prohibits Guns in Schools

22. Florida law generally makes it illegal to carry firearms on school property, providing that “[a] person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school,” including an “elementary school.” § 790.115(2)(a), Fla. Stat. Indeed, a person who does so “commits a felony of the third degree.” § 790.115(2)(b), Fla. Stat. There are three enumerated exceptions to this general prohibition, § 790.115(2)(a)1-3, Fla. Stat., none of which applies here.

23. The prohibitions in these statutes also do not apply “to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).” § 790.115(3), Fla. Stat. Section 943.10(1) defines a “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the

prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.” § 943.10(1), Fla. Stat.

24. Section 943.10(6) defines a “Part-time law enforcement officer” as “any person employed or appointed less than full time, as defined by an employing agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.”

25. Section 943.10(8) defines an “Auxiliary law enforcement officer” as “any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.”

26. Section 943.10(14) defines an “Officer” as “any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer.”

27. The other law enforcement officers defined in Section 943.10 and exempted from the ban on guns in schools are correctional and probation officers.

28. The Legislature’s choices during the 2018 legislative session make clear that: (a) under this statutory scheme, further legislation would be required to authorize school employees who are not law enforcement officers within these above-enumerated categories—*e.g.*, school guardians—to carry concealed firearms on school grounds; and (b) the Legislature knew how to create such an exception if it wanted to do so. Both the House and the Senate considered legislation this session that would have changed the general prohibition on carrying a gun on a

school campus in § 790.115(2)(a), Fla. Stat., so that it would “not apply to a school employee or volunteer who has been designated by his or her school principal, or, for an administration building, a district employee or volunteer who has been designated by his or her district school superintendent, as authorized to carry a concealed weapon or firearm on school property.”¹ But in the 2018 session, the Legislature did not pass that bill or any other legislation containing any such provision.

B. The Legislature’s Debate Over School Safety in Response to Parkland

29. As previously noted, SB 7026 was passed in March 2018 in response to the February 2018 mass shooting at Marjory Stoneman Douglas High School in Parkland.

30. The original version of SB 7026 was submitted to the Senate Rules Committee on February 21, 2018, just one week after the Parkland mass shooting. The original bill proposed creating a “school marshal” program, which it described as “a voluntary program to assist school districts and public schools in enhancing the safety and security of students, faculty, staff, and visitors to Florida’s public schools and campuses.” The original bill defined a “sheriff’s marshal” as “a faculty or staff member who is recommended and sponsored by a school district” to serve in the described role. The original bill also provided that, following a firearms training program, “a sheriff’s marshal may be appointed by the sheriff as a special deputy sheriff for the limited purpose of responding to an active assailant incident on a campus of his or her school district during an active assailant incident.”

31. The original bill required any school district that adopted a marshal program to have a “partnership agreement” with the sheriff’s office providing that marshals “[m]ay carry

¹ HB 621, <http://www.flsenate.gov/Session/Bill/2018/621>; SB 1236, <http://www.flsenate.gov/Session/Bill/2018/1236/BillText/Filed/PDF>.

concealed, approved firearms on campus” subject to certain limitations: “The firearms must be specifically purchased and issued for the sole purpose of the program. Only concealed carry safety holsters and firearms approved by the sheriff may be used under the program.”

32. The original bill also made “school marshals” law enforcement officers. It provided that “[p]ublic school faculty and staff who voluntarily participate in and complete the program, as recommended by the school district, are designated as special deputy sheriffs with all rights, responsibilities, and obligations in carrying concealed firearms on campus.” The original bill further provided that “a school marshal” would be “a law enforcement officer certified under chapter 943, pursuant to s. 30.072(2).”

33. The Senate Rules Committee voted in favor of the original bill just five days later, on February 26, 2018. The Senate Appropriations Committee did so the following day, February 27, 2018.

34. On March 1, 2018, however, Governor Rick Scott publicly voiced his opposition to arming teachers. Following the Governor’s announcement, the Legislature rushed to revise the original bill.

35. On March 3, 2018, the Senate voted to replace the original bill with a new version that did not contain any of the provisions cited above that would have authorized “marshals” to carry guns on campus and that would have made them law enforcement officers under Florida law.

