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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**55th Legislature, 1st Session, 2021**

<b>Bill Number</b>	<u>SB248</u>	<b>Sponsor</b>	<u>Neville</u>
<b>Tracking Number</b>	<u>.218860.2</u>	<b>Committee Referrals</b>	<u>SEC/SJC/SFC</u>
<b>Short Title</b>	<u>Anonymous Reporting in Schools</u>		
<b>Analyst</b>	<u>Juliani</u>	<b>Original Date</b>	<u>2/7/2021</u>
		<b>Last Updated</b>	<u>2/11/2021</u>

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**BILL SUMMARY**

Synopsis of Bill

Senate Bill 248 (SB248) enacts a new section of the Public School Code requiring the Public Education Department (PED), in collaboration with local law enforcement, school districts, charter schools, and other agencies, to develop and implement in every public school a statewide, school-specific “anonymous reporting program” to report harmful activity that has occurred, is occurring, or may occur at school or that involves a school employee or student. The bill requires each school district and charter school to submit annual reports on the number of anonymous tips received and responses made. SB248 defines harmful activity as “any dangerous, violent, threatening or otherwise harmful activity that has occurred, is occurring or may occur at a public school or other school property or when such activity involves a school employee or a student.”

**FISCAL IMPACT**

SB248 contains no appropriations. If the bill were enacted, PED would be required to develop or purchase a program to allow for anonymous reporting, including a statewide searchable database, hotline, multilingual crisis center, website, and mobile phone application. SB248 indicates PED must apply for federal and private grants and may accept gifts and donations to offset costs associated with the development and implementation of the program.

SB248 will also involve a fiscal impact for school districts and charter schools with the requirement to provide training in the anonymous reporting program for students and program users.

According to analysis from the Children, Youth and Families Department (CYFD), CYFD cannot absorb the fiscal impact of its required collaboration with existing resources, and the bill does not authorize CYFD to seek funding to address this impact.

## SUBSTANTIVE ISSUES

Studies have linked risky student behaviors to poorer physical and mental health and academic outcomes and lifelong negative consequences. Surveys from the Centers for Disease Control and Prevention have found 45 percent of students with mostly D/F as grades reported being involved in a physical fight at least once during the prior 12 months, compared with only 15 percent of students who earned mostly As. However, such data has only been able to find a correlation between engagement in risky behaviors and poorer outcomes not necessarily a causal relationship. Further research is needed to determine whether higher grades in school lead to fewer risk behaviors, if fewer risk behaviors lead to higher grades, or if some other factors lead to these behaviors.

The New Mexico Youth Risk and Resiliency Survey (YRRS), a bi-annual survey of public high school and middle school students administered by PED and the Department of Health, asks students to respond to questions about risk behaviors, including those contributing to unintentional injury and associated with violence and mental health status; suicidal ideation and suicide attempts; alcohol, tobacco and drug use; sexual activity; physical activity and nutrition; and resiliency factors. In 2019, the YRRS found the percentage of students drinking alcohol before age 13 had decreased since 2017 from 29.4 percent to 20.5 percent, binge drinking from 29.4 percent to 20.5 percent, and use of heroin from 4.7 percent to 3 percent and of methamphetamines from 6.3 percent to 4.2 percent, while physical fighting on school property decreased from 15 percent to 9.3 percent. However, the survey also found students reporting feelings of sadness or hopelessness increased sharply from 29.7 percent to just over 40 percent.

According to the 2017 YRRS, New Mexico high school students engaged in risky behaviors at higher rates when compared with the national average on 10 of 14 indicators. In addition, New Mexico leads the nation for rates of suicide in youth 10 to 17 years old, and suicide is the second leading cause of death for this age group.

**Implementation of an Anonymous Reporting Program.** Interest in anonymous reporting systems has increased significantly since the 2018 shooting at Marjory Stoneman Douglas High School in Florida and the realization many warning signs of the shooter’s violent intentions were missed. At least six states – New Jersey, Kentucky, North Carolina, Florida, Pennsylvania, and Nevada – have enacted anonymous reporting systems since 2012, the year of the Newtown, Connecticut, school shooting. These systems frequently operate on the premise students are often the best source of information about such threats.

NMAC 6.12.6 requires each school district and charter school to have a plan addressing the behavioral health needs of all students in the educational process by focusing on students’ social and emotional well-being, but no statewide systems currently exist to allow for anonymous reporting by students of harmful activity. The STOP School Violence Act, signed into law in March 2018 as part of a larger spending bill, includes grant funding to help state and local governments create anonymous reporting apps and tip lines.

SB248 requires that PED, in collaboration with local law enforcement, school districts, charter schools and other agencies, to make available to all public schools a statewide “anonymous reporting program,” which enables a student to report harmful activity anonymously. The bill requires the program to include a hotline, multilingual crisis centers, a website, searchable database, and a mobile phone app allowing students to report harmful activity anonymously. The program hotlines and crisis centers must be staffed by people with evidence-based counseling and crisis intervention training. SB248 allows PED to contract for any part or all of the development and implementation of the program.

All school districts and charter schools must implement the reporting system as soon as practicable, but within 36 months, after its establishment by PED. Students and “program users” will receive annual training on the system. The bill requires each public school to have one or more school-based teams made up of at least one school staff member to be the primary point of contact and receive notice of all incoming reports. School districts and charter schools, in conjunction with PED, must also develop procedures for anonymous reports.

