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2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate

Category: Bill

Number: 42

Type: Introduced

Date (of **THIS** analysis)**:** 2/13/2025

Sponsor(s): Michael Padilla and Gail Armstrong

Short Title: COMPREHENSIVE ADDICTION AND RECOVERY PROGRAM

Reviewing Agency: Center for Healthy and Safe Communities

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
$0	$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
$0	$0	$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	$2,269,680.40	$2,269,680.40	$2,269,680.40	$6,809,041.20	Recurring	SGF

Staffing and costs for CARA navigation and program administration, including required data collection at the Department of Health	Salary	W/Benefits	FTE	Annual Cost
Social & Com III -70 Navigator	$34.23	$46.21	14	$1,345,635.20
Social & Com Super-75	$38.46	$51.92	3	$323,980.80
Admin Ops I-80	$42.69	$57.63	1	$119,870.40
Admin Ops II-85	$46.92	$63.34	1	$131,747.20
Epidemiologist Advanced-75 - .50 FTE	$38.46	$51.92	0.5	$53,996.80
			19.5	$1,975,230.40
Hardware	$1,700.00		19.5	$33,150.00
Software and fees	$700.00		19.5	$13,650.00
Phones	$700.00		19.5	$13,650
Office Space	10.00 per SF 120sf per office x19.5 (12,000 per staff)			$234,000.00
			Annual Total	$2,269,680.40

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: HB303 EXPOSURE TO CERTAIN DRUGS AS CHILD ABUSE

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 42 (SB42) proposes changes to the NM Children's Code which would guide the activities of the Comprehensive Addiction Recovery Act (CARA), and the plans of 'safe' care established for newborns determined to be exposed to substances in utero.

SB42 proposes to move statutory authority and responsibility for administering programmatic activities from the Children Youth and Families Department (CYFD) to the Department of Health (DOH).

SB42 would require hospitals and birthing centers to create and submit a written plan of "safe" care for each infant born with substance exposure, expressly including those exhibiting withdrawal symptoms or those consistent with fetal alcohol spectrum disorders. Written plans of "safe" care would be submitted to CYFD and DOH.

SB42 changes the language from "plan of care" to "plan of safe care" throughout the statute, which aligns with the language in the federal CARA statute and alters the definition to include language meant to ensure the immediate and ongoing safety of newborns born substance-exposed:

- "plan of safe care" means a written plan created by a health care professional intended to ensure the immediate and ongoing safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members or caregivers to the extent those treatment needs are relevant to the safety of the child;

SB42 also defines CARA navigators as DOH employees, while "care navigators" are defined below:

- "CARA navigator" means a professional employed by the department of health to provide intensive case management linking families to resources needed to support health and safety within a family. A "CARA navigator" collaborates with families, hospitals, community providers and managed care organizations to identify and engage the best support systems for each family with a plan of safe care;
- "care navigators" means a person assigned to a newborn and the newborn's biological parents by a managed care organization, private insurance or the children's medical services of the family health bureau of the public health division of the department of health, to coordinate the care and services that the newborn or newborn's biological parents need;

By January 1, 2026, DOH will develop rules in consultation with MCOs, private insurers, OSI, HCA, and CYFD to guide hospitals, birthing facilities, medical providers, Medicaid MCOs and private insurers in the care of substance-exposed newborns. The new language also indicates that care coordinators and CARA navigators will work together on plans of safe care.

The elements included in the plan of safe care will be moved from rule to statute. While current statute directs a plan of care to be provided to a parent, guardian, or newborn caretaker present at delivery and does not mention collecting contact information for others, such as a primary care provider, SB42 proposes requiring birthing hospitals or facilities create plans of safe care that include, at minimum, the following elements:

- referral to early intervention - family infant toddler program (FIT);
- a name, date of birth of exposed newborn;
- emergency contact information for caregiver of newborn;
- address of newborn's caregiver;
- name of substances to which newborn has been exposed;
- a consideration of whether or not the substance is for a medication assisted treatment (MAT) or prescription for substance use and if the parent who gave birth to the infant is or will be undergoing treatment for substance use disorder;
- which family members with SUD will be living with the newborn;
- a determination about infant's home sleep environment;

- delivery of a copy of the plan of care to the newborn's primary care provider and to CYFD and DOH.

