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## FIREARM DEATHS OF AMERICAN MINORS: PERCEPTIONS VS. FACTS

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## ABSTRACT

*Firearm violence is now the leading cause of death for Americans under the age of eighteen. This article demonstrates that widely held misconceptions about the true nature and extent of this violence have led to legislative proposals narrowly tailored toward firearm violence in schools, despite facts and data showing school firearm violence to be a small fraction of the problem. These misconceptions are caused by both the narrow focus of national media attention and the deceptive propaganda of the gun industry. The article concludes by examining several bills proposed during the Virginia General Assembly session of 2022 to show how many of the solutions that legislators are proposing are not only ineffective, but also potentially harmful.*

## INTRODUCTION

The recent horrific shooting at Robb Elementary School in Uvalde, Texas has once again turned the media spotlight onto the topic of school shootings in the United States.<sup>1</sup> The details of this shooting and the media coverage it created clearly highlight some of the most important differences between our perceptions relating to firearm deaths of minors under the age of eighteen, and the actual data regarding what has now become the leading cause of death for that age group in this country.<sup>2</sup>

Section I will explain the extent of the problem of firearm deaths of minors, categorize the manner of death, and examine the underlying causes and commonalities of the deaths.<sup>3</sup> Section II will discuss the difference between perceptions relating to firearm deaths of minors and how those perceptions differ from the known facts about such shootings. It will also show how these differences between fact and perception have influenced legislative responses and explain why these responses have had limited success in reducing school shootings. Section III will focus on actual legislation introduced in the Virginia General Assembly in 2022, explaining the language and intent of the bills, their amendments, and how and why the bills were either passed or defeated. Finally, in Section IV, I will offer thoughts on more targeted

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<sup>1</sup> See Evie Blad, *After Texas School Shooting, a Familiar Fight About How to Make Schools Safe*, EDUC. WK. (May 25, 2022), <https://www.edweek.org/leadership/after-texas-school-shooting-a-familiar-fight-about-how-to-make-schools-safe/2022/05>.

<sup>2</sup> *Child Health*, CTRS. FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/nchs/fastats/child-health.htm> (last updated Feb. 2, 2022). See Jill Terreri Ramos, *Fact-Check: Are firearms the leading cause of death in children?* AUSTIN AMERICAN-STATESMAN (June 7, 2022) <https://www.statesman.com/story/news/politics/politifact/2022/06/07/fact-check-firearms-leading-cause-death-children/7529783001/>.

<sup>3</sup> Unfortunately, due to the fact that very little reliable data is available on the number of firearms injuries and the extent of the trauma experienced by children who witness shootings directly or are related to shooting victims, this discussion is limited to fatal shootings only.

legislative efforts that could better address the realities of gun violence against minors and potentially save more lives in that age group.

## I. BACKGROUND ON WHAT THE DATA SHOWS

Perhaps the most alarming fact about firearm deaths of minors is that, in considering twenty-three high-income nations worldwide, over 90% of all firearm deaths for this age group occurred in the United States.<sup>4</sup> In 2020, the most recent year for which data is available, 4,368 firearms deaths were recorded in the U.S. for minors, representing a 29% increase since 2019.<sup>5</sup> Of these deaths, 2,811 were homicides; 1,293 were suicides; 149 were accidental deaths; 25 involved law enforcement; and 90 were due to unknown causes.<sup>6</sup> Interestingly, the proportions of each manner of death for this age group are significantly different than the proportions for total firearm deaths for all ages.<sup>7</sup> For example, school-age children were twice as likely to die from homicide than they were suicide, which is the inverse of what was found for all other age groups.<sup>8</sup>

The media coverage of mass casualty school shootings is overwhelming, yet in 2020, only 1.2% of the shooting-related deaths of minors occurred either in schools, on the way to or from schools, or at a school related activity,<sup>9</sup> thus, 98.8% of firearms deaths of minors occurred unconnected with schools, but rather at home, on the streets, or at other non-school venues. Of the shootings that did occur in schools from 1994 to 2016, only 10% of firearm fatalities to minors resulted from incidents with more than one victim.<sup>10</sup> The remaining 90% of school shootings resulted in just one fatality, where 1) the student with the firearm shoots himself or another individual by accident, 2)

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<sup>4</sup> Marc A. Zimmerman et al., *The Facts on the US Children and Teens Killed by Firearms*, THE CONVERSATION (Aug. 6, 2019), <https://theconversation.com/the-facts-on-the-us-children-and-teens-killed-by-firearms-118318>.

<sup>5</sup> Jason E. Goldstick et al., *Current Causes of Death in Children and Adolescents in the United States*, 386 NEW ENG. J. MED., 1955-56 (2022).

<sup>6</sup> *Causes of Injury-Related Death*, CTR. FOR DISEASE CONTROL AND PREVENTION, <https://www.nejm.org/doi/full/10.1056/NEJMc2201761> (last visited Sep. 2, 2022).

<sup>7</sup> Goldstick et al., *supra* note 5.

<sup>8</sup> *2020, United States Suicide Injury Deaths and Rates per 100,000*, CTR. FOR DISEASE CONTROL AND PREVENTION, <https://wisqars.cdc.gov/fatal-reports> (last visited Aug. 24, 2022) (Select 1999-2020 national regional report, select homicide, select all races, both sexes, and change age range to 20-85+); *2020, United States Homicide Injury Deaths and Rates per 100,000*, CTR. FOR DISEASE CONTROL AND PREVENTION <https://wisqars.cdc.gov/fatal-reports> (last visited Sep. 2, 2022) (Select 1999-2020 national regional report, select homicide, select all races, both sexes, and change age range to 0-19).

