

LFC Requester:	
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 2-2-17
Bill No: SB294

Sponsor: Michael Padilla
Short Title: Child Abuse Homicide Review Team

Agency Code: 264
Person Writing: Gail MacQuesten
Phone: 466-0532 **Email:** gailmacquesten@gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB294 enacts a new section of the Crime Victims Reparation Act to create the “child abuse homicide review team,” and enacts a new section of the Abuse and Neglect Act to provide for independent investigation and reporting on child abuse-related homicides.

Section 1 of SB294 creates the “child abuse homicide review team” within the crime victims reparation commission to review the facts and circumstances of child abuse-related homicides, identifying the causes of the fatalities and their relationship to government and nongovernment service delivery systems and developing methods of child abuse prevention. The bill appears to be modeled after a similar team established to review domestic violence homicides. See NMSA 1978, Section 31-22-4.1.

The team consists of the following members appointed by the director of the commission, with the children, youth and families department providing staff to facilitate the meetings:

- Medical personnel with expertise in child abuse;
- Criminologists;
- Representatives from the New Mexico district attorney’s association;
- Representatives from the office of the attorney general;
- Victim services providers;
- Civil legal services providers;
- Representatives from the public defender department;
- Members of the judiciary;
- Law enforcement personnel;
- Representatives from the department of health, the human services department and the children, youth and families department who deal with child abuse issues and income support and benefits;
- Representatives from tribal organizations who deal with child abuse; and
- Any other members that the director of the commission deems appropriate.

The team is 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.

SB294 allows otherwise confidential information to be shared with the team, but requires confidential information shared with the team to be kept confidential within the team. The team is to report its activities annually to the governor, the New Mexico legislative council, the chief justice of the supreme court, the secretary of public safety, the secretary of children, youth and families, the secretary of health, the secretary of human services, the New Mexico attorney general, and any other persons the team deems appropriate.

Section 2 of SB294 provides that the attorney general may request that the secretary of children, youth and families appoint an independent investigator to investigate a child abuse-related homicide. The investigator is to determine whether 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 require notification from being made, received or acted upon. The investigator shall submit a report to the secretary, the attorney general and the child abuse homicide review team.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SB294 contains no appropriation. It does not appear that participants who are not state employees will receive any compensation or reimbursement for travel and expenses. The crime victims reparation commission and the children, youth and families department will bear most of the expenses related to SB294. The district attorneys association (and other entities providing team members) will also have costs associated with that participation.

SIGNIFICANT ISSUES

SB294 creates a team to review child abuse-related homicides and create a “big picture” review of such homicides to provide the agencies who deal with such issues and the legislature with the data needed to make informed decisions.

SB294 also allows the attorney general to request an investigation into specific cases to determine if notification issues or procedural/administrative issues failed the child victim. It is not clear why SB294 gives the attorney general the power to request an investigation. Child abuse-related homicides are typically handled by the district attorneys, under their duty to prosecute and defend for the state all criminal cases in which the state is a party. See NMSA 1978, Section 36-1-18(A)(1). The attorney general can take a criminal case upon failure or refusal of any district attorney to act, or when in the judgment of the attorney general, the interest of the state requires the attorney general to prosecute the case. See NMSA 1978, Sections 8-5-2 and 8-5-3. Because child abuse-related homicides are handled by the district attorneys, the district attorneys are familiar with the facts of the cases, and – other than law enforcement

agencies or children, youth and families – are the first to see how notification issues or procedural/administrative issues may have failed the child victim. The attorney general typically will not be aware of such situations until much later, when informed by other agencies, through handling an appeal, or through participation in the proposed review team.

PERFORMANCE IMPLICATIONS

None for the district attorneys.

ADMINISTRATIVE IMPLICATIONS

None for the district attorneys.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found.

TECHNICAL ISSUES

It is not clear what is meant by “independent investigator” in Section 2 of HB294. The investigator is to look at notifications and technical, administrative or procedural issues that may have failed the child victim. That appears to be a review of functions of the children, youth and families department. So it is not clear how children, youth and families is to provide an “independent investigator” to review itself. If the provision only seeks to have an investigator who is not connected with the criminal investigation, it would be sufficient to say that children, youth and families is to appoint an investigator.

There should only be one hyphen in “child abuse-related.” (It is not “child-abuse-related.”)

OTHER SUBSTANTIVE ISSUES

None found.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will be no inter-agency team review of child abuse-related homicides, and no statutory authority expressly giving the attorney general power to request an independent review of a particular child abuse-related homicide.

AMENDMENTS

None proposed.