

LFC Requester:

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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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: 2025-03-10
Bill No: SB486

Sponsor(s) Michael Padilla
:

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and Code
Number:
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Short CHILD WELFARE &
Title: SERVICES AGENCY

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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

The Child Safety and Welfare Services Authority Act creates a new state agency in New Mexico to oversee child welfare and juvenile justice programs, which are currently managed by the Children, Youth, and Families Department (CYFD). The law sets up a framework for a comprehensive, integrated, and coordinated child safety and welfare system in collaboration with various state, local, and judicial agencies.

Key Provisions:

1. Short Title and Definitions (Sections 1-2):

* The act is referred to as the "Child Safety and Welfare Services Authority Act"

* Definitions are provided for key terms like the "authority" (the new state agency), the "board" (governing board of regents), and the "state superintendent" (appointed leader of the authority).

2. Purpose of the Authority (Section 3):

* The authority's role is twofold:

* To administer child welfare and juvenile justice programs and other related child and family services that were once managed by CYFD.

* To cooperate with other state agencies, judicial bodies, schools, and local governments to ensure a well-coordinated, integrated child welfare system.

3. Structure and Governance (Section 4):

* The authority is governed by a Board of Regents consisting of seven members appointed by the governor with Senate consent. The board's role is to approve policies, appoint the state superintendent, and manage the agency's budget.

* The Board of Regents includes professionals such as judges, foster parents, social workers, juvenile justice professionals, and public members with knowledge in child welfare.

* The board must meet quarterly, and members are entitled to per diem and

mileage, but not other compensation.

4. State Superintendent and Organization (Sections 5-6):

- * The state superintendent is appointed based on merit and is responsible for the overall operation of the authority. The superintendent must have relevant qualifications, such as a master's or doctoral degree in a related field and at least five years of experience in managing child welfare or juvenile justice programs.

- * The superintendent oversees a deputy superintendent for administration and a deputy superintendent for public policy and organizes the authority into divisions:

- * Office of the State Superintendent (includes legal, quality assurance, and tribal affairs).

- * Administrative Services Division (includes budget, human resources, and IT support).

- * Child and Family Welfare Division and Juvenile Justice Division.

5. Duties and Powers of the State Superintendent (Section 6):

- * The superintendent manages all authority operations and has broad powers to delegate authority, issue rules, conduct research, and manage staff.

The superintendent is required to:

- * Prepare annual budgets.

- * Enforce laws and ensure compliance with policies.

- * Cooperate with other state agencies to minimize duplication and resolve conflicts.

- * Receive and manage grants, donations, or other funding to support the authority's programs.

6. Additional Duties of the Authority (Section 7):

- * The authority will prioritize service development and resources, enhance state and local collaboration, and focus on prevention and early intervention for at-risk children and families.

- * It will manage data collection through a statewide database for tracking services and outcomes.

- * The authority will develop standards of service and implement best practices in child welfare.

- * It will work with other state departments to ensure coordination and resolve service gaps.

- * Specific responsibilities include managing domestic violence services, mental health, and substance abuse services, and preventing out-of-state placements of children when in-state alternatives are available.

7. Background Checks and Employment Restrictions (Sections 8-9):

- * The authority requires criminal history background checks for employees, volunteers, and anyone involved with direct client contact. Fingerprints are submitted for both state and national background checks.

- * Employment restrictions are established for individuals with substantiated allegations of child abuse or neglect or those convicted of certain felony offenses. Those with a history of abuse or neglect may face disciplinary action or increased supervision.

8. Criminal History Confidentiality and Penalties (Section 8):

* Criminal history information obtained through background checks is confidential and can only be used for determining suitability for employment or service within the authority. Any unauthorized disclosure is a misdemeanor, subject to penalties.

9. Prohibition on Employment for Those with Abuse Allegations or Felony Convictions (Section 9):

* The act prohibits the employment of individuals with substantiated abuse allegations or felony convictions directly related to the job responsibilities, especially for roles involving unsupervised contact with children.

* Employees subject to disciplinary actions for abuse allegations may be dismissed or face increased supervision without prior progressive discipline.

10. Organizational Units and Access to Information (Section 10):

* The authority is empowered to access records and data from other state agencies, except those specifically classified as confidential by law, in order to carry out its duties efficiently and effectively.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

Division Directors and Bureau Chiefs (Section 11)

* The state superintendent can appoint directors for divisions within the Child Safety and Welfare Services Authority. These directors are exempt from the Personnel Act.

