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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>HB355</u>	<b>Sponsor</b>	<u>Thomson</u>
<b>Tracking Number</b>	<u>.205632.2</u>	<b>Committee Referrals</b>	<u>HEC/HJC</u>
<b>Short Title</b>	<u>Bullying &amp; Cyberbullying Penalties</u>		
<b>Analyst</b>	<u>Terrazas</u>	<b>Original Date</b>	<u>2/22/17</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 355 (HB355) establishes minimum penalties for confirmed cases of bullying and cyberbullying. HB355 proposes that any student responsible for instigating bullying or cyberbullying, and their parents or guardians, shall be referred to the juvenile justice division of the Children, Youth and Families Department (CYFD) for mandatory counseling for the remainder of the school year. The bill would take effect August 1, 2017.

**FISCAL IMPACT**

HB355 does not contain an appropriation.

The bill may have a fiscal impact on the Public Education Department (PED) and CYFD. PED states it would need to make changes to its current Response to Intervention (RtI) system, revise statute and disseminate information, for which there is no allocation provided in the bill. CYFD may need to hire licensed counselors and incur any other associated costs. It is unclear if parents or guardians of students who are referred to counseling would bear any costs such as for transportation.

**SUBSTANTIVE ISSUES**

Public schools and charter schools have been required to implement bullying prevention programs and policies since 2007 as defined in 6.12.7 NMAC: Bullying Prevention. PED provides guidance to all schools for developing these policies and is now in a new three-year cycle for every school to revise and submit Safe School Plans to PED for review. The rule requires schools to develop and implement a policy that addresses bullying. The schools' policies must include, among other things, zero tolerance for bullying, staff training on cyberbullying, annual dissemination of its bullying and cyberbullying policy, procedures for reporting incidents, and consequences for bullying and cyberbullying.

According to PED, there are a number of school districts that use the progressive discipline matrices, which provide age-appropriate recommended guidelines in the disposition of discipline situations. The matrices allow for flexibility in responses, depending on a student's circumstances.

The 2015 New Mexico Youth Risk and Resiliency Survey (NM-YRRS) revealed that nearly 26 percent of students in the state, grades 9 through 12, were in a physical fight within the past year; 8.5 percent were in a physical fight on school property. Also within the past year, nearly 14 percent of those surveyed were bullied electronically, while 18 percent were bullied on school property. Within the past 30 days of taking the survey, nearly 8 percent did not go to school because of safety concerns. According to the American Academy of Pediatrics, both victims and perpetrators of bullying and cyberbullying are at a higher risk for suicide and suicide attempts. Further, the Center for Disease Control released data in 2014 showing that an average of 200 thousand bullied students sneak hundreds of thousands of firearms, knives, and clubs into high schools; and the more a student is bullied, the more likely the student is to return to school with a weapon. The U.S. Department of Health & Human Services states that in 12 of 15 school shooting cases in the 1990s, the shooters had a history of being bullied.

Bullying, whether it is physical, verbal, or cyber, has an impact on children's academic achievement, learning, and development. The American Psychological Association (APA) reports that children who are bullied have lower academic achievement, lower self-esteem, and have higher levels of anxiety, depression, and loneliness. Children who are bullied are more likely to avoid school, drop out, attempt suicide, or a combination of the three.

## **ADMINISTRATIVE IMPLICATIONS**

According to PED, they would be required to provide guidance for, and collaborate with, public and charter school districts statewide and the juvenile justice division of the CYFD to develop a framework that incorporates the minimum penalty proposed by HB355. PED would need to restructure its current, developmentally appropriate Positive Behavior and Intervention Supports in the RtI system. This would require PED to inform school districts and state charter schools of the proposed changes to the rule, conduct public hearing on the proposed changes, summarize public comments, post the final rule, and communicate changes after the rule has been posted. HB355 would require PED to update the Planning for Safe Schools in New Mexico: School Guide to reflect necessary changes and to revise its three-year timetable of Safe School Plan submissions to review approximately six hundred Safe School Plans that are being assessed during the 2016-2017 and 2017-2018 school years.

## **TECHNICAL ISSUES**

The sponsor of the bill may want to include how cases of bullying and cyberbullying will be confirmed.

The sponsor of the bill may want to clarify what the consequences would be if students referred to counseling and their parents or guardians do not comply with the minimum penalty.

On page 3 line 3, the bill requires students who are referred to the juvenile justice division of CYFD to attend counseling for the remainder of the school year. A student who is referred in August would be counseled for longer than a student who is referred later in the school year.

The sponsor may want to consider deferring to CYFD to determine the appropriate length of time for counseling.

The sponsor may want to consider clarifying where and when the counseling would take place.

### **OTHER SIGNIFICANT ISSUES**

According to PED, requiring a student to be referred to CYFD's juvenile justice system may unfairly mark a child for increased negative consequences, particularly if they are first-time offenders of a bullying incident and if they are of a young age. This has the potential to increase a student's likelihood of becoming subject to a punitive system as opposed to being educated through positive progressive discipline.

### **ALTERNATIVES**

One alternative to this bill would be to ensure present school counselors and social workers have the resources and support they need for them to work with students who are instigating bullying *and* to help those who are being bullied. Some schools may need to hire more counselors or social workers.

Schools may try different, more progressive, age-appropriate forms of discipline.

### **RELATED BILLS**

Relates to SB115 Safe Schools for All Students Act. A bill that repeals the statute addressing bullying and cyberbullying programs and requires school districts to establish, adopt, and enforce bullying prevention policies and programs with PED's guidance.

### **SOURCES OF INFORMATION**

- LESC Files
- PED

**DT/rab**