

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: 2025-02-15
Bill No: SB363

Sponsor(s) Michael Padilla
:

Agency Name CYFD 69000
and Code
Number:
Person Writing Ramona Martinez
Analysis:
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Short CHILD PROTECTION
Title: AUTHORITY ACT

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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	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 363 establishes the Child Protection Authority, which will be overseen by a nine-member board. Five members will be appointed by the governor, and four members will be appointed by the legislature, each serving four-year terms. The board would be required to hold quarterly meetings and would have the ability to hire a director and staff to include investigators, attorneys, and policy analysts. It would be administratively attached to the Regulation and Licensing Department. The CPA would be tasked to promulgate rules to administer the below provisions.

Key Provisions:

1. The CPA would serve as an investigative and oversight entity to review complaints regarding child protective services by CYFD;
2. Monitor and evaluate the department's compliance with child welfare laws;
3. Recommend improvements to the governor, legislature, and department for better practices;
4. Issue public reports and annual trend analyses on child welfare complaints and policy reforms;
5. Access CYFD records and data, ensuring confidentiality;
6. Offer education and outreach on child welfare rights and responsibilities;
7. Operate a toll-free hotline and online portal for receiving complaints.

FISCAL IMPLICATIONS

No Fiscal Impact for CYFD.

SIGNIFICANT ISSUES

The State of New Mexico is responsible for ensuring the safety, permanency, and well-being of children involved in the child welfare system. CYFD is tasked with the protection of children from abuse and neglect. Independent oversight as outlined in this legislation would be a beneficial addition to the existing system to improve accountability, transparency, and public trust as it will provide an additional avenue for those who may not be comfortable with bringing their complaints to the department.

PERFORMANCE IMPLICATIONS

CYFD has an Office of Advocacy, which acts as a liaison between constituents and the department to address complaints, concerns, and alleged youth and resource parent bill of rights violations raised by foster youth, families, resource parents, and other constituents. Established in 2024, the Office of Advocacy operates multiple channels of communication (7+ email addresses, 4 phone lines, and a soon-to-be-launched electronic portal) and is co-located with department staff and resources, which creates a responsive and effective internal system focused on customer service, communication, and issue resolution. This Office provides staff, family, and stakeholder training on child, youth, and resource parent rights, education, disability rights, and immigration. If CYFD's Office of Advocacy is unable to resolve a youth, family, or constituent complaint, or there is a more-likely-than-not violation of policy or the youth/foster parent bills of rights, CYFD will refer the case to the internal, independent Office of Inspector General for further investigation and to make recommendations to the cabinet secretary and CYFD leadership. CYFD will continue to maintain its internal process for those wishing to address concerns and complaints within the department.

If this legislation is passed, CYFD's Office of Advocacy and the Child Protection Authority will work together by regularly staffing and sharing information about the complaints received, the outcomes of each respective office's investigations, and data and patterns to avoid duplication of efforts and potential confusion for youth and constituents and ensure transparency, all for the benefit of the constituents. The Office of Advocacy will inform complainants of the existence of the Child Protection Agency and its contact information and that constituents may choose to utilize that avenue instead. If a complainant makes a report to both CYFD's Office of Advocacy and the Child Protection Authority, the Office of Advocacy will intervene first to find a resolution, provide the constituent with the option for further review by the CPA, and will report back when a complaint is resolved. The Office of Advocacy and Child Protection Authority will collaborate to identify trends and gaps in services and design systemic solutions.

ADMINISTRATIVE IMPLICATIONS

In August 2023, the Office of Performance and Accountability was established at CYFD to provide quality assurance review and data collections processes to support continuous quality improvement and data driven decision making regarding practice, policy, training, and allocation of resources.

If this legislation is passed, CYFD's Office of Performance and Accountability and the Child Protection Authority will work together to avoid duplication of efforts and ensure accurate data collection and reporting to inform positive progress and outcomes.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This conflicts with HB 5, HB 391, and SB 307.

SB 307 and HB 391 (duplicates) – both attempt to unconstitutionally tie the office to AOC. “Ombudsman” offices have been established in a variety of state, municipal, county, local and federal governments as independent and impartial organizations tasked with investigating and resolving conflicts or complaints. Both bills include sections that overreach the purpose, powers, and duties of the office such as Section 7, 10, and 12 which makes this more of an oversight office rather than maintaining focus on investigation and resolution of complaints. This bill allows for a 9-member committee to appoint an ombud and requires annual reports to the governor and legislature.

HB 5 - establishes the Office of Child Advocate attached to the New Mexico Department of Justice, however, per the Executive Reorganization Act, the Office of Child Advocate cannot be administratively linked to the Attorney General. The dual structure established in the legislation could lead to jurisdictional disputes and/or potential conflicts of interest. In addition, the Attorney General's Office represents the state in litigation, including cases involving CYFD. If the Child Advocate investigates and finds systemic issues that lead to lawsuits against CYFD or the state, the AG's office could find itself in a conflicted role. Also, if there is a complaint related to personnel misconduct, State Personnel guidelines for investigation and due process must be followed and all matters related to personnel investigations are confidential. The bill's requirement to notify the complainant of the outcome of the investigation could potentially violate a CYFD employee's right to confidentiality in their personnel matters

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

CYFD and the Health Care Authority (HCA) are actively engaged in the implementation of the Kevin S. Settlement Agreement with the goal of improving the welfare of children and families in New Mexico. Both agencies' roles involve not only executing the agreement but also diligently monitoring progress toward the desired outcomes. This collaborative effort is supported by appointed co-neutrals, ensuring accountability and progress. It would be beneficial to consider the role of an independent agency in strengthening these efforts.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Office of Advocacy and the Office of Performance and Accountability will continue to provide their services and work toward resolution, practice, and process improvement for CYFD and its stakeholders.

Individuals who want to express complaints or concerns outside of the agency may not have the opportunity to do so because community members and government stakeholders may not be aware of the processes for filing complaints regarding any interactions with child protective services staff.

AMENDMENTS

None.