

HB 455-FN - AS INTRODUCED

2023 SESSION

23-0437

04/08

HOUSE BILL

455-FN

AN ACT relative to creating a new state cause of action and special findings for abused, neglected, and abandoned children seeking special immigrant juvenile status under federal law.

SPONSORS: Rep. Telerski, Hills. 11; Rep. Long, Hills. 23; Rep. Gregg, Hills. 7; Sen. Altschiller, Dist 24; Sen. Whitley, Dist 15

COMMITTEE: Children and Family Law

ANALYSIS

This bill creates a new state cause of action and special findings for abused, neglected, and abandoned children seeking special immigrant juvenile status under federal law.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Three

AN ACT relative to creating a new state cause of action and special findings for abused, neglected, and abandoned children seeking special immigrant juvenile status under federal law.

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

1 New Chapter; Special Immigrant Status for Juveniles. Amend RSA by inserting after chapter
169-H the following new chapter:

CHAPTER 169-I

SPECIAL IMMIGRANT STATUS FOR JUVENILES

169-I:1 Definitions. In this chapter:

I. "Child" means an unmarried person under the age of 21.

II. “Court” means any court having jurisdiction under New Hampshire law to make judicial determinations on the dependency or custody and care of children and shall include, but not be limited to, the circuit court, family division or probate division.

III. “Custody” means the court having jurisdiction over the petitioner under the age of 21 which declares, legally commits, or places the petitioner child under the custody of either a state agency or department, or a person or agency appointed by the court to do so. The court may issue such order considering the best interest of the child that reunification with one or both parents are not viable due to abuse, abandonment, neglect, or similar circumstances under the law.

IV. "Dependent on the court" means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child, including findings, orders, or referrals to support the health, safety and welfare of a child or to remedy the effects on a child of abuse, neglect, abandonment, or similar circumstances; provided that when issuing special findings under this section, a court shall be acting under the jurisdiction specified in this paragraph.

V. "Similar circumstances" means conditions that have an effect on the child comparable to abuse, neglect, abandonment, serious impairment, including, but not limited to, the death of one or both parents. The court may issue special findings of fact and law if the child meets the definition of abuse, abandonment, and neglect, and serious impairment pursuant RSA 169-C:3, or death of one or both parents according this chapter as well as the best interest of the child under RSA 461-A:6.

169-I:2 Petition Determinations.

I. A child, or person interested in the welfare of the child, may petition the court for special findings to protect the child and obtain relief from underlying abuse, neglect, abandonment, or similar circumstances. Upon reviewing the petition or complaint, special findings, supporting

1 affidavits, or other evidence presented, the court shall issue special findings of fact and rulings of
2 law that shall determine whether the child who is the subject of the proceeding:

3 (a) Is dependent on the court or an individual or agency appointed by the court;

4 (b) Has suffered from abuse, neglect, abandonment, or similar circumstances;

5 (c) Shall not be viably reunified with either or both parents due to abuse, neglect,
6 abandonment, or similar circumstances; and

7 (d) Shall not be returned to the child's or parent's country of nationality or country of
8 last habitual residence because it is not in the best interest of the child.

9 II. A court making a decision under this paragraph shall be acting as a juvenile court. The
10 health and safety of the child shall be of paramount concern. When considering the child's health
11 and safety, the court shall consider whether present or past living conditions will adversely affect
12 the child's physical, mental, or emotional health.

13 III. A child who is the subject of a petition for special findings under this chapter may be
14 referred for psychiatric, psychological, educational, occupational, medical, dental, or social services
15 or for protection against trafficking or domestic violence. Participation in any referred services shall
16 be voluntary.

17 IV. A court shall hear, adjudicate, and issue special findings of fact and rulings of law on
18 any petition or complaint for special findings under this section as soon as administratively feasible
19 and prior to the child reaching the age of 21 to serve the best interest of the child.

20 V. Nothing in this section shall prevent the family court or probate court from issuing
21 similar findings of fact and rulings of law to those established in this chapter.

22 169-I:3 Liberal Construction. This chapter shall be liberally construed to promote the best
23 interest of the child.

24 2 Effective Date. This act shall take effect 60 days after its passage.

**HB 455-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to creating a new state cause of action and special findings for abused, neglected, and abandoned children seeking special immigrant juvenile status under federal law.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill creates a new cause of action for abused, neglected, and abandoned children seeking special immigrant juvenile status under federal law. The Judicial Branch states that it is unable to determine how it will be impacted by the bill.

The Department of Health and Human Services states that the newly-created cause of action will operate outside of the Department's jurisdiction. In addition, although the bill refers to children, it impacts adults up to the age of 21 over whom the Department has no authority. For these reasons, the Department expects the bill to have no fiscal impact.

AGENCIES CONTACTED:

Judicial Branch and Department of Health and Human Services