<sup>9</sup> Zimmerman et al., *supra* note 4.

<sup>10</sup> *School-Associated Violent Death Study*, CTR. FOR DISEASE CONTROL AND PREVENTION (Sept. 2, 2021), <https://www.cdc.gov/violenceprevention/youthviolence/schoolviolence/SAVD.html>.

the shooter commits suicide, or 3) the shooter targets a specific individual. In all these cases, the shooters never intended to pose a threat to the wider community in the school and did not intend to create a mass casualty incident.

The vast majority of media coverage is concentrated on 0.12%<sup>11</sup> of firearm deaths of minors, while the remaining 99.88% of firearm deaths of minors receives little or no attention in national and local media.<sup>12</sup> The media emphasis on mass casualty school shootings leads to the general impression that schools are the most dangerous places for children; specifically, schools are places where children are most likely to become victims of gun violence, and therefore need the most attention when it comes to measures to protect against such violence. In fact, the data indicates that schools are one of the places most frequented by minors where they are the *least* likely to become victims of gun violence.<sup>13</sup> This is not to say that safety from gun violence is not necessary in our schools, but simply that schools are not the place with the most pressing need for attention.

## II. IMPACTS OF FALSE PERCEPTION ON LEGISLATION

This misunderstanding of the relative safety of minors in different locations has led to a laser focus by legislators on measures to improve safety from gun violence in our schools, with the most emphasis being placed on reactive measures, rather than proactive or preventative ones.<sup>14</sup>

### *A. Hyperfocus on Reactive Safety Measures*

#### *i. School Resource Officers (SROs)*

The emphasis on reactive measures has led to the movement towards placing armed individuals in schools, who are tasked to be vigilant and respond immediately to any threat posed by an armed assailant entering school premises.<sup>15</sup> In many states, the individuals chosen for this task are police officers who are seconded to a school or school district as School Resource Officers

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<sup>11</sup> 10% of 1.2%.

<sup>12</sup> See Zimmerman et al., *supra* note 4; see also *School-Associated Violent Death Study*, *supra* note 10.

<sup>13</sup> See Laurel Wamsley, *The U.S. is Uniquely Terrible at Protecting Children from Gun Violence*, NPR (May 28, 2022), <https://www.npr.org/2022/05/28/1101307932/texas-shooting-ualde-gun-violence-children-teenagers>; Judy Schaechter, *Guns in The Home: Keeping Kids Safe*, AMERICAN ACADEMY OF PEDIATRICS (June 1, 2022), <https://www.healthychildren.org/English/safety-prevention/at-home/Pages/Handguns-in-the-Home.aspx>.

<sup>14</sup> See Blad, *supra* note 1.

<sup>15</sup> See Kendrick Washington & Tori Hazelton, *School Resource Officers: When the Cure is Worse than the Disease*, ACLU OF WASH. (May 24, 2021), <https://www.aclu-wa.org/story/school-resource-officers-when-cure-worse-disease>.

(“SROs”).<sup>16</sup> Ten of the nation’s twenty-five largest school districts have created entire school law enforcement departments solely for the purpose of protecting schools.<sup>17</sup> In Texas alone, as of 2022, there are 309 school districts with their own dedicated police departments.<sup>18</sup> There are thirty-two states that have even gone as far as to allow faculty and staff members to be armed in order to prevent or limit school shootings.<sup>19</sup>

The most significant outcome of the SRO program is that there have been many instances where SROs have been present during school shootings, fewer instances where SROs exchanged fire with a shooter, and only a handful of recorded incidents where an SRO successfully prevented a school shooting.<sup>20</sup> In the majority of cases, from Columbine High School to the recent shooting at Robb Elementary School in Uvalde, the presence of armed SROs has completely failed to provide any additional security to students and teachers when they are faced with an armed assailant.<sup>21</sup> An FBI study of active shooter incidents in the United States between 2000 and 2013 showed that, of the twenty-five active shooter events in schools, none was brought to an end by armed staff, guards, or police officers returning fire.<sup>22</sup> Instead, these shootings were most commonly ended when the shooter was restrained by unarmed staff or when the shooter committed suicide.<sup>23</sup> Shootings involving a single victim typically begin and end very quickly and thus are unlikely to be stopped through an intervention of an armed SRO or another armed individual. Preventing such shootings involves limiting the ability of a shooter to bring a firearm into a school, onto a school bus, or to a school-related activity in the first place.

The most recent event at Robb Elementary School in Uvalde serves as further evidence that the presence of armed law enforcement in a school does not necessarily lead to a reduction in firearm deaths.<sup>24</sup> The fact that so many

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<sup>16</sup> Kalyn Belsha, *Some School Districts are Cutting Ties with Police. What’s Next?*, CHALKBEAT, (June 9, 2020), <https://www.chalkbeat.org/2020/6/9/21285709/some-school-districts-are-cutting-ties-with-police-whats-next>.

<sup>17</sup> *Id.*

<sup>18</sup> Maria Mendez, *Almost 100 Texas School Districts Have Added Their Own Police Departments Since 2017, but Not Everyone Feels Safer*, TEX. TRIB. (June 15, 2022), <https://www.texastribune.org/2022/06/15/uvalde-school-officers-texas-shootings/>.

<sup>19</sup> *Which States Allow Teachers to Carry Concealed*, USCCA (May 29, 2022), <https://www.usconcealedcarry.com/blog/which-states-allow-teachers-to-carry-concealed/>.

