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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>HB301/aHHHC</u>	<b>Sponsor</b>	<u>Gallegos, DY &amp; Chasey</u>
<b>Tracking Number</b>	<u>.206269.1</u>	<b>Committee Referrals</b>	<u>HHHC/HEC</u>
<b>Short Title</b>	<u>Support for Transferring Students</u>		
<b>Analyst</b>	<u>Terrazas</u>	<b>Original Date</b>	<u>2/16/17</u>
		<b>Last Updated</b>	<u>2/27/17</u>

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**BILL SUMMARY**

Synopsis of HHHC Amendment

The House Health and Human Services Committee amendment to HB301 clarifies that schools and school districts will define homelessness under the federal McKinney-Vento Homeless Assistance Act; the Children, Youth and Families Department will define an abused or neglected child; and the parent may disclose the adjudication of delinquency.

Synopsis of Original Bill

House Bill 301 (HB301) amends the Public School Code to require a timely transition for an enrolling high school student who has experienced disruption in the student's education process through no fault of their own including homelessness; adjudication based on abuse or neglect or as part of a family in need of court-ordered voluntary placement; or delinquency. HB301 requires receiving schools to communicate with sending schools within two days of the student's enrollment and requires sending schools to provide the student's records within two days of having received communication.

HB301 requires that a student who has transferred due to a disruption in the student's education has priority placement in courses that meet state graduation requirements and timely placement in elective classes comparable to those in which the student was previously enrolled. The student must have equal access to participation in extracurricular activities, sports, career and technical programs, and other special programs for which the student qualifies. Schools must assist and advise the student on college and career readiness in a timely manner, and must provide the student all special education services to which the student is entitled.

**FISCAL IMPACT**

HB301/aHHHC does not contain an appropriation.

## SUBSTANTIVE ISSUES

Studies show student mobility is associated with lower school engagement, and poorer academic performance. The effects are more significant if a student has to switch schools involuntarily, such as if they are homeless or a part of the foster care system. The National Center for Youth Law reports that at any given time there are an estimated 18 thousand homeless children in New Mexico, 14 thousand children in contact with the juvenile justice system, and 4,000 children in foster care. The New Mexico Children, Youth and Families Department (CYFD) reports there are 2,663 children and youth in the foster care system. In 2014, the American Institutes for Research ranked New Mexico 46th state in the US for child homelessness – one being the best and 50 being the worst. In that year 22,463 children age 17 or younger were homeless, living in shelters, neighbors' basements, cars, campgrounds, and worse. Many of these students who do not have stable home environments change schools multiple times in a single school year. Students lose about three months of reading and math learning each time they move to another school. In one study, students who switched schools four or more times by sixth grade were about a year behind their classmates. All of these factors make it more likely for mobile students to drop out of high school.

The Every Student Succeeds Act (ESSA) has provisions for state education agencies (SEAs) and local education agencies (LEAs) that ensure educational rights and protections for homeless children and youth. Together, SEAs and LEAs must review and revise policies and procedures to remove barriers for children who are homeless or in the foster care system. Through this process, amendments were made to the McKinney-Vento Homeless Assistance Act (McKinney Vento Act) which addresses homelessness and foster care specifically. The amendments went into effect 2016.

Under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), amended by ESSA, SEAs, and LEAs must review and revise policies and procedures to remove barriers to a high-quality education for homeless children and youth. The McKinney-Vento Act requires:

- Every SEA must have an Office of the State Coordinator to oversee implementation of the act, and every LEA must designate a local liaison able to carry out their duties to ensure that homeless students are identified and have a full and equal opportunity to succeed in school.
- Homeless students who move have the right to remain in their schools of origin if it is in the student's best interest. If it is in the student's best interest to change schools, the student's enrollment in a new school must be immediate even if records required for enrollment are not available.
- Transportation to and from a student's school of origin must be provided at the request of a parent, guardian, or in the case of an unaccompanied youth, the local liaison.
- Homeless students must have access to all programs and services for which they are eligible, including special education services, preschool, school nutrition programs, language assistance for English learners, career and technical education, gifted and talented programs, magnet schools, charter schools, summer learning, online learning, and before- and after-school care.
- Unaccompanied youth must be accorded specific protection, including immediate enrollment in school without proof of guardianship.
- Parents, guardians, and unaccompanied youth have the right to dispute an eligibility, school selection, or enrollment decision.

The new requirements focus on identification of homeless students, providing professional development and technical assistance at both the state and local levels, removing enrollment barriers, providing school stability, and improving the dispute resolution.