* The superintendent can establish bureaus within each division to further the goals of the authority. Bureau chiefs are appointed to manage these bureaus, and all employees within the bureaus are subject to the Personnel Act.

Quality Assurance Bureau (Section 12)

* The Quality Assurance Bureau ensures that the authority efficiently meets the goals of the Children's Code.

* The bureau is responsible for:

1. Monitoring complaints and grievance resolution.
2. Conducting investigations and evaluations for compliance with laws.
3. Tracking the authority's performance in providing timely, individualized, and needs-based services.
4. Identifying deficiencies and recommending corrective actions.

5. Accessing any records maintained by the authority, including confidential information.

6. Promoting continuous improvement in service delivery.

* The bureau contributes to public reports on the authority's performance without disclosing personal information about children or families.

Qualifications for Correctional Officers (Section 13)

* Correctional officers working for the authority must meet the following requirements:

* Be U.S. citizens, at least 18 years old, and have a high school education or equivalent.

* Possess good moral character, with no felony convictions.

* Successfully pass a physical and aptitude examination.

Correctional Officers Acting as Peace Officers (Section 14)

* Correctional officers trained by the American Correctional Association may act as peace officers under specific conditions:

* They can arrest and enforce laws while in custody of or transporting juveniles or supervising them within the state.

* They are not liable for actions taken in their peace officer capacity, similar to actual peace officers.

* Crimes against correctional officers acting in this capacity are treated with the same severity as crimes against peace officers.

Child Safety and Welfare Services Advisory Committee (Section 15)

* The Child Safety and Welfare Services Advisory Committee is created to assist in developing policies and procedures for the authority.

* Composed of 11 members appointed by the board, with representatives from diverse ethnic groups and geographic areas of the state.

* At least 2 members should be parents who've used the authority's services, and at least 2 members should be youth aged 16-21.

* Committee members receive per diem and mileage but no other compensation.

Juvenile Justice Programs Advisory Committee (Section 16)

* The Juvenile Justice Advisory Committee, established under the Juvenile Justice and Delinquency Prevention Act, will serve as the supervisory board for juvenile justice programs funded by federal grants.

* This committee will be advisory to the department but will play a critical role in supervising funding and ensuring compliance with federal and state laws.

Juvenile Justice Advisory Committee Legislative Findings (Section 17)

* The legislature confirms that the Juvenile Justice Advisory Committee must be explicitly empowered to continue administering federal funds under the Juvenile Justice and Delinquency Prevention Act.

Functions of the Juvenile Justice Advisory Committee (Section 18)

* The Juvenile Justice Advisory Committee will work with the authority to:

1. Approve a comprehensive state plan for the use of federal juvenile justice funds.
2. Review and approve applications for federal grants under the Juvenile Justice Act.
3. Monitor compliance with federal regulations on juvenile detention.
4. Help develop new policies, approaches, and legislation to improve juvenile justice in New Mexico.
5. Provide technical assistance to entities implementing juvenile justice programs.

Juvenile Continuum Grant Fund (Section 19)

* The Juvenile Continuum Grant Fund is established to provide grants for local or tribal juvenile justice programs focused on cost-effective, nonsecure alternatives to detention for juveniles.

* The fund will be administered by the authority and can be used for juvenile justice continuums that include partnerships between local governments, courts, law enforcement, schools, and nonprofit organizations.

* Grants can cover up to 60% of the program's costs, with a 40% local match required.

* A grant application process will be developed by the authority, and the Juvenile Justice Advisory Committee will review applications.

Youth Alliance (Section 20)

* The Youth Alliance is created and administratively attached to the authority, consisting of youth aged 14-24 from each New Mexico legislative district.

* Members are selected through an open process and serve two-year terms.

* The alliance meets at least four times per year to discuss community and school assets and gaps, offering recommendations for improvements to the governor, lieutenant governor, and legislature.

* The alliance will issue an annual report on its findings and activities.

* The Youth Alliance Coordinator is responsible for organizing the alliance, overseeing recruitment, and facilitating its meetings, including coordinating interactions with government

New Mexico Domestic Violence Leadership Commission (Section 21)

- * Creation: Establishes the "New Mexico Domestic Violence Leadership Commission" administratively attached to a specific authority.
- * Membership: The Commission has 26 members appointed by the governor, including representatives from various state departments, law enforcement, legal aid, public safety, domestic violence organizations, and others such as a domestic violence survivor and community representatives.
- * Terms and Leadership: Members serve at the pleasure of the governor with appointments reviewed at the start of each gubernatorial term. The governor designates one member as the chair, with a two-year term limit for the chair.
- * Meetings: The Commission must meet at least six times a year, following the Open Meetings Act. A majority constitutes a quorum.
- * Duties: The Commission is tasked with identifying gaps in domestic violence services, developing strategies for addressing domestic violence, reviewing laws and policies, and making recommendations. It must also report annually to the governor and a legislative committee.