<sup>20</sup> Alex Yablon, *Do Armed Guards Prevent School Shootings?*, THE TRACE (Apr. 6, 2019), <https://www.thetrace.org/2019/04/guns-armed-guards-school-shootings/>.

<sup>21</sup> Jillian Peterson et. al., *Presence of Armed School Officials and Fatal and Nonfatal Gunshot Injuries During Mass School Shootings, United States, 1980-2019*, J. AM. MED. ASS., Feb. 2021, at 3.

<sup>22</sup> Yablon, *supra* note 20.

<sup>23</sup> *Id.*

<sup>24</sup> Amy Rock, *Uvalde Preliminary Report Details ‘Systemic Failures’ in School Shooting Response*, CAMPUS SAFETY (Jul. 18, 2022), <https://www.campusafetymagazine.com/safety/uvalde-shooting-preliminary-report/>.

well-armed and shielded officers could be present just yards from an active shooter for over seventy minutes without that shooter being challenged or neutralized is the starkest testament to the futility of relying solely on reactive measures.<sup>25</sup>

One study on the effectiveness of school-based law enforcement, conducted over a forty-year period, concluded that there is “very little rigorous evaluative research” on whether police presence increases school safety.<sup>26</sup> However, based on the limited evidence that exists to date, the study found that the data “fails to support a school safety effect” of having law enforcement in schools.<sup>27</sup>

*ii. Active Shooter Drills*

Another consequence of the misperception that schools are the most dangerous places for our children has been the increased reliance on active shooter and lockdown drills. While it may seem wise to train students how to react in the event of an active shooter event, of 130,930 K-12 schools, only 114 have experienced a fatal shooting in the ten years from 2009 to 2018.<sup>28</sup> Only eight of those shootings involved an untargeted mass shooting with four or more victims killed or injured; in four of those shootings, four or more victims were killed.<sup>29</sup> It is necessary to conduct drills to ensure that students follow instructions from teachers and staff in the event of any kind of emergency; however, the aspects of the drills that involve the students themselves need to be carefully designed to minimize the mental trauma that such drills may create, and to ensure that the drills are limited and age appropriate.<sup>30</sup>

In the course of these drills, some schools hired actors who brandished fake guns and fired blanks.<sup>31</sup> In some cases, students were even given fake blood to simulate reality.<sup>32</sup> While such realism may be appropriate for older

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<sup>25</sup> *See id.*

<sup>26</sup> ALEXIS STERN AND ANTHONY PETROSINO, WHAT DO WE KNOW ABOUT THE EFFECTS OF SCHOOL-BASED LAW ENFORCEMENT ON SCHOOL OR SAFETY? 3 (2018), [www.wested.org/wp-content/uploads/2018/04/JPRC-Police-Schools-Brief.pdf](http://www.wested.org/wp-content/uploads/2018/04/JPRC-Police-Schools-Brief.pdf).

<sup>27</sup> *Id.*

<sup>28</sup> Helen Vlasova, *How Many Schools Are in the U.S (Statistics & Facts) – 2022*, ADMISSIONSLY (May 29, 2022), <https://admissionsly.com/how-many-schools-are-there/>; *10 years. 180 school shootings. 356 victims.*, CNN, <https://www.cnn.com/interactive/2019/07/us/ten-years-of-school-shootings-trnd/#storystart> (last visited Aug. 24, 2022).

<sup>29</sup> *10 years. 180 school shootings. 356 victims.*, CNN, <https://www.cnn.com/interactive/2019/07/us/ten-years-of-school-shootings-trnd/#storystart> (last visited Aug. 24, 2022)

<sup>30</sup> *The Impact of Active Shooter Drills in Schools*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND (Sep. 3, 2020), <https://everytownresearch.org/report/the-impact-of-active-shooter-drills-in-schools/> (last updated Dec. 29, 2021).

<sup>31</sup> Nona Willis Aronowitz, *Fake Blood and Blanks: Schools Stage Active Shooter Drills*, NBC NEWS (Feb. 14, 2014), <https://www.nbcnews.com/news/us-news/fake-blood-blanks-schools-stage-active-shooter-drills-n28481>.

<sup>32</sup> *Id.*

students, it most certainly is not appropriate for younger students, who may have problems differentiating between what is acting and what is real.<sup>33</sup> Certainly, it is absolutely necessary for teachers and staff to be adequately trained in proper procedures in response to an active shooter as well as in response to any other life threatening emergency, such as fires and tornadoes. However, it may not be as helpful for students to be exposed to such an unnecessarily terrifying experience. The potential value of the drills for students in schools that experience a threat must be weighed against the traumatic effect on all students exposed to these drills in every single school. Additionally, since 90% of school shooters are current or former students, virtually all of the shooters would have gone through the school's drills themselves and would be aware of all safety protocols and hiding places.<sup>34</sup>

### *iii. Threat Assessment Teams*

A positive outcome of the misconception regarding the danger in schools has been the development of Threat Assessment Teams, comprised of teachers, staff, law enforcement, and, in some cases, school security experts.<sup>35</sup> These teams evaluate individual schools and look at various factors that might increase or decrease the vulnerability of a school during an active shooting, as well as during fires, tornados, bullying, and other forms of violence or perceived threats.<sup>36</sup> Threat Assessment Teams evaluate the structure of a school for number of entry and egress points; the presence of locks on the inside of classroom doors; the number, condition, and placement of fire alarms; and many other structural issues.<sup>37</sup> They also evaluate procedures in place to screen people entering the school and the level of training and awareness of personnel over emergency response training.<sup>38</sup> Threat assessment evaluations and reports can demonstrate deficiencies in many areas and allow the school staff to take corrective action to limit risk well in advance of the

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<sup>33</sup> Anya Kamenetz, *2 Big Teachers Unions Call For Rethinking Student Involvement In Lockdown Drills*, NPR NEWS (Feb. 11, 2020), <https://www.npr.org/2020/02/11/804468827/2-big-teachers-unions-call-for-rethinking-student-involvement-in-lockdown-drills>.

