

<b>LFC Requester:</b>	<b>Lance Chilton</b>
-----------------------	----------------------

**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:** 02.22.2025 *Check all that apply:*  
**Bill Number:** HB 559 Original  Correction   
 Amendment  Substitute

**Sponsor:** J. Block, R. Dow **Agency Name and Code** 6800, OFRA  
**Short Title:** Gender Identity and Child Custody **Number:** \_\_\_\_\_  
**Person Writing** Beth Gillia  
**Phone:** 505-231-9864 **Email** Beth.gillia@ofra.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None		

(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:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: This bill would prohibit the court in private custody disputes from considering the parent's decision to affirm or not affirm their child's gender identity when the child's gender identity is incongruent with the child's "sex" when awarding custody of a child.

Additionally, the court would be prohibited from considering a "parent's decision to not provide gender-affirming health care or gender-affirming mental health care for the parent's child."

The court would be further prohibited from making a long list of determinations directly related to awarding custody based on the child's best interests. The bill would prohibit the court from determining that a "parent's decision to not provide gender-affirming health care or gender-affirming mental health care is [:]"

- detrimental, inadequate provision for the child's needs (including health care needs),
- abuse,
- lack of a safe environment,
- inability to parent,
- a detrimental attitude toward the child,
- creates an inability to foster a positive or loving relationship with the child, and or
- creates an inability of the parent to bond with the child.

The bill defines gender affirmation, gender affirming health care, gender affirming mental health care, and sex.

#### **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.

#### **SIGNIFICANT ISSUES**

The primary responsibility of the court in resolving private custody disputes and establishing custody arrangements is to evaluate and protect the best interests of the child. To make a fully informed custody determination, the judge needs comprehensive information about the child, including the child's developmental, physical, emotional, and mental health needs and strengths. Since gender identity is a core aspect of human development, a parent's response to their child's gender identity should not be excluded from a judge's evaluation of what is in a child's best interests.

OFRA is concerned that adoption of this bill may lead to more unhoused children/youth and more children/youth entering the foster care system because of parental rejection based on their

non-conforming gender identity. If a judge cannot consider how a parent responds to a child's gender identity, and a child is required to stay in the home of a parent who rejects their core gender identity, that parental rejection can lead to poor outcomes for the child/youth.

A quick internet search of literature on the link between family rejection and associated mental health problems and suicidality, substance use, and sexual risk results in multiple research studies indicating a causal relationship. For example, parental rejection of a child's gender identity has been linked to overrepresentation in foster care, unstable housing, increased rates of youth substance misuse, and increased rates of suicide.

- One study established a clear link between specific parental and caregiver rejecting behaviors and negative health problems in young lesbian, gay, and bisexual adults. *See* <https://publications.aap.org/pediatrics/article-abstract/123/1/346/71912/Family-Rejection-as-a-Predictor-of-Negative-Health?redirectedFrom=fulltext>;
- *See also* <https://pmc.ncbi.nlm.nih.gov/articles/PMC6398424/#:~:text=In%20the%20national%20probability%2Dbased,in%20a%20DRI%20of%202.71>; and <https://www.sciencedirect.com/science/article/abs/pii/S0145213423000236> (“*LGBTQ youth in foster care are at higher risk for substance use than those not in foster care.*”).

According to the National Institute of Health, LGBTQ youth are overrepresented in foster care; in a national study, 11.2% of 12- to 18-year-olds identified as LGB or unsure, but LGBTQ youth made up 30.4% of youth in foster care. Other studies show that LGBTQ youth are also overrepresented in unstable housing, with 25.3% of youth in unstable housing reporting an LGBTQ identity. According to the NIH, “the proportion of LGBTQ youth in foster care and unstable housing is 2.3 to 2.7 times larger than would be expected from estimates of LGBTQ youth in nationally representative adolescent samples.” *See* <https://pmc.ncbi.nlm.nih.gov/articles/PMC6398424/#:~:text=In%20the%20national%20probability%2Dbased,in%20a%20DRI%20of%202.71>.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

Status quo. The court will be able to consider a wider range of parental behaviors that affect a child's best interests when making custody determinations.

## **AMENDMENTS**