

LFC Requester:	
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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}*

Check all that apply:

Original            Amendment   
Correction        Substitute

Date Prepared: 2025-02-25  
Bill No: \*HB303

Sponsor(s) Rebecca Dow  
:

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

Short    EXPOSURE TO CERTAIN  
Title:    DRUGS AS CHILD ABUSE

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### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0			
0	0		

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0		0		
0	0	0		

**ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		0	0	0		

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

HB303 amends Section 30-6-1 NMSA 1978 to expand the definition of child abuse to include specific cases of drug exposure. Under the proposed changes, a newborn testing positive at birth for a Schedule I controlled substance—such as opiates, hallucinogens, stimulants, and depressants with no legitimate medical use—will constitute prima facie evidence of child abuse. Similarly, a newborn testing positive for a Schedule II controlled substance will also be considered evidence of abuse unless the mother legally consumed the substance as prescribed. The bill further clarifies that it will not be a defense against child abuse charges for a defendant to claim they were unaware of a child’s presence in a building, vehicle, or area where controlled substances were present. Additionally, HB303 outlines procedures for taking a newborn into temporary emergency custody. A newborn may be detained when identified by a healthcare professional as being affected by substance abuse, showing withdrawal symptoms due to prenatal drug exposure, or being exposed to an environment where controlled substances are manufactured. In hospital settings, law enforcement may detain a newborn based on recommendations from healthcare authorities or the Children, Youth, and Families Department (CYFD) while a court order is sought. However, without a court order, temporary emergency custody cannot exceed 24 hours. The bill declares these provisions necessary for public peace, health, and safety, warranting immediate enactment.

Amendment HB303 HC1 removes the below language from page 4 of original bill:

"It shall be no defense to the crime of abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child."

and "It shall be no defense to the crime of abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child."

**FISCAL IMPLICATIONS**

This bill does not include any appropriations for the CYFD. Based on the proposal, CYFD is not able to project the exact fiscal impact. However, there will likely be an increase in criminal prosecutions that will lead to a greater involvement of CYFD caseworkers in court proceedings and may result in a higher volume of abuse and neglect investigations. This increase is expected due to the required cross-reporting between law enforcement and CYFD. The increase of investigations will require at minimum 5 FTE investigation positions and 1 FTE investigation supervisor position. CYFD will also need to add 3 FTE Children's Court Attorneys to manage the increase in court orders that need to be processed to protect newborns that would be considered abused/neglected. Additional budget will be required to compensate for after-hours, on call response required by our attorneys and staff working to implement court orders prior to the 24-hour time frame indicated in this bill.

Amendment HB303 HC1 has no fiscal impact.

## **SIGNIFICANT ISSUES**

This legislation mandates court orders to take emergency custody of newborns in both hospital and non-hospital settings, while also reducing the statutory timeframe for emergency custody from 72 hours to 24 hours. As written, the bill would require CYFD to return a newborn to the parent if a court order is not obtained within 24 hours. While the bill outlines specific circumstances under which temporary custody is permitted, the criteria are narrowly defined and do not allow CYFD to independently assess broader danger indicators within the family that may warrant intervention. Furthermore, the legislation does not provide guidance on differentiated responses for infants, caregivers, and families with a Plan of Safe Care under the Comprehensive Addiction and Recovery

Act (CARA). If enacted, the bill could lead to an increased number of cases on court dockets statewide, potentially causing delays in the resolution of cases affecting the health and well-being of children, caregivers, and families, including those related to visitation and custody arrangements. Additionally, the bill does not allocate funding for the additional full-time employees (FTE) that would be necessary for CYFD and other agencies to implement its requirements.

Amendment HB303 HC1 proposes no significant issues.

## **PERFORMANCE IMPLICATIONS**

This bill creates serious performance and outcome conflicts for CYFD in the way the department interacts with law enforcement when determining when emergency temporary custody is needed to protect a child. The bill would also require an overhaul in the court system in order to be able to process and produce the required court orders needed to obtain emergency custody beyond 24 hours. This would likely require the creation of a new process/system that would require the Courts to be able to consistently work well beyond traditional business hours, weekends, and holidays.

Amendment HB303 HC1 causes no performance implications.

### **ADMINISTRATIVE IMPLICATIONS**

This bill creates the need for CYFD and judicial districts to modify their systems to be able to meet the court order requirements of this proposal. This would require the development of after hour, on-call processes for attorneys and district judges to be able to review evidence needed to justify court orders for temporary custody. The 24-hour time frame set by this bill would not allow for sufficient time to investigate and assess the family for possible danger indicators.

Amendment HB303 HC1 causes no administrative issues.

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

This bill appears to conflict with the NM Children's Code and the timeframes that it establishes for emergency custody holds. The bill also overrides the ability for law enforcement to make their own determination that exigent circumstances exist for newborns. This bill does not mention how it takes into account CARA requirements and how it will deal with developing plans of care for newborns exposed to these additional substances. It also does not clarify when a plan of care is more appropriate than calling in a CYFD abuse/neglect referral.

Amendment HB303 HC1 adds no conflicts or issues.

### **TECHNICAL ISSUES**

None identified that are not mentioned already.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

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

Status Quo

## **AMENDMENTS**

HB303 was amended in the Health and Human Services Committee removing the below language from page 4 of original bill from lines 11-14 and lines 18-21:

"It shall be no defense to the crime of abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child."

and "It shall be no defense to the crime of abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child."