

LFC Requestor: LFC Contractor

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 173

Type: Introduced

Date (of THIS analysis): 01-29-25

Sponsor(s): Gail Armstrong

Short Title: CYFD Investigation for Plan of Care Failure

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0		

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 173 (HB173) would amend Section 32A-3A-14 NMSA 1978 (being Laws 2019, Chapter 190, Section 4) to require the Children Youth and Families Department (CYFD) to conduct a family assessment with families who fail to comply with a plan of care, rather than have the option of conducting a family assessment for these families.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

HB173 amends the existing state statute that established Plans of Safe Care for newborns exposed to substances in utero. The bill changes “may” to “shall” to mandate CYFD conduct a family assessment in the event of noncompliance with a plan of care, that families would be offered services and supports, and that if the family still declined services after the family assessment was completed, CYFD would be mandated to conduct an investigation.

CARA is a federal provision of the Child Abuse and Prevention Treatment Act (CAPTA) that focuses on infants, children, and families impacted by substance use or exposure. CARA requires a CARA Plan of Safe Care to be developed when an infant has been identified by a healthcare provider as impacted by substance use.

The purpose of the CARA Plan of Safe Care is to identify supports and services to meet the individual needs of each impacted infant and family. An acknowledged challenge with implementation of CARA plans is the fact that they are not compulsory for families to complete, and the services offered are also voluntary. There is concern that families may decline all services, which could lead to an infant who may be at risk of abuse or neglect not being identified.

Studies have found that policies that mandate referrals to child protective services for families of substance-exposed newborns deter women from seeking substance use treatment during pregnancy and may deter them from seeking prenatal care altogether. ([How Policies That Punish Pregnant Women Backfire | RAND](#)), ([State Policies That Treat Prenatal Substance Use As Child Abuse Or Neglect Fail To Achieve Their Intended Goals | Health Affairs](#)). By mandating a family assessment for these families who decline the Plan of Safe Care, infants at risk of abuse or neglect could potentially be identified and, in addition, families would have another opportunity to discuss the available supports and services, and if the family still declined services, then CYFD would be mandated to conduct an investigation.

This bill does not differentiate between high or low risk families based on the result of the family assessment. Degree of risk and type of exposure could inform different degrees of navigation, supports, and interventions. Low risk families declining supports could be referred to CYFD for an investigation.

This bill is similar to Senate Bill 83 in the 2024 Session and Senate Bill 150 in the 2023 Session.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No

NMDOH is in the process of establishing an MOU with CYFD to transfer the responsibilities of the CARA program to DOH.

- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

NMDOH is in the process of establishing an MOU with CYFD to transfer the responsibilities of the CARA program to DOH. Therefore, DOH may be required to conduct the family assessments.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

9. HEALTH IMPACT(S)

Behavioral health conditions in pregnant women are often associated with negative health outcomes, including pregnancy related deaths. HB173 could improve the health of mothers and infants with a Plan of Safe Care whose families otherwise decline all services and supports. While services often cannot be mandated, a mandatory family assessment for families who decline the Plan of Safe Care could provide another opportunity to explain the benefits of programs such as Home Visiting. Early Intervention, for example, is a program that is proven to improve the developmental trajectory of infants with substance exposure; however, according to federal guidelines it is a voluntary program. Infants with a Plan of Safe Care had a history of substance exposure in utero, which can have both short and long term health and developmental effects. Infants with substance exposure may also be at risk of abuse and neglect, and a family assessment could help determine whether there is a risk that should be reported to CYFD for further investigation.

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB173 is not enacted, Section 32A-3A-14 NMSA 1978 (being Laws 2019, Chapter 190, Section 4) would not be amended to require the Children Youth and Families Department (CYFD) to conduct a family assessment with families who fail to comply with a plan of care, rather than have the option of conducting a family assessment for these families.

12. AMENDMENTS

None