36. The Legislature never adopted any amendments to the revised bill to restore these provisions.

37. That same day, March 3, the Senate passed the amended bill. It did not add any provisions authorizing school guardians to carry guns or classifying them as law enforcement officers under Florida law.

38. The House passed the Senate version of the bill the following day, March 6, 2018, and the Governor signed it on March 9, 2018. The law went into effect upon the Governor's signature.

C. The School Guardian Program

39. As enacted, SB 7026 requires school districts to designate or place a Safe-School Officer at every public school in Florida. Specifically, the Act provides that “each district school board and school district superintendent shall partner with law enforcement agencies to establish or assign one or more Safe-School Officers at each school facility within the district.” § 1006.12, Fla. Stat.

40. SB 7026 gives school districts three ways to fulfill this Safe-School Officer Requirement.

41. *First*, a school board and superintendent can “[e]stablish school resource officer programs, through a cooperative agreement with law enforcement agencies.” § 1006.12(1), Fla. Stat. “School resource officers shall undergo criminal background checks, drug testing, and a psychological evaluation and be *certified law enforcement officers*, as defined in s. 943.10(1), who are employed by a law enforcement agency as defined in s. 943.10(4).” *Id.* § 1006.12(1)(a) (emphasis added).

42. *Second*, a school board and superintendent can “[c]ommission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district.” § 1006.12(2), Fla. Stat. “School safety officers shall undergo criminal

background checks, drug testing, and a psychological evaluation, and be *certified law enforcement officers*, as defined in s. 943.10(1), certified under the provisions of chapter 943 and employed by either a law enforcement agency or by the district school board.” *Id.* § 1006.12(2)(a) (emphasis added).

43. *Third*, SB 7026 permits school boards to commission school employees who volunteer to serve as “school guardians.” §§ 30.15, 1006.12(3), Fla. Stat. Specifically, SB 7026 authorizes a local sheriff to establish a “Coach Aaron Feis Guardian Program to aid in the prevention or abatement of active assailant incidents on school premises.” § 30.15(k), Fla. Stat. Under the Act, “[t]he sheriff who chooses to establish the program shall appoint as school guardians, without the power of arrest, school employees who volunteer.” *Id.* Thus, the Legislature anticipated that school guardians would be existing school employees who would take on additional school-safety duties, not employees like SSAs hired to provide security.

44. SB 7026 provides that guardians must hold a concealed carry license, undergo firearms training, and pass certain background tests. *Id.* But the Act does not actually authorize guardians to carry guns in schools. A school district would fully comply with the Act’s Safe-School Officer Requirement by designating unarmed guardians whose job would include implementing key elements of the consensus approach to school safety recommended by experts in the field, such as: developing emergency-response plans with law enforcement, serving as the point of contact for local police, ensuring that entrances and exits are properly secured, training school staff and students in emergency preparedness, and fulfilling other security functions. As explained below, research suggests these functions would genuinely improve school safety, as SB 7026 intends (*see infra* paragraphs 67-70), without the risks posed by the Board’s armed and inadequately trained SSAs.

FACTUAL ALLEGATIONS

A. Duval County's School Safety Assistant Program

45. The Duval County School Board first met to consider its response to the Act's Safe-School Officer Requirement on May 1, 2018. According to the Chairman's Report for that meeting, the Board estimated that it would cost \$10.7 million to hire SROs for all schools in the district. However, the Legislature provided a one-time appropriation of only \$3.6 million for the school district to fulfill the Safe-School Officer Requirement.

46. Asserting that it lacked funds to hire law enforcement to fulfill the Safe-School Officer Requirement, the Board claimed that its only alternative was to employ school guardians and that it was required by SB 7026 to have those school guardians carry guns.

47. The Board did not want to use existing employees as guardians. So it created a new job, the SSA position, to fulfill that function.

48. Per the Board's approved job description, SSAs earn salaries starting at \$12.50 per hour, or \$20,600 annually, and report to the school district's police department, not the county sheriff. The Board plans to hire more than 100 SSAs at an estimated total cost of \$4.1 million total.