After a plan of care is received by CYFD and DOH, the following would be required:

- CARA navigators would immediately triage the newborn's case for risk and arrange a home visit where the newborn resides to conduct a family assessment, which is specifically defined in the bill;
- Care coordinators and CARA navigators would work together to ensure the plan of care is followed;
- Navigators would make updates to the plans of care as indicated to ensure newborn wellbeing;
- Data would be collected to meet federal and state regulations with hospitals reporting to CYFD and DOH as plans are written, including information about infant diagnosis by a health professional;
- Data collected by hospitals would be provided to DOH for use in epidemiologic reports and in the monitoring of plans of care.

DOH would be required to collect disaggregated data to include the number of substance-exposed newborns identified each year, the total number of services provided to those newborns, and outcomes achieved. An annual report would be due to the legislature, provided individual confidentiality is protected.

SB42 would require CYFD to consult with DOH to create and distribute training materials to support and educate discharge planners, health care providers, care coordinators, CARA navigators and social workers. That training would be stigma and bias informed and state clearly mandatory reporting requirements, and proper coding for substance exposure and neonatal abstinence syndrome.

The bill adds language about civil and criminal immunity for any entity or staff participating in activities set forth for newborn plans of care with an exception for willful misconduct or grossly negligent actions.

SB42 CYFD must be notified within three business days about a newborn caretaker or parent who refuses to engage in a plan of care, who refuses a family assessment, or who disengages with a CARA navigator.

Notifications for plans of care must be submitted in a format prescribed by CYFD.

Is this an amendment or substitution? ☐ Yes ☒ No

Is there an emergency clause? ☐ Yes ☒ No

b) Significant Issues

SB42 requires birthing facility staff to utilize evidence-based screening tools to identify infants exposed to substances. It also specifies the definition of substance-exposed newborn to specifically include exposure to controlled substances (prescribed or non-prescribed) or alcohol. The prevalence of exposure to substances during pregnancy ranges from 10% to nearly 40% for estimates across states, and it impacts families before, during, and long after pregnancy. (West et al Matern Child Health J. 2023 May 23;27(Suppl 1):14–22.

doi: 10.1007/s10995-023-03670-z). Prenatal Substance Exposure and Neonatal Abstinence Syndrome: State Estimates from the 2016–2020 Transformed Medicaid Statistical Information System | Maternal and Child Health Journal

Monitoring of newborns identified with substance exposure is important because such newborns incur risks of child abuse and neglect (Durrance C P J Child Abus Neg https://doi.org/10.1016/j.chiabu.2023.106629 Received 29 January 2023). Newborns who have been exposed to substances in utero, whether prescription or non-prescription, can go into withdrawal after birth. Neonatal abstinence syndrome (NAS) or neonatal opioid withdrawal syndrome (NOWS) can be diagnosed when a newborn exposed to opioids in utero demonstrates specific withdrawal symptoms after birth. The rate of newborn hospitalizations for NAS in New Mexico increased from under 4 per 1,000 hospitalizations in 2009 to nearly 15 per 1,000 in 2022 (The Health Care and Utilization Project https://datatools.ahrq.gov/hcup-fast-stats/).

NM has received national recognition for its public health approach in developing a policy of separating the process of reporting abuse and neglect from that of notifying a state agency about a newborn exposed to substances to enable the family to receive non-punitive, non-stigmatizing support. Since 2019 in NM, these two processes have been distinct, with plans of care being sent through a portal to CYFD and DOH staff, and abuse and neglect reports being made to CYFD's Statewide Central Intake (SCI). Moving the program to DOH supports this public health approach and allows the CARA navigators to work hand in hand with other public health programs, including Children's Medical Services and WIC, to support families, while ensuring careful and close coordination with CYFD to ensure the ongoing monitoring and safety of the infant. There have been observed limitations to the current statute, which requires plans of care, but does not require adherence to those plans of care by the mother. SB42 addresses this issue by allowing for punitive measures if the parent fails to accept, engage, or comply with provisions of plans of safe care.

SB42 would require DOH to collect data and report on outcomes achieved. This would require DOH having access to data from other agencies as several other agencies have programs that families in the CARA program may participate in. For example, the FIT program, as well as home visiting, is housed at the Early Childhood Education and Care Department (ECECD), and HB42 adds a new requirement that all plans of safe care include a referral to FIT, which may increase the number of families receiving that service. The MCOs also have a key role in CARA outcomes so access to data from the HCA will be critical to being able to fully evaluate the program. CYFD data related to reports to protective services will also be vital to provide a comprehensive evaluation on child and family outcomes. The bill does not specify that other agencies will be required to provide such data to DOH for evaluation purposes, but it will be incredibly important to establish these data sharing agreements and partnerships an the onset of the implementation of the statute.