<sup>34</sup> George S. Everly, "Profiling" School Shooters, PSYCHOLOGY TODAY (Mar. 29, 2018), <https://www.psychologytoday.com/us/blog/when-disaster-strikes-inside-disaster-psychology/201803/profiling-school-shooters>.

<sup>35</sup> MARY ELLEN O'TOOLE, THE SCHOOL SHOOTER: A THREAT ASSESSMENT PERSPECTIVE 5 (Arnold R. Isaacs, 2009).

<sup>36</sup> ROBERT A. FEIN ET AL., THREAT ASSESSMENT IN SCHOOLS: A GUIDE TO MANAGING THREATENING SITUATIONS AND TO CREATING SAFE SCHOOL CLIMATES 37 (U.S. Secret Service & U.S. Dep't. of Educ. 2004).

<sup>37</sup> Randy Borum et al., *What Can Be Done About School Shootings? A Review of the Evidence*, EDUCATIONAL RESEARCHER, Jan.—Feb. 2010, at 27, 28.

<sup>38</sup> GENE DEISINGER, THREAT ASSESSMENT IN VIRGINIA PUBLIC SCHOOLS: MODEL POLICIES, PROCEDURES, AND GUIDELINES 2 (2d ed., 2016).



presence of an imminent threat.<sup>39</sup>

*B. Potential Causes of Misconceptions About School Shootings*

*i. Conflicting Motivations of Legislators*

For a better understanding of why misconceptions about the reality of risk continue to dominate legislative efforts, it is helpful to examine the stated motivations of the legislators and gun rights groups that support the emphasis on reactive over preventive measures. Legislators who introduce bills in Virginia to increase emphasis on armed security in schools through an enhancement of the SRO system often say that they are doing so out of a genuine concern for the safety of children in schools.<sup>40</sup> However, these same legislators routinely vote against legislative proposals designed to reduce the much greater incidence of firearm deaths of minors in locations other than schools.<sup>41</sup>

One possible explanation for this inconsistency is that some of these legislators believe the theory that any location where civilian-owned firearms are not allowed are the most frequently targeted locations for mass shootings, despite the fact that studies have shown this theory to be incorrect.<sup>42</sup> In fact, “Gun Free Zones” are not targeted as often as areas where armed police are present, or where civilian-owned firearms are present and relatively unregulated.<sup>43</sup> This particular misconception highlights the fact that gun rights groups, which lobby in Virginia in favor of more guns in schools, have the elimination of “Gun Free Zones” as a primary objective.<sup>44</sup>

Gun rights groups themselves have assisted with legislative attempts to

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<sup>39</sup> *Threat Identification and Assessment Programs in Schools*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND, <https://www.everytown.org/solutions/threat-identification-and-assessment/> (last visited Sep. 5, 2022).

<sup>40</sup> Allison Bazzle, *Virginia House Passes Bill to Have SRO in Every School; Senate to Now Consider Measure*, 13NEWS NOW (Feb. 21, 2022), <https://www.13newsnow.com/article/news/education/virginia-school-resource-officers-sro-law/291-2ae970b0-3344-4c23-b4ea-17fc19de8072> (last updated Feb. 21, 2022).

<sup>41</sup> Mychael Schnell, *House Passes Sweeping Gun Package in Largely Party-line Vote*, THE HILL (June 8, 2022), <https://thehill.com/homenews/house/3516681-house-passes-sweeping-gun-package-in-largely-party-line-vote/>.

<sup>42</sup> Mark Follman, Gavin Aronsen & Deanna Pan, *US Mass Shootings, 1982–2022: Data From Mother Jones’ Investigation*, THE HILL, <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/> (last updated July 17, 2022).

<sup>43</sup> Meg Kelly, *Do 98 Percent of Mass Public Shootings Happen in Gun-free Zones?*, WASH. POST (May 10, 2018), <https://www.washingtonpost.com/news/fact-checker/wp/2018/05/10/do-98-percent-of-mass-public-shootings-happen-in-gun-free-zones/>.

<sup>44</sup> Jackie DeFusco, *Bills To Reverse Gun Control Shot Down In Virginia Senate*, WRIC ABC 8NEWS (Jan. 26, 2022), <https://www.wric.com/news/bills-to-reverse-gun-control-shot-down-in-virginia-senate/>; Michael Pope, *Should Virginia teachers be allowed to bring guns into the classroom?*, WVTF (Aug. 4, 2022), <https://www.wvtf.org/news/2022-08-04/should-virginia-teachers-be-allowed-to-bring-guns-into-the-classroom>.

allow private individuals such as local gun owners or armed parents to patrol schools in order to defend against active shooters rather than relying on SROs, whom they feel would simply become first targets due to recognizability of their uniforms. One recent study of the relationship between the number of firearm fatalities in school shootings and the presence of armed guards shows that the rate of death was 2.83 times greater in schools with an armed guard present.<sup>45</sup> While there is no evidence that SROs are the first targets for school shooters, this study shows that death rates in school shootings are actually higher in schools where armed guards are present.

