

N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 149 (SB149) creates the crime of cyberbullying and provides penalties for those who engage in cyberbullying against public or private K-12 school students, adding a new section to Chapter 30, Article 6 NMSA 1978, that article covering crimes against children and dependents.

SB149 applies to cyberbullying against K-12 students. This analysis will summarize the bill in that context and offer ways in which it might affect higher education.

FISCAL IMPLICATIONS

SB149 does not provide an appropriation.

SIGNIFICANT ISSUES

SB149 defines cyberbullying as a person communicating with a public or private K-12 school student with reckless disregard such that the communication has the effect of:

- placing the student in reasonable fear of physical harm;
- causing a substantially detrimental effect on the student's physical or mental health;
- substantially interfering with the student's academic performance; or

- substantially interfering with the student's ability to participate in or benefit for the services, activities, or privileges provided by a school.

SB149 also defines punishments for those who engage in cyberbullying against public or private K-12 students depending on the degree of physical or psychological harm resulting from the cyberbullying. The punishments range from a misdemeanor in the case of cyberbullying in general to a second-degree felony in the case that the cyberbullying results in death.

A Pew Research Center report on teens and cyberbullying in 2022 found that forty six percent (46%) of teens aged 13 to 17 reported ever experiencing cyberbullying (<https://www.pewresearch.org/internet/2022/12/15/teens-and-cyberbullying-2022>). That same report shares that only eighteen percent (18%) of the teen respondents felt that elected officials were doing an excellent or good job in addressing online harassment.

According to the Cyberbullying Research Center, "all states have various criminal laws that might apply to bullying behaviors," but not all states expressly include electronic forms of harassment (<http://cyberbullying.org/bullying-laws>), and they list New Mexico as one of the states that does not have criminal sanctions specifically for cyberbullying. While some New Mexico laws may support victims of and penalize instigators of cyberbullying, SB149 looks to provide direct penalties for cyberbullying for the students identified in the bill.

While SB149 focuses on cyberbullying against K-12 students, and while there may be evidence that cyberbullying declines after peaks in mid-adolescence (<https://mcpres.mayoclinic.org/parenting/what-is-cyberbullying-and-how-it-can-be-prevented/>), there may be implications for higher education. Higher education students may suffer similar consequences due to cyberbullying as K-12 students. The definitions of and punishments for cyberbullying outlined in SB149 may provide support for higher education students who suffer from cyberbullying. Further, the effects of cyberbullying that students deal with during their K-12 education may continue with them into their time in higher education. In theory, the fewer students who suffer from cyberbullying during their K-12 years, the fewer higher education students for whom the effects of cyberbullying affect their studies, attendance, extracurricular participation, socialization, work, and overall health and experience during college.

A scan through New Mexico public higher education institution (HEI) websites shows that many, if not all, of these schools have policies related to bullying or cyberbullying. One issue with SB149 is that while it provides legal penalties for cyberbullying that may fit into larger attempts to address cyberbullying, there are still questions about the handoff from school policy to law enforcement and legal recourse and how that supports New Mexico students. For example, it may not be clear when a cyberbullying incident escalates from being handled by an HEI with internal policies to being handled by law enforcement or legal recourse.

A second issue is that SB149 only applies to K-12 students as specified in the language of the bill, and so it leaves out legal punishments for instigators of cyberbullying against New Mexico higher education students. Thinking of higher education students as students, this may leave a gap in the legal support they receive against cyberbullying as K-12 students, but, when thinking

of higher education students legally as adults when they turn 18, this may fit in more with how New Mexican adults would address cyberbullying more generally.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

SB149 does not directly create extra administrative implications for K-12 or higher education. Since this bill introduces legal penalties for engaging in cyberbullying, new administrative needs for K-12 or higher education institutions would likely relate to having staff to communicate to law enforcement were that not already covered by current staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill SB10 (SB10) creates the Anti-Hazing Act in statute, providing a definition of hazing, establishing criminal penalties for hazing, and including other requirements. While hazing and cyberbullying are different acts, anti-hazing legislation could overlap with cyberbullying.

House Bill 355 (HB355) in 2017 amends then-current language to include penalties for bullying and cyberbullying, requiring that confirmed incidents of bullying or cyberbullying result in those responsible for instigating the bullying or cyberbullying and their parents or guardians being referred to the Juvenile Justice Division of the New Mexico Children, Youth, and Families Department (CYFD) for mandatory counseling. 2017 HB355 was postponed indefinitely.

TECHNICAL ISSUES

There is confusing language in the first paragraph of Section 1.A where the bill specifies that cyberbullying can occur "in writing or electronically." Since the bill focuses on cyberbullying and not bullying in general, it is unclear what distinction there is between "in writing" and "electronically" since cyberbullying is digital. It may mean written digital words of other electronic forms of communication such as audio, video, or still image, but it would help to clarify that in the bill language.

Following up on the last paragraph, the bill defines cyberbullying as mentioned in "Significant Issues" above, so, if "in writing" means through non-digital writing, then it may appear that this bill calls out cyberbullying but is addressing bullying outside of digital communications as well.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

Public or private K12 schools could adopt measures to address cyberbullying. HEIs could also adopt measures to address cyberbullying.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The crime of cyberbullying and the penalties for said crime as defined in SB149 would not be created.

AMENDMENTS

N/A