

<b>LFC Requester:</b>	<b>LFC Analyst Scott Sanchez</b>
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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:** 12FEB25 *Check all that apply:*  
**Bill Number:** HB383 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Stefani Lord & Rep. John Block **Agency Name and Code Number:** 790 – Department of Public Safety  
**Short Title:** Exposure to Fentanyl Use as a Child Abuse **Person Writing:** Matthew Broom, Deputy Chief  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	\$500.0	NFI	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	NFI	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>	NFI	NFI	NFI	NFI	NFI	N/A

(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**

Would consider exposure to the use of fentanyl as evidence of abuse of a child. Makes a \$500,000 appropriation (GF, reverting) to the Department of Public Safety for use in FY2026 to expand its investigation of child abuse and neglect cases to include those cases involving fentanyl.

### **FISCAL IMPLICATIONS**

No fiscal impact to DPS.

### **SIGNIFICANT ISSUES**

The proposed legislation focuses on recognizing exposure of fentanyl to a child as a form of child abuse. This would broaden the scope of child abuse/neglect to include this substance, and data has shown a significant increase in fentanyl exposure in children under six years of age. This legislation does have the potential to serve as a preventive measure if enacted.

This bill could face potential legal challenges with respect to the provision that provides that evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine or fentanyl shall be deemed prima facie evidence of abuse of the child. *Prima facie* evidence means that the evidence, on its face, is sufficient to establish the facts necessary to support the claim, unless rebutted by contrary evidence. Pursuant to the additional language, if it is demonstrated that a child has been knowingly and intentionally exposed to methamphetamine or fentanyl, it is automatically presumed that the child has been abused. This creates an immediate legal threshold for abuse based on certain types of exposure, eliminating the need for further proof to establish that abuse occurred.

In a criminal case, the defendant does not have to present a case. The burden is on the prosecution to prove the elements of each crime charged beyond a reasonable doubt. This provision would require a defendant to put on a case in order to rebut the presumption set forth and would potentially violate the constitutional guarantee against compelling a person in a criminal case to be a witness against himself or herself pursuant to the 5<sup>th</sup> Amendment of the U.S. Constitution and Article 2, Section 15 of the New Mexico Constitution.

**PERFORMANCE IMPLICATIONS**—If passed, this could increase the number of child abuse investigations throughout the state, but the exact number will be undetermined until data can be gathered after enactment.

### **ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

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

No conflict, duplication, companionship or relationship to DPS.

### **TECHNICAL ISSUES**

No technical issues to DPS.

### **OTHER SUBSTANTIVE ISSUES**

No other substantive issues to DPS.

### **ALTERNATIVES**

Not applicable as no impact to DPS.

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

The status quo will remain.

**AMENDMENTS**

None at this time.