*ii. Lack of Research*

Misconceptions about the true nature and extent of gun violence can arise from the relative lack of sound research into this subject over the last forty years. One cause of this dearth of research is the 1996 Dickey amendment, which ended federal funding for gun violence research by including a provision in annual appropriations legislation.<sup>46</sup> Although the provision prohibited the use of federal funds to “advocate or promote gun control,” the amendment effectively put an end to all Centers for Disease Control (CDC) studies related to gun violence.<sup>47</sup> Even private funding for academic research into the public health aspect of gun violence decreased.<sup>48</sup> This lack of information created an environment where misinformation and deliberate deception could flourish. In 2011, the amendment was extended to cover the National Institutes of Health (NIH); however, in 2012, then-President Obama directed the CDC not to interpret the Dickey Amendment as a complete ban on federal funding of gun violence research.<sup>49</sup> Nevertheless, decades of possible research opportunities had been lost by that time.

### III. 2022 VIRGINIA LEGISLATION

The majority of the eighty-five firearms related bills introduced in 2022 in Virginia were intended to repeal or weaken the many advances in gun

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<sup>45</sup> JILLIAN PETERSON ET AL., PRESENCE OF ARMED SCHOOL OFFICIALS AND FATAL AND NONFATAL GUNSHOT INJURIES DURING MASS SCHOOL SHOOTINGS, UNITED STATES, 1980-2019, at 3 (Frederick P. Rivara et al. eds., Vol. 4 No.2 2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2776515>.

<sup>46</sup> Allen Rostron, *The Dickey Amendment on Federal Funding for Research on Gun Violence: A Legal Dissection*, 108 (7) AM. J. PUB. HEALTH 865, 865-66 (2018).

<sup>47</sup> *Id.*

<sup>48</sup> ACCESS DENIED: HOW THE GUN LOBBY IS DEPRIVING POLICE, POLICY MAKERS, AND THE PUBLIC OF THE DATA WE NEED TO PREVENT GUN VIOLENCE, MAYORS AGAINST ILLEGAL GUNS, 15-16 (Jan. 2013).

<sup>49</sup> Rostron, *supra* note 46, at 866.

violence prevention laws that had been passed in 2020 and 2021.<sup>50</sup> All of these bills failed to reach the governor's desk after being defeated in various committees.<sup>51</sup> Of note, the largest number of repeal bills originated in the House of Delegates, the majority of which were diverted by the Speaker from their usual committee assignments and placed in the Rules Committee, which the Speaker chairs.<sup>52</sup> None of these bills was afforded a hearing (with the exception of House Bill 509 which was re-referred to the Public Safety Committee), as the Speaker never put them on an agenda.<sup>53</sup> The repeal bills that were discussed and passed the House on a narrow party line vote were all defeated in the Senate Judiciary Committee.<sup>54</sup> The second largest group of bills dealt with "school security" issues. The remainder of this section will examine six proposals in particular.

*A. House Bill 8, Del. Timothy V. Anderson (R) Defeated in the Senate*

This bill would have allowed certain military veterans who had been on active duty for ten years and honorably discharged in the last ten years to become SROs. This would have allowed them to carry firearms in schools with the intent of providing security in the event of a shooting.<sup>55</sup> The bill would also have allowed SROs to perform other tasks within schools not related to armed security.<sup>56</sup> The bill language was amended in committee to specifically exempt enforcement of discipline from the other tasks an SRO could perform.<sup>57</sup>

Another amendment allowed retired or resigned police officers to become SROs, in addition to the active law enforcement officers who currently qualify to be SROs.<sup>58</sup> The amended bill passed the house 52-46, but was defeated

<sup>50</sup> Kathryn Byler, *New Laws in Virginia Effective July 1, 2022 and Highlights of Other Proposed Bills*, PENDER & COWARD (June 20, 2022), <https://www.pendercoward.com/resources/blog-opinions-and-observations/new-laws-in-virginia-effective-july-1-2022-and-highlights-of-other-proposed-bills/>; *Virginia: Pro-Gun Bills Filed to Erase Anti-Gun Experiment*, NRA-ILA (Jan. 26, 2022) <https://www.nra.org/articles/20220126/virginia-pro-gun-bills-filed-to-erase-anti-gun-experiment>.

<sup>51</sup> DeFusco, *supra* note 44.

<sup>52</sup> David Cross, *Virginia Democrats Halt GOP Bills on Gun Laws, Clean Energy*, ABC13NEWS (Mar. 2022), <https://wset.com/news/local/virginia-senate-democrats-halt-gop-republican-house-of-delegates-bills-on-gun-laws-clean-energy-labor-agreements-march-2-2022>.

<sup>53</sup> *Virginia House of Delegates Committee Agendas, Rules Committee* (Feb. 3, 2022), <https://virginiageneralassembly.gov/house/agendas/agendaItem.php?id=3267&ses=22>.

<sup>54</sup> See DeFusco, *supra* note 44; See e.g. *SB 330 Carrying a Concealed Handgun; Permit Not Required*, LIS (Jan. 26, 2022), <http://leg1.state.va.us/cgi-bin/legp504.exe?221+sum+SB330> (documenting one such bill that was defeated in the Senate Judiciary Committee).

<sup>55</sup> H.D. 8, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* (as amended by H. Educ. K-12 Subcomm. Jan. 18, 2022).

