

HB 1612-FN - AS AMENDED BY THE HOUSE

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2022 SESSION

22-2050

11/05

HOUSE BILL ***1612-FN***

AN ACT relative to the confidentiality of reports made to the division for children, youth, and families.

SPONSORS: Rep. Spillane, Rock. 2; Rep. Roy, Rock. 32; Rep. Bershtein, Rock. 2; Rep. A. Lekas, Hills. 37; Rep. Read, Rock. 17; Sen. Avard, Dist 12

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill provides that reports of suspected abuse and neglect may include the name of the person making the report and provides that the person's identity shall be fully confidential unless such a person makes such a report in bad faith or maliciously and with intent to cause harm, in which case the person may be subject to civil and criminal penalties.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the confidentiality of reports made to the division for children, youth, and families.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Child Protection Act; Reporting Law; Nature of Report; Liability. Amend RSA 169-C:30 and
2 RSA 169-C:31 to read as follows:

3 169-C:30 Nature and Content of Report. An oral report shall be made immediately by telephone
4 or otherwise, and followed within 48 hours by a report in writing, if so requested, to the department.
5 Such report shall, if known, contain the name and address of the child suspected of being neglected
6 or abused and the person responsible for the child's welfare, the specific information indicating
7 neglect or the nature and extent of the child's injuries (including any evidence of previous injuries),
8 the identity of the person or persons suspected of being responsible for such neglect or abuse, and
9 any other information that might be helpful in establishing neglect or abuse or that may be required
10 by the department. ***Reports made to the department may include the name, address, or***
11 ***phone number of the person or persons making the report of suspected abuse or neglect of a***
12 ***child under this chapter. The department may inform the complainant that should the***
13 ***complaint be made maliciously or with intent to harm, the complainant may be subject to***
14 ***criminal and civil penalties.***

15 169-C:31 Immunity From Liability.

16 ***I.*** Anyone participating in good faith in the making of a report pursuant to this chapter or
17 who provides information or assistance, including medical evaluations or consultations, in
18 connection with a report, investigation, or legal intervention pursuant to a good faith report of child
19 abuse or neglect, is immune from any liability, civil or criminal, that might otherwise be incurred or
20 imposed. Any such participant has the same immunity with respect to participation in any
21 investigation by the department or judicial proceeding resulting from such report.

22 ***II.*** ***It shall be a misdemeanor to knowingly make false statements of suspected child***
23 ***abuse as defined by RSA 169-C:3 to the department, to any court, to any law enforcement***
24 ***agency, to any social services agency, or to any mandatory reporter of suspected child***
25 ***abuse as defined in RSA 169-C:29. Any person who knowingly or in bad faith makes a false***
26 ***report of suspected child abuse as defined by RSA 169-C:3 may also be subject to civil***
27 ***penalties.***

28 2 Services for Children, Youth, and Families; Case Records. Amend RSA 170-G:8-a, I(d) to read
29 as follows:

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1 (d) The name of a person who makes a report of suspected abuse or neglect of a child
2 pursuant to RSA 169-C:29, or any information which would identify the reporter, ***except as***
3 ***provided in subparagraph VI(c).***

4 3 New Subparagraphs; Services for Children, Youth, and Families; Case Records;
5 Confidentiality. Amend RSA 170-G:8-a, VI by inserting after subparagraph (b) the following new
6 subparagraphs:

7 (c) The identity of the person who makes a report of suspected abuse or neglect of a child
8 shall be confidentially retained separately from any other case records of the department. Such
9 information shall be sealed and confidential at all times unless and until the complaint is found by
10 the caseworker assigned to the complaint to have been made in bad faith or maliciously and with
11 intent to cause harm. The identity of any complainant found to have been made in bad faith or
12 maliciously and with intent to cause harm shall be unsealed and identified, and included as part of
13 the case records of the department. Under no circumstances shall the identity of a complainant who
14 makes a report of suspected abuse or neglect in good faith or pursuant to RSA 169-C:29 be released.

15 4 Effective Date. This act shall take effect January 1, 2023.

HB 1612-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the confidentiality of reports made to the division of children, youth, and families and requiring guardians ad litem be appointed in certain instances.

FISCAL IMPACT: ☒ **State** ☒ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	☒ General	☐ Education	☐ Highway	☐ Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill: (1) requires that the court appoint a guardian ad litem (GAL) in child protection cases in which there is also an ongoing divorce proceeding; (2) requires that all individuals making reports of child abuse or neglect to the Department of Health and Human Services include their name and address; and (3) makes it a misdemeanor to make false reports and creates civil penalties for knowingly making false reports of abuse and neglect. With respect to (1), the Department states that if the bill's intent is for the court to appoint GALs only for cases under RSA 169-C, statute already provides for such appointment and there will be no additional cost. If, however, the intent is to provide for GALS instead of court-appointed special advocates (CASA) in cases also concerning divorce, the bill will increase costs to the Judicial Branch but not to the Department. (Additional impacts to the Judicial Branch are described below.) With respect to (2), the Department assumes no fiscal impact.

With respect to (3), there is no method to determine the number of additional charges that may be brought as a result of the newly-created misdemeanor. However, the entities impacted have provided the costs associated with such cases below:

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

The cost to the Judicial Branch is indeterminable. There is no method to determine how many charges would be brought as a result of the changes contained in the bill. In the past the Judicial Branch has used average caseload data based on times studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies that are more than fifteen years old, so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

It is assumed that any fiscal impact will begin in FY 2023.

AGENCIES CONTACTED:

Department of Health and Human Services, Judicial Branch, Judicial Council and New Hampshire Association of Counties