

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/21 /16
LAST UPDATED _____ **HB** 28
SPONSOR Gallegos, DM
SHORT TITLE Abuse & Neglect Act Changes **SB** _____
ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	(See Narrative)	(See Narrative)	Recurring	Federal Funds

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 49.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth & Families Department (CYFD)
 Administrative Office of the Courts (AOC)
 Attorney General’s Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 28 amends the Abuse and Neglect Act (the ANA) to expressly include procedures relating to placement of an abused or neglected child with grandparents and other relatives, including parents or siblings.

These amendments:

- Add definitions for “fictive kin,” “relative,” and “sibling” (Section 2);
- Require notice of a petition filed by CYFD seeking legal custody to grandparents and other relatives (Section 3);
- Establish a preference for placement of a child in the home of a relative (Section 4);
- Require the predisposition report to state the efforts made to identify and locate grandparents and other relatives (Section 5);
- Require the children’s court to include in its findings on disposition whether reasonable efforts to identify and locate grandparents and other relatives have been made, rather than in its permanency determination (so the finding is made at an earlier time in the proceedings), and whether consideration has been given to the child’s familial identity and connections (Section 6);
- Remove archaic language regarding child placement agencies and clarify language allowing transfer of legal custody to CYFD (Section 6);
- Set a six months limit for transitioning the child home (and continuing legal custody in CYFD) when a permanency plan of reunification is adopted (Section 7); and
- Expand permitted disclosure of confidential information regarding a neglect or abuse case to (a) grandparents and other relatives being considered for permanent placement, (b) the federal government as required by federal law, (c) with the consent of the child’s parent or legal custodian, any person attending a meeting regarding the well-being and permanent placement of a child under age fourteen, (d) court-appointed advocates appointed by the court to the specific case; and (e) contractors of the court and CYFD authorized to have access to that information (Section 8).

FISCAL IMPLICATIONS

CYFD advises Congress recently passed the Preventing Sex Trafficking and Strengthening Families Act requiring states to disclose critical information to parents of siblings of foster children, and current confidentiality statutes prevent that disclosure. **If the ANA is not amended to reflect the new federal law, CYFD is at risk of losing substantial federal funding through lack of compliance with the new federal legislation.** It reports no other fiscal impact to its operating budget.

SIGNIFICANT ISSUES

AOC advises that HB 28 is the result of CYFD’s efforts to create consensus among stakeholders regarding proposed language and changes to the Children’s Code. The workgroup was comprised of representatives from CYFD and AOC, as well as Children’s Court judges, tribal judges, court-appointed attorneys, and community stakeholders.

Additionally, AOC reports that Sections 2 through 6 of HB 28 codify in state law certain sections of the federal 2008 Fostering Connections Act (FCA): establishing a preference for placement with relatives for a child taken into protective custody; 2) requiring CYFD exercise “due diligence” to identify and provide notice to adult relatives of the children; and 3) requiring CYFD make reasonable efforts to identify and place a child in protective custody with a relative. HB 28 requires CYFD to make these reasonable efforts at the time of disposition, approximately 60 days after the case is filed. Current law requires these efforts be made before the Permanency Hearing, approximately 10 months after the case is filed. By moving this reasonable efforts for relative placement requirement to an earlier point in the case, there may be greater likelihood for placement stability.

Similarly, CYFD reports that HB 28 aligns state law with those federal requirements, as well as those regarding notifying grandparents and other relatives of certain events and requiring disclosure of critical information to parents of siblings of foster children consistent with the federal Preventing Sex Trafficking and Strengthening Family Act.

CONFLICTS

HB 28 conflicts with SB 49, Children’s Court & Substitute Care Act Changes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the ANA is not amended to reflect the new federal law, CYFD may be at risk of losing substantial federal funding through lack of compliance with new federal legislation.

MD/jle/al