

LFC Requester:	Rachel Mercer-Garcia
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/23/2025 *Check all that apply:*
Bill Number: HB 136 Original Correction
 Amendment Substitute

Sponsor: Representative Andrea Reeb **Agency Name and Code** Office of Family Representation & Advocacy 6800
Short Title: Fentanyl Exposure as Child Abuse **Number:** _____
Person Writing Wolfgang J. Bomgardner
Phone: 505-538-0134 **Email** wolf.bomgardner@ofra.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

An addition to the Criminal Code adding evidence of intentional and knowing exposure of a child to fentanyl as presumptive evidence of child abuse.

The statute already enumerates evidence of intentional and knowing exposure of a child to methamphetamine as presumptive evidence of child abuse.

FISCAL IMPLICATIONS

Although there are no appropriations associated with this bill, the bill may not impact prosecutor, defense attorney, or court caseloads since individuals may already be charged with child abuse based on exposure to fentanyl.

However, the evidentiary presumption created by this bill may lead to higher rates of conviction of criminal child abuse, which may in turn lead to higher rates of entry into foster care. The bill does not appropriate any funds to the Courts or the Children Youth and Families Department (CYFD) to address these increased civil/child welfare cases. Nor does the bill appropriate any funds to the Office of Family Representation and Advocacy (OFRA), which will be required to provide guardians ad litem and youth attorneys for any impacted children and attorneys for the parents, guardians, or custodians whose children are taken into custody by CYFD as a result of this provision. Increasing civil caseloads for the Court, CYFD, and OFRA, without commensurate increases in appropriations may lead to budget shortfalls, delays in processing cases, and failure to provide adequate legal representation.

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.

SIGNIFICANT ISSUES

This bill eliminates the discretion of both Judges and CYFD to dispose of cases where fentanyl was involved but did not endanger the life or health of a child.

The bill has no enumerated exception for lawful use of fentanyl, a drug which is commonly used in medical settings and may be prescribed legally.

The bill could lead to delays in processing cases and budget shortfalls for the judiciary, CYFD, OFRA, and LOPD.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Exposure of a child to fentanyl will continue to constitute child abuse if it endangers the life or health of a child.

AMENDMENTS