49. At the time the Board adopted the SSA program, its policies prohibited anyone except law enforcement from carrying guns in schools. Consistent with state law, Chapter 3.40(II)(E) of the Duval County School Board Policy Manual then provided that "no person except law enforcement may have in his/her possession while on school property, during any school-sponsored transportation, or at school events, any firearm or weapon except as may be expressly permitted pursuant to section 790.115, Florida Statutes," the statute that generally prohibits firearms in Florida schools.

50. On July 9, 2018, the Board voted to amend Chapter 3.40(II)(E). It now purports to permit SSAs to carry concealed weapons in DCPS.

B. The SSA Program Is Unlawful Under Florida Law

51. Defendants are violating Florida law's limited-exemption ban on guns in schools.

52. As noted above, Florida law prohibits carrying firearms in schools. Although Florida law exempts law enforcement officers from this prohibition, the Act expressly provides that school guardians are "without the power of arrest" that defines a law enforcement officer under Florida law.

53. Yet, on July 9, 2018, the Board voted to amend Chapter 3.40(II)(E) of its Policy Manual to permit SSAs to carry concealed weapons in DCPS even though SSAs are not law enforcement officers under Florida law.

54. Defendants' actions are illegal. Florida law does not permit local officials to decide whether to follow state laws. To the contrary, Florida law expressly requires school boards to "[d]etermine policies and programs consistent with state law," § 1001.41(1), Fla. Stat., and demands that "[a]ll actions of district school officials shall be consistent and in harmony with state laws," *id.* § 1001.32(1). Likewise, Florida law dictates that a school superintendent "[r]equire that all laws and rules of the State Board of Education, as well as supplementary rules of the district school board, are properly observed." § 1001.51(14), Fla. Stat.

55. Moreover, by statute, the Legislature declared its "intent . . . to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically

authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.” § 790.33(2)(a), Fla. Stat.

56. To that end, the Legislature has “occupi[ed] the whole field of regulation of firearms and ammunition . . . to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.” § 790.33(1), Fla. Stat.

57. Thus, Defendants cannot lawfully carve out their own exception from Florida’s ban on firearms in schools that is different from the limited existing exemption for specifically designated law enforcement personnel. Instead, Defendants must “enforce state firearms laws.” § 790.33(2)(a), Fla. Stat.

C. **Defendants Could Comply with State Law By Commissioning Unarmed Guardians at Schools**

58. Defendants could comply with the Act’s Safe-School Officer Requirement by commissioning school employees to serve as unarmed guardians “to aid in the prevention or abatement of active assailant incidents on school premises,” § 30.15(k), Fla. Stat., through means other than carrying and firing guns. Nothing in the Act permits, let alone requires, school districts to arm guardians with prohibited weapons. And unarmed guardians would make schools safer than arming inadequately trained individuals such as SSAs.

59. As explained in the July 2018 issue of the American Journal of Public Health, existing research “suggests that increasing the presence of guns in the hands of civilians in schools, no matter how well intentioned, may backfire.”

60. Placing guns in schools through a program like Defendants' is highly unlikely to confer any protections from mass shootings or other violence because civilians lack the tactical ability to interrupt active shooters without risking harm to bystanders. Indeed, a 2014 FBI study of active shooter incidents found that armed individuals ended only three percent of the incidents.

61. Nor is the presence on school grounds of a single armed employee, alone, likely to deter a determined mass shooter: A study of more than 100 shootings with six or more victims killed found that nearly 90 percent took place in locations where the law permitted civilians or law enforcement to carry firearms.

62. As stated in a joint report on developing emergency plans for schools by the U.S. Department of Education, the U.S. Department of Health and Human Services, the U.S. Department of Homeland Security, the U.S. Department of Justice, the FBI, and the Federal Emergency Management Agency: "the possibility of an active shooter situation is not justification for the presence of firearms on campus in the hands of any personnel other than law enforcement officers."

63. Several other studies have suggested that the mere presence of a weapon increases aggression, which means bringing guns onto school grounds is likely to increase the number of aggressive and potentially deadly conflicts between staff and students.

64. Florida law appears to recognize this danger. It requires School Resource Officers, who are law enforcement officers, to "[c]omplete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention." § 1006.12(1)(c), Fla. Stat. By law, such "training shall improve officers' knowledge and skills as first responders to incidents involving students with emotional

disturbance or mental illness, including de-escalation skills to ensure student and officer safety.”

