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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/2017

SPONSOR Padilla LAST UPDATED _____ HB _____

SHORT TITLE Child Abuse Homicide Review Team SB 294

ANALYST Rogers

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Moderate, see fiscal implications	Moderate, see fiscal implications	Moderate, see fiscal implications	Moderate, see fiscal implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Crime Victims Reparation Commission (CVRC)
 Administrative Office of the Courts (AOC)
 Children, Youth, and Families Department (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 294 creates the “Child Abuse Homicide Review Team” within the Crime Victims Reparation Commission to review the facts and circumstances of child-abuse-related homicides in New Mexico, identify the causes of the fatalities and their relationship to government and nongovernment service delivery systems, and developing methods of child abuse prevention.

SB 294 requires the review team to review trends and patterns of child-abuse related homicides in New Mexico; evaluate the responses of government and nongovernment service delivery systems and offer recommendations for improvement of the responses; identify and characterize high-risk groups for the purpose of recommending developments in public policy; collect statistical data in a consistent and uniform manner on the occurrence of child-abuse-related homicides; and improve collaboration among tribal, state and local agencies and organizations to develop initiatives to prevent child abuse. The review team is required to report annually on its activities.

SB 294 sets out the items that are confidential and specifies those who shall honor the confidentiality requirements. SB 294 provides immunity for team members from civil liability for any act related to the review of a child-abuse-related homicide, provided members act in good faith, without malice and in compliance with other state or federal law. The bill also provides immunity from civil liability for those providing testimony, records, reports or other information to the team for the purpose of reviewing child-abuse-related homicides if acting in good faith.

SB 294 enacts an additional statutory section to permit the Office of the Attorney General (OAG) to request that the Secretary of the Children, Youth and Families Department appoint an independent investigator whenever a child-abuse-related homicide occurs. The bill requires the Secretary to appoint an independent investigator, within 30 days of receipt of a request by the OAG, to determine whether, with respect to the victim, any person failed to make a notification required by law regarding alleged abuse of the child and whether any technical, administrative or procedural issues prevented a required notification from being made, received or acted upon. SB 294 requires an appointed independent investigator to submit a report on the completed investigation to the CYFD Secretary, the OAG and the child abuse homicide review team.

FISCAL IMPLICATIONS

CVRC explains CYFD facilitators should be able to access and provide their agency reports to the team created by the bill with confidential requirements. CYFD would need to dedicate staff to the review team, since obtaining and facilitating meetings will be extremely time consuming in order to fully represent all the facts in child homicide and prepare the annual report.

CVRC currently funds the New Mexico Intimate Partner Violence Death Review Team (NMIPVDRT) through a state appropriation of \$75 thousand annually. This funding pays for a research project manager and part-time research assistant as well as in-state travel and operating costs. The expenses of the bill would need to be covered by CYFD.

CYFD reports the bill could have a moderate fiscal impact on the department's budget. There is no appropriation attached to this bill to either support the review team's expenses or to support CYFD's facilitation of meetings or conducting independent investigations.

The AOC states there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and the participation of the judiciary in support of the Child Abuse Homicide Review Team, including team participation by court personnel and the provision of court documents to the team for review.

SIGNIFICANT ISSUES

The AOC provides the following analysis:

- 1) SB 294, Section 1 mirrors almost exactly the Section 31-22-4.1 NMSA 1978 creation of the "Domestic Violence Homicide Review Team." The only difference between the two statutes is that SB 294, Section 1 contains Subsection D, missing from Section 31-22-4.1, and permitting an organization, institution, agency or person to share information and records that are otherwise protected by law from disclosure if the information and records are shared only

for the purpose of a review of child-abuse-related homicides by the Child Abuse Homicide Review Team.

No language within either SB 294, Section 1 or Section 31-22-4.1 limits the team's review to cases that have been adjudicated. This has been the policy of the Domestic Violence Homicide Review Team (now called the "Intimate Partner Violent Death Review Team"), which just issued an annual report summarizing the data and system recommendations for cases reviewed in 2016 (deaths occurring in calendar year 2013), and would lend the best perspective for identifying and evaluating system-related trends and patterns and responses. If the team's review were to include cases prior to adjudication, the judiciary would be unable to participate and the court records would be sealed. Subsection D appears to address the issue of the availability of sealed records for review. Even if sealed records are made available to the review team pursuant to Section D, the review needs to be limited to cases that have been adjudicated in order to facilitate full, system-wide review in a confidential setting with full participation by team members.

2) SB 294, Section 2 would permit the appointment of a special investigator, upon request of the AG, within 30 days of the occurrence of a child-abuse-related homicide. Court records are sealed in each child abuse and neglect case, making it difficult for the investigator to review materials contained in a case file, absent an exception and protections permitting review. There is a concern that permitting review prior to adjudication will severely hamper communication and cooperation between agencies.

3) The New Mexico Child Fatality Review (NMCFR) was established in 1998, within the Department of Health, to examine the circumstances that contribute to the death of infants, children, and youth in New Mexico. According to the review team

The purpose of the NMCFR is to identify risk reduction, prevention, and systems improvement identified by investigating the circumstances of these deaths and to recommend strategies that can prevent future injury and death. The NMCFR provides a forum to review agency actions as they relate to child protection and death reduction. The review process results in increased understanding of risk factors for child death that help protective service, school, medical, public health and law enforcement personnel identify children at risk, and alert the community to emerging patterns of death. The Child Death Review Team in New Mexico is comprised of four panels that review deaths and make recommendations in the areas of child abuse and neglect, transportation, suicide and the broader spectrum of unintentional injury. See, *New Mexico Child Fatality Review*, May 2015.

It is unclear whether the efforts of the newly created Child Abuse Homicide Review Team would be duplicative of the NMCFR, but cooperation between the two entities would appear to be beneficial.

ADMINISTRATIVE IMPLICATIONS

CVRC points out that funding the Child Abuse Homicide Review Team maybe an eligible activity under the CVRC's Victims of Crime Act (VOCA) federal funds. A competitive request for proposal process will be solicited in the spring of 2017.

OTHER SUBSTANTIVE ISSUES

The AOC suggests consideration of the following potential amendments:

- 1) Limit the scope of review and access to court documents by the Child Abuse Homicide Review Team to cases that have been adjudicated. (See “Significant Issue” #1, above.)
- 2) Provide for cooperation and information sharing, at the least, between the Child Abuse Homicide Review Team and the NMCFR. (See “Significant Issue” #3, above.)

ALTERNATIVES

Section 2 could be changed to allow the District Attorney from the judicial district where the homicide occurred be the office requesting the special investigator.

TR/jle