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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>SB441</u>	Sponsor	<u>Munoz</u>
Tracking Number	<u>.211844.1</u>	Committee Referrals	<u>SEC/SJC</u>
Short Title	<u>School Security Duty to Report</u>		
Analyst	<u>Stiles</u>	Original Date	<u>2/11/19</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 441 (SB441) would require a public school employee who has knowledge of a threat made by a student to commit an act of violence on school property or at a school-sponsored event to immediately report the threat to local law enforcement. The bill further outlines all parties who should be informed about the threat and would require the Public Education Department (PED) to create a report of every threat made, and retain the report in PED records. PED would further be required to provide a new school with the report if the student moves to a new school within the state.

FISCAL IMPACT

SB441 does not contain an appropriation.

PED notes the cost for implementing SB441 is currently unknown; however, the provisions of SB441 would require PED to develop a real-time data collection and notification system. PED would also need to develop a process for superintendents to immediately report threats of violence made by students to the department.

SUBSTANTIVE ISSUES

SB441 would create a new section of the Public School Code requiring a public school employee who receives or has knowledge of a threat made by a student to commit an act of violence on school property or at a school-sponsored event to immediately report the threat to local law enforcement. The bill would further require the employee to report the threat to the local superintendent or head administrator. The head administrator of a charter school would be required to report the threat to the local superintendent in the school district in which the charter school is geographically located. The local superintendent would be required to report the threat immediately to PED.

The office of the New Mexico Attorney General (AG) notes SB441 makes no distinction between credible or non-credible threats, which may cause law enforcement to be notified in cases where a threat was misunderstood or mistakenly reported. SB441 does not include any provisions for threat assessment; the National Association of School Psychologists notes schools districts should develop and implement threat assessment procedures that are clearly communicated to staff and families, as zero tolerance policies have proven ineffective and counterproductive. It is unclear if a threat of violence would include a student making a threat of violence against oneself, in which case local law enforcement may not be the appropriate agency to contact.

The U.S. Department of Homeland Security recently released a report completed by the U.S. Secret Service and the National Threat Assessment Center, which recommends schools, or school districts create threat assessment teams within each school. The report notes any reports regarding student behaviors involving weapons, threats of violence, or concerns about an individual's safety should immediately be reported to local law enforcement, but recommends schools set a clear threshold for times and situations when law enforcement will be asked to support or take over an assessment. PED notes these recommendations are consistent with current practice, as PED has required schools to have behavioral threat assessment teams since 2017. PED further notes a central element of national best practices is for trained threat assessment teams to determine whether a student poses a threat, rather than reporting if a student makes a threat. PED notes the provisions of SB441 would eliminate the need for behavioral threat assessment teams, which are highly encouraged by The U.S. Department of Education's Readiness and Emergency Management for Schools, the U.S. Secret Service, the U.S. Department of Homeland Security, and many state educational agencies.

According to the Education Commission of the States, states have vastly different laws regarding requirements to report threats of school violence. A few states have laws which require school officials to report threats of violence to law enforcement; however, most state laws allow local school districts to develop policies around threat assessment and reporting. Alabama statute requires principals to notify law enforcement if any person has violated local board policies concerning threats of physical harm. Arkansas state law requires a principal or other person in charge of a public school to notify the appropriate local law enforcement agency if it is reasonable to believe any person has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision. Florida state law requires each school district school board to enter into agreements with the county sheriff's office and the local police department specifying guidelines to ensure acts that pose a serious threat to school safety are reported to law enforcement.

SB441 would require PED to create a report of every threat made, which includes the name of the student; the date and location of where the threat was made; the details of the threat; who the reporting school employee was and how the employee came to learn of the threat; and a copy of the law enforcement agency incident report. PED would further be required to retain the reports for five years after the date of the report. The reports would be required to be treated as confidential and would not be subject to the Inspection of Public Records Act. If the student transfers to a new public school within the state, SB441 would require PED to provide the new school with a copy of the report of the student's history of threatening school violence.

ADMINISTRATIVE IMPLICATIONS

PED notes the department would have to develop a real-time reporting system to meet the requirements of SB441. PED would also need to develop procedures for creating the reports

required by SB441, a system for retaining the reports, and a system for notifying schools of the reports, should a student change schools within the state.

OTHER SIGNIFICANT ISSUES

The AG notes “act of violence” is not defined in SB441, leaving it unclear whether an “act of violence” must be directed toward another individual or group of individuals, or if an “act of violence” could include physical force as to damage or destroy property.

SB441 would require a charter school head administrator to notify the local superintendent in the school district in which the charter school is geographically located of a possible threat to the charter school, and would require the local superintendent to notify PED of the threat. It is unclear why the charter school head administrator would not be allowed to notify PED of the threat rather than involving the local school district.

The Regional Education Cooperatives note SB441 only requires a school employee to notify law enforcement if a student makes a threat to commit a violent act on school property or at a school-sponsored event, however law enforcement should be notified if any person makes such a threat.

RELATED BILLS

SB146 would amend the Criminal Code to make the crime of making a school threat a fourth degree felony.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Attorney General (AG)
- Public Education Department (PED)
- Regional Education Cooperatives (REC)

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