

LFC Requester:	
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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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 2025-02-03
Bill No: HB234

Sponsor(s) Jenifer Jones
 : Rebecca Dow

Agency Name and Code CYFD 69000
Number:
Person Writing Aaron Salas
Analysis:

Short Title: MEDICAL CARE FOR ALL
 INFANTS BORN ALIVE

Phone: 5055493411

Email: aaron.salas@cyfd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0		
0	0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0		

	0	0		
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ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		459,000	452,000	911,000	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

This bill proposes requiring medical care for all infants who are born alive. The bill defines "born alive" and as the birth of an infant who, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section or induced abortion, shows any evidence of life, including: breathing, a heartbeat, umbilical cord pulsation, or definite movement of voluntary muscles. An "infant" is defined as a child who has been completely expelled or extracted from the child's mother, regardless of the stage of gestational development.

This bill would require a person not to deny or deprive an infant of nourishment with the intent to cause or allow death of the infant for any reason when child is born alive by natural or artificial means. It will also require a person not to deprive an infant born alive of medically appropriate and reasonable medical care, treatment, or surgical care. The requirements of this bill will not prevent an infant's parent or guardian from refusing to give consent to medical treatment or surgical care that is not medically necessary or reasonable such as: not necessary to save the infant's life, is a potential risk to the infant's life, or will do no more than temporarily prolonging the act of dying when death of the infant is imminent.

This bill also requires health care providers to take measures that are medically appropriate and reasonable to preserve the life and health of an infant born alive if an attempt to perform an abortion, in a hospital or a facility other than a hospital, results in a live birth. This bill also requires another health care provider that is not assisting the woman on whom the abortion was performed to perform the medical duties on the infant.

This bill also requires that any infant born alive, including one born in the

course of an abortion procedure, will be treated as a legal person under state law with the same rights to medically appropriate care and treatment. It also prevents any person from experimenting on any born alive infant for any type of scientific research or experimentation unless it is to protect and preserve the life and health of the born alive infant.

If enacted, this bill establishes mandatory reporting of violations by health care professionals or staff working at these hospitals or abortion clinics who have knowledge of failures to comply with appropriate care and treatment for born alive infants that require it according to this bill.

Penalties established by this bill include: an intentional act which kills a “born alive child” is guilty of a first degree felony resulting in the death of a child; and an intentional attempt to kill a “born alive” infant is guilty of a second degree felony.

There are also civil remedies established by this bill for women who had abortions performed and there were violations for the medical care and treatment required by this bill for born alive infants.

The bill also creates a task force made up of two Department of Health employees and three CYFD employees which must create reporting guidelines and report annually to the governor and legislature. The Department of Health would also be required to perform monthly inspections and staff interviews at every facility that offers elective abortions to determine that appropriate measures and care are being given to “born alive” infants and also determine if reporting guidelines were followed.

FISCAL IMPLICATIONS

Due to the medical expertise needed to carry out the duties specified in this bill, the department would need two new FTE's and funding to hire an attorney and a physician to be part of the task force or to consult on matters involving the necessary care and treatment needed for infants born alive.

In addition, it is estimated CYFD will need funding to support travel and per diem costs for the members to meet and create the guidelines. The bill doesn't state how frequently the task force meets or when the guidelines are due. These task force members would also require specialized training to fulfill the expectations set forth in this bill.

SIGNIFICANT ISSUES

CYFD does not have the expertise to assess what appropriate medical treatment provided by a medical professional as outlined in this bill should consist of.

CYFD does not have statutory authority concerning these providers, either under the Children's Code or the Public Health Act. It can only investigate abuse or neglect allegations that are caused due to the actions/inactions of a parent, guardian, or custodian.

Since CYFD would be involved in monitoring compliance, there could be exposure to legal liability if it fails to adequately oversee cases where violations occur.

PERFORMANCE IMPLICATIONS

There are no performance implications for CYFD but participation in the task force would pull staff away from essential duties they must perform in their usual role.

ADMINISTRATIVE IMPLICATIONS

The bill does not indicate which positions these staff should hold or what division they should come from (i.e. Family Services Division, Protective Services Division, Behavioral Health). It also does not specify how long the task force will run or how the length of time CYFD staff must serve in the task force.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.