The New Mexico Department of Health (NMDOH) states two of the residential treatment centers it operates will be affected by HB301/aHHHC: the Sequoyah Adolescent Treatment Center (SATC) and the Center for Adolescent Relationship Exploration (CARE). Both are governed by the Public School Code. SATC operates its own school district while the adolescents treated at the CARE unit receive their education in-house through the local school district. Given the size of both programs and the clinical needs of adolescents treated there, NMDOH explains that providing “equal access” to participation in extracurricular activities, career and technical programs, or other special programs would be a challenge, particularly if access is meant to be equal to that received by the student at the student’s prior school. NMDOH also indicates the Individuals with Disabilities Education Act already addresses the transmittal of records and the provision of special education services to students when they transfer to a new school.

The National Center for Homeless Education (NCHE) reported in 2011 that 60 percent of homeless youth had been fined for offenses such as panhandling, sleeping or camping in public, and loitering. Because most homeless youth cannot afford to pay the fines, they are issued a warrant for their arrest. Some homeless youth engage in illegal activities in exchange for food or shelter. Many youth experience homelessness on their own, without a parent or guardian to help guide their behavior and negotiate law enforcement if they become involved in the justice system. There are youth who become homeless upon or as soon as they are released from juvenile justice facilities. The NCHE also reported that youth who were working or in school six months after their release from a juvenile detention facility tended to stay involved in constructive activities and had not returned to the facility one year after release.

### **ADMINISTRATIVE IMPLICATIONS**

A school or school district would be expected to determine if a student is homeless as defined in the McKinney-Vento Act.

CYFD would be expected to determine if a student is abused or neglected pursuant to the Abuse and Neglect Act.

A receiving school must communicate with the sending school within two days of the student’s enrollment and the sending school must provide the receiving school with the student’s records within two days of receiving communication.

NMDOH states SATC and CARE may be required to amend current practices regarding requesting and providing school records, as well as changing their programming to include access to participation in sports, extracurricular activities, and career and technical programs.

The Public Education Department (PED) states it would need to ensure public schools and state chartered charter school are aware of the changes to the Public School Code and provide assistance as needed, which can be done with existing resources.

## **TECHNICAL ISSUES**

On page 2 line 12, the sponsor may want to add “or guardian” after “parent” to the bill, as amended.

On page 3 line 21, the sponsor may want to specify what “timely assistance” is. Is it also within two days of the student’s enrollment?

On page 3 line 18, the sponsor of the bill may want to specify if the “equal access to participation in sports and other extracurricular activities” is under the jurisdiction of the New Mexico Activities Association (NMAA). Not addressing this may result in students who have experienced a disruption in their education not being eligible to play for 180 school/365 calendar days, depending on the students’ conditions of guardianship. This issue is discussed further under “Other Significant Issues.”

The Legislature may want to address whether delinquency can be defined as “no fault of the student” or the sponsor may want to define what that would mean depending on the intended purpose.

## **OTHER SIGNIFICANT ISSUES**

The Joint Education Task Force, created December 2012, was charged with providing the court with collaborative advice, recommendations, and proposed strategies for addressing the educational needs of high-risk children and youth, particularly children and youth in the state’s custody. The task force, co-chaired by former Chief Justice Petra Jimenez Maes and Governor Susana Martinez, was required to submit a report summarizing its activities, findings, and recommendations on the development of a sustainable collaborative model for ongoing systemic improvement of educational outcomes and the challenges and barriers to educational success. The final report included recommendations for the creation of a credit recovery document that highlights best practices to assist districts and provides ongoing considerations of developing policies and practices that ensures students obtain eligible credit despite school placement changes. The recommendations also included statewide credit policies be developed. HB301, through the expedited placement in core and elective classes of students experiencing a disruption in the education process through no fault of their own, would, in part, align with these recommendations.

PED states that while options for credit recovery exist, such as courses offered through IDEAL New Mexico, changes to the New Mexico Children’s Code requiring expedited record transfers between sending and receiving schools for student populations identified in HB301 would ensure that student coursework completed at the time of transfer counts toward graduation requirements.

Section 6.7.1 of the NMAA bylaws, under conditions of guardianship, states that if a student is not appointed by a district court judicial authority to live with a legal guardian if a student’s parents are alive, a student is considered a transfer student and ineligible for varsity level participation for 180 school/365 calendar days. Legal guardianship, according to this section, must be established at least one calendar year before the transfer in order to be considered for eligibility purposes.

Section 6.7.3 NMAA bylaws, under Conditions of Guardianship, states that the child care boarding facility to which a student has been assigned by an appropriate governmental authority

is presumed to be the residence of the student. It also states that if a student's parents move the student to a foster home in another school attendance zone or school district, the foster home is considered the residence of the student. In this case, a student who has to switch schools for a reason outlined in HB301/aHHHC, would be eligible to participate.

### **CONSEQUENCES OF NOT ENACTING THE BILL**

The state may not be in compliance with the provisions of ESSA.

### **RELATED BILLS**

Duplicate of SB213/aSEC, Support for Transferring Students

### **SOURCES OF INFORMATION**

- LESC Files
- New Mexico Department of Health
- New Mexico Activities Association
- PED Analysis

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