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

<b>Bill Number</b>	<u>HB411/aHJC</u>	<b>Sponsor</b>	<u>Gallegos, DY &amp; Kernan</u>
<b>Tracking Number</b>	<u>.206459.3</u>	<b>Committee Referrals</b>	<u>HEC/HJC</u>
<b>Short Title</b>	<u>Points of Contact for Certain Students</u>		
<b>Analyst</b>	<u>Force</u>	<b>Original Date</b>	<u>2/21/17</u>
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**BILL SUMMARY**

Synopsis of HJC Amendment

The House Judiciary Committee (HJC) amendment to HB411 clarifies that locally chartered charter schools will use their local school district's point of contact for students in foster care or involved with juvenile justice. Multiple school districts or multiple state-chartered charter schools may share a single point of contact, with the approval of the Public Education Department (PED) and the Children, Youth and Families Department (CYFD). Points of contact are to be responsible for collaborating with education program staff in juvenile or criminal justice placements and educational decision-makers appointed by the Children's Court for creating and implementing a plan to assist with the transition of students to local school districts or state-chartered charter schools. The amendment clarifies that references to local school districts are also references to state-chartered charter schools.

Synopsis of Original Bill

House Bill 411 (HB411) would enact a new section of the Public School Code to require each school district to appoint a point of contact (POC) for students in foster care or involved with the juvenile justice system, and a new section of the Abuse and Neglect Act to require the Children's Court to appoint an "educational decision maker" for all cases involving children alleged to have been abused or neglected. HB411 details the duties of the contact person and defines the terms "foster care," "involved with the juvenile justice system," and "educational decision maker."

The POC's duties would include ensuring that a student is immediately enrolled regardless of whether the necessary student records are made available by the student's former school; that the enrolling school obtain records within two days of enrollment and accepts transfer credits; and that the educational decision-maker appointed by the Children's Court creates and implements a transition plan. For students in foster care, the POC would be responsible for helping develop school district policies for best interest determinations, transportation policies, and dispute resolution. For students in foster care and for those in juvenile justice, the POC must ensure that the student has the same opportunities, services, and counseling to which they are entitled under

state and federal law. The POC must also support communication among the school, the CYFD, the student, their educational decision-maker, caregivers, and others to ensure implementation of the requirements of the bill, and ensure school district staff have access to necessary training and resources.

HB411 also requires the Children’s Court to appoint an “educational decision maker” in all cases involving children alleged to have been abused or neglected, including proceedings to terminate parental rights, and custody hearings. The court is directed to appoint a respondent in this role, unless it would be contrary to the best interests of the child.

## **FISCAL IMPACT**

HB411/aHJC does not include an appropriation.

## **SUBSTANTIVE ISSUES**

The Every Student Succeeds Act (ESSA) has provisions for state education agencies (SEAs) and local education agencies (LEAs) that ensure educational rights and protections for homeless children and youth. Together, SEAs and LEAs must review and revise policies and procedures to remove barriers for children who are homeless or in the foster care system. Through this process, amendments were made to the McKinney-Vento Homeless Assistance Act (McKinney Vento Act) which addresses homelessness and foster care specifically. The amendments went into effect in 2016.

Under the federal McKinney-Vento Homeless Assistance Act (McKinney-Vento), SEAs and LEAs must review and revise policies and procedures to remove barriers to a high-quality education for homeless children and youth. McKinney-Vento requires:

- Every SEA to have an Office of the State Coordinator to oversee implementation of the act, and every LEA to designate a local liaison able to carry out their duties to ensure that homeless students are identified and have a full and equal opportunity to succeed in school.
- Homeless students who move have the right to remain in their schools of origin if it is in the student’s best interest.
- If it is in the student’s best interest to change schools, the student’s enrollment in a new school must be immediate even if records required for enrollment are not available.
- Transportation to and from a student’s school of origin must be provided at the request of a parent, guardian, or in the case of an unaccompanied youth, the local liaison.
- Homeless students must have access to all programs and services for which they are eligible, including special education services, preschool, school nutrition programs, language assistance for English learners, career and technical education, gifted and talented programs, magnet schools, charter schools, summer learning, online learning, and before- and after-school care.

The provisions of HB411/aHJC appear to align with federal requirements and guidance regarding the education of homeless and fostered youth in New Mexico. As noted, under McKinney-Vento, school districts must already appoint a local homeless liaison and specify their responsibilities for ensuring identification, enrollment, attendance, and opportunities for academic success for students in homeless situations. The local liaison is also responsible for coordinating with other federal programs. The National Center for Homeless Education

recommends liaisons appoint school-level points of contact at each school in the local school district to assist the LEA-appointed liaison in school-specific tasks and refer issues needing further attention to the local liaison.