Escape from Custody (Section 22)

- * Amendment: Modifies the definition of "escape from custody" to include individuals in juvenile justice facilities or those in lawful detention.
- * Punishment: Escape from custody is classified as a misdemeanor.

Aggravated Escape (Section 23)

- * Amendment: Aggravated escape is defined as escaping or attempting to escape from custody while committing assault or battery on another person.
- * Punishment: Aggravated escape is classified as a fourth-degree felony.

Domestic Violence Offender Treatment or Intervention Fund (Section 24)

- * Creation of Fund: A non-reverting fund is created for domestic violence offender treatment programs, funded through gifts, grants, donations, and appropriations.
- * Use of Fund: The fund provides financial support to programs aimed at treating or intervening with domestic violence offenders. It covers costs for treatment programs, and balances do not revert to the general fund.
- * Eligibility for Funding: Domestic violence offender programs must include assessments, written contracts, accountability strategies, educational components, and regular reports to judges or parole officers. Programs should last at least 52 weeks and prohibit couples counseling.

Definitions in the Children's Code (Section 25)

- * Amendment: Clarifies definitions in the Children's Code, including terms like

"active efforts," "adult," "child," "court," "guardian," and "tribal court." It also clarifies roles and relationships involving children, such as foster parents, legal custody, and the concept of reunification.

Criminal History Records Check and Background Checks (Section 26)

- * A. Scope of Checks: The legislation mandates that state and national criminal history records checks be conducted on all personnel (operators, employees, interns, volunteers) involved with facilities or programs providing primary custody to children for 20 hours or more per week, such as juvenile detention, correction, or treatment facilities. This requirement extends to prospective foster or adoptive parents, adult relatives or non-relatives living in their households, as well as individuals related to or living with the child's fictive kin when placement with a relative or fictive kin is considered. The aim is to ensure child safety and welfare.
- * B. Process of Criminal History Check: The department has access to criminal records from the Department of Public Safety and FBI for background checks. A person subject to the check must submit electronic fingerprints, which are sent to the FBI for national criminal history records verification. The Department of Public Safety will review and disseminate the results to the relevant department to assess a person's qualifications for child-related roles.
- * C. Confidentiality of Criminal Records: Criminal history records obtained under this section are confidential and exempt from public records laws. They can only be used for assessing suitability for employment, licensure, or adoption purposes and may only be released under a court order or with the individual's consent.
- * D. Legal Penalties for Unauthorized Disclosure: Anyone who unlawfully releases or discloses criminal history information commits a misdemeanor and will be penalized according to Section 31-19-1 NMSA 1978.
- * E. Key Definitions: The section provides several definitions relevant to the context, such as:
 - * Behavior management skills development: services for children with behavioral or emotional problems requiring structured support.
 - * Case management: services to assist children with complex health care needs.
 - * Child placement agency: an entity licensed to place children in foster care or for adoption.
 - * Employee: a person with direct care responsibilities or unsupervised access to children.
 - * Facility: includes juvenile correction and treatment facilities.
 - * Foster care services: therapeutic care services for children in foster family settings.
 - * Volunteer: individuals who spend less than six hours per week at a program under direct supervision.

Employment History and Background Checks (Section 27)

* Procedures: The section requires the establishment of procedures for conducting employment history and background checks for personnel involved with child care and juvenile facilities. These will be enforced by the state authority and the secretary of health for related facilities.

Creation of the Children's Cabinet (Section 28)

* A. Creation: The Children's Cabinet is created and administratively attached to the Governor's office, meeting at least six times a year.

* B. Members: The cabinet includes various state officials, such as the governor, lieutenant governor, and multiple secretaries from various departments (e.g., Health, Corrections, Public Safety, Education).

Administrative Appeals Process (Section 29)

* Appeals: The section allows young adults to appeal an adverse eligibility determination. The Department will provide clear, developmentally appropriate information about the appeals process.

Amendments to Definitions in the Child Placement Agency Licensing Act (Section 30)

* Changes in Definitions: The section revises certain definitions to reflect updated terminology, such as replacing "department" with "authority" in multiple instances and clarifying the scope of terms like child placement agency and foster home.