Id.

65. Defendants do not require any comparable training of armed SSAs. As such, SSAs will be even more likely to escalate conflicts into violence. Indeed, the 2014 School Discipline Consensus Report of the Council on State Governments has expressed “concern that [non-law-enforcement] security officers are not always trained to de-escalate incidents with students and to help minimize their contact with the juvenile justice system when appropriate.”

66. Even highly trained law enforcement officers, when discharging their weapons under high-stress circumstances, often miss their targets. For example, a report on the nation’s largest police force, the New York City Police Department, found that between 1998 and 2006, officers experiencing return fire hit their target an average of only 18 percent of the time, and officers in situations in which fire was not returned hit their target only 30 percent of the time. SSAs with less training and no experience in such high-stress situations are likely to be less accurate, posing great risks to students, teachers, and other bystanders.

67. For many of these reasons, the broad consensus of educators, academic researchers, policymakers, mental health professionals, social workers, and emergency responders who have studied policies to reduce school violence is against arming civilians. Instead, the professional consensus is that schools should instead: adopt programs to monitor and assess students who might pose a potential threat; create robust communications networks between school employees, mental health professionals, and law enforcement that also protect student privacy; recognize and intervene with students at risk for turning to violent behavior; enhance mental health services; foster community engagement; de-escalate conflicts

that can result in violence; and develop emergency response plans in consultation with law enforcement professionals.

68. Advocates for adopting some or all of these policies rather than arming civilians in schools include the U.S. Secret Service, the U.S. Department of Education, the U.S. Department of Health and Human Services, the U.S. Department of Homeland Security, the U.S. Department of Justice, the FBI, the Federal Emergency Management Agency, the National Association of Elementary School Principals, the School Superintendents Association, and the National Education Association.

69. Likewise, the American Counseling Association, the American Psychological Association, the National Association of School Psychologists, the National Association of Social Workers, the National PTA, the School Social Work Association of America, and 200 other national, state, and local organizations have endorsed recommendations by the Interdisciplinary Group on Preventing School Violence, a nationwide consortium of researchers who have spent their careers studying issues related to school violence. The Interdisciplinary Group recommends an approach that treats school violence as a “public health” issue and that includes “[a] national program to train and maintain school- and community-based threat assessment teams that include mental health and law enforcement partners” and “practical channels of communication for persons to report potential threats as well as interventions to resolve conflicts and assist troubled individuals.” The Group’s recommendations do not include arming non-law-enforcement personnel.

70. If properly trained, unarmed school guardians can serve in a positive role in increasing safety at DCPS elementary schools. Such trained, unarmed school employees could prove invaluable in facilitating the communication, coordination, crisis management, risk

intervention, threat recognition, and emergency preparedness that experts consistently recognize as pillars of any effective school safety strategy. In so doing, unarmed guardians would “aid in the prevention or abatement of active assailant incidents on school premises,” § 30.15(k), Fla. Stat., far more than minimally trained SSAs carrying concealed guns.

D. The County’s Unlawful Conduct Endangers Its Youngest Schoolchildren

71. Defendants’ illegal decision to arm SSAs will endanger tens of thousands of young children in this County.

72. Recent events in the state have demonstrated that even law enforcement officers, who have received more training than Defendants are providing SSAs, are capable of putting children at serious risk. For example, just months ago, a former Jacksonville police officer training as a School Resource Officer was suspended for a physical altercation with a student.

73. In August 2017, an officer at Atlantic West Elementary School in Margate, Florida was suspended for using excessive force against a fourth-grade student.

74. On February 5, 2018, a School Resource Officer at Elliott Point Elementary School in Fort Walton Beach, Florida left a loaded handgun in a school restroom. A parent of a student found the gun while looking for paper towels.

75. On May 6, 2016, at Patterson Elementary School in Panama City, Florida, a corrections officer accidentally shot himself in the leg while replacing a spent round as he waited for a job interview to be a janitor.

