

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/11  
 SPONSOR Ortiz y Pino LAST UPDATED 03/15/11 HB \_\_\_\_\_  
 SHORT TITLE Define School Disciplinary Risks SB 418/aSEC/aSFI#1  
 ANALYST Haug

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$17.0			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Administrative Office of the District Attorneys (AODA)

### SUMMARY

#### Synopsis of SFI#1 Amendment

Senate Floor Amendment #1 to Senate Bill 418 adds the descriptor “petty” to misdemeanors and removes the list of petty acts or misconduct and petty misdemeanors. The amendment also requires that incidents having a reasonable likelihood of resulting in liability to the school be reported to the local school board. Finally, the amendment adds the CYFD local Juvenile Probation Office to the list of local law enforcement agencies with which the school board must have an agreement.

#### Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Bill 418 specifies that districtwide discipline policy preempts an individual school’s discipline policy and establishes the effective date of the bill as July 1, 2012.

#### Synopsis of Original Bill

Senate Bill 418 would amend 22-5-4.3 NMSA 1978 of the public school code to provide for definition of school disciplinary risks and procedures. With required involvement of parents, school personnel, and students in development and following a public hearing prior to its adoption, the bill would require each school district’s discipline policy to

- define acts that pose a substantial threat to school safety justifying arrests;
- define petty acts of misconduct that should be treated as disciplinary infractions; and
- develop policies that offer alternatives to long-term suspension, expulsion, or referral to law enforcement agencies except where those alternatives would pose a substantial threat to school safety.
- not require the reporting of petty acts of misconduct and misdemeanor to law enforcement agencies, including: disorderly conduct, interference with the educational process, simple assault or battery, theft of less than \$250, trespassing, and vandalism of property that results in less than \$500 in damage; and
- require that any disciplinary action taken against a student be based on the individual student and the particular circumstance of the student's acts or omissions.

Senate Bill 418 would require a local school board to enter into an agreement with its local county sheriff's office and police department to determine which acts are not petty acts of misconduct or misdemeanors, develop procedures for reporting acts that are not petty acts of misconduct or misdemeanors, and specify any role for school resource officers.

SB 418 would require that each year a school district submit a report to the Public Education Department (PED) that includes the number of arrests, citations, and referrals and require these reports be available to the public.

## **FISCAL IMPLICATIONS**

Senate Bill 418 contains no appropriation. The PED estimates it will cost \$17 thousand dollars to:

- Add necessary data points to STARS (cost undetermined).
- Revise state rule which would include at least one public hearing.
- Develop guidelines and reports for district policy revisions and reports to PED.
- Review revised district policies for approval.

The PED notes that while not affecting state operations, local school districts would incur an indeterminate cost to:

- develop MOUs with local sheriffs' offices and police departments and
- develop district reporting systems for these new requirements.

The PED notes further that Page 4, lines 19-22, requires resource officers to attend the basic police academy training which would have an associated cost for the school district. That cost is unknown to the PED.

## **SIGNIFICANT ISSUES**

According to the PED:

Each school district will be required to complete MOUs with the local sheriff's office and with the local police department. Each district would be required to determine what petty acts of misconduct and misdemeanor will be reported and not reported. The substance of the bill is primarily written in law enforcement language and is not readily understood or

interpreted by school administrators. This bill would require school districts to annually complete another written report to be submitted to PED.

HB 418 discusses criminal offenses from the context of what constitutes delinquent acts under the Children's Code.

The provisions on page 2, lines 18-25, which require that district policies not permit the reporting of various acts to law enforcement, could actually increase the risk of repeated and escalating violent behavior by students if they know that law enforcement could not be called. This provision has the potential for putting faculty, staff, and students at risk of being injured.

The AODA states:

This bill sets out certain crimes that do not have to be reported to the police. Once such exceptions are allowed, the individual schools may take it even farther. Ex: what if the theft is for \$255? Will the school feel justified in not reporting this crime because it is only \$5 over the amount set by this bill? Simple assaults and batteries do not have to be reported. Will that apply when it is a domestic violence situation? Bullying? This bill is starting down a very slippery slope when it starts delineating crimes that do not have to be reported to the police.

This bill requires the local school board to enter into an agreement with the police about which situations the school can handle without filing a report with law enforcement. It is doubtful that any police agency is going to agree that certain crimes do not need to be reported to them. It would possibly leave them open to liability if later that same student commits a more serious crime that might have been prevented if the earlier, more minor crime, had been reported.

GH/mew