

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: 2025-02-18
Bill No: SB429

Sponsor(s) Linda M. Lopez
: Antoinette Sedillo Lopez

Agency Name and Code Number: CYFD 69000
Person Writing Analysis: Dominic LaFayette
Phone: 5057955320

Short Title: REINSTATEMENT OF PARENTAL RIGHTS ACT

Email: dominic.lafayette@cyfd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

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

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

SB 429 is a new act establishing a legal process for reinstating parental rights if it is in the best interest of the child and a material change of circumstances has occurred. The bill allows former parents, children or CYFD to file a petition, provided at least 12 months have passed since termination (with exceptions for special cases). If the child is Native American, the tribe or Indian custodian must be notified.

The bill creates a two-step process for the court. There must be an initial hearing within 20 days to determine probable cause followed by a merits hearing within 60 days. If granted, a transition plan of up to 90 days may be ordered before full reinstatement. If the child was previously adopted or under a permanent guardian, reinstatement is only allowed with the adoptive parent's or guardian's consent.

Reinstated parents regain full legal rights, including updating the child's birth certificate, but are not liable for past child support. The bill also ensures court-appointed attorneys for indigent parents and children.

FISCAL IMPLICATIONS

No Fiscal Impact to CYFD.

SIGNIFICANT ISSUES

SB 429 has many significant issues that could undermine the stability and safety of children in the child welfare system. Parental rights are only terminated after a rigorous legal process. Termination of parental rights are final because it serves the best interest of the child by ensuring stability, permanency, and legal certainty. By allowing the reinstatement of parental rights after

termination, the bill weakens the finality of court decisions that were based on clear evidence of abuse, and/or neglect. Furthermore, SB 429 lowers the legal threshold for reinstatement by using a preponderance of evidence standard rather than the clear and convincing standard required for termination. This would increase the risk of children being returned to unsafe environments. Additionally, the bill disrupts adoption and guardianship placements, as prospective adoptive parents may hesitate to proceed if they fear biological parents could later regain custody.

SB 429 raises ICWA and IFPA compliance concerns as it does not clarify the role of tribal authority in reinstatement cases.

SB 429 also conflicts with federal laws like the Adoption and Safe Families Act (ASFA). ASFA prioritizes permanency for children in foster care, emphasizing timely adoption or guardianship rather than prolonged efforts to reunify children with parents who have already had their rights terminated. ASFA mandates CYFD to seek termination of parental rights when a child has been in custody for 15 months. Because SB 429 allows for reinstatement of parental rights after they have already been legally terminated, ASFA's focus on achieving permanent and stable placements is undermined, which could potentially jeopardize federal funding.

PERFORMANCE IMPLICATIONS

SB 429 places a significant burden on CYFD, requiring the agency to process petitions, oversee transition plans, and conduct investigations, which would divert resources from current child protection efforts.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 429 is in conflict with ICWA and IFPA which reinforce tribal sovereignty and authority over child welfare cases. The bill requires notice to tribes but does not clarify the tribe's authority in reinstatement decisions.

TECHNICAL ISSUES

SB0429 does not define what qualifies as a material change. This creates inconsistencies in judicial decisions. Furthermore, permanent guardianships

already provide a legal pathway for a parent to regain custody of their child without the need for reinstating parental rights under NMSA32A-4-32(I). This is because parents do not have their rights terminated with a permanent guardianship.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

none

AMENDMENTS

None.