

LFC Requester:

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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: 2/20/2025 *Check all that apply:*
Bill Number: SB42 Original X Correction
 Amendment Substitute

Sponsor: Senator Michael Padilla and Representative Gail Armstrong **Agency Name and Code Number:** ECECD - 611
Person Writing Analysis: Elizabeth Groginsky
Short Title: SB42 – Comprehensive Addiction and Recovery Program **Phone:** (505)231-2997 **Email:** Elizabeth.Groginsky@cecd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

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

(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						
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(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: SB42 amends the state program administered pursuant to the federal Comprehensive Addiction and Recovery Act of 2016, moves the program from the Children, Youth, and Families Department to the Department of Health, amends requirements for plans of safe care, and provides for rulemaking.

SB42 proposes to make a number of changes related to how the CARA plans of care are implemented.

SB42 proposes to modify existing definitions, and add new ones, including:

- Updating the definition of a “plan of safe care” as a written plan intended to ensure the immediate and ongoing safety of a substance-exposed newborn.
- Adding a definition for “substance-exposed newborn” to mean an infant under the age of one who has been prenatally exposed to a controlled substance, including a prescribed or non-prescribed drug or alcohol, that may affect the infant's health or development.
- Introducing definitions for “birthing facility,” “CARA Navigator,” “Care Coordinator,” “family assessment,” and “managed care organization” under the Voluntary Placement and Family Services Act (32A-3A-2).

Section 3 of SB42 amends section 32A-3A-13 NMSA to remove current requirements for plans of care, and replaces them with revised requirements for creating, data sharing, and training on plans of safe care (POSC). SB42 requires birthing facilities to create the POSC care prior to the substance exposed newborn’s discharge and requires that the birthing center send a copy of the plan to the newborn’s primary care physician, the Children, Youth and Families Department (CYFD) and the Department of Health (DOH). Copies of the POSC will be provided to newborn’s caregiver upon discharge and must be signed by both the birthing facility’s representative, as well as the parent. Health care providers must use definitions and evidence-based screening tools to identify substance-exposed newborns, or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder.

In addition, the POSC must include a referral to the early intervention family infant toddler program and may include referrals to other supportive services. The POSC must also include, at a minimum, the newborn’s name, date of birth, date of discharge, emergency contact, caregiver’s address, substance to which the newborn was exposed, whether the substance was prescribed to the pregnant parent, if the parent who gave birth is undergoing substance use disorder treatment after discharge from the hospital, the family members with substance use disorder (SUD) living in the home of the newborn, and determination of safe sleep environment.

Section 3 requires a CARA navigator to conduct an in-home visit and complete a family assessment

Additionally, by January 1, 2026, the DOH must develop rules to guide the care of substance exposed newborns for hospitals, birthing facilities, medical providers, Medicaid managed care organizations (MCOs) and private insurers. The rules must include procedures for monitoring compliance of POSC and evaluation outcomes. The procedures must also require the CARA navigator to immediately triage a case by identifying any known risks to a substance-exposed newborn and to make “active efforts” to connect the newborn and their family with referral services. CARA navigators and care coordinators must work in partnership to ensure POSC is followed and updated with other services, as well as the collection and reporting of data that meet federal and state requirements. Procedures must also include confidentiality related to POSCs.

SB42 also requires CYFD to consult with DOH to create and distribute training for discharge planners, health care providers, care coordinators, CARA navigators and social workers, and amends current law to add training on avoiding stigma and bias, mandatory reporting requirements, and proper coding of substance exposure and neonatal abstinence syndrome.

Individuals, entities, or agencies carrying out duties related to implementing or monitoring a plan of safe care would be immune from civil or criminal liability unless their actions involve gross negligence or willful misconduct.

SB42 amends section 32A-3A-14 NMSA 1978 to require that CYFD be notified in three business days and proceed with an investigation of the substance-exposed newborn if the caregiver refuses to engage in the family assessment, disengages with the CARA navigator and the family assessment indicates the failure of caretakers to participate in services results in “risk of imminent harm” to the substance exposed newborn or fails to comply with a POSC. Individuals or agencies carrying out these duties are immune from civil or criminal liability unless their actions involve gross negligence or willful misconduct.

Section 5 amends section 32-A-4-3 NMSA to require hospital or birthing center staff to notify CYFD and DOH of a POSC in a manner determined by CYFD.

FISCAL IMPLICATIONS

SB42 mandates that all plans of safe care include a referral to early intervention through the Family Infant Toddler (FIT) program, which may increase the number of children referred.

SIGNIFICANT ISSUES

The Comprehensive Addiction and Recovery Act (CARA) is a federal amendment to the Child Abuse Prevention and Treatment Act (CAPTA) requiring states to develop plans of care for infants born affected by substance use during pregnancy. The 2019 changes to the NM Children's Code were New Mexico's response to this federal mandate, based on recommendations from the CARA work group—an interdisciplinary team convened by CYFD that met regularly for two years to

review evidence, best practices, and lived experiences related to prenatal substance use.

The CARA work group concluded that New Mexico should take a non-punitive, voluntary public health approach to implementing the federal law, as such approaches have been shown to increase prenatal engagement with the health system and improve health outcomes. Moving oversight of CARA implementation to the Department of Health (DOH) would better align with this intent. DOH is the agency responsible for public health and maternal care initiatives and is thus better equipped to provide medical and social support to families who are struggling with substance abuse. This transition would reinforce CARA's focus on healthcare and prevention rather than punishment, ensuring that parents feel safe accessing services that promote the well-being of both infants and families.

Additionally, SB42 will strengthen protections for substance-exposed newborns by ensuring that families whose assessments indicate imminent risk of harm are provided with further interventions. In cases where a failure to engage with services would result in imminent harm to the newborn, families will be referred to CYFD for investigation. This approach maintains the intent of CARA while ensuring that newborns at serious risk receive the necessary protections and support.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB42 conflicts with HB205. HB205 amends the plan of care requirements in NMSA 1978 § 32-3A-13 to identify the Health Care Authority (HCA) as the lead agency for plan of care creation and implementation. HB205 requires the Health Care Authority to consult with the Children Youth and Families Department, and the Department of Health.

SB42 conflicts with HB343 which amends the children's code to require a report of child abuse or neglect for a substance exposed newborn that would require CYFD to determine if the POSC is complete and adequately addresses the child's safety which conflicts with DOH being the lead agency and the role of CARA navigators in SB42.

HB136 adds exposure to the use of fentanyl as evidence of child abuse that conflicts with the requirements of SB42.

HB303 makes it a crime of abuse of a child exposed to a schedule one or schedule two controlled substance that would conflict with SB42.

HB173 requires CYFD to conduct an investigation for non-compliance with the POSC and is duplicative to SB42.

HB463 would create a CYFD-led pilot perinatal investigation program to investigate and assess all reports of substance exposed newborns and provide support that would be duplicative to SB42.

HB424 is related to SB42 as it requires screening all pregnant patients for substance use disorder, the development of Family Plans of Care that will be developed by DOH and require an advisory

council to make recommendations to DOH on the implementation.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS