

LFC Requester:

Rachel Mercer-Garcia

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: 3/3/2025

Check all that apply:

Bill Number: SB 458

Original Correction
Amendment Substitute

Sponsor: Sen. Linda M. Trujillo and
Sen. Heather Berghmans

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

Short Title: CYFD Secretary Nominating
Committee

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

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

Substitute Synopsis:

Section 1 of the substitute clarifies certain terms in NMSA 1978, Section 9-2A-8 and requires the department to develop and implement the family first strategic plan pursuant to the Families First Act.

Section 2 amends the Children’s Code to remove language referencing the pilot program, establishes additional reporting requirements to certain legislative committees, and establishes a deadline for the implementation of the statewide multilevel response system.

Section 3 names the new Families First Act.

Section 4 defines various terms for the purposes of the Act.

Section 5 requires CYFD to, in cooperation with other state entities, develop and implement a families first strategic plan. CYFD must, among other duties, align the plan with federal law, maximize federal resources, include certain information in the strategic plan, and include a comprehensive list of services provided and affirm that the services are reimbursable under the federal Family First Prevention Services Act. CYFD would be responsible for ensuring that the program is rated appropriately in accordance with the Title IV-E prevention services clearinghouse. CYFD shall identify service providers and monitoring protocols, identify eligible populations, develop process and procedures to determine eligibility, establish metrics to evaluate outcomes, and develop an appropriate timeline for a statewide program no later than June 30, 2032. The bill identifies the minimum information to include in the annual report compiled by CYFD and provided to certain legislative committees and the governor.

Section 6 empowers CYFD to promulgate rules to implement the Act.

Section 7 amends provisions relating to predisposition studies in abuse and neglect cases to include resources provided by the families first strategic plan.

Section 8 amends confidentiality provisions within the Children’s Code to permit staffers of the substitute care advisory council to access records.

Section 9 sets the effective date as July 1, 2025.

Original:

SB458 establishes a secretary of children, youth and families (“CYFD”) nominating committee consisting of a certain number of subject matter experts to provide a list of qualified candidates from which the Governor will select a secretary. The bill shifts the rulemaking authority for the safe care process from CYFD to the Health Care Authority (“HCA”) while requiring CYFD to implement a statewide multilevel response system. SB458 enacts the Families First Act within the Children’s code and requires CYFD to implement a strategic plan for submittal and approval by the Federal Administration for Children and Families. The bill establishes consultation between CYFD and other state agencies and provides staffing and process requirements to the Substitute Care Advisory Committee which is transferred to the administrative office of the courts from the Regulation and Licensing Department (“RLD”). The bill establishes case review, research, reporting requirements; volunteer management guidelines; and rules regarding confidentiality of personal information.

Section 1 defines nominating committee.

Section 2 adds language to require that the CYFD secretary shall be appointed from a list of qualified nominees submitted by the committee.

Section 3 establishes the requirements for membership and the composition of the nominating committee in a new section of the CYFD act, provides reimbursement under the Per Diem and Mileage Act, and mandates that the committee is subject to the Governmental Conduct Act. The section establishes where the nominating committee will receive administrative support and establishes meeting requirements and the process to handle a secretary vacancy.

Section 4 updates certain terms and requires the department to develop and implement the family first strategic plans pursuant to the Families First Act.

Section 5 amends the definition of guardian in the Children’s Code to include a person authorized to care for the child by parental power of attorney as permitted by law and expands the plan of safe care to include support provisions for a prenatal or perinatal pregnant person dealing with substance use disorder.

Section 6 updates and clarifies certain terms of the Children’s Code and requires HCA in consultation with CYFD and other departments and private entities to promulgate rules with guidelines for the participation in the plan of safe care for pregnant persons and prior to the discharge from the hospital of the substance-exposed child. It expands the list of persons who shall receive the plan of safe care to include a care coordinator. The bill requires that all hospitals and birthing centers use the screening, brief intervention, and referral to treatment program at all prenatal or perinatal medical visits and live births. SB458 would also require that care coordinators are available at each birthing hospital in the state, that staff is trained, and all substance-exposed children have a safe plan. The plan shall identify the appropriate agencies for involvement per case. The bill establishes requirements for plan implementation and reporting by HCA.