<sup>58</sup> *Id.*

in the Senate Rules Committee by a vote of 13-3.<sup>59</sup> This approach appears to rely on the assumption that military training and combat experience in a war environment is somehow directly applicable to school security.<sup>60</sup>

*B. House Bill 12, Del. Timothy V. Anderson (R) Tabled in the House*

This bill would have required all school boards to “limit to the lowest feasible number the entry points in each public school building in the local school division” and to ensure that “each individual who seeks to enter any school building in the local school division is screened with a handheld metal detector wand by a school security officer or another appropriate school board employee.”<sup>61</sup>

The bill was tabled in the House Education Committee by a vote of 6-0.<sup>62</sup> Since large numbers of students, staff, and teachers would be entering a school in a relatively narrow window of time, the process of manually screening each individual would inevitably cause delays and build ups of people outside the school waiting to enter. Since current Virginia law allows the presence of firearms in school driveways and parking lots, this proposal could have backfired by further assisting a potential assailant, offering a target-rich environment for anyone who wanted to perpetrate a mass shooting.<sup>63</sup> Additionally, the bill’s efficacy was challenged by the fact that some schools that have installed magnetometers in entry points have still been the target of school shooters who entered the school when the equipment was not turned on.<sup>64</sup>

*C. House Bill 133, Del. Mike A. Cherry (R) Failed to be heard in committee*

This bill would have excepted child daycare centers and religious pre-schools from the penalty for “possession of firearm, stun weapon, or other weapon on school property” under 18.2-308.1.<sup>65</sup> The genesis of this bill and why the patron thought that there should be no penalty for possession of

<sup>59</sup> *HB 8 School Security Officers; Scope of Employment, Certain Veterans Permitted to Carry*, LIS (Jan. 25, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV0034+HB0008>; *HB 8 School Security Officers; Scope of Employment, Certain Veterans Permitted to Carry*, LIS (Mar. 4, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+S10V0077+HB0008>.

<sup>60</sup> See Mary A. Lentz, *Safety, Security, Crisis-intervention, and Disaster Plans—U.S. Department of Justice Emergency Preparedness Guidance*, LENTZ SCHOOL SECURITY § 6:4 (2021-2022 ed.), Westlaw (discussing the U.S. Department of Justice’s stance that former military and law enforcement are effective School Resource Officers).

<sup>61</sup> H.D. 12, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>62</sup> *HB 12 Public School Buildings; Limits Entry Points, Screening Individuals*, LIS (Jan. 18, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H0901V0004+HB0012>.

<sup>63</sup> See VA. CODE ANN. § 22.1-131.1 (2021).

<sup>64</sup> Jaclyn Schildkraut & Kathryn Grogan, *Are Metal Detectors Effective at Making Schools Safer?*, WESTED JUSTICE & PREVENTION RSCH. CTR., [https://cdpsdocs.state.co.us/ccjj/Resources/Ref/2019\\_MetalDetectorsSchools.pdf](https://cdpsdocs.state.co.us/ccjj/Resources/Ref/2019_MetalDetectorsSchools.pdf).

<sup>65</sup> VA. CODE ANN. § 18.2-308.1 (2020).

dangerous weapons around younger children was not clear. The bill was left unheard in the House Rules committee.<sup>66</sup>

*D. House Bill 37, Del. Timothy V. Anderson (R) Failed to be heard in committee*

This bill would have required “each school board to enter into a collaborative agreement with the local law-enforcement agency to employ at least one school resource officer in each public middle and high school in the local school division and at least one school resource officer per five public elementary schools in the local school division, who is required to serve in each such elementary school on a rotating basis.”<sup>67</sup> The bill was left unheard in the House Education Committee.<sup>68</sup> The Senate companion bill, Senate Bill 415 of Sen. Bill DeSteph (R) failed to report by a vote of 4-11.<sup>69</sup> Currently, Virginia school boards have the option of establishing an SRO presence in schools in coordination with local law enforcement agencies.<sup>70</sup> School boards should not be forced to establish such programs, especially if they have weighed the potential advantages and disadvantages discussed earlier, and have chosen not to use SROs.

*E. House Bill 873, Del. Karen S. Greenhalgh (R) Passed in amended form*

This bill took a similar approach to House Bill 37; however, it did not mandate that all schools must have at least one SRO.<sup>71</sup> Schools that chose to have an SRO would need to include that person on their “Threat Assessment Team,” whereas schools without an SRO would have a trained officer assigned by the chief local law enforcement office to act as a law enforcement liaison for the school administrator.<sup>72</sup> The bill was passed and signed by the Governor as an Act of Assembly #0769, which went into effect on July 1, 2022.<sup>73</sup>

*F. Northam’s Budget Amendment Proposal*

A new idea proposed by then-Governor Northam was the creation of the

<sup>66</sup> *Vote on H.B. 133: Firearms or Other Weapons; Possession on School Property*, Va. Gen. Assemb. (Feb. 15, 2022).

<sup>67</sup> H.D. 37, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>68</sup> H.D. 37, 2022 Sess. (Va. 2022)

<sup>69</sup> S. 415, 2022 Sess. (Va. 2022)

<sup>70</sup> See VA. DEP’T OF CRIMINAL JUSTICE SYS., VIRGINIA SCHOOL LAW ENFORCEMENT PARTNERSHIP GUIDE 10-12 (2017) <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/virginia-school-law-enforcement-partnership-guide.pdf>.

<sup>71</sup> VA. CODE ANN. §§ 9.1-184, 22.1-79.4, 22.1-280.2:3 (2022).

<sup>72</sup> *Id.* at §§ 22.1-79.4, 22.1-280.2:3.