SB248 requires PED to collaborate with state agencies, law enforcement, and school districts and charter schools in developing and implementing an anonymous reporting program. However, the bill is silent on how this collaboration is to occur or on the specific roles in bringing about the program. Analysis from the Early Childhood Education and Care Department (ECECD) noted it partners frequently with other state agencies, nonprofits, and communities, but the bill does not make clear if and how ECECD would work with PED in the development and implementation of the anonymous reporting program.

This lack of clarity also appears in the bill as related to the role of law enforcement. SB248 requires reports of harmful activity to be forwarded, when applicable, to local law enforcement dispatch and other appropriate law enforcement agencies, but the bill does not address or attempt to describe the exact nature of the response of law enforcement or scope of its involvement. At a time when many schools are reconsidering the role of law enforcement in responding to potentially harmful, dangerous, or illegal activity involving students, considerations may want to be given to defining the scope of law enforcement’s role in responding to anonymous reports of harmful activity.

As the analysis from the Children, Youth and Families Department indicated, Section 32A-4-3 NMSA 1978 requires every person who knows or has a reasonable suspicion that a child is an abused or neglected child to report the matter. CYFD analysis suggested adding provisions to make it clear that nothing in the bill absolves people from the responsibility to report a reasonable suspicion of child abuse or neglect to CYFD or local law enforcement, and that if a report of harmful activity rose to the level of knowledge or reasonable suspicion of child abuse or neglect, a report to CYFD or law enforcement must be made.

**Requirements of an Anonymous Reporting Program.** The anonymous reporting program must meet the following eight requirements:

- Support anonymous reporting, 24 hours a day, 7 days a week;
- Forward information about reported harmful activity promptly to the primary point of contact or other appropriate person;
- Support a coordinated response by public schools and, when necessary, law enforcement agencies;
- Require and certify the training of law enforcement in each local dispatch to receive notice of any report submitted to the program that requires law enforcement response;
- Comply with the federal Family Educational Rights and Privacy Act of 1974 and relevant state laws;
- Promote public awareness and education about the program and its reporting methods prior to launching the program;
- Implement an evidence-based student violence prevention training that teaches students how to identify observable warning signs and signals of a person who may be at risk of harming self or others, the importance of taking threats seriously and seeking help and how to report a threat using the program; and

- Meet other requirements determined by PED to make the program user-friendly, responsive, proactive and effective.

**Annual Reporting Requirements.** SB248 mandates PED require all school districts and charter schools to submit annual reports reflecting the total number of anonymous tips received. During the first year of the program all school districts and charter schools are to submit to PED a report containing the number of disciplinary actions over the past 12 months. Each year, school districts and charter schools must report to PED the total number of tips received, action taken in response, and demographic information concerning the parties involved.

SB248 requires PED to prepare a statewide annual report to the governor and the Legislature containing information from school district and charter school reports, including the total number of reports received for the previous school year and the total number of reports received since the program began, disaggregated by each public or charter school, including by methods received, and the number of false reports.

**False Reports.** Section 1, subsection K, of the bill addresses the issue of false reports in the anonymous reporting program. In the case of a report involving a student that is determined to be false, information about the student subject of the false report is to immediately removed from the student’s record and any law enforcement record of the incident.” However, the bill makes no mention of school staff members who may be subject to a false report. Consideration may want to be given to including a similar protection in cases where school staff members may be subject to a false report.

**Definitions.** SB248 defines harmful activity somewhat awkwardly as “any dangerous, violent, threatening or otherwise harmful activity that has occurred, is occurring or may occur at a public school or other school property or when such activity involves a school employee or a student.” However, in using the term, “harmful activity” to define a harmful activity, the definition, in assuming an understanding of the very term it is attempting to define, loses much of its meaning. In addition, “dangerous” is a relative term open to a broad range of interpretation, especially when it involves reporting the behavior of others. The bill drafters may want to consider using a less subjective term or including a more precise definition of harmful activity.

## ADMINISTRATIVE IMPLICATIONS

SB248 requires PED to promulgate rules to carry out the provisions of the development and implementation of the anonymous reporting program in every public school.

According to CYFD’s analysis, the administrative implications of CYFD’s collaboration cannot be absorbed with the department’s existing resources.

PED’s analysis noted a number of administrative implications for the department, including:

- If the department chooses a contractor to develop and implement an anonymous reporting program or implement any provisions of the bill, PED would be required to write an RFP, review applications, develop contracts, and monitor expenses and program outcomes;
- PED would need to provide or support professional development and offer technical assistance in the implementation of an evidence-based violence prevention training program focusing on the observable warning signs of a person who may be at risk for harming themselves or others;

- PED would need to develop the certification and training content and criteria for local law enforcement in each local dispatch to receive notice of any report submitted to the program that requires law enforcement response;
- PED would need to develop and implement a public awareness and education program to notify the public of the reporting program, necessitating the design and distribution of materials on multiple media platforms; and
- PED would need to develop and maintain a state searchable database for all reports received through the anonymous reporting program providing disaggregated data.

## **OTHER SIGNIFICANT ISSUES**

Analysis from CYFD indicated it had launched a new, similar service, REACH NM, a free text-messaging service that allows young people to connect directly with CYFD workers for resources, help, and reporting potential abuse or neglect 24 hours a day every day of the year.

## **RELATED BILLS**

Relates to HB142, School Task Force on Sexual Misconduct, which requires confidential reporting requirements concerning alleged criminality.

## **SOURCES OF INFORMATION**

- LESC Files
- New Mexico Attorney General
- Early Childhood Education and Care Department (ECECD)
- Children, Youth and Families Department (CYFD)
- Public Education Department (PED)

**RJ/kh**