

LFC Requester:	Rabin
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**AGENCY BILL ANALYSIS
2021 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 **Amendment** _____
Correction _____ **Substitute** _____

Date 2/1/2021
Bill No: HB70

Sponsor: Dayan Hochman-Vigil
William "Bill" R. Rehm
Short Title: DOMESTIC TERRORISM
DEFINITIONS

Agency Name and Code
 PED-924
Number: _____
Person Writing
 John Sena
Phone: 505-570-7816 **Email** John.Sena@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	NFI	Nonrecurring	NFI

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
NFI	NFI	NFI	Nonrecurring	NFI

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	Nonrecurring	NFI

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 70 (HB70) amends statute and creates new material to address domestic terrorism. Specific to public education, HB70 amends Section 30-20A-3 NMSA 1978 to make someone who makes a terroristic threat involving a school, community center, place of worship or public accommodation, guilty of a third degree felony.

Per HB70, making a terroristic threat “involving a school, community center, place of worship or public accommodation consists of unequivocally, unconditionally, and specifically threatening to commit any act of terrorism ... whether that threat is made online or otherwise, against a person at a school, community center, place of worship or public accommodation, or against a school, community center, place of worship or public accommodation with the intent to:

- 1) Cause a reaction to the threat by an official or volunteer agency organized to deal with emergencies;
- 2) Place a person in fear of great bodily harm; or
- 3) Prevent or interrupt the occupation or use of a school, community center, place of worship, or public accommodation.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

SIGNIFICANT ISSUES

[Neuroimaging research](#) indicates teenagers have a heightened vulnerability to reward that drives risky behaviors. The incomplete development of brain mechanisms related to modulation of impulsive behavior reduces the tendency of teens to heed risk. Elevating the crime of a school threat to a third-degree felony may not reduce the number of school threats, but may increase the number of minors who are convicted felons.

HB70 amends Section 9-28-5 NMSA 1978, related to the Homeland Security and Emergency Management Department, to include pertinent definitions in relation to terrorism, the maintenance of a collaborative New Mexico all source intelligence center, and penalties relating to acts and threats of terrorism and the instruction in or possession of terroristic weapons. In addition, HB70 changes the degree of felony from any person who instructs or demonstrates techniques or uses of weapons to commit terrorism from fourth degree to third degree felony. HB70 redefines terrorism and makes whoever commits an act of terrorism guilty of a second

degree felony and whoever possesses a terroristic weapon guilty of a third degree felony. HB70 creates a new section, section 4, regarding the reporting and sharing of information of cyberterrorism, and terroristic threats or acts to the New Mexico all source intelligence center within 24 hours. These reports are not subject to the Inspection of Public Records Act.

An article published by Safe Haven International titled [School Terrorism Timeline and Information](#) states that there are more than 100 definitions of terrorism by governmental organizations around the world. The article defines school terrorism as an act of violence that affects schools or students and is carried out in such a way as to invoke terror in the support of an ideology or greater cause rather than distinct personal motivation, and stresses the importance of a common definition. It further states that state level action in response to school terrorism is usually disjointed and restricted.

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](#)). Those who post or send these threats can receive up to five years in federal prison, and/or may face state or local charges. In New Mexico, [NM § 30-20-13\(D\)](#) reads, “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/>). Anyone found guilty of violating this law is guilty of a petty misdemeanor. This is the current state statute under which most school threats are prosecuted in New Mexico. However, juveniles violating this act may be charged with the delinquent act of Interference with the Education Process, depending upon prosecutorial discretion.

In August and September of 2019, the [Atlantic](#) counted 269 news stories on separate shooting threats made against K-12 schools in the United States. Most threats were made on social media and most were made by juveniles. These incidents led to 178 arrests, including the arrest of several 11-year olds.

The [Center for Homeland Security and Defense](#) reports there was one active shooter incident in US schools during 2020. Since 1972, when data on active shooter events were recorded, 2018 saw the greatest number of active shooter events with 11 total incidents. In 2020, [EveryTown Research](#) indicated there was one reported incident of gunfire on New Mexico school property, in which no one was injured. In 2019, there were two reported instances of gunfire on a school property, with no injuries.

According to the K-12 Cybersecurity Resource Center’s [The State of Cybersecurity 2019 Year in Review](#), there were 348 publicly disclosed incidents of cyber attacks on schools in 2019. This number was three times greater than the number reported in 2018. The center estimates that the number of incidents is actually much higher, as reporting requirements vary by state and are generally very weak.

The bill defines school as “any physical location in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high, high school, college or university or any combination of those, whether public, private or charter.”

PERFORMANCE IMPLICATIONS

HB70 may support a safe and supportive learning environment leading to increased opportunities for student academic success.

ADMINISTRATIVE IMPLICATIONS

The Public Education Department's (PED) safe schools coordinator provides training, technical assistance, oversight, and evaluation of school site safety emergency operations plans. The safe schools coordinator would need to inform school officials about the definitions of acts of terrorism and threats of terrorism.

HB70 may require the representation of the PED in collaborative efforts of the NM All Source Intelligence Center, particularly where it pertains to reporting and information sharing of terroristic attacks. This can be accomplished with current PED resources and staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A