76. These incidents are not limited to Florida schools. Since 2014, there have been over 30 publicly reported incidents where a gun was fired or negligently handled by armed adults at schools, including some where a police officer unintentionally discharged the weapon.

77. For example, on May 18, 2015, a police officer doing a K-9 demonstration at Mount Carmel Elementary School in Douglasville, Georgia left a .22 caliber pistol on the school playground. Two students discovered the pistol, which led officials to put the school on lockdown.

78. On February 5, 2018, at the Harmony Learning Center in Saint Paul, Minnesota, a third-grade student sitting next to a school liaison officer pulled the trigger on the officer's gun in its holster, causing it to discharge.

79. SSAs are less well-trained than the law enforcement officers involved in the incidents described above. Less experienced gun carriers are even more likely to mishandle their firearms than law enforcement. The unlawful SSA program therefore increases the risk of these incidents for the County's youngest schoolchildren and, in turn, the dangers of physical harm to those children and trauma to both students and their families as they contemplate that risk each day.

80. Indeed, just months after the SSA program went into effect, evidence already has emerged that SSAs are not properly safeguarding their firearms. Last month, an SSA was arrested and charged in connection with pawning his DCPS-issued firearm on two separate occasions while falsely claiming that he owned the weapon. Two other SSAs also resigned after an investigation found that they knew about the pawning incidents and failed to report them to their supervisors.

81. The dangers of armed SSAs using their weapons improperly will affect children even if they are not immediate physical victims. Exposure to violence-related trauma in a place where children should expect to be safe puts them at significantly increased risk for post-traumatic stress disorder and other mental health disorders, all of which are strongly correlated

with reduced academic performance. Such exposure to violence has been shown to significantly lower first-graders' IQ and reading ability scores.

82. The risks posed by armed SSAs go far beyond the kinds of firearm incidents that kill tens of thousands of Americans every year. SSAs will be working in elementary schools full of young children who are still learning social skills and acclimating to a social environment away from their homes and families. SSAs will not receive adequate training to work in this environment at all, let alone while armed.

83. Defendants are not providing SSAs with training remotely equivalent to what law enforcement officers receive. Unlike law enforcement officers who typically undergo lengthy training (a minimum of 770 hours for full-time police officers), Defendants have represented that SSAs will get only 144 hours, or under four weeks, of training—less than one-fifth as much.

84. Law enforcement officers in the Basic Recruiting Training Program undergo 44 hours of “Critical Incidents” training in which they learn to “understand local emergency response plans, law enforcement duty-to-act requirements, and the role of law enforcement officers as first responders” as well as “how to respond to an active shooter incident.” Further, Florida law requires School Resource Officers (who are all law enforcement officers) to also “[c]omplete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention.” § 1006.12(1)(c), Fla. Stat. By contrast, Defendants have represented that SSAs will receive only eight (8) hours of training regarding active shooter or assailant scenarios, and no training on mental health crisis intervention.

85. Defendants' own job descriptions for the SSA program, compared to the job descriptions for SROs, make clear that SSAs' training will be inadequate for the tasks they are

assigned. Defendants have indicated that SSAs will “[m]aintain calm, deter[] crime, and handle[] preliminary inquiries into violations of school board policies, on school property or at school-sponsored events.” Similarly, Defendants’ advertisement for the SROs who are employed at DCPS middle and high schools states that they will be “responsible for campus patrol” and “initial case investigations.” However, Defendants require far more training for SROs than they do for the SSAs who Defendants say will be tasked with many of the same responsibilities.

86. Recognizing that SROs’ duties “require skills in understanding human behavior and those factors that influence behavioral changes and are critical in adversarial and confrontational situations,” Defendants require SROs, who have already completed the Basic Recruiting Training Program, to also “complete the State of Florida School Resource Officer (SRO) Basic Training Course” (“Basic Training Course”) within one year.

87. The purpose of the Basic Training Course, according to the Florida Crime Prevention Training Institute, is to provide “the basic knowledge and skills necessary to implement crime prevention programming in a school setting” in order to “to promote positive relations between youth and law enforcement.” The Basic Training Course includes training “in juvenile law, counseling skills, development of a referral network, identification and ways to handle exceptional students, and classroom training techniques.”

