

LESC bill analyses are available on the New Mexico Legislature website ([www.nmlegis.gov](http://www.nmlegis.gov)). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

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

<b>Bill Number</b>	<u>HB308/HHHCS/aHSEIC/aSJC/aSFI</u>	<b>Sponsor</b>	<u>HHHC</u>
<b>Tracking Number</b>	<u>.212933.5</u>	<b>Committee Referrals</b>	<u>HHHC/HJC; SPAC/SJC</u>
<b>Short Title</b>	<u>Dental Therapists</u>		
<b>Analyst</b>	<u>Terrazas</u>	<b>Original Date</b>	<u>2/8/19</u>
		<b>Last Updated</b>	<u>3/11/19</u>

---

---

**BILL SUMMARY**

Synopsis of Senator Floor Amendment 1

The Senator Floor Amendment 1 to the House Health and Human Services Committee Substitute for HB308, as amended by the House State Government, Elections and Indian Affairs Committee and the Senate Judiciary Committee, (HB308/HHHCS/aHSEIC/aSJC/aSFI) repeals Section 61-5A-2 NMSA 1978, which provides a purpose for the Dental Health Care Act.

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to the House Health and Human Services Committee Substitute for HB308, as amended by the House State Government, Elections and Indian Affairs Committee (HB308/HHHCS/aHSEIC/aSJC) removes the entire first section, which explains the purpose of the bill and corrects references to sections accordingly.

Synopsis of HSEIC Amendment

The House State Government, Elections and Indian Affairs Committee Amendment to the House Health and Human Services Committee Substitute for HB308 (HB308/HHHCS/aHSEIC) adds language indicating where dental therapists may practice. The new subsection specifies that no state licensure or regulatory requirements or obligations can prohibit, restrict, or impose the practice of dental therapy on tribal lands or by a dental therapist who is employed by a tribal health program, a federal Indian health program, or a federally operated Indian health service healthcare site.

The amendment does not pertain to public school education.

Synopsis of Original Bill

The House Health and Human Services Committee Substitute for HB308 (HB308/HHHCS) would enact a new section of the Public School Code to require students to obtain or opt out of dental examinations prior to annual school enrollment. Beginning July 1, 2021, HB308/HHHCS would

require a student to have a dental examination before being enrolled in school, but would give parents or guardians the opportunity to opt out by signing a form that states the parent or guardian understands the risks associated with a student not having a dental examination. The Public Education Department (PED) would be required to specify in rule that dental examinations would be at the family's expense or at the expense of any dental health coverage. Further, PED would be required to collect data regarding student compliance with dental examination requirements and make an annual written report of the data to the Legislative Finance Committee (LFC) and the legislative House Health and Human Services (HHHS) Committee.

## **FISCAL IMPACT**

The bill does not contain an appropriation.

PED indicates the cost to promulgate rules that prescribe the requirements for the dental examinations is minimal. The department notes the cost of outreach to families to explain dental examination requirements and to provide information about referrals for dental healthcare professionals is indeterminate.

## **SUBSTANTIVE ISSUES**

Prekindergarten programs funded by PED and the Children, Youth and Families Department (CYFD) must refer program participants to community health providers that can assess each child for dental, vision, and hearing screenings, physical examinations, and current immunizations. According to the DOH, low-income and non-insured children participating in Head Start, Families First, Cleft Palate, and Women, Infants and Children (WIC) programs receive oral health education, dental screenings, fluoride varnish applications, and the services of the dental manager. Parents receive oral health education training, including nutrition, dental hygiene, and injury prevention. Some home visiting programs provide information on tooth decay prevention. The American Academy of Pediatric Dentistry (AAPD) recommends the first oral examination happen at the time of the eruption of the first tooth and no later than 12 months of age.