The cost to DOH is listed above in the fiscal impact table. ECECD may also see an increase in costs if the mandatory FIT referrals result in more children being enrolled in that program. FIT is an entitlement program and by law cannot have a waiting list.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

☒ Yes ☐ No

SB42 will greatly expand the programmatic role of DOH in the Comprehensive Addiction Recovery Act (CARA) process. DOH will also need to promulgate new rules.

- Is this proposal related to the NMDOH Strategic Plan? ☒ Yes ☐ No

  ☒ **Goal 1**: We expand equitable access to services for all New Mexicans

  ☒ **Goal 2**: We ensure safety in New Mexico healthcare environments

  ☒ **Goal 3**: We improve health status for all New Mexicans

  ☐ **Goal 4**: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals.

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

  ☐ Yes ☐ No ☒ N/A

- If there is an appropriation, is it included in the LFC Budget Request?

  ☐ Yes ☐ No ☒ N/A

- Does this bill have a fiscal impact on NMDOH? ☒ Yes ☐ No

There will be an annual cost of $2,269,680.40. There is no appropriation in the bill.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? ☒ Yes ☐ No

Rulemaking and staffing for program services and evaluation at the Department of Health would be impacted by the proposed activities and operational requirements outlined in the bill. Under the bill, CARA navigators would be required to respond immediately to the in-person home visits and family assessments of newborn needs and wellbeing. Monitoring would be required for each plan of care reported by a hospital or birthing center. Data collection and analysis are also required. Training is required to include the prescribed elements of plans of care for health care providers, hospitals and those coordinating assessment, and monitoring for compliance.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB42 conflicts with a HB303, which seeks to impose criminal charges for parents of newborns found to be exposed to substances such as cocaine, methamphetamine, or heroin.

Under SB42, parents and caregivers of infants would not be subject to child protective services reporting based on newborn substance exposure alone, and they would not be automatically referred for potentially punitive measures unless they fail to accept, engage or comply with provisions of plans of safe care.

SB42 would distinguish from, and provide immunity for, providers involved in plans of care development or monitoring, while HB 303 would not.

6. TECHNICAL ISSUES

Are there technical issues with the bill? ☐ Yes ☒ No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? ☒ Yes ☐ No

DOH would need to promulgate new rules which would guide the activities of Comprehensive Addiction Recovery Act (CARA) plans of 'safe' care established for newborns determined to be exposed to substances in utero.

- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? ☐ Yes ☒ No
- Does this bill conflict with federal grant requirements or associated regulations? ☐ Yes ☒ No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? ☐ Yes ☒ No

8. DISPARITIES ISSUES

Neonatal Abstinence Syndrome rates among NM infants born to Medicaid recipients range from five to seven times higher than for those born to privately insured individuals during 2017-2022 (Health Care Utilization Project) HCUP Fast Stats Data Tools – Healthcare Cost and Utilization Project (HCUP) Fast Stats

9. HEALTH IMPACT(S)

Early identification of prenatal substance use can help mitigate harm to families and newborns over their life course, especially if approached in a way that encourages diagnosis and treatment vs fear of punishment. Public health and alternative approaches have been evaluated and assessed in different states and public health approaches have been found to have better health outcomes. National Academies of Sciences, Engineering, and Medicine; Health and Medicine Division; Board on Population Health and Public Health Practice; Committee on the Review of Specific Programs in the Comprehensive Addiction and Recovery Act; Editors: Kathleen Stratton, M. Kelly McHugh, Hortensia Amaro, and Kenneth B. Wells. Washington (DC): National Academies Press (US); 2023 Mar 23. https://www.ncbi.nlm.nih.gov/books/NBK594904/

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB42 is not enacted, the Children's code would remain unchanged, and the activities prescribed for CARA would not change. CYFD would remain the lead agency for CARA in statute. FIT referrals would not be mandatory on the plans of care and health care providers at birthing facilities would not be required to use evidence-based screening tools to identify a substance-exposed newborn.

12. AMENDMENTS

None