

LFC Requester:	Julisa Rodriguez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/11/2025

Check all that apply:

Bill Number: SB284

Original x Correction
Amendment Substitute

Sponsor: Sen. Heather Berghmans, Sen.
Katy M. Duhigg, Sen. Angel
M. Charley, Sen. Crystal
Brantley, Sen. Nicole
Tobiassen

**Agency Name and
Code Number:** 305 – New Mexico
Department of Justice

Person Writing

**Short
Title:** Foster Children &
Homeowners Insurance

Analysis: Seth C. McMillan

Phone: 505-537-7676

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
n/a	n/a	n/a	n/a

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
n/a	n/a	n/a	n/a	n/a

(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	n/a	n/a	n/a	n/a	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: n/a

Duplicates/Relates to Appropriation in the General Appropriation Act: n/a

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: Senate Bill 284 ("SB284") adds a new section to the New Mexico Insurance Code, NMSA 1978, Sections 59A-1-1 to -63, declaring that foster children are not residents of foster homes for purposes of homeowners insurance.

In Risk Mgmt. Div., Gen. Servs. Dep't of State ex rel. Apodaca v. Farmers Ins. Co. of Arizona, 2003-NMCA-095, ¶ 15, 134 N.M. 188, 193, 75 P.3d 404, the New Mexico Court of Appeals held that, in order to determine whether a foster child is a resident under a homeowners insurance policy, the district court must consider (1) the intent of the parties to the insurance contract and (2) the nature of the child's stay in the foster home. This bill would codify in law that that foster children are not residents of foster homes for purposes of homeowners insurance, obviating the two-factor, fact-dependent judicial test set forth in *Risk Management v. Farmers* in favor of a clear bright-line rule.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB284 does not include a definitions section which could lead to discrepancy as to what constitutes "substitute care," "foster care," a "licensed child placement agency" or a "premises liability insurance policy." Potential questions over the meaning of language commonly arise in the insurance context. To the extent that any of these terms are defined elsewhere in the New Mexico statutes, the existing definitions could be incorporated by reference or otherwise imported into this act. Absent a definitions section, these terms will likely be construed by courts by their plain and common meanings.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A