88. Defendants do not require SSAs to take the Basic Training Course or obtain any similar training specifically directed toward the skills necessary to work in a school environment with young children.

89. As noted, law enforcement officers with extensive training sometimes make mistakes or engage in dangerous conduct. SSAs with far less training will do so more often, exposing Duval County elementary school children to a high risk of harm.

90. Evidence shows that police officers, including school security guards, sometimes incorrectly assess non-threatening situations as threatening. Armed SSAs with insufficient training are more likely to dangerously misinterpret student behaviors and mistakenly perceive nonexistent threats. This danger is particularly acute for students of color, disabled students, and English Language Learners (ELLs); all three of these groups, including students who fall into more than one group, like plaintiff M.D., are already subject to disproportionately severe discipline and the possibility of justice system involvement.

91. Researchers have repeatedly observed significant differences in the intensity and severity of discipline that school personnel enforce against students of color and demonstrated that teachers are likely to interpret students' misbehavior differently depending on the students' race. Indeed, according the United States Department of Education, in the 2015-2016 school year, black students in Duval County were 2.7 times as likely as white students to receive an in-school suspension, 4.1 times as likely to receive an out of school suspension, and 2.4 times as likely to be referred to law enforcement. According to the same data, disabled students were 1.3 times as likely to receive an in-school suspension, 2.1 times as likely to receive an out-of-school suspension, and 2.1 times as likely to be referred to law enforcement as students who were not disabled.

92. In their Basic Recruiting Training Program, law enforcement officers undergo 40 hours of training on "Interactions in a Diverse Community," a program that includes training on, among other things, how to "recognize potential emotional triggers, and recommend

available resources”; how to “interact with juveniles, assess their behavioral characteristics, and provide the most appropriate response to a call involving a juvenile”; and how to “recognize an officer’s duty to recognize, respond and intervene safely and professionally and understand the options available to the officer, and provide the most appropriate intervention.”

93. Defendants do not require SSAs to attend this program or obtain any equivalent training. Instead, Defendants have represented that SSAs will get only 12 hours of “diversity training.” Defendants have not indicated that they will provide SSAs with any training about how to interact with children or de-escalate conflicts.

94. Students of color like M.D. will likely bear a disproportionate brunt of interactions with armed SSAs. SSAs are authorized to make “inquiries into violations of school board policies,” monitor students in “rest rooms, grounds, hallways, library, cafeteria, parking lots, etc.” and conduct “administrative searches.” Data indicate that law enforcement officials use firearms more frequently and dangerously against young people of color. It stands to reason that SSAs with even less training and experience will be even more likely to act in a manner that disproportionately harms students of color. As such, each of these potential SSA interactions is more likely to create the kind of tragedies that have traumatized communities across the nation and have received added attention in recent years.

95. Research also has shown that school personnel can misinterpret manifestations of students’ disabilities as threats. Indeed, absent proper training, it can be difficult to determine whether a volatile situation involves the manifestation of a disability or volitional conduct. Thus, to comply with state and federal law protecting students with disabilities, school employees receive training regarding how to interact with students with disabilities.

96. Defendants, however, have not indicated that SSAs will receive any training

regarding students with disabilities, such as A.S. or M.D. Accordingly, when SSAs are asked to intervene in a challenging student behavior situation (as their job descriptions suggest they could be), they will have to make a rapid and entirely untrained guess about whether a student is behaving in a manner consistent with their disability or is engaged in volitional conduct. The only thing that SSAs making that decision will be able to draw on is a gun.

97. SSAs thus have the potential to cause serious harm to students. This harm is particularly acute if SSAs participate in effectuating Florida’s Baker Act, *see* § 394.451 *et seq.*, Fla. Stat, which permits children and adults who pose a danger to themselves or others to be involuntarily committed for psychiatric evaluation. So-called “Baker Acting” is often effectuated by law enforcement personnel. Each year, approximately 1,500 children in Duval County are involuntarily admitted to a mental health facility for a psychiatric examination under the Baker Act. Approximately 150 of those children each year are under 10 years old—elementary school children. SSAs will not have the training necessary to participate in Baker Act commitments or otherwise appropriately respond to children experiencing mental health crises in ways that are safe for those children and others in the school community.

