

LFC Requester:	Mercer-Garcia, Rachel
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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: 2/18/25 *Check all that apply:*
Bill Number: SB 406 Original Correction
 Amendment Substitute

Sponsor: Sen. Linda M. Lopez **Agency Name and Code:** AOC 218
Short Title: Termination of Parental Rights **Number:** _____
Title: _____ **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 406 amends Section 32A-4-28 NMSA 1978, governing termination of parental rights, to remove the rebuttable presumption of abandonment as grounds for the termination of parental rights (TPR) in child welfare cases and under the Abuse and Neglect Act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any additional judicial resources needed to prove abandonment of a child following the removal of the presumption of abandonment. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) In June of 2024, the Children’s Code Reform Task Force released its “Report for the Children’s Code Reform Task Force.” In putting forth the Section 32A-4-28 NMSA 1978 amendment contained in SB 406, the task force noted

The elements of presumptive abandonment, as it stands in the Abuse and Neglect Act, most often arise as a result of state removal of a child and are often conditions created by the removal itself, the child’s time away from the family, and the experience of foster [c]are, not by the faults or habits of the parent prior to or after removal.

- 2) See *State Law Definitions of Abandonment*, 2017, <https://niwaplibrary.wcl.american.edu/wp-content/uploads/Appendix-L-Abandonment-of-Children-Statutes-Definitions.pdf> , including a chart noting that both Alabama and Washington State statutes re: TPR contain a rebuttable presumption of abandonment. See also *Abandonment Leading to Legal Termination of Parental Rights*, Justia, 2024, <https://www.justia.com/family/adoptions/termination-parental-rights/abandonment/#:~:text=What%20Qualifies%20as%20Abandonment?,laws%20that%20govern%20your%20case.>

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS