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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/19

SPONSOR Fajardo LAST UPDATED \_\_\_\_\_ HB 496

SHORT TITLE Foster Parent Rights and Ombudsman SB \_\_\_\_\_

ANALYST Klunt/Daly

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Significant	Significant		Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
Children, Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

House Bill 496 (HB 496) creates a Foster Family Ombudsman Office under the Children, Youth and Families Department (CYFD). The secretary of CYFD shall establish the rights and responsibilities of foster parents statewide to include procedures and requirements related to placement, conversion adoptions, and the receipt of maintenance payments and other assistance provided by the department through Rules. Rules adopted by CYFD shall preempt local department offices' policies and procedures.

The Foster Family Ombudsman Office shall operate a toll-free hotline and electronic communication portal for the purpose of receiving complaints made by or on behalf of foster parents or children placed in foster care related to foster care, placement or services. The office shall also disseminate information about the hotline and portal and include information that conversations with the office may not be confidential, rights of children in foster care and services provided by the office.

The office shall investigate and attempt to resolve complaints, and at its discretion, investigate a complaint or refer the complaint to another agency for investigation. Upon deciding to investigate a complaint, the Office shall notify the complainant of its intention to investigate and

update the complainant of the process and final outcome of the investigation. If the office declines to investigate or continue to investigate, the Office shall notify the complainant of reasons for the Office's action.

Other responsibilities of the office include documenting the number, source, origin, location and nature of complaints on an annual basis. The office shall also compile and make information available on an annual basis to the secretary of CYFD, the legislature and the public by posting on the office's website other information such as the number of contacts made to the toll-free number and the portal, the number of complaints investigated, the type and source of complaints, the number of investigations performed by the office, the trends and issues that arose while investigating the complaints, the number of referrals made and the number of pending complaints.

HB 496 authorizes the office to access any record of a state or local agency necessary to carry out the Office's responsibility, meet or communicate with any foster child and establish regional or local foster care ombudsman offices for the purpose of expediting investigations and resolving complaints, subject to legislative appropriation.

## **FISCAL IMPLICATIONS**

There is no appropriation attached to this bill. No appropriation related to this bill is included in the LFC or Executive recommendations. CYFD is unable to absorb the fiscal impact of establishing a new office within the agency which will meet all requirements of the bill. The agency did not provide an estimate of how many FTE or resources would be required to implement this bill however, the average cost per FTE in the Protective Services Program in FY19 is close to \$80 thousand.

## **SIGNIFICANT ISSUES**

CYFD Provided:

“Rules governing foster parents' rights and responsibilities may be found in the New Mexico Administrative Code, Title 8, Chapter 26, Parts 2 and 4.

Recognizing the importance both of communication and of addressing concerns, CYFD is developing a Foster Parent Advisory Council in collaboration with a small group of foster parents. Regrettably, the foster parent group working with CYFD to develop this council has placed the process on hold. Despite this, CYFD believes it is critical to improving training, support and communication for Foster Parents and has planned to continue working on development of a council. This council, with input from CYFD and foster parents would be able to develop a grievance process modeled after other existing CYFD grievance processes so as not to have confusion among multiple grievance processes.

CYFD currently has several processes in place for grievances, including constituency affairs personnel who accept complaints, research the matter, and provide appropriate responses. For youth adjudicated into a secure commitment in a CYFD facility, a safe line has been established to report concerns of abuse or neglect. For other youth, a grievance process has been established allowing them to have an individual document the concern or complaint, and convene a committee to review the complaint.

However, this bill's requirement that a complainant be notified of the "final outcome" of any investigation or discipline which may occur subsequent to a complaint or grievance will come into direct conflict with the confidentiality provisions of the Children's Code, the State Personnel Act, and applicable Collective Bargaining Agreements, as protective services records and information, juvenile justice records and information, and employee disciplinary matters are all confidential."

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 309 (HB309) amends the intervention statute in the Children's Code, Abuse and Neglect Act, 32A-4-1, et seq., to remove the permissive intervention provision for foster parents and make intervention mandatory when a foster parent has had a child reside with the foster parent for at least six months, the foster parent desires to adopt the child and CYFD moves the child or proposes to move the child to: (1) a different foster care placement; (2) place the child with a relative; or, (3) return the child to a biological parent. The bill removes the current mandatory intervention for a foster parent when CYFD seeks to terminate parental rights based on presumptive abandonment, § 32A-4-28(B)(3), which requires a showing that the foster parent desires to adopt and that the child has developed a psychological parent-child relationship with the foster parent.

House Bill 383 (HB 383) enacts a new section of the children's code and is a declaration of policy and standards for foster parents. Including the right to: Be treated with dignity; Be notified of scheduled meetings concerning the child; Actively participate in case planning and treatment; Provide input concerning the child's plan; Communicate with professionals who work with a child including therapists, doctors, and school personnel; Receive a copy of the treatment plan, revisions, the substitute care placement agreement; Receive standard on-going training; Access to department policies and notification of change in policies; Impartial investigation when complaint is received; Free from harassment; 24-hour access to department staff; Report misconduct by the department; Notification of substitute care advisory council meeting Opportunity to be heard in court; Submit written statements to the court; Receive and be informed about potential services; Be considered the first placement option upon a child's reentry into care; Receive full reimbursement; Department resources with loss or separation from a child; Intervention; Exit interviews; Full disclosure of all medical, psychological and behavioral issues of children; A travel file HB 383 would also require when the child has a plan of adoption to be given priority along with a relative. Foster parents also have the right to be free from discrimination. CYFD reported HB 383 codifies the foster parent bill of rights given to foster parents during the foster parent training completed by each incoming foster parent, but slightly deviates from the existing standard.

KK/al/sb