FISCAL IMPACT REPORT

SPONSOR Sen. Padilla/Rep. Armstrong **LAST UPDATED** **ORIGINAL DATE** 2/19/2025

SHORT TITLE Comprehensive Addiction and Recovery Pgm **BILL NUMBER** Senate Bill 42

ANALYST Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25**	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CARA Navigation (DOH)**	No fiscal impact	$2,269.7	$2,269.7	$4,539.4	Recurring	General Fund
CYFD	No fiscal impact	$220.0	$220.0	$440.0	Recurring	General Fund and Federal Funds
FIT Program (ECECD)	No fiscal impact	At least $6,300.0	At least $6,300.0	At least $12,600.0	Recurring	General Fund and Federal Funds
Judiciary (AOC and OFRA)	No fiscal impact	At least $200.0	At least $300.0			

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.
**DOH provided cost estimates for FY25 because the Executive has already moved the CARA program to DOH. However, this bill does not contain an effective date and thus would not go into effect until June 20, 2025. As such, LFC analysis in this table does not include cost estimates for DOH in FY25.

Relates to an appropriation in the General Appropriation Act
Conflicts with House Bill 343, House Bill 205, and House Bill 173
Relates to House Bill 424 and House Bill 462

Sources of Information

LFC Files

Agency Analysis Received From
Administrative Office of the Courts (AOC)
Office of Family Representation and Advocacy (OFRA)
Children, Youth and Families Department (CYFD)
Department of Health (DOH)

Agency Analysis was Solicited but Not Received From
Health Care Authority (HCA)
Early Childhood Care and Education Department (ECECD)

SUMMARY

Synopsis of Senate Bill 42

Senate Bill 42 makes a variety of amendments to the Children's Code related to the state's implementation of the federal Comprehensive Addiction and Recovery Act (CARA), including moving the responsibility to implement plans of safe care to the Department of Health, outlining activities CARA navigators will complete to engage families in plans of safe care, establishing required components for plans of safe care, and clarifying the actions the Children, Youth and Families Department (CYFD) will take for noncompliance.

Definitions and Agency Responsibilities. First, the bill amends the definition of "plans of care" in existing statute (Section 32A-1-4) to include the word "safe," in alignment with federal statute, and updates the definition to mean "a written plan of care created by a healthcare professional intended to ensure the immediate and ongoing safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child's parents, relatives' guardians, family members or caregivers to the extent those treatments are relevant to the safety of the child." The bill also establishes a definition of a "substance-exposed newborn," to include "an infant under the age of one who has been prenatally exposed to a controlled substance, including a prescribed or nonprescribed drug or alcohol, that may affect the infant's health or development." The bill also provides definitions for birthing facilities, to include hospitals, clinics, and birthing centers, and CARA navigators, who are "professionals employed by the Department of Health to provide intensive case management linking families to resources." Finally, the bill defines "care coordinators" as "a person assigned to a newborn and the newborn's biological parents by a Medicaid managed care organization, private insurance company, or Family Health Bureau of the Public Health Division of the Department of Health to coordinate care and services."

The bill repeals language in Section 32A-3A-13 that positioned CYFD as responsible for implementing plans of safe care and gives the Department of Health (DOH) rule-making authority for the program.

Screening Infants and Developing Plans of Safe Care. The bill requires healthcare providers at the birthing facility to use "evidence-based screening tools" to identify substance-exposed newborns. The bill requires birthing facilities to create plans of safe care prior to the discharge of a substance-exposed newborn and calls for the collection of certain information, including on any family member who will be living with the infant who has a substance use disorder. The bill would require plans of safe care include a referral to the early intervention family infant toddler (FIT) program and notes plans of safe care may include referrals to other services and providers.

Implementing Plans of Safe Care. The bill requires the CARA navigator to conduct an in-home visit with the newborn's family on discharge and conduct a family assessment to identify the need for access to substance use treatment or other physical or behavioral health conditions that may impact the safety, early childhood development, and well-being of the newborn.

The bill directs DOH to develop rules, including requirements for hospitals, birthing facilities, medical providers, managed care organizations, state agencies, and private insurance companies to monitor compliance with the plans of safe care and evaluation outcomes for substance-exposed newborns and the families of substance-exposed newborns.

CARA navigators must make active efforts to connect substance-exposed newborns and their families with services to which they have been referred, and CARA navigators and care coordinators must work in partnership to ensure plans of safe care are followed.

