

<b>LFC Requester:</b>	<b>Rabin</b>
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**AGENCY BILL ANALYSIS  
2022 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*and*

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*{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** February 11, 2022  
**Bill No:** HB68/HJCS

**Sponsor:** HJC

**Agency Name and Code Number:** PED - 924

**Short Title:** Criminal Code Changes

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
NFI	NFI	Nonrecurring	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		
NFI	NFI	NFI	Nonrecurring	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI	Nonrecurring	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Senate Bill 34 (SB34), Threats of Shooting.  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis of the Committee Substitute:

The House Judiciary Committee substitute for House Bill 68 (HB68/HJCS) would create the crime of “criminal threat” in different locations, including a public or non-public preschool, school, or institution of higher learning. The bill would prohibit and provide penalties for unlawful carrying of a deadly weapon in a school zone, instead of on school premises, and adds exceptions for who may carry a deadly weapon in a school zone.

HB68/HJCS describes a “**criminal threat**” as consisting of “a statement or other form of expression made for the purpose of causing or in reckless disregard of the risk of causing the evacuation, lockdown or disruption of regular, ongoing activities at a public or non-public preschool, school or institution of higher learning, an occupied dwelling, a place of business or public building, a place of assembly or a facility or vehicle of public transportation and communicating an intent to:

- 1) inflict unlawful physical injury against a person;
- 2) cause unlawful damage to property of another; or
- 3) commit any other unlawful act of violence.”

HB68/HJCS does not include the definition of “**school zone**”, which was defined in the original bill.

The Public Education Department’s (PED) analysis of this bill focuses on the impacts on public schools.

**FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

Under HB68/HJCS, if a criminal threat results in the evacuation, lockdown, or disruption of regular, ongoing activities at a public or non-public preschool, school, or institution of higher learning, or other places outlined in the committee substitute, the court, in its discretion, may order a person convicted for the offense of criminal threat to reimburse any person, business, nonprofit organization, or public agency for economic harm caused by that offense.

HB68/HJCS describes “**economic harm**,” as “any direct, incidental or consequential financial damage caused by a criminal threat and includes:

- 1) wages, salaries or other compensation that was lost as a result of the commission of the

- offense;
- 2) the cost of all wages, salaries or other compensation for the time that employees were prevented from working as a result of the commission of the crime; and
  - 3) overhead costs incurred for any period of evacuation or lockdown.”

## **SIGNIFICANT ISSUES**

The committee substitute would make threatening a school shooting a fourth-degree felony, which carries a basic penalty of 18 months imprisonment and a fine of no more than \$5 thousand. Currently, the only state crime that would apply to making a threat of a school shooting is the crime of interference with state agencies, staff, public officials, or the general public, and is a petty misdemeanor, punishable by no more than six months in county jail, a fine of \$500, or both.

Under current state law, Section [30-20-13 NMSA 1978](#), “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.” Any person who violates any of the provisions of Section [30-20-13 NMSA 1978](#) could be deemed guilty of a petty misdemeanor.

Under current federal law, issuing a threat – including over social media, via text message, or through email – is a crime under 18 U.S.C. § 875, Threatening Interstate Communications. The individuals who post or send these threats could receive up to five years in federal prison, if convicted, and may face state or local charges.

Over the past several years, many states have enacted laws making it a misdemeanor or felony offense for a person to make a school threat.

- 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.
- 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 10 years.
- 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, on the grounds or premises of any elementary, middle, or secondary school property, at any elementary, middle, or secondary school-sponsored event, or 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 six felony.

[Research](#) from the Educator’s School Safety Network, which is a national non-profit organization focused primarily on education-based school safety training and resources, found that in the 2018-2019 school year, there were more than 3,434 threats and incidents of violence

occurred in K-12 schools across the country. The most common threats recorded in 2018-2019 were unspecified threats of violence (47.7 percent of all threats), shooting threats (28.2 percent of all threats), and bomb threats (16.9 percent of all threats). Additionally, the report found that social media was the most common source for the delivery method for threats, and this accounted for 38 percent of all threats in 2018-2019. Written threats accounted for 20 percent of the threats, and verbal comments were the source of threats 8.6 percent of the time. Lastly, the report indicated 87 percent of all school threats were made by students, which is an increase from the previous school year. Adults accounted for 7.3 percent of the threats in the 2018-2019 school year, followed by school staff and parents at less than 2 percent.

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related to SB34, Threats of Shooting.

## **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