<sup>73</sup> *Id.* at §§ 9.1-184, 22.1-79.4, 22.1-280.2:3; *Notable New State Laws Effective July 1, 2022*, FAIRFAX COUNTY NEWSCENTER (June 6, 2022), <https://www.fairfaxcounty.gov/news/notable-new-state-laws-effective-july-1-2022>.

Virginia Center for Firearm Violence Intervention and Prevention Fund, which had a proposed budget of \$27 million for the biennium 2022-23.<sup>74</sup> The concept was supported by Senate Bill 487 of Sen. Jennifer McClellan (D) and House Bill 825 of Del. Marcia S. Price (D). The objectives of the center included the creation of a single agency responsible for researching gun violence in Virginia, the funding of violence intervention programs at the local and state levels, and the creation of a center to act as a clearing house for the collection and study of all gun violence-related data generated by the many different state and local agencies that collect such data.<sup>75</sup> Having a single source for reliable, factual data on gun violence in Virginia would allow the Commonwealth and its legislators to more accurately craft legislation aimed at reducing firearm deaths and injuries from homicides, suicides, and accidents.

This center could have reduced gun violence of all kinds, including gun violence involving minors. The House version was tabled by a vote of 12-10 in the House Public Safety Committee, but the Senate version passed the Senate with a floor vote of 24-16.<sup>76</sup> However, the House Public Safety Committee substituted the entire bill language with language from a very different bill: House Bill 833 of Del. Tony O. Wilt (R), which simply funded a single intervention program based on the old Project Ceasefire program and administered by the Attorney General's office, which passed the House in substituted form 61-38.<sup>77</sup> The Senate insisted on its original language, the House refused, and the bill was sent to a Committee of Conference.<sup>78</sup> Despite lengthy discussions, neither side could agree on a compromise and the bill was finally carried over to 2023 in the 2022 special session.<sup>79</sup> Despite these difficulties, the budgeted amount of \$13 million was not removed from the final annual budget, which was approved and signed by Governor Youngkin.<sup>80</sup>

After lengthy discussions between the House and Senate negotiators, a compromise to the language in the budget, which determined how this money

<sup>74</sup> H.D. 30, 2022 Spec. Sess. I (Va. 2022).

<sup>75</sup> H.D. 825, 2022 Sess. (Va. 2022); S.B. 487, 2022 Sess. (Va. 2022).

<sup>76</sup> *SB 487 Firearm Violence Intervention and Prevention, Virginia Center; Established.*

<sup>77</sup> H.D. 833, 2022 Sess. (Va. 2022).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *See Center for Gun Violence Solutions Commends Virginia General Assembly for Allocating a Fund for Gun Violence*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH (June 23, 2022), <https://publichealth.jhu.edu/2022/center-for-gun-violence-solutions-commends-virginia-general-assembly-for-allocating-a-fund-for-gun-violence-prevention> (celebrating Governor Youngkin's passage of the 2022-2023 Virginia budget, which included funding for the new Virginia Firearm Violence & Prevention Fund initially proposed by Governor Northam).

would be spent, was agreed upon.<sup>81</sup> The attorney general's office would receive the money, \$5 million of which would be spent on the intervention program modeled on Project Ceasefire, while the rest would be used to fund violence intervention programs at the state and local level.<sup>82</sup> Since data collection and analysis were not included in the budget language, the potential benefits of helping legislators craft carefully targeted laws to reduce gun violence based on the true nature of violence in the Commonwealth rather than on misconceptions of what is actually taking place, will not be realized.<sup>83</sup> While this funding has the potential to reduce gun violence in Virginia overall, the effect of gun violence against minors will not be a primary focus.

#### IV. POSSIBLE FUTURE LEGISLATION

In the 2022 General Assembly session, House Bill 590 of Del. Schyler VanValkenburg (D) sought to create a penalty for careless storage of a firearm in a home where a minor is present.<sup>84</sup> The penalty would have been a Class 1 misdemeanor only, which would not lead to the loss of firearms ownership.<sup>85</sup> Additionally, exceptions were made for firearms which were under the immediate possession of the owner.<sup>86</sup> This "Safe Storage" bill was based partly on the fact that the majority of school shooters obtain their weapon from their home or the home of a friend or relative.<sup>87</sup> It was also designed to reduce the incidence of firearm suicide by minors as well as accidental shootings in the home.<sup>88</sup> The bill was defeated in the House Public Safety Subcommittee #1 on a party line 6(R)-4(D) vote.<sup>89</sup>

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<sup>81</sup> Graham Moomaw & Sarah Vogelsong, *After Months of Wrangling, Virginia Has a Budget Deal. What's in It?*, VA. MERCURY (June 1, 2022), <https://www.virginiamercury.com/2022/06/01/after-months-of-wrangling-virginia-has-a-budget-deal-whats-in-it/>.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> H.D. 590, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>85</sup> *See id.*

<sup>86</sup> *Id.*

<sup>87</sup> *How to Stop Shootings and Gun Violence in Schools*, EVERYTOWN RSCH. & POL'Y (Aug. 19, 2022), <https://everytownresearch.org/report/how-to-stop-shootings-and-gun-violence-in-schools/>; *See also* U.S. SECRET SERVICE NATIONAL THREAT ASSESSMENT CENTER, PROTECTING AMERICA'S SCHOOLS: A U.S. SECRET SERVICE ANALYSIS OF TARGETED SCHOOL VIOLENCE 4 (2019), [https://www.secretservice.gov/sites/default/files/2020-04/Protecting\\_Americas\\_Schools.pdf](https://www.secretservice.gov/sites/default/files/2020-04/Protecting_Americas_Schools.pdf).