Training and Reporting. Senate Bill 42 requires CYFD and DOH be notified when plans of safe care are created, makes DOH responsible for ensuring all federal and state reporting is completed, and notes specific data should be reported to the Legislature annually. The bill adds statutory language that notes any individual, entity, or agency fulfilling specific obligations, including implementing and monitoring plans of safe care, shall be immune from civil or criminal liability arising from such actions

CYFD Notification for Noncompliance. Senate Bill 42 updates Section 32A-3A-14 NMSA 1978 to require CYFD be notified within three business days if a family refuses to engage in the family assessment, disengages with a CARA navigator and the family assessment indicates the disengagement will result in risk of imminent harm, or the family fails to comply with the plan of safe care. At this point, the bill would require CYFD to investigate in all cases.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

An LFC evaluation of the CARA program released in 2023 found, between 2020 and 2022, the state established plans of safe care for 3,770 infants. Throughout the analysis below, LFC assumes the plans of safe care will be established for roughly 1,200 newborns annually, about 6 percent of all births in New Mexico.

Department of Health

DOH provided the following annual cost estimates totaling $2.7 million associated with implementing the bill, primarily to hire CARA navigators and other staff:

Staffing and costs for CARA navigation and program administration, including required data collection at the Department of Health	Salary	W/Benefits	FTE	Annual Cost
Social & Com III -70 Navigator	$34.23	$46.21	14	$1,345,635.20
Social & Com Super-75	$38.46	$51.92	3	$323,980.80
Admin Ops I-80	$42.69	$57.63	1	$119,870.40
Admin Ops II-85	$46.92	$63.34	1	$131,747.20
Epidemiologist Advanced-75 - .50 FTE	$38.46	$51.92	0.5	$53,996.80
			19.5	$1,975,230.40
Hardware	$1,700.00		19.5	$33,150.00
Software and fees	$700.00		19.5	$13,650.00
Phones	$700.00		19.5	$13,650
Office Space	10.00 per SF 120sf per office x19.5 (12,000 per staff)			$234,000.00
			Annual Total	$2,269,680.40

Though the state may be eligible to bill either federal Title IV-E or Medicaid if implementing care coordination or other service models eligible for these funding sources, DOH assumes the need for recurring general fund revenue to cover these costs.

Children, Youth and Families Department

CYFD reported no fiscal impact for the bill. However, the agency estimated costs increases associated with provisions of House Bill 205, which makes similar changes to the sections of statute related to CYFD for noncompliance. In that case, CYFD estimated costs for investigations would increase.

Senate Bill 42 bill would require CYFD investigate in cases of noncompliance or disengagement. The 2023 program evaluation found 40 percent of families with a safe care plan were referred to CYFD, 27 percent of referrals were ultimately accepted for investigation, and 18 percent of accepted reports ultimately resulted in cases of substantiated abuse or neglect. If DOH implements effective CARA navigation, subsequent referrals to CYFD should decrease. Nevertheless, the bill could increase investigations and subsequent entrances into foster care. LFC estimates the cost of one investigation to be $1,000 and the cost of one year of foster care to be $21 thousand. This analysis assumes at least 10 additional investigations and instances of foster care for a year will result from this bill.

Early Childhood Education and Care Department

DOH also notes Senate Bill 42 may result in increased costs to the Family, Infant, Toddler program because the bill requires referrals to this program and notes the program is prohibited from developing a waiting list. LFC estimates the state currently spends $5,257 per child for the FIT program. Providing FIT services to all newborns with plans of safe care could cost at least $6.3 million annually. Children may be enrolled in the program up to three years, so this is likely a conservative estimate of total annual costs to the FIT program. Roughly 52 percent of New Mexico's FIT expenditures are covered by federal funds, according to FY21 program expenditure data.

Judicial System

AOC notes there will be minimal administrative impact for statewide update, distribution, and documentation of statutory changes. Any new laws or amendments to laws may result in increased caseloads for the courts, requiring additional resources.

OFRA notes the bill will likely result in additional CYFD investigations, which will likely result in the filing of additional petitions and the need for increased OFRA legal services. OFRA estimated costs of at least $200 thousand in FY26 and $300 thousand in FY27.

SIGNIFICANT ISSUES

According to LFC analysis, New Mexico has a higher rate of newborns who have been exposed to substances than the national average. The federal Comprehensive Addiction and Recovery Act (CARA) amended the federal Child Abuse Prevention and Treatment Act (CAPTA) to require states develop plans and monitor the implementation of plans of safe care. States that receive CAPTA grants must report the following to the federal government:

- The number of infants born and identified as being substance-exposed,
- The number of such infants for whom a plan of safe care was developed,
- The number of infants for whom referrals were made for services.

States can place CARA responsibilities within child welfare or public health agencies. According to the National Center on Substance Abuse and Child Welfare, state child welfare agencies oversee plans of safe care for families with open child welfare cases in most states. However, 18 states employ strategies for monitoring plans of safe care that do not have an open child welfare case.

In 2019, New Mexico passed legislation requiring staff in hospitals and birthing centers to develop plans of care for substance-exposed newborns, which refer families to voluntary support and treatment services. New Mexico's CARA law changed reporting requirements to the Children, Youth and Families Department (CYFD) such that a finding that a woman is using or abusing drugs would not alone be a sufficient basis to report child abuse or neglect. However, New Mexico's CARA law spread the responsibility for developing and monitoring voluntary plans of care across multiple state agencies and healthcare organizations, including the Health Care Authority, the Department of Health, birthing hospitals, Medicaid managed care organizations, and CYFD.