Amendments to the Kinship Guardianship Act (Section 31)

* Updated Terminology: Revisions are made to the definitions within the Kinship Guardianship Act, including terms like caregiver, guardian, Indian child, and relative.

Transfer of Functions, Money, Property, and Statutory References (Section 32)

* A. Transfer of Responsibilities: Upon the act's effective date, all functions, records, property, and contractual obligations of the Children, Youth and Families Department (CYFD) are transferred to the newly created Child Safety and Welfare Services Authority (authority).

* B. Statutory References: Any references to the CYFD in the law will now refer to the authority. Similarly, all CYFD rules are deemed rules of the new authority until amended or repealed.

* C. Assistance for Transition: Various state offices, including the Governor's office and the Department of Finance, will assist in the transition process

from the CYFD to the new authority.

Compilation Instruction (Section 33)

* Instruction for Compilation: The legislative compilation should reflect that Chapter 32A, Article 27 NMSA 1978 is now part of the Children's Code.

Repeal of Certain Sections (Section 34)

* Repeals: Several outdated sections from 1992, 2001, and 1993 are repealed, including those related to the CYFD.

Effective Date (Section 35)

* Effective Date: The provisions of this act will take effect on a date to be determined (TBD).

SECTION 5. B. Authorizes the state superintendent to employ various subordinates for professional, clerical and technical work and specifically delineates two deputy superintendents to be employed: One for administrative and human resources work and one designated for public policy with experience in child welfare or juvenile justice but it is unclear how the child welfare tasks are related to public policy.

SECTION 5. C. Lists the "authority" of the superintendent but is actually a list of departments contemplated to be structured within the Child Safety and Welfare Services Authority. Comparing this list of divisions, it is clear that they duplicate similar, if not identical, divisions within CYFD at this time.

SECTION 6. B. (5). Requires the superintendent to issue rules, orders and instructions. Rules, at least NMAC rules, must be promulgated, not simply issued. This section goes on to refer to enforcing orders and instructions by administrative actions in the courts, thereby possibly omitting the rules. One has to wonder whether the rules were purposefully omitted and the reason for omitting them from the enforcement sentence.

SECTION 7. F. This section directs the Authority to analyze policies and procedures from other agencies and to ensure that services are coordinated and integrated across state agencies. This seems to provide the Authority with some authority over other agencies. Other agencies will, no doubt, have something to say about that and, as written, this section may serve to create unnecessary conflict among agencies.

SECTION 7. F. This section directs the Agency to assume a leadership position

among state agencies regarding domestic violence services without sufficient guidelines that may be necessary to avoid conflict (in jurisdiction or process) between the agencies. Without direction to the other agencies involved, this sort of unilateral instruction may lead to additional conflict among the agencies and may exacerbate the differential actions between and among the agencies.

SECTION 9. C. Seems to say that a person who would not be considered for employment (see subsections A and B) may be permitted to continue employment under increased supervision or disciplinary action under the Personnel Act. Additionally, this section and sections D and E seem to ignore the due process requirements related to the possibility of an appeal from the administrative determinations of the Personnel Board to the District Court. That appeal would be de novo and could reverse the final decision of the Personnel Board.

SECTION 13. This section deals with correctional officers. One of the issues that is apparent in the section is that the correctional officers are not required to be certified peace officers but are granted some of the authority of certified peace officers. There is a section entitled “[NEW MATERIAL] CORRECTIONAL OFFICERS – ACTING AS PEACE OFFICERS. —” This section refers to the officers completing an “appropriate American correction association training course” but stops short of requiring that the officers be certified peace officers. This section then grants these officers arrest and enforcement powers despite not requiring them to be certified peace officers. This seems like an attempt to circumvent the safety obtained by requiring employees with arrest and enforcement powers to be certified peace officers. This section also distinguishes between the “correctional officers” and “peace officers” in paragraph B. where it, essentially, gives qualified immunity (without specifically identifying it) to correctional officers in the line of their duty by referring to the immunity that is enjoyed by peace officers in the line of their duty. The bill purports to equate crimes against the correctional officers with crimes against peace officers further focusing on the difference between peace officers and correctional officers. This last element is particularly troublesome because it could lead to a child being charged with battery, felony or otherwise, if he or she strikes a correctional officer. That could lead to the Authority suing or criminally charging its wards.