In a 2018 report, DOH reported about 85 percent of New Mexico children had at least one preventive dental visit in the past year, higher than the national percentage of 78.7 percent. Close to 90 percent of New Mexico children with special healthcare needs received a preventive dental visit. However, a higher percentage of New Mexico children had tooth decay (14 percent) than the national percentage (11.7 percent). The Centers for Disease Control and Prevention (CDC) indicates tooth decay is one of the most common chronic conditions of childhood in the United States and four times more common than asthma among 14- to 17-year olds. According to a January 2019 report by the Children's Dental Health Project on dental screening laws, approximately 43 percent of 6- to 11-year-old children had at least one dental sealant and 13.3 percent of 6- to 19-year-old children and adolescents had untreated dental cavities in their permanent teeth. The CDC reports the percentage of children and adolescents 5- to 19-years old with untreated tooth decay is twice as high for those from low-income families (25 percent) compared with children from higher-income households (11 percent). If left untreated, tooth decay can cause pain and infections that may lead to problems with eating, speaking, playing, and learning.

The Children's Dental Health Project notes 14 states and the District of Columbia, not including New Mexico, have dental screening laws for school-aged children. Although states with dental screening laws have increased parental knowledge of oral health's importance, such laws often do

not secure dental clinics for children in need. The report notes that without funding to support screenings, states may lack the workforce to enforce dental screening laws effectively, evaluate the data collected, and use screening laws to improve dental health practice and programs. Further, without a reliable mechanism to connect children to dental care, dental screening laws may not achieve the impact sought by advocates.

Dental neglect, as defined by the AAPD, is the “willful failure of a parent or guardian, despite adequate access to care, to seek and follow through with treatment necessary to ensure a level of oral health essential for adequate function and freedom from pain and infection.” Failure to obtain proper dental care may be due to family isolation, lack of finances, transportation difficulty, or parental ignorance. AAPD notes the point at which to consider a parent negligent and begin intervention occurs after the parent has been properly alerted by a healthcare provider about the nature and extent of a child’s condition, the specific treatment needed, and the mechanism of accessing that treatment. The healthcare provider, including dental provider, then evaluates whether dental services are readily available and accessible to a child when considering whether negligence has occurred. The law in New Jersey and Pennsylvania considers failing to provide for a child’s basic needs, including dental care, as child neglect.

The DOH indicates requiring a dental examination prior to enrolling in school is a challenge due to travel distance to access a dental provider for residents of rural and frontier New Mexico, as well as the lack of Medicaid providers, and the lack of pediatric dentists. Immigrant populations without residency status, who lack Medicaid or adequate finances, are often unable to afford dental treatment. Further, DOH notes parents have trouble taking time off work to take a child to a dental appointment. The department’s Office of Oral Health also notes California has reported they have encountered numerous difficulties with children complying with the state’s dental screening law, including the challenges DOH noted.

### **ADMINISTRATIVE IMPLICATIONS**

HB308/HHHCS/aHSEIC/aSJC/aSFI would require PED to enact rules by July 1, 2020, that specify the dental examination requirements, provide extensive education statewide for parents and guardians explaining the requirements for dental examination, and provide information regarding where parents may receive referrals to dental healthcare professionals statewide who are authorized to perform dental examinations in accordance with the department’s rules. PED indicates it would need to determine how to provide families across the state with the dental examination requirements and information about where to receive referrals to healthcare professionals before enrollment. PED would need to update the Student Accountability Reporting System to indicate if a family complied with the dental examination requirements.

PED would be required to collect data regarding student compliance with dental examination requirements and provide the LFC and the HHHS Committee with an annual written report of the data.

### **TECHNICAL ISSUES**

HB308/HHHCS/aHSEIC/aSJC/aSFI may violate the McKinney-Vento Homeless Assistance Act, which requires all local educational agencies to immediately enroll students identified as homeless, even without normally required documentation, including school or medical records.

Students are expected to enroll and register in school on an annual basis and when they transfer schools within the school year. It is unclear if the bill would require a student to have a dental examination prior to each enrollment or only the first time a student enrolls in school.

**SOURCES OF INFORMATION**

- LESC Files
- Public Education Department (PED)
- Department of Health (DOH)

**DT/mc/mhg**