

<b>LFC Requester:</b>	<b>Rachel Mercer-Garcia</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(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:** 2-12-25 *Check all that apply:*  
**Bill Number:** HB 343 Original  Correction   
 Amendment  Substitute

**Sponsor:** G. Armstrong, M. Dixon, E. Chavez, J. Jones, R. Dow **Agency Name and Code** OFRA, 6800  
**Short Title:** Plans of Safe Care for Substance Exposed Newborns **Number:** \_\_\_\_\_  
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**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
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 173  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: This bill would amend Article 3A of the Children’s Code, the Voluntary Placement and Family Services Act, to address the health and safety of newborns born exposed to controlled substances. The bill includes some minor changes (like changing the name “Plan of Care” to “Plan of Safe Care” throughout), and some clean-up (like replacing “human services department” with “health care authority” and removing deadlines that have already passed). It also requires CYFD to issue rules (not just guidelines) “for hospitals, birthing centers, medical providers, Medicaid managed care organizations and private insurers” regarding discharge planning for substance-exposed newborns

The bill has a number of substantive changes discussed in the sections below on Significant Issues and Technical Issues.

#### **FISCAL IMPLICATIONS**

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.

This bill will likely lead to an increase in investigations of families with plans of safe care, necessitating additional hiring and training of new investigations staff at CYFD. OFRA is not in a position to estimate the costs of that increase.

#### **SIGNIFICANT ISSUES**

##### **Section 2.**

**Page 3, lines 8-11.** The proposed definition of substance-exposed newborn may be overly broad. First, the definition applies to all newborns “affected by” prenatal exposure to controlled substances, even if the exposure did not negatively affect them. Second, it also includes newborns affected by drugs that have been prescribed by a medical professional, which could include things like the medications for the pregnant woman’s diabetes, high blood pressure, anxiety, depression or other ongoing medical conditions. Including medically prescribed medications in this definition could deter pregnant women from seeking or continuing necessary, appropriate, and legal medications during pregnancy.

**Page 8, lines 1-7.** This provision would require a person involved in creating a plan of safe care for a substance-exposed newborn who “has concerns about the continued safety of the newborn” to report the concerns to CYFD’s statewide central intake (SCI). “Concerns” is not defined and the requirement is not linked to existing definitions of abuse or neglect that provide the basis for other required reports to SCI, nor does it define “safety,” leaving this section vague, overly broad, and subject to potentially inconsistent interpretation statewide.

**Page 8, line 7 – Page 9, line 4.** Upon receiving a SCI report pursuant to page 8, lines 1-7 (regarding the continued safety of the newborn), CYFD would be required to conduct an “assessment” of the newborn’s plan of safe care to determine, among other things, if it is:

- complete,
- can adequately address the newborn’s health, safety, and well-being, and
- can adequately address any substance use disorder treatment needs of the newborn’s family and caregivers.

CYFD’s investigators, who are not medical or mental health experts, do not have adequate training or education to make the assessments required by this provision. Note also, that the “family assessment” defined in Section 32A-3A-14(B) does not help clarify this assessment, as it is defined for purposes of Section 32A-3A-14 only.

Page 9, lines 1-4 have similar and additional issues. If after investigation of the report, CYFD somehow concludes that “the newborn’s needs are not being met” (according to standards *not* articulated here or anywhere else in the bill, and not tied to existing Children’s Code definitions of abuse or neglect), then CYFD is directed to update the plan of safe care. If this provision is retained, it should be clarified that the plan of safe care should be updated in collaboration with the parent, guardian, or custodian who is subject to the plan, as well as in collaboration and consultation with appropriate medical and mental health experts/providers. Any unilateral updates to the plan are likely to be resisted or rejected by the parent, guardian or custodian, and may include services or requirements that are inappropriate for the family’s needs.

Page 9, lines 2-4 further require any updated plan to “include any reports regarding the newborn” that are received by SCI. “Include” in this sentence is confusing. If the intent is to have these reports considered as part of the investigation and any updated plan of safe care, the provision could be clarified by saying:

“(b) update the newborn’s plan of safe care based on the findings ~~in~~ of the investigation of this report and include any other reports that are received by the department’s statewide central intake about the newborn.”

**Page 11, lines 11-12.** This proposed language would require CYFD to assess the likelihood that a family that has failed to comply with a plan of safe care would have “any relevant involvement” with protective services. This language is vague and unbounded. What does “relevant” involvement mean? How far into the future can CYFD project this “involvement?”

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

See HB 173, which also address plans of care for newborns.

## **TECHNICAL ISSUES**

Although the bill (page 4, lines 8-22) does not propose to change who the written plan of safe care should be sent to, the law may not adequately include children with private insurance.

Currently, the law only requires the plan of safe care to be provided to the child's primary care physician, a Medicaid MCO care coordinator or a care coordinator in CMS of the Department of Health, and the child's parent, relative, guardian or caretaker who is present at the time of discharge. Plans of safe care for children with private insurance may not receive the same level of monitoring as other children under this provision in Section 32A-3A-13(B).

## **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. Some of these bills may directly conflict with one another and/or duplicate efforts. However, even where they do not, 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**

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

Status quo.

## **AMENDMENTS**

We suggest amending **Page 9- lines 1-4** to read: "(b) update the newborn's plan of safe care based on the findings ~~in~~ of the investigation of this report and include any other reports that are received by the department's statewide central intake about the newborn."