SECTION 15. A. This section creates yet another level of bureaucracy in a “child safety and welfare serviced advisory committee”. The makeup of the proposed committee includes potentially inherent conflicts of interest in that the proposed committee requires that at least two members be parents who are recipients of services provided by the Authority. This may lead to those members being asked to address and deal with matters in their capacity as committee members which may directly or indirectly affect the services they receive from the Authority.

SECTION 21. F. (3) requires the Domestic Violence Leadership Commission to study possible inequities in the “treatment and disposition of males involved in domestic violence”. It is unclear what the bill means regarding the “disposition” of males, and it omits consideration of females in domestic violence. It would seem appropriate to eliminate the gender bias and either eliminate the section or include females or simply change the reference to a gender neutral “persons involved in domestic violence”.

SECTION 22. B. second paragraph: fails to include language that the person must be convicted of the escape or attempted escape before being found guilty of a misdemeanor. Therefore, it seems to be lacking in due process consideration.

SECTION 23. B. second paragraph: fails to include language that the person must be convicted of the escape or attempted escape with the aggravating circumstance before being found guilty of a fourth-degree felony. Therefore, it seems to be lacking in due process consideration.

SECTION 24. D. (4) Requires that, in order to be eligible for money from the domestic violence offender treatment or intervention fund, the contract to be executed by a domestic violence offender must include a paragraph that requires that any group discussion must be among people of the same gender. This obvious gender-biased requirement is without justification or explanation and flies in the face of logic. In essence, it would prevent any counselor for the offender to be a gender other than the gender of the offender. It also does not address the LGBTQ possibility regarding gender identification.

SECTION 24. D. (6) This section requires that the offender under treatment not be under the influence of “drugs” during a treatment or intervention session. This should be changed to reflect that the drugs being contemplated are illegal drugs, but it should be OK to be under the influence of legally prescribed drugs.

SECTION 25. G. The definition of “court” seems to be inconsistent with the use of “court” in SECTION 24. F. (2) because the latter does not qualify the nature of the court as either a division of the children’s court or simply the district court.

SECTION 25. T. This definition of “judge” seems to be inconsistent with prior definition of “court” in that a court, by definition, is only the children’s court division of the district court, but it has been used at least once in a context that would suggest the regular district court. The definition of judge in this paragraph should be clarified to identify the judge as one in the children’s court or any other court of competent jurisdiction.

SECTION 26. B. Criminal background checks. The second to last sentence requires

that the criminal background checks be supplied to the “department”. I believe this should be to the “authority”. This way there will be no misconstruction of the action required regarding the criminal background check.

SECTION 30. C. Definition of a “child placement agency” is reduced to a “person”. Despite the later definition of “person” this is confusing and may lead to necessary judicial clarification to distinguish between a person and the former definition which included “individual, partnership, unincorporated association or corporation” which, if one were to look, is included in the added definition of “person” at subsection F.

SB 486 proposes replacing the Children, Youth and Families Department (CYFD) with a new agency called the Child Safety and Services Authority (CSSA). Essentially, the CSSA is intended to provide the same set of services as CYFD, but with added layers of bureaucracy. While CYFD is organized with a secretary and several Deputy Secretaries overseeing different divisions, the CSSA would have a superintendent, two deputy superintendents, and numerous advisory panels, commissions, and regents that would need to meet, discuss, and negotiate actions among various elements of the CSSA. This complex bureaucratic structure is likely to result in delays in the consideration and implementation of necessary actions.

The current structure of CYFD—with a direct chain of command from Secretary to Deputy Secretary to workers—allows for quicker decision-making and evaluation, leading to more effective implementation and monitoring of actions. In contrast, the proposed multi-level advisory panel approach in the CSSA could hinder responsiveness.

CYFD has a structure that presents opportunities for enhancing service delivery. Transitioning to a new agency poses significant risks, including potential challenges and errors that could harm CYFD clients. A more careful and strategic approach is essential to achieve positive outcomes for those we serve.

Furthermore, SB 486 does not clarify the issues that the proposed replacement of CYFD aims to address, making it seem like a solution in search of a problem.

Additionally, the bill contains directives for the CSSA that could lead to conflicts with other agencies. It instructs the CSSA to analyze policies and procedures from other agencies and to ensure coordination across them—implying some level of authority over these agencies. The bill also directs the CSSA to take a leadership role among state agencies regarding domestic violence services (SECTION 7.F.). However, there are no guidelines provided in the bill on how the CSSA or other agencies are to accomplish these tasks, nor does it address how the funding between the agencies will be managed in light of their anticipated interactions.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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AMENDMENTS

None.