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## FISCAL IMPACT REPORT

SPONSOR Gould ORIGINAL DATE 3/07/17  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Child Abuse Reporting Limited Liability SB 455

ANALYST Klundt

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		None identified				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth and Families Department (CYFD)

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 455 (SB 455) amends language in Section 32A-4-5(B) NMSA 1978. The amendment removes Line 5, page 2 that a person reporting child abuse or neglect “brought as a result of a report required by Section 32A-4-3” is presumed to be acting in good faith and shall be immune from civil and criminal liability. Section 32A-4-3 places a duty to report child abuse or neglect on a group of professionals who have contact with at risk children.

SB 455 provides immunity for anyone who reports child neglect or abuse or participates in a judicial proceeding, regardless of whether the person’s reporting or the case was brought on account of the mandatory reporting requirement of Section 32A-4-3.

### FISCAL IMPLICATIONS

AOC reported any additional fiscal impact to the judiciary would be proportional to the number of abuse and neglect cases filed, as this may have the effect of encouraging reporting of child abuse. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

CYFD reported no known fiscal implications.

## SIGNIFICANT ISSUES

AOC provided the following:

- SB 455 encourages the reporting of abuse and neglect and participation in court proceedings without fear of liability. It also provides immunity for mandatory and voluntary reporters. Other states have adopted similar provisions for those who report child abuse and neglect.
  - “Any person participating in good faith in making a report pursuant to the reporting laws shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.” 6 R.I. Gen. Laws §40-11-4.
  - “Any person, official, institution, or agency participating in good faith in any act required or permitted by the reporting laws is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official, or institution participating in any act permitted or required by the reporting laws shall be presumed.” See Wyo. Stat. Ann. §14-3-209.
- Other states with similar legislation are: West Virginia, Texas, Virgin Islands, Washington, Idaho, South Carolina, Pennsylvania, Oregon, Oklahoma, Kansas (immune from civil liability only), Maryland, Maine, Iowa, Indiana, Illinois, Hawaii, Florida, Delaware, District of Columbia and Louisiana. Child Welfare Information Gateway. (2016). Immunity for reporters of child abuse and neglect. Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau. For full text of comparison of state laws: <https://www.childwelfare.gov/pubPDFs/immunity.pdf>
- Some states have added language to clarify that “[n]o immunity conferred pursuant to this subsection shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.” Tenn. Code Ann. §§ 37-1-410(a)(5)(B), (6)-(8).
- The good faith requirement is not removed by SB 455, leaving the courts with recourse for a person acting in bad faith or with malicious purpose.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 294, the Child Abuse Homicide Review Team bill, has language that could be included into SB 455.

Other states’ statutes that allow immunity for reporting incorporate similar language, such as:

- “Any person, other than the alleged violator, participating in good faith in making a report, assisting in an investigation or assessment, furnishing information, in providing protective services, or who is a member of the *child fatality review panel* is immune from any civil or criminal liability” N.D. Cent. Code §50-25.1-09