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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/13

SPONSOR Neville LAST UPDATED _____ HB _____

SHORT TITLE Threatening School Violence Act SB 548

ANALYST Jorgenson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General’s Office (AGO)
 Children, Youth, and Families Department (CYFD)
 Department of Public Safety (DPS)
 New Mexico Corrections Department (NMCD)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Bill 548 (SB 548) enacts the “Threatening School Violence Act,” providing for the misdemeanor crime of threatening school violence and the fourth degree felony crime of aggravated threatening school violence.

Under SB 548, a person commits threatening school violence when:

- the person knowingly communicates a threat to commit an unlawful act involving a deadly weapon while on the property of a public or private school or institution of higher education; and
- the person either intends to commit the unlawful act, intends that any student or employee of the school or institution be placed in fear of being a victim of the threatened unlawful act, or has committed an act or pattern of conduct that would, taken together with the threat, place a reasonable person in fear of being a victim of the threatened unlawful act.

The bill provides that aggravated school violence consists of:

- a second or subsequent offense of threatening school violence;
- threatening school violence when the defendant intends to commit the threatened unlawful act, has the means to commit the threatened act and takes a substantial step in preparation to commit the unlawful act; or
- threatening school violence when the defendant intentionally causes substantial disruption of the educational process.

SB 548 provides that when there is probable cause to believe that a child has committed the offense of threatening school violence, the child may be taken into custody and delivered to a CYFD licensed detention facility where the child shall be detained, following compliance with notification requirements set out in Section 32A-2-10(D) NMSA 1978 and pending a detention hearing pursuant to Section 32A-2-13 NMSA 1978.

FISCAL IMPLICATIONS

The fiscal impact in the table reflects the analysis provided by the AGO which states that current statutes cover the behavior covered by the bill and therefore there is not likely to be additional significant fiscal impact.

SIGNIFICANT ISSUES

The AGO has stated that there are several current statutes in place that deal with similar subject matter. Section 30-3A-2 criminalizes harassment, criminalizing the “knowing pursuit of a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.” Section 30-3-9(B)(2) declares that an assault upon a school employee occurs when “any unlawful act, threat or menacing conduct which causes a school employee while he is in the lawful discharge of his duties to reasonably believe that he is in danger of receiving an immediate battery.” Finally, Section 30-20-16 deals with bomb scares, such that one who “falsely and maliciously states to another person that a bomb or other explosive has been placed in such a position that property or persons are likely to be injured or destroyed” is guilty of a fourth-degree felony. This bill, while somewhat duplicitous to current statutes, is more narrow in its scope and breadth.

OTHER SUBSTANTIVE ISSUES

The CYFD reports that According to the National Center for Education Statistics, the average number of students threatened or actually injured with a weapon on school property has remained stable since 1993 at around 7.5 percent, peaking briefly in 2003 to 9.3 percent. In New Mexico for years 2005 and 2007, those percentages 10.4 percent and 10.1 percent. For comparison, the number of teachers who reported that a student threatened them has been in decline since 1993: as of 2009, that percentage was 7.5 percent. In New Mexico, the percentage for 2009 was the same as for 1993: 12.8 percent. It would appear that there are no significant changes in the number of threats being delivered, merely in the number being reported by the news media.