FIRST CAUSE OF ACTION

DECLARATORY JUDGMENT ACT, § 86.011 *et seq.*, FLA. STAT.

98. All allegations in paragraphs 1-97 are incorporated by reference.

99. Under Florida law, a school board must “[d]etermine policies and programs consistent with state law,” § 1001.41(1), Fla. Stat., and “[a]ll actions of district school officials shall be consistent and in harmony with state laws.” *Id.* § 1001.32(1).

100. Florida law requires a school superintendent to “[r]equire that all laws and rules of the State Board of Education, as well as supplementary rules of the district school board, are properly observed.” § 1001.51(14), Fla. Stat.

101. Under § 790.33(1), Fla. Stat., local measures relating to firearms are null and void.

102. Florida law makes it unlawful to carry firearms in schools. *See* § 790.115(2)(a), Fla. Stat.

103. Florida law exempts specific categories of law enforcement officers from this prohibition. *See* § 790.115(3), Fla. Stat.

104. SSAs are not among the law enforcement officers exempt from the ban on guns in schools.

105. Defendants have adopted an official policy of purporting to authorize SSAs to carry firearms in schools in this County, including through Chapter 3.40(II)(E) of the Duval County School Board Policy Manual.

106. No provision of law gives Defendants authority to permit SSAs, individuals who are not among the law enforcement officers that Florida law exempts from its ban on guns in schools, to carry firearms in schools in this County.

107. Defendants’ conduct authorizing SSAs to carry firearms in schools in this County is *ultra vires* and void.

108. Plaintiffs have been and will be aggrieved by and suffer injury from Defendants’ violations of state statutes and *ultra vires* conduct.

109. Defendants’ conduct creates a danger of death, severe injury, and psychological harm to Plaintiffs M.D., B.P., T.S., and A.S.; minor relatives of members of the League; and tens of thousands of other elementary school students in Duval County.

110. Plaintiffs T. DOZIER, M.D., D. PHILLIPS, B.P., N. KAVANAUGH, T.S., and A.S. have experienced and will experience emotional distress from attending or sending their children to public schools in a dangerous environment where Defendants' conduct has significantly increased the risks that children will be injured, killed, and traumatized by inadequately trained SSAs carrying firearms. Members of Plaintiff League will experience such distress from their minor relatives' attendance at public schools in this dangerous environment.

111. The League's mission of advocating for gun safety and against non-law-enforcement personnel carrying guns in public schools is frustrated by Defendants' unlawful actions.

SECOND CAUSE OF ACTION

PREEMPTION PURSUANT TO § 790.33, FLA. STAT.

112. All allegations in paragraphs 1-97 are incorporated by reference.

113. To the extent necessary, Plaintiffs plead this count in the alternative to the previous count.

114. Under § 790.33(1), Fla. Stat., local measures relating to firearms are null and void.

115. Florida law makes it unlawful to carry firearms in schools. *See* § 790.115(2)(a), Fla. Stat.

116. Florida law exempts specific categories of law enforcement officers from this prohibition. *See* § 790.115(3), Fla. Stat.

117. SSAs are not among the law enforcement officers exempt from the ban on guns in schools.

118. Defendants have adopted an official policy purporting to authorize SSAs to carry firearms in schools in this County, including through Chapter 3.40(II)(E) of the Duval County School Board Policy Manual.

119. No provision of law gives Defendants authority to permit SSAs, individuals who are not among the law enforcement officers that Florida law exempts from its ban on guns in schools, to carry concealed firearms in schools in this County.

120. Under § 790.33(3)(f), Fla. Stat., any person aggrieved by any local regulation or policy relating to firearms may file suit for declaratory and injunctive relief, as well as actual damages and attorney's fees.

121. Defendants have adopted the SSA program and Chapter 3.40 of the Duval County School Board Policy Manual with full knowledge that the program and policy conflict with state law and in willful disregard of the same.

122. Plaintiffs have been and will be adversely affected by Defendants' unlawful conduct.

123. Defendants' conduct creates a danger of death, severe injury, and psychological harm to Plaintiffs M.D., B.P., T.S., and A.S.; minor relatives of members of the League; and tens of thousands of other elementary school students in Duval County.

