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FISCAL IMPACT REPORT

SPONSOR Torraco ORIGINAL DATE 03/11/15
LAST UPDATED _____ HB _____

SHORT TITLE Good Faith Reports of Child Abuse or Neglect SB 611

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 29, SB 372 and SB 456.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth & Families Department (CYFD)
Attorney General's Office (AGO)
Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

Senate Bill 611 appears to clarify that the presumption of good faith and the grant of immunity from liability applies when a person reports child abuse or neglect as required by existing law or participates in a judicial proceeding brought pursuant to the Abuse and Neglect Act whether or not the abuse was committed by a parent, guardian or custodian.

FISCAL IMPLICATIONS

No fiscal impact on the State is anticipated.

SIGNIFICANT ISSUES

The apparent policy behind this bill--to encourage reporting of (and participating in court hearing

regarding) child abuse and neglect regardless of the perpetrator—is enhanced by the clarification or expansion of the scope of the presumption of good faith and the grant of immunity that already exists in law to include situations where the alleged abuse or neglect may not have been committed by a parent, guardian or custodian. It appears, for example, that in a criminal proceeding in which the defendant who is not a parent, guardian or custodian of the child who is the victim of child abuse, a witness testifying against that defendant clearly may be protected by the presumption and the grant of immunity, absent bad faith or malicious purpose.

However, there is some confusion given the actual language contained in the bill. Most of the responding agencies read those changes to clarify or expand the scope as described above, but CYFD reads the bill to limit the judicial proceedings protections to only those proceedings that are brought under the Abuse and Neglect Act (Sections 32A-4-1 through 34, NMSA 1978). If read in such a manner, CYFD notes the impact would be felt in domestic relations, criminal, civil and cases under the Family in Need of Court-Ordered Services Act (Sections 32A-3B-1 through 22, NMSA 1978), and may deter persons from reporting if the presumption and immunity do not extend to those and other proceedings that are not brought pursuant to the Abuse and Neglect Act. While the reporting requirement is contained in the Abuse and Neglect Act, the types of proceedings such a report may lead to go beyond that Act.

As CYFD comments, it is in the best interest of children for people to report and to participate in *all* judicial proceedings meant to ensure child safety, regardless of the venue of those proceedings, or the statutory authority under which they are conducted.

PERFORMANCE IMPLICATIONS

CYFD reports it has performance measures related to the safety and security of children.

AMENDMENTS

Move the phrase “pursuant to the Abuse and Neglect Act” to follow “abuse” in line 6 on page 2, and add a phrase like “as a result of such a report” following the word “brought” in line 7 on page 2.

MD/aml