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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/19

SPONSOR Muñoz LAST UPDATED _____ HB _____

SHORT TITLE School Security Duty to Report SB 441

ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

Parenthesis () indicate expenditure decreases

Relates to HB 115, SB146

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Department of Public Safety (DPS)

Homeland Security and Emergency Management (DHSEM)

New Mexico Attorney General (NMAG)

Regional Education Cooperatives (RECs)

SUMMARY

Synopsis of Bill

Senate Bill 441 creates a new section of Public School Code addressing a school districts duty to report threats.

Public school employees are required to report a threat made by a student to commit violence on school property or at a school event. The threat is to be reported to law enforcement and then to the local superintendent or head administrator. In the case of a charter school, the head administrator will report the threat to the local superintendent of the school district in which the charter school is geographically located. The local superintendent will immediately report threats to PED.

PED shall create a report of every threat made, to include the name of the student, the date and location where the threat was made, details of the threat, who reported it and how the individual

came to know about the threat. A copy of the local law enforcement incident report is to be included.

The report is to be kept by PED for five years, is not subject to IPRA. The report shall be given to the student's new school if the student who made the threat transfers schools.

FISCAL IMPLICATIONS

The cost to the PED for implementing SB 441 cannot be determined at this time. PED would be responsible for notifying the receiving school if a student who made a threat transfers to another school within the state. The Student Accountability Reporting System (STARS) will need to be modified. These changes would require the consideration of PED's data governance team and can be accomplished with existing FTE's.

SIGNIFICANT ISSUES

For SB 441 to be effective, schools would need to enter withdrawing students into STARS in real time. STARS would need to be modified to flag PED as soon as the student enrolled in a new school in the state. Currently PED may be unaware a student transferred to a new school for up to 40 days.

DHSEM notes to ensure coordination and collaboration on emergency responses, recovery and resiliency, DHSEM should be formally included in the reporting process to ensure a common operating picture and to help ensure that appropriate resources are identified and provided in response to school threats. Under a 2018 agreement with the New Mexico State Police Chief, the 'fusion center', located at DHSEM, serves as the state clearinghouse for monitoring and tracking school threats.

SB441 does not mention the potential consequences and/or penalties if a school employee does not report a threat or contact law enforcement. This may lead to underreporting.

ADMINISTRATIVE IMPLICATIONS

The PED will have to notify school districts and charter schools about this change to state law, which may have to be reflected in the PED's *Safe Schools Guide* and/or as part of STARS.

The PED will need to develop a process whereby superintendents can immediately report threats of violence made by a student to the agency. In addition, the PED may have to promulgate rule or develop non-regulatory guidance to provide LEAs with the process for immediately reporting threats to the agency.

The copy of the report from law enforcement would need to be obtained by PED, this may not be immediate. It is unclear if information sharing agreements would need to be developed.

RELATIONSHIP

HB 115 creates the crime of making a terroristic threat.

SB146 creates the crime of making a school threat.

TECHNICAL ISSUES

The term “act of violence” is not defined in SB 441 and could be subject to varying interpretation, which could result in disparate application and understanding of requirements under the law. It is also not defined in Chapter 22, regarding Public School Code. It is not clear if an “act of violence” must be directed toward another individual or group of individuals, or if such act includes physical force as to damage or destroy property.

SB441 makes no distinction between credible or non-credible threats. There is no mention in this bill for a procedure if a threat is found to not be credible or if the threat was misunderstood or mistakenly reported.

SB441 does not include a corresponding duty to investigate a school threat.

OTHER SUBSTANTIVE ISSUES

PED states:

“Since 2016, the *PED Guide* has required schools have behavioral threat assessment (BTA) teams to analyze communications and behaviors of students to determine whether or not someone poses a threat of targeted violence. A central element of current national best practice on school BTA is for a trained, multi-disciplinary school BTA team, through a standardized process and fact-based approach, to ascertain whether a student *poses* a threat, not merely whether a student *makes* a threat. A second important element of school BTA is that the school BTA team is in the best position to address the concerns of students making threats (to others or to him/herself) and make an informed decision on how to manage the threat to protect the safety of the school community. The appropriate course of action after BTA team inquiry—whether law enforcement intervention, counseling, or another action—will depend upon the specifics of the situation and does not always result in law enforcement action. Section 4.2 of the *PED Guide* outlines national school BTA processes, and the PED’s Safe Schools Program has hosted numerous trainings on School Behavioral Threat Assessments delivered by the U.S. Department of Education’s Readiness and Emergency Management for Schools (REMS) Technical Assistance Center over the past three years to hundreds of school staff to support schools in understanding this important, pro-active element of school safety. By requiring that school employees report school threats made by students immediately to law enforcement, SB441 eliminates the need for School BTA teams, which are highly encouraged by REMS, the U.S. Secret Service, the U.S. Department of Homeland Security and many state educational agencies.”

Section C is clear the reports are not subject to IPRA. A procedure is not provided for disclosing these reports to parents/guardians, law enforcement, attorneys, courts, CYFD, medical professionals, or other individuals who might generally be involved in such matters.

SB 441 only applies to public school employees. Per NMAG a plain reading of the bill could exclude private or religious schools.

VKH/al