Section 7 adds language to the Children’s Code to require the HCA to report non-compliance to CYFD and for CYFD to commence investigations where necessary.

Section 8 amends the Children's Code to clarify responsible parties at clinics, expands possible recipients of a safe plan to include pregnant persons, substitutes CYFD with HCA where applicable and establishes the HCA's responsibility for ensuring compliance with federal reporting guidelines.

Section 9 amends the Children's Code to remove language referencing the pilot program, establishes additional reporting requirements to certain legislative committees and establishes a deadline for the implementation of the statewide multilevel response system.

Section 10 establishes a new section of the Children's Code entitled Families First Act.

Section 11 defines terms for the Families First Act.

Section 12 establishes a new section of the Children's Code entitled Families First Strategic Plan – Department Duties – Families First Services – Time Line – Implementation which mandates CYFD to ensure provisions of the plan, maximize federal resources, include certain information in the strategic plan, include a comprehensive list of services provided and affirm that the services are reimbursable under the federal Family First Prevention Services Act. CYFD would be responsible to ensure the program is rated appropriately in accordance with the Title IV-E prevention services clearinghouse. CYFD shall identify service providers and monitoring protocols, identify eligible populations, develop process and procedures to determine eligibility, establish metrics to evaluate outcomes, and develop an appropriate timeline for a statewide program no later than June 30, 2032. The bill identifies the minimum information to include in the annual report compiled by CYFD and provided to certain legislative committees and the governor.

Section 13 establishes a new section of the Children's Code which instructs CYFD to promulgate rules necessary to carry out the Families First Act.

Section 14 amends the Children's Code to include support services and referrals pursuant to the Families First Act where appropriate.

Section 15 amends the Children's Code to include a staff member of the substitute care advisory council in certain circumstances in the care and confidentiality of records.

Section 16 amends the Children's Code to include the evaluation of CYFD's effectiveness to meet federal requirements for citizen review under federal law.

Section 17 establishes definitions for the Citizen Substitute Care Review Act within the Children's Code.

Section 18 amends the Citizen Substitute Care Review Act to transfer the location of the substitute care advisory council from RLD to the administrative office of the courts and authorizes independent function of the council. The amendment changes the composition of the council, provides for per diem and mileage when appropriate, instructs the council to select certain cases for review, establish workgroups and enter contracts and joint power agreements. It establishes rules to ensure compliance with the Open Meetings Act, training requirements, public participation, procedure for case review, public outreach and compliance with the Citizen Substitute Care Review Act and federal law. It requires periodic reports to the governor and certain legislative committees to include recommendations to improve child protective services.

Section 19 creates a new section of the Citizen Substitute Care Review Act establishing staffing requirements, qualifications, and job duties.

Section 20 obligates the attorney general to advise and consult with the council pursuant to the Citizen Substitute Care Review Act and to render legal services upon request of the council.

Section 21 creates a new section of the Citizen Substitute Care Review Act to establish rules relating to the assessment, training, conduct, retention and confidentiality procedures of volunteers. It provides for per diem and mileage for volunteers where appropriate.

Section 22 establishes a new section of the Citizen Substitute Care Review Act authorizing the council to establish and convene volunteer boards to review the cases determined or review by the council and steps to review and report cases in the children's court.

Section 23 establishes a new section of the Citizen Substitute Care Review Act, where upon CYFD established rules for the procedure of the handling of the records, it provides the council access to necessary records subject to state and federal law.

Section 24 establishes a new section of the Citizen Substitute Care Review Act establishing an exception to the requirements of the Inspection of Public Records Act for information obtained or generated by a council member, staff member, or member of the board in the course of performing duties in compliance with the act.

Section 25 requires that on July 1, 2025, all functions, employees, money, appropriations, records, equipment and other property of the RLD, and contractual obligations pertaining to the substitute advisory care council shall be transferred to the administrative office of the courts; and that any statutory references to the council or functions of RLD shall be deemed references to the administrative offices of the court.

Section 26 repeals applicable sections of NMSA.

Section 27 establishes July 1, 2025, as the effective date of SB458.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section. None noted.

SIGNIFICANT ISSUES

Substitute: None. Previous issues noted in the first version of this analysis related to portions of the bill that were removed.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A similar bill, HB205, remains essentially the same as originally drafted.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.