<sup>88</sup> Public Safety Subcommittee #1, Va. Gen. Assemb. (Feb. 3, 2022), <https://sg001-harmony.sliq.net/00304/Harmony/en/PowerBrowser/PowerBrowserV2/20220215/-1/14210#info>. *See also* Gun Safety, CHILD CARE AWARE OF VIRGINIA, <https://vachildcare.com/safety-resources/gun-safety/> (last visited Aug. 27, 2022) (explaining that proper gun storage alone can prevent accidental gun deaths in children).

<sup>89</sup> *House: Subcommittee Recommends Passing By Indefinitely (6Y 4N)*, LIS (Feb. 3, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H1501V0017+HB0590>.

Some argue no penalty is needed, since commonwealth attorneys currently have the option of charging a gun owner who allows a minor to access firearms resulting in death or injury with “reckless endangerment.”<sup>90</sup> However, the specific language of the law is: “Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life.”<sup>91</sup> This language is not obviously applicable to negligent actions, such as leaving a firearm within easy reach of a minor, since it requires willful action.<sup>92</sup> The other option said to be available uses existing code section § 18.2-56.1. Reckless handling of firearms; reckless handling while hunting; however, the language of this section refers to “handling” by the individual in possession of the firearm, not the fact that the owner of the firearm failed to safely store it.<sup>93</sup>

Another area where legislation could reduce the rates of firearm death and injury to minors, especially in mass shooting situations, would be by banning the sale of high velocity, semi-automatic rifles commonly referred to as “assault rifles,” or “modern sporting rifles.”<sup>94</sup> These weapons cause devastating injuries to gunshot victims and are especially lethal to younger children with smaller body mass.<sup>95</sup> When assault rifles are used against children, fewer survivable injuries result and fatalities increase.<sup>96</sup> Banning the sale of this type of firearm, or limiting the minimum age of possession of such weapons to people over twenty-eight, would have a significant effect on mass shootings, especially those carried out by adolescent or young adult shooters. The ability to fire large numbers of rounds before needing to reload also leads to higher rates of death and injury as there is less time available for potential victims

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<sup>90</sup> VA. CODE ANN. § 18.2-371.1(B)(1) (2022).

<sup>91</sup> *Id.*

<sup>92</sup> *See id.*

<sup>93</sup> *Id.* at § 18.2-56.1(A).

<sup>94</sup> *See* Jeff Daniels, *Definition of What's Actually an 'Assault Weapon' is a Highly Contentious Issue*, CNBC (Feb. 21, 2018), <https://www.cnbc.com/2018/02/21/definition-of-whats-an-assault-weapon-is-a-very-contentious-issue.html> (defining an assault weapon as “an automatic firearm that has not been rendered permanently inoperable, a semi-automatic firearm capable of accepting a detachable magazine with the capacity to accept ten or more cartridges, and a semi-automatic firearm with a fixed magazine with the capacity to accept ten or more cartridges”); *See also* *Modern Sporting Rifle: the Facts*, NSSF, <https://www.nssf.org/msr/#:~:text=The%20term%20%E2%80%9Cmodern%20sporting%20rifle,enjoy%20going%20to%20the%20range> (last visited Aug. 20, 2022) (defining “today’s very popular semi-automatic rifle designs, including the AR-15 and similar variants” as “modern sporting rifle[s]”).

<sup>95</sup> Emma Bowman & Ayana Archie, *This Is How Handguns and Assault Weapons Affect the Human Body*, NPR (June 6, 2022) <https://www.npr.org/2022/06/06/1103177032/gun-violence-mass-shootings-assault-weapons-victims>.

<sup>96</sup> *See id.*



to disperse or seek cover.<sup>97</sup>

In addition to possible legislation, there are measures schools themselves can take. While relying solely on armed guards may not be the most effective response to school shootings, there is a body of evidence that shows which preventive measures are more likely to keep students safe in schools.<sup>98</sup> The study mentioned above listed four approaches that do work in schools, including focusing on social-emotional development; fostering strong relationships among students, parents, and teachers; utilizing school-based mental health providers; and employing restorative justice programs.<sup>99</sup>

### CONCLUSION

School-age minors in the United States face a rate of firearm deaths that is many times higher than that of twenty-three other high-income nations.<sup>100</sup> The safety of children is one of the primary responsibilities of our government. Unless we as a nation face up to the realities of who, where, when, why, and how children are being killed with firearms, we will never be able to take the most effective actions necessary to reduce this terrible toll, and future generations of American children will be sentenced to pay the ultimate price for our ignorance and indifference.

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<sup>97</sup> A ban on the sale of high capacity magazines for handguns would also be necessary to prevent potential shooters from simply switching their weapon of choice from a rifle to a handgun. See *Large Capacity Magazines*, Giffords L. Ctr., <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-amunition/large-capacity-magazines/>, (last visited Aug. 27, 2022).

<sup>98</sup> *How To Stop Shootings and Gun Violence in Schools*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND (Aug. 19, 2022), <https://everytownresearch.org/report/how-to-stop-shootings-and-gun-violence-in-schools/>.

<sup>99</sup> Humera Nayeb & Amy Meek, *What the Research Shows: The Impact of School Resource Officers*, CHI. LAW. COMM. FOR CIV. RIGHTS (June 23, 2020) <https://www.clccrul.org/blog/2020/6/23/research-sros>.

<sup>100</sup> *On Gun Violence, the United States Is an Outlier*, THE INST. FOR HEALTH METRICS AND EVALUATION (May 31, 2022), <https://www.healthdata.org/acting-data/gun-violence-united-states-outlier>.