

<b>LFC Requester:</b>	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](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 2/25/2025 *Check all that apply:*  
**Bill Number:** HB 303 Original  Correction   
 Amendment  Substitute

**Sponsor:** Representative Rebecca Dow **Agency Name** Office of Family  
**Short Title:** Exposure to Certain Drugs **and Code** Representation & Advocacy  
As Child Abuse **Number:** 6800  
**Person Writing** K. Grusauskas  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None included in bill	None included in bill	n/a	n/a

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	n/a	n/a

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	400K	800K	1M	2.2 M	Recurring	General

(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:**

Explicitly criminalizes pregnancies that result in exposure of a newborn to Schedule I and II Controlled Substances. Exempts pregnancy related exposures due to lawful drug use of Schedule II Controlled Substances.

Creates a new section in Article 4 of the Children's Code establishing when a newborn child may be taken into protective custody with and without a court order.

#### **FISCAL IMPLICATIONS**

Although there are no appropriations associated with this bill, it is likely that it would increase caseloads in criminal court and in abuse and neglect actions in Children's Court. An increase in case load for either criminal proceedings or abuse and neglect proceedings without a commensurate increase in appropriations will likely lead to budget shortfalls, delays in processing cases, and failure to provide adequate legal representation in both criminal court actions and civil Children's Court actions.

The increased caseloads in criminal court would not likely have a fiscal impact on the Office of Family Representation and Advocacy (OFRA), but would increase expenses for police, DAs, Public Defenders, and CYFD.

Increased abuse and neglect case filings under Section 2 would increase the need for OFRA representation of respondents and infants and would require increased funding for interdisciplinary legal teams including lawyers, social workers, and family peer support navigators. Without more empirical information about the number of newborns that could be taken into custody under this statute, it is very difficult to estimate the additional operating budget needed.

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**

##### **Section 1.**

The bill contains an exemption for lawful use of Schedule II Controlled Substances while pregnant (Page 3 Lines 4-14). However, the bill contains no exemption for the lawful use of Cannabis, a Schedule I Controlled Substance.

Laws that criminalize maternal drug use during pregnancy have been shown to worsen health outcomes for mothers and children. Punishing mothers for using substances does not deter drug

use during pregnancy. A public health approach that provides care for pregnant women and families leads to better outcomes for both mothers and children.

## **Section 2.**

A probable outcome of this bill would be pregnant women not seeking pre-natal care, care during delivery, or post-partum care until the child is at least 72 hours (3 days) old, after which the child would no longer be considered a newborn under the bill. This would result in increased maternal deaths and infant deaths when complications arise during or immediately after childbirth that individuals without medical training cannot anticipate or respond to.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

Another bill, HB 136, would amend the same criminal child abuse statute, Section 30-6-1.

## **TECHNICAL ISSUES**

Under the current statute, to prove abuse of a child, the evidence must show that “a person knowingly, intentionally or negligently, and without justifiable cause” allowed a child to be treated in certain defined ways. These standards require proof of a certain mental state of the defendant. **Language proposed in the original bill, namely that “[i]t shall be no defense to the crime of abuse of a child that the defendant did not *know* that a child was present” (Page 4, Lines 11-14 and 18-21) are removed in the Health and Human Services Committee’s proposed amendment to the original bill.**

## **Section 2.**

No changes to original bill.

## **Section 3.**

No changes to original bill.

## **OTHER SUBSTANTIVE ISSUES**

OFRA is concerned about the growing number of bills that directly affect the Children, Youth, and Families Department (CYFD) and the child and family welfare system more broadly. While these bills may not directly conflict with one another or duplicate efforts, this piecemeal approach could lead to a patchwork of uncoordinated requirements. Together, these changes would create significant administrative and programmatic burdens on CYFD.

Additionally, many of the requirements proposed in the multitude of bills would not improve practices or lead to better outcomes for children and families. OFRA is concerned that these bills, if passed without coordination, would negatively impact our clients and their ability to work with CYFD to reunify their families.

## **ALTERNATIVES**

Providing accessible and non-stigmatizing treatment for substance use while pregnant is a more effective alternative to criminalizing substance use while pregnant.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

It is already a crime to expose a child to drugs if doing so may endanger the life and health of the child.

### **AMENDMENTS**