Joint, non-regulatory guidance issued by the U.S. Department of Health & Human Services and the U.S. Department of Education indicate that, under ESSA, states should also appoint a POC for child welfare agencies, and must do so if the child welfare agency has already appointed such a liaison. This person will be responsible for ensuring students in foster care are enrolled in and attending school, and have access to all appropriate educational opportunities.

### **ADMINISTRATIVE IMPLICATIONS**

Since, as noted above, the McKinney-Vento Homeless Assistance Act and ESSA already require the appointment of educational liaisons for homeless youth and youth in foster care, the requirements imposed by HB411/aHJC may add to the responsibilities of these already-existing personnel, combining administrative duties and possibly obviating the need for additional staff at the school district level.

### **TECHNICAL ISSUES**

The bill includes definitions for both “foster care” and “involved with the juvenile justice system” in the new section of Article 13 of the Public School Code. The sponsor may wish to include those definitions in the dedicated definitions section of Article 13, Section 22-13-3.5 NMSA 1978, in case further amendment of the article is needed in the future with regard to these terms and the duties of the points of contact.

The term “educational decision maker” is defined only in the Abuse and Neglect Act, though HB411/aHJC uses the term in the proposed new section of the Public School Code. The sponsor may wish to consider also adding an identical definition for Article 13 of the Public School Code.

HB411/aHJC, when referencing state-chartered charter schools,” refers to them as “charter schools authorized by the department.” In actuality, state-chartered charter schools are authorized by the Public Education Commission, not PED. The sponsor may wish to consider amending the bill to correct this reference.

### **OTHER SIGNIFICANT ISSUES**

According to CYFD, as of August 1, 2016, there were 2,567 children in foster care in New Mexico. The New Mexico Coalition to End Homelessness indicates that, as of 2013, there were between 12,500 and 13,000 homeless children and youth reported by schools to the Public Education Department in New Mexico, according to the federal definition of homeless youth and children, which includes children awaiting placement in foster care.

Foster children are at least twice as likely to miss school, and have a higher degree of school mobility even compared to non-fostered counterparts also from low-income families. Only 68 percent of these students attended the same school for one entire academic year, compared with 90 percent of low-income students overall. In fact, close to 10 percent of students in foster care attended three or more schools during just a single year; this high rate of school mobility is closely associated with negative effects on school completion. According to Fostering Success

in Education, only 50 percent of foster children complete high school by age 18, only 20 percent attend college, and the percentage of those who complete a bachelor’s degree is only between two and nine. Further, without educational success, foster children are poorly prepared for the responsibilities and challenges of adult life; they “age out” of the system and more than 22 percent become homeless, while nearly 25 percent are incarcerated within two years of leaving the system.

The National Center for Homeless Education (NCHE) reported in 2011 that 60 percent of homeless youth had been fined for offenses such as panhandling, sleeping or camping in public, and loitering. Because most homeless youth cannot afford to pay the fines, they are issued a warrant for their arrest. Some homeless youth engage in illegal activities in exchange for food or shelter. Many youth experience homelessness on their own, without a parent or guardian to help guide their behavior and negotiate law enforcement if they become involved in the justice system. There are youth who become homeless upon or as soon as they are released from juvenile justice facilities. The NCHE also reported that youth who were working or in school six months after their release from a juvenile detention facility tended to stay involved in constructive activities and had not returned to the facility one year after release.

### **RELATED BILLS**

Relates to HB222, Special Needs Adopted Child Tax Credit Amount, which would increase the tax credit amount from \$1,000 per child to \$1,500 per child.

Relates to HB255, Abuse & Neglect Family Support Program, which would establish a family support services program to allow alternative response pathways to provide services to families upon the completion of an evaluation that finds no immediate concern for a child’s safety.

Relates to HB301/aHHHC, Support for Transferring Students (Identical to SB213/aSEC), which would require the timely transition of enrolling high school students who experience disruption in their education process through such factors as homelessness, abuse or neglect, or delinquency.

Relates to SB19, Foster Care by Other Family Members, which proposes to allow rural and primary health care act funds to be distributed to certain workforce development programs.

Relates to SB20, Child Out-of-Home Care Activities & Planning, which proposes new definitions for “caregiver” and “prudent parent standard,” and defines “council” as the Substitute Care Advisory Council.

Relates to SB213/aSEC, Support for Transferring Students (Identical to HB301/aHHHC), which would require the timely transition of enrolling high school students who experience disruption in their education process through such factors as homelessness, abuse or neglect, or delinquency.

### **SOURCES OF INFORMATION**

- Legislative Education Study Committee Files

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