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| 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}

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 2025-02-13
Bill No: SB42

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and Code
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY25 | FY26 | | |
| 0 | 0 | | |
| 0 | 0 | | |

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|------------------------------|------------------|
| FY25 | FY26 | FY27 | | |
| 0 | 0 | | | |

| | | | | |
|---|---|---|--|--|
| 0 | 0 | 0 | | |
|---|---|---|--|--|

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|--------------------------|----------------------------------|----------------------|
| Total | 0 | 0 | 0 | 0 | | |

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

SB 42 amends 32A-1-4 Abuse and Neglect and Section 32A-4-3 which enhances New Mexico’s implementation of the federal Comprehensive Addiction and Recovery Act (CARA) of 2016 to be administered by the Department of Health. The bill introduces new definitions, reporting requirements, and procedures to ensure the safety and well-being of affected infants.

Key Provisions

1. Expands legal definitions to include: (1) Plan of Safe Care; (2) Substance-Exposed Newborn; (3) CARA Navigator; (4) Care Coordinator; (5) Family Assessment; and (6) Managed Care Organization
2. Plan of Safe Care Requirements
 - * Hospital/birthing centers must participate in the discharge planning process and provide a POSC for all substance-exposed newborns prior to discharge.
 - * Birthing centers must immediately send the plan to:
 - * The infant’s primary care physician
 - * The Department of Health (DOH)
 - * The Children, Youth and Families Department (CYFD)
 - * Requires birthing facilities to use evidence-based screening tools to identify substance-exposed newborns.
 - * Provides minimum requirements to be included in POSC
3. Oversight, Monitoring & Compliance
 - * Requires DOH to conduct an in-home visit with the substance-exposed newborn's caregivers after a POSC is received
 - * DOH is required to establish rules and requirements for monitoring compliance with the POSC, to evaluate outcomes, and facilitate data collection in collaboration with hospitals, birthing facilities, managed

care organizations, private insurers, state agencies, and other relevant entities. It mandates the inclusion of minimum procedures and requirements to be included in its rules.

4. Noncompliance and CYFD Intervention:

* CYFD must be notified within three business days and initiate an investigation if caregivers: (1) Refuse a family assessment; (2) Disengage with services, creating a risk of harm; (3) Fail to comply with the Plan of Safe Care

5. Legal immunity is granted for compliance unless actions are grossly negligent or involve willful misconduct.

6. Finally, SB 42 amends 32A-4-3 to include a requirement for the Department of Health (DOH) to be notified when a POSC is issued.

FISCAL IMPLICATIONS

No fiscal implications noted for CYFD

SIGNIFICANT ISSUES

This bill enhances support for newborns exposed to substances and their families.

* It marks a significant change in the management of the CARA program by shifting oversight from the Children, Youth and Families Department (CYFD) to the Department of Health (DOH).

* Senate Bill 42 will establish additional requirements and guidelines for the creation, implementation, tracking, and reporting of plans of safe care for infants exposed to substances, as well as for the adults responsible for their care.

* By moving the CARA program to the DOH, this legislation adopts a public health approach that is likely to encourage caregivers to engage in services. This will help support more infants born exposed to substances and allow caregivers to focus on healing and assistance for both themselves and their newborns. This transition not only prioritizes prevention and individual well-being but also contributes to creating a healthier community overall.

* The bill further mandates that hospitals and birthing facilities participate in the process of POSC, which is an integral part of the program's successful implementation.

* The bill clarifies CARA programming by detailing when CYFD must be notified of non-compliance. The DOH CARA Navigator will notify CYFD within three business days and proceed with an investigation in the following cases: (1) refuse to engage in a family assessment, (2) if caregivers disengage with the

CARA navigator and the family assessment indicates that their failure to engage in services poses a risk of imminent harm to the substance-exposed infant; or (3) if they fail to comply with the plan of safe care

* Moreover, this bill mandates essential areas within the Plans of Safe Care, such as ensuring safe sleep environments and making mandated referrals to the Family Infant Toddler Program.

* It also requires ongoing collaboration with DOH, HCA, and other state agencies to ensure that support and training for hospitals are provided, along with services for families as identified in the Plans of Safe Care.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

SB 42 would require the DOH to assume primary responsibility for the coordination, oversight, implementation, and reporting in conjunction with CYFD and HCA on the administration of the CARA program.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 173 only focuses on amending 32A-34-14 which mandates an investigation only in the instance that caregivers decline recommended services and does not take into consideration whether there is a risk of imminent harm.

HB 205 makes the HCA the lead agency to implement CARA / does not note that DOH is operationally ready to administer the program.

HB 343 contains numerous provisions which focus on more punitive measures rather than prevention and includes material unrelated to CARA.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The CARA program is currently administered primarily through the rules established by CYFD. This bill codifies the requirements of the CARA program, making participation by all involved and relevant entities, including state agencies, legally required. Currently, CYFD is facing challenges with hospitals and birthing facilities not engaging in a timely manner when issuing and notifying the department of POSC potentially resulting in missed early intervention and prevention opportunities.

By establishing minimum requirements for what must be included in a POSC, it can be ensured that newborns and their caregivers receive the necessary care and referrals for prevention and to create a safe environment. The uniform mandated requirements will provide essential information to implement preventive measures and ensure the safety of newborns.

Additionally, SB42 clarifies when CYFD should be notified about premature disengagement from services by parents, relatives, guardians, and/or caregivers. This previously subjective determination will now be more clearly defined. It also emphasizes that disengagement would have to result in an imminent risk of harm to substance-exposed newborns. This is an important distinction because substances like alcohol and marijuana may not always pose an immediate risk.

AMENDMENTS

None.