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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

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|------------------------|-------------------------------|----------------------------|------------------|
| Bill Number | <u>SB149</u> | Sponsor | <u>Maestas</u> |
| Tracking Number | <u>.229486.2SA</u> | Committee Referrals | <u>SJC/SFC</u> |
| Short Title | <u>Crime of Cyberbullying</u> | | |
| Analyst | <u>Hicks</u> | Original Date | <u>1/30/2025</u> |
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BILL SUMMARY

Synopsis of Bill

Senate Bill 149 (SB149) would add a new section of statute to Chapter 30, Article 6 NMSA 1978, to designate cyberbullying a student as a criminal offense and establish criminal penalties for committing cyberbullying. Chapter 30 addresses the state's Criminal Code. At a minimum, cyberbullying would be classified as a misdemeanor, with the severity of punishment increasing to either a fourth, third, or second degree felony based on the impact of the specific act of cyberbullying. SB149 would also provide definitions for great physical harm, great psychological harm, and physical harm.

FISCAL IMPACT

SB149 does not contain an appropriation.

SB149 would likely have fiscal impacts for the New Mexico Department of Justice (NMDOJ), the Law Offices of the Public Defender (LOPD), the New Mexico Courts, the New Mexico Corrections Department (NMCD), and other law enforcement and public safety entities.

Direct fiscal impacts on kindergarten through 12th grade (K-12) schools may be limited.

SUBSTANTIVE ISSUES

Safe Schools for All Students Act. In 2019, the New Mexico Legislature passed, and the governor signed, [Laws 2019, Chapter 181](#) (SB288), the Safe Schools for All Students Act. This act now exists in law in [Chapter 22, Article 35 NMSA 1978](#). This law defines cyberbullying and requires school boards and charter school governing bodies to adopt bullying prevention policies aimed at preventing bullying on its property or through electronic means on or with the use of school property. These prevention policies are required to include a statement prohibiting bullying, a statement prohibiting retaliation against those who report or witness bullying incidents, and a set of disciplinary actions to correct bullying behavior and prevent another occurrence.

Cyberbullying in New Mexico. The Safe Schools for All Students Act defines cyberbullying to mean “any bullying that takes place through electronic communication.” SB149 proposes a more expansive definition of cyberbullying than existing statute. SB149 also defines these terms in the Criminal Code while existing law addresses these in the Public School Code. This expanded definition includes electronic bullying that places a student in reasonable fear of physical harm, has a detrimental effect on a student’s physical or mental health, interferes with their academic performance, or interferes with their participation in school services, activities, and privileges.

According to [data](#) from the New Mexico Children’s Cabinet, cyberbullying and electronic bullying using texting or social media has significantly increased among middle school students, with 27 percent reporting incidents in 2021, a 37 percent increase from 2019. In contrast, electronic bullying among high school students decreased to 13 percent, a 6 percentage point drop from 2019. Despite bullying rates remaining relatively stable, there are concerns that the number of high school students not attending school due to safety concerns has more than doubled between 2013 and 2021.

Definitions of Harm. SB149 would create definitions for physical harm, great physical harm, and great psychological harm that influence the severity of the proposed criminal penalty. Physical harm would include an injury to the body resulting in substantial pain or incapacitation, while great physical harm would refer to harm resulting in the loss or functional loss of a bodily member or organ for a prolonged period. Great psychological harm would mean harm that causes mental or emotional incapacitation or extreme behavioral changes or severe physical symptoms requiring psychiatric or psychological care.

Criminal Penalties. Statute currently requires schools to develop disciplinary consequences for cyberbullying, but cyberbullying is not a criminal offense under current state law.

SB149 would make cyberbullying a misdemeanor at a minimum, an offense which [typically](#) results in a fixed prison sentence of no more than a year, a fine of \$1,000, or both.

Should an act of cyberbullying result in physical harm or great psychological harm, the offender could be convicted of a fourth degree felony. For a fourth degree felony, statute sets the basic prison sentence at 18 months. At the court’s discretion, an additional fine of up to \$5,000 may also be imposed.

If the cyberbullying results in great physical harm, the criminal penalty would be a third degree felony under SB149. This translates to a prison sentence of three years.

Finally, if cyberbullying leads to the death of the targeted individual, the perpetrator could be convicted of a second degree felony and sentenced to nine years imprisonment.

ADMINISTRATIVE IMPLICATIONS

SB149 may have administrative impacts for NMDOJ, LOPD, the New Mexico Courts, NMCD, and other law enforcement and public safety entities. The extent of these administrative implications would likely be commensurate with the increase in prosecutions related to the creation of a new criminal offense.

OTHER SIGNIFICANT ISSUES

National Context and Trends. According to the [Cyberbullying Research Center](#), an online clearinghouse of information and resources related to cyberbullying, New Mexico is one of six

states without criminal penalties for cyberbullying. The Cyberbullying Research Center notes about 55 percent of the 5,005 middle and high school students surveyed by the organization in 2023 reported having experienced cyberbullying. The survey further reported adolescent girls were more likely to have experienced cyberbullying in their lifetimes (59.2 percent of adolescent girls reported being cyberbullied vs. 49.5 percent of adolescent boys).

SOURCES OF INFORMATION

- LESC Files
- New Mexico Sentencing Commission (NMSC)
- Department of Public Safety (DPS)
- Higher Education Department (HED)

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