

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original <input checked="" type="checkbox"/> Amendment <input type="checkbox"/>	Date <u>2/7/19</u>
Correction <input type="checkbox"/> Substitute <input type="checkbox"/>	Bill No: <u>SB441</u>

Sponsor: <u>Sen. George K. Munoz</u>	Agency Code: <u>924</u>
Short Title: <u>SCHOOL SECURITY DUTY TO REPORT</u>	Person Writing <u>Daniel Manzano</u>
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	Email <u>Daniel.Manzano@state.nm.us</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	NFI	Nonrecurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI	Nonrecurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB115 and SB146.
 Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 441 (SB441) adds a new section to the Public School Code to require a public school employee who receives or has knowledge of a threat of violence (made by a student) to report the threat immediately to local law enforcement. SB441 also requires the Public Education Department (PED) to create a database to track all such threats which must be retained for five years. If the student who made the threat transfers to another school, a copy of the report regarding the threat shall be provided to the new school by the PED.

FISCAL IMPLICATIONS

The cost to the PED for implementing SB441 cannot be determined at this time. The PED would be responsible for notifying the receiving school if a student who made a threat transfers to another school within the state. This would require real-time data collection and notification.

In order for this to be effective and efficient, schools would need to enter the student as withdrawing immediately in real time, into the Student Teacher Accountability Reporting System (STARS). The system would need to flag the PED as soon as the student enrolled in a new school in the state. This would require STARS to be constantly monitored by the PED. Currently, enrollment or membership data is only collected on the 40th, 80th, 120th reporting periods. This would require major changes to STARS. The copy of the report from law enforcement would need to be obtained by PED from law enforcement and this may not be immediate, causing delays. It is unclear if information sharing agreements would need to be developed.

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 the Student Teacher Accountability Reporting System (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.

SIGNIFICANT ISSUES

22-1-4 NMSA 1978 requires school districts to adopt rules governing the enrollment and re-enrollment in public schools, other than charter schools, within the school district. rules pertaining to grounds for denial of enrollment or re-enrollment at schools within the school district and the school district's hearing and appeals process for such a denial. Grounds for denial of enrollment or re-enrollment shall be limited to:

(a) a student's expulsion from any school district or private school in this state or any other state during the preceding twelve months; or

(b) a student's behavior in another school district or private school in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school employees.

There has been an increase in school-based threats in the United States in the past several years. Threats disrupt the educational process, waste law enforcement resources, and may put students, school staff and first responders in harm's way. Schools and law enforcement agencies have limited resources, and responding to threats diverts school officials and law enforcement officers, as well as costs taxpayers. Threats can also cause emotional distress to students, school personnel, and parents.

Issuing a threat—including over social media, via text message, or through e-mail—is a federal crime (18 U.S. Code § 875—Threatening Interstate Communications). In New Mexico, NM § 30-20-13(D) states that “No person shall willfully interfere with the educational process of any public or private school by committing, threatening to commit or inciting others to commit any act which would disrupt, impair, interfere with or obstruct the lawful mission, processes, procedures or functions of a public or private school (<https://law.justia.com/codes/new-mexico/2011/chapter30/article20/section30-20-13/>).”

Since 2016, the PED *Guide* has required that 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.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

A short term impact of SB441 is that 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](#). This can be accomplished with existing PED resources and current staff. Additionally, SB441 will require the development of new fields and new field category responses for existing data fields in STARS to reflect the reporting requirements in this bill. This data would need to be real time data outside of the traditional reporting periods. Students who made threats would need to be tracked within the state. These changes would require the consideration of the agency's data governance team and can be accomplished with existing FTE's.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB115 and SB146 relate to this bill.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

SB441 requires charter schools to report threats of violence by students to local superintendents in school districts where the charter school is geographically located. The local superintendent is then responsible for reporting this information immediately to the PED. This bill would require local superintendents to report not only threats in their own districts, but also threats for charter schools in their geographic area.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

School district and charter school requirements for reporting threats by students to schools would remain, as defined in 18 U.S. Code § 875 and NM § 30-20-13(D). Schools would continue to be required, per the PED *Guide*, to establish BTA teams to ascertain whether a student poses a threat before involving law enforcement.

AMENDMENTS

Page 2, lines 2 and 3 requires local superintendents to make reports to the PED on charter schools that are geographically located in their districts. Does this provision mean all charter schools or those charter schools that are locally authorized and state charter schools would be responsible for making the report to the PED? Clarification would be helpful to ensure the proper reports are made to the PED.