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FISCAL IMPACT REPORT

ORIGINAL DATE 3/4/17
LAST UPDATED _____

SPONSOR Chasey **HB** 500

SHORT TITLE School Employee Abuse Training Requirements **SB** _____

ANALYST Fernandez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal and Administrative Impacts				

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB115; SB397 and SB406

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Children, Youth and Families Department (CYFD)
 Office of Attorney General (OAG)

No Response Received

Department of Health (DOH)
 Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 500 – Page 2

House Bill 500 amends a section of the Public School Code pertaining to licensed school employees to require all licensed school employees of school districts and charter schools complete a “day-of-safety” professional development course on the detection and reporting of child abuse and neglect.

House Bill 500 appropriates \$100.0 thousand from the general fund to the Public Education Department for expenditure in FY18 and FY19 to develop a day-of-safety professional development course for training school personnel on detecting and reporting child abuse and neglect.

FISCAL IMPLICATIONS

The appropriation of \$100.0 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2019 shall revert to the general fund. PED indicates the development of a training course could be accomplished with this appropriation.

SIGNIFICANT ISSUES

For purposes of the section, “child abuse and neglect” is defined as actions or inactions that constitute “abandonment” as defined in the Abuse and Neglect Act, or that cause a child to be an “abused child” or a “neglected child” as defined in the Abuse and Neglect Act.

House Bill 500 requires PED to develop a training course with a minimum of 8 hours of instruction to train school district and charter school personnel. This bill also requires school districts and charter schools to adopt written policies to be included in the course materials. The policies must include the following: establish a process for internal coordination and tracking of child abuse and neglect reports made by schools; must clarify that school personnel may contact law enforcement or other state officials to report child abuse or neglect and they are not required to report the concerns through an internal chain of command; and prohibit schools from adopting a policy releasing school personnel from their duty to report suspected child abuse or neglect.

PED is required to coordinate the development of the day-of-safety professional development course with various agencies and now includes the Attorney General.

PED provides the following:

The PED rule (6.29.1.9), Standards for Excellence, requires all licensed school personnel, including substitute teachers, educational assistants, school nurses, school counselors, school psychologists and other instructional service providers to complete training in the detection and reporting of child abuse or neglect, within their first year of employment.

In the 2014 legislative session, House Bill 92, also known as “Erin’s Law” was passed by the New Mexico legislature and signed into law. The legislation and subsequent law required the PED to work with the Centers for Disease Control and Prevention to develop an evidence-based section on child sexual abuse and assault.

The PED, CYFD, DOH, and New Mexico State University (NMSU) collaborated on an e-learning training for school personnel and health providers that addressed the requirement

for all school personnel to complete training in the detection and reporting of child abuse or neglect. This may be accessed at <http://ped.state.nm.us/sfsb/index.html>

In New Mexico, between July 2015 and June 2016 there were 184 cases of substantiated allegations of sexual abuse. It is unclear how many incidents go unreported each year (https://cyfd.org/docs/360ANNUAL_FY16_FINAL.pdf)

In that same time frame 20,766 total number of accepted (screened-in) and not-accepted (screened-out) reports of abuse and neglect were received by CYFD central intake. (https://cyfd.org/docs/360ANNUAL_FY16_FINAL.pdf)

The detection and reporting of child abuse or neglect is required by both the Children's Code (32A-4-3 NMSA 1978) and the Public School Code (22-5-4.2 NMSA 1978).

CYFD provides the following:

For the federal fiscal year from October 2015 through September 2016, CYFD investigated 18,510 cases, of which 2,693 (approximately 15%) were referrals from school personnel.

PERFORMANCE IMPLICATIONS

PED indicates that this bill supports the strategic lever ensuring that students are ready for success by providing a safe, inviting, and caring learning environment.

CYFD indicates the agency does not have a specific measure directly related to this bill, CYFD is capable of tracking changes in reports made by school personnel.

ADMINISTRATIVE IMPLICATIONS

The Office of the Attorney General indicates that involvement in assisting to develop a new policy and ensuring enforcement of the policy and training efforts would require additional staff hours.

According to CYFD, efforts to collaborate with PED on the development of this training can be absorbed with existing resources.

RELATIONSHIP

HB500 relates to: SB115 Safe Schools for Students Act; SB397 School Protections for Certain Students; and SB406 Education Department Sexual Assault Reporting

TECHNICAL ISSUES

PED notes the following:

HB500 clarifies that school districts and charter school personnel may contact law enforcement or other state officials directly to report child abuse or neglect concerns. HB500 is unclear as to who constitute “state officials.” Section 32A-4-3 of the New Mexico Children’s Code mandates that anyone who has knowledge or a reasonable suspicion that a

child is an abused or neglected child must report it immediately. The report may be made to (1) a law enforcement agency; (2) the New Mexico Children, Youth, and Families Department; or (3) a tribal law enforcement or social services agency for any child residing in Indian Country. The legislature may wish to define “state officials” in alignment with Section 32A-4-3.

OTHER SUBSTANTIVE ISSUES

OAG notes the following:

The internal reports on who reported the abuse do not appear to be subject to confidentiality and are subject to discovery. See, NM Rules of Court 11-509 (indicating that communications regarding juveniles are confidential when it is the *parent* who wishes to protect communications between himself and a social worker, etc). This privilege does not extend to personnel who are independently reporting abuse. While the person who reported the abuse may be willing to be a witness, a person’s track record of reporting said abuse is also subject to presentation before the court. A person who has a track record of reporting abuse that is later unsubstantiated becomes an unreliable witness. Similarly, a person who reports abuse “too often” can be seen as too eager.

PED indicates that reporting child abuse or neglect concerns may be made confidentially, and it is unclear if school districts or charter schools would maintain the internal tracking and maintain confidentiality of the person or persons making the referral.

CF/al