124. Plaintiffs T. DOZIER, M.D., D. PHILLIPS, B.P., N. KAVANAUGH, T.S., and A.S. have experienced and will experience emotional distress from attending or sending their children to public schools in a dangerous environment where Defendants' conduct has significantly increased the risks that children will be injured, killed, and traumatized by inadequately trained SSAs carrying firearms. Members of Plaintiff League will experience such distress from their minor relatives' attendance at public schools in this dangerous environment.

125. The League's mission of advocating for gun safety and against non-law-enforcement personnel carrying guns in public schools is frustrated by Defendants' unlawful actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. A declaration that (a) it is unlawful for any School Safety Assistant to carry a firearm in, or on the property of, any school in this County; (b) that any action by Defendants authorizing the same, including the adoption or enforcement of Chapter 3.40(II)(E) of the Duval County School Board Policy, is unlawful, null, and void; and (c) that Chapter 3.40(II)(E) of the Duval County School Board Policy, is unlawful, null, and void to the extent that it purports to authorize any School Safety Assistant to carry a firearm in, or on the property of, any school in this County.

2. A permanent injunction (a) prohibiting School Safety Assistants from carrying firearms in, or on the property of, any school in this County; (b) prohibiting Defendants from enforcing Chapter 3.40(II)(E) of the Duval County School Board Policy to the extent it authorizes School Safety Assistants to carry firearms in schools in this County; (c) prohibiting Defendants from taking any action to authorize or facilitate School Safety Assistants to carry firearms in, or on the property of, any school in this County; and (d) prohibiting Defendants from taking any action to carry out or execute the School Safety Assistant program or any school guardian program in which anyone other than law enforcement officers exempt from the ban on guns in schools under Section 790.115(3) is permitted to carry firearms in, or on the property of, any school in this County, including authorizing or expending funds for such a program.

3. An award of attorney's fees.

4. Other relief as the Court may find necessary and proper.

Respectfully submitted,

David H. Fry (*pro hac vice* forthcoming)
Justin P. Raphael (*pro hac vice* forthcoming)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
(415) 512-4000
David.Fry@mto.com
Justin.Raphael@mto.com

Tamerlin J. Godley (*pro hac vice* forthcoming)
Giovanni Saarman González (*pro hac vice* forthcoming)
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
(213) 683-9100
Tamerlin.Godley@mto.com
Giovanni.SaarmanGonzalez@mto.com

Rachel G. Miller-Ziegler (*pro hac vice* forthcoming)
MUNGER, TOLLES & OLSON LLP
1155 F Street N.W., 7th Floor
Washington, D.C. 20004
(202) 220-1100
Rachel.Miller-Ziegler@mto.com

J. Adam Skaggs (*pro hac vice* forthcoming)
David Pucino (*pro hac vice* forthcoming)
GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE
223 West 38th Street, #90
New York, NY 10018
(917) 680-3473
askaggs@giffords.org
dpucino@giffords.org

/s/ Glenn Burhans, Jr.
Glenn Burhans, Jr. (Florida Bar No. 605867)
Kelly O'Keefe (Florida Bar No. 12718)
STEARNS, WEAVER, MILLER, WEISSLER,
ALHADEFF & SITTERSON, P.A.
Highpoint Center
106 East College Avenue, Suite 700
Tallahassee, FL 32301
(850) 580-7200
gburhans@stearnsweaver.com
kokeefe@stearnsweaver.com

Zoe Savitsky (*pro hac vice* forthcoming)
SOUTHERN POVERTY LAW CENTER
201 St. Charles Avenue, Suite 2000
New Orleans, LA 70170
(504) 526-1487
zoe.savitsky@splcenter.org

Bacardi Jackson (Florida Bar No. 47728)
Sam Boyd (Florida Bar No. Pending)
SOUTHERN POVERTY LAW CENTER
P.O. Box 370037
Miami, FL 33137
(305) 537-0574
bacardi.jackson@splcenter.org
sam.boyd@splcenter.org

Hannah Shearer (*pro hac vice* forthcoming)
GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE
268 Bush Street, #555
San Francisco, CA 94104
(415) 433-2062
hshearer@giffords.org