

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB182, Threatening a Public Official Crime; and SB248, Anonymous Reporting in Schools.

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

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 142 (SB 142) would amend [Section 30-20-16 NMSA 1978](#), related to making bomb scares unlawful, to make shooting threats unlawful. Whoever commits a shooting threat would be guilty of a fourth degree felony. A court would be allowed to order a person convicted for the offense of making a shooting threat to reimburse the victim of the offense for economic harm caused by that offense.

SB319 states making a shooting threat consists of falsely and maliciously stating to another person that the person making the threat or another person intends to bring a firearm to a property or use the firearm with the intent to:

- (1) place a person or group of persons in fear of great bodily harm;
- (2) prevent or interrupt the occupation or use of a public building; or
- (3) cause a response to the treat by an official or volunteer agency organized to deal with emergencies.

FISCAL IMPLICATIONS

SB124 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. SB319 may not reduce the number of shooting threats, such as at a school, but may increase the number of minors who could become convicted felons.

According to the [Association for Supervision and Curriculum Development](#), although many educators may feel hard-pressed to define a “threat,” most are confident they would recognize one when it occurs. Problems often arise, however, when school personnel try to take legal action against students whom they perceive as making threats to harm others. A student who uses what appears to be threatening language simply may be exercising a First Amendment right to express an opinion, a right protected from governmental interference or suppression, even in the school setting. Under the United States legal system, what a reasonable educator might categorize as a threat may or may not be a “true threat” under the law.

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, [Section 30-20-13 NMSA 1978](#) states, “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.” Anyone found guilty of violating this law is guilty of a petty misdemeanor. Most school threats in New Mexico are prosecuted under this statute.

Over the past several years, many states have enacted laws making it a felony offense for a person to make a school threat. For example: (1) In Oklahoma, it is unlawful for a person to make a threat of violence, which is a misdemeanor punishable by six months in jail. Any actual plan, attempt, or development of a scheme to commit an act of violence is a felony punishable by a maximum of 10 years in prison; (2) In Florida, any person who shall devise any plan, scheme or program of action to cause serious bodily harm or death of another person with intent to perform such malicious act of violence, whether alone or by conspiring with others, shall be guilty of a felony, punishable upon conviction thereof by imprisonment for a period of not more than ten years.; and (3) In Virginia, any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB142 relates to SB182, Threatening a Public Official Crime; and SB248, Anonymous Reporting in Schools.

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