

LFC Requester:	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 and email to 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: 1-24-25 *Check all that apply:*
Bill Number: HJR 5 Original Correction
 Amendment Substitute

Sponsor: Eleanor Chavez **Agency Name and Code Number:** Office of Family Representation and Advocacy, 6800
Short Title: Amend the constitution to create independent CYFD **Person Writing:** Leslie Jones
Phone: 505-549-3905 **Email:** Leslie.jones@ofra.nm.gov

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
Total						

(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: HJR 5 proposes to amend the New Mexico Constitution by removing the children, youth and families department from the Governor's Cabinet and making it an independent state agency, with oversight by a 5-member commission appointed by the governor and the majority and minority leaders of the state legislature. The department would no longer be run by a cabinet secretary appointed by the governor. The commission would hire an executive director to oversee the management and operations of the department.

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.

HJR5 does not contain an appropriation.

HJR5 would require funding to disseminate information about the constitutional amendment to voters and any other costs associated with putting the amendment on ballots statewide.

It is difficult to assess what the fiscal impact would be of this change. It is unknown if there would be a direct transfer of the infrastructure, personnel, and financing of the current department to the independent state agency. Even so, there are numerous administrative supports provided to the current department by virtue of its status in the executive branch that might have to be created or separately contracted for, resulting in a need for increased funding for the department. There would be additional expenses associated with the rebranding of the agency website, media presence, and both internal and external printed materials.

SIGNIFICANT ISSUES

An independent state agency whose chief officer does not serve at the pleasure of the governor might be less susceptible to political pressure and may therefore be better able to create and implement policy and practice based on current data, emerging best practices, and innovative developments in child welfare. Depending on the length of the executive director's term, the executive director may have greater latitude to implement significant, fundamental changes to the way in which the department functions and the services it delivers without executive branch interference.

The proposed Constitutional Amendment does not specify any length of term for the executive director of the department. Depending on the length of the executive director's term and the composition of the commission, political and philosophical differences among the commission members could delay the hiring or replacement of the executive director, potentially leaving the agency without leadership for a significant period.

A small commission (5 members), comprised entirely of appointees selected by political actors, (e.g., the Governor, speaker of the House, and president pro tempore of the Senate), may present challenges with gridlock and political influence at the commission level. A slightly larger commission, with a number of ex officio members (ideally including persons with lived experience in the child welfare system) who are not appointed by political entities, may be less susceptible to these problems, problems that this Joint Resolution appears intended to overcome.

Evaluation of the impact of the proposed independent department on New Mexico's eligibility for federal funding under Title IV-E of the Social Security Act is critical. Title IV-E funds much of the cost of foster care, adoption and guardianship assistance, case management, training, and program administration under the current structure. Receipt of Title IV-E funding requires a plan that is approved by the U.S. Department of Health and Human Services. Any transition to an independent department must include a plan to secure this funding without interruption.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Creation of a children, youth and families department as an independent agency would likely require updates to the New Mexico Children's Code and the New Mexico Administrative Code.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not enacting this joint resolution and the Constitutional Amendment are that the children, youth and families department will remain an executive branch agency.

AMENDMENTS