New Mexico's CARA law takes a public health approach by treating drug and alcohol use during pregnancy as a disorder requiring services rather than as a reason for reporting suspected child maltreatment to CYFD. After New Mexico enacted its CARA law in 2019, CYFD's removal of infants from families fell below the national rate. The 2023 evaluation found that the state's implementation of its CARA policy has substantive gaps, specifically noting the majority of CARA families were not being referred or receiving support services or substance use treatment, and the state needed to improve CARA-related case management, screening, and identification. Specifically, the report highlighted roughly 1-in-7 CARA families were ultimately receiving substance use treatment, and families who accept services often were not participating in these services. Several bills introduced during the 2025 legislative session could make changes to sections of the Children's Code related to the state's implementation of plans of safe care (Section 32A-3A-13).

The 2023 evaluation recommended many statutory and program changes intended in Senate Bill 42, though the evaluation recommended the Health Care Authority be the lead agency responsible for the program.

In 2023, the Legislature made appropriations from opioid settlement revenue, including $1 million to implement plans of safe care for substance-exposed newborns and $1 million to establish SafeCare Home Visiting, which is eligible for federal reimbursement. CYFD has reported continuing to explore SafeCare Home Visiting as a potential prevention program but reports workforce concerns and has not established the program to date. Both appropriations went unused and reverted. For FY25, the Legislature appropriated nearly $2 million for plans of safe care to HCA based on a recommendation from the 2023 evaluation. However, during 2024, CYFD posted 17 CARA-related positions and moved forward with hiring. As of December 1, 2024, the agency had filled 16 CARA positions; CYFD reported the agency was using Temporary Assistance for Needy Families (TANF) funding for the positions. In January 2024, the governor reported the executive had moved these positions and leadership for the program to

the Department of Health. This bill aims to codify that effort.

DOH reports, "The prevalence of exposure to substances during pregnancy ranges from 10 percent to 40 percent for estimates across states" and "monitoring newborns identified with substance exposure is important because newborns incur risks of child abuse and neglect." The rate of newborn hospitalizations for Neonatal Abstinence Syndrome increased from under four hospitalizations in 2009 to nearly 15 per 1,000 in 2022.

DOH also notes moving the program to the Department of Health supports a public health approach and would require the agency to collect data and report on outcomes achieved.

The Administrative Office of the Courts (AOC) indicates Senate Bill 42 would remove CYFD's discretion to proceed with an investigation, which "may create a more punitive atmosphere for families." AOC reports:

> Senate Bill 42 may result in the plan of care being viewed as a punitive tool by those it is meant to help, discouraging pregnant people from seeking prenatal care and treatment for substance use disorders.

The Office of Family Representation and Advocacy (OFRA) similarly notes Senate Bill 42 would remove CYFD's discretion to investigate in cases of reported noncompliance.

PERFORMANCE IMPLICATIONS

AOC notes Senate Bill 42 may have implications on court performance measures, including cases filed and disposed.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB42 conflicts with House Bill 343, which would allow a healthcare provider to report a concern about a plan of safe care to CYFD, requiring the agency to review the plan of safe care and initiate an investigation, and amends the section of statute related to the duty to report child abuse and neglect, establishing that a finding of a positive toxicology screen identifying methamphetamine, fentanyl, cocaine, or heroin in a newborn is sufficient basis to report child abuse and neglect.

SB42 also conflicts with House Bill 205, which aims to address similar gaps in the implementation of plans of safe care but would move responsibility for the program to HCA. This bill also includes other more substantial reforms to the child welfare system.

Finally, SB42 conflicts with House Bill 173, which would require CYFD to complete a family assessment and then an investigation in instances in which a family does not comply with plans of care.

The bill relates to House Bill 424, which would create a new section in the Children's Code and require the creation of voluntary family care plans for families with substance-exposed newborns. This bill does not directly change existing sections of statute related to plans of care.

SB42 also relates to House Bill 463, which would create a pilot perinatal investigation and support unit at CYFD to investigate and support cases involving substance-exposed newborns, and to an appropriation in the HAFC substitute for the General Appropriation Act, which

includes $1.8 million to the Health Care Authority to implement and oversee plans of safe care from opioid settlement revenue

TECHNICAL ISSUES

AOC recommends an alternative to defining the term "birthing facility" to streamline and simplify language in the bill.

OFRA notes the proposed amendments to Section 32A-3A-14 use language that may be confusing to providers, DOH, and CYFD in part because the bill uses the term "notification" instead of "report" to statewide central intake and uses passive voice. Both of these concerns already exist in current statute; Senate Bill 42 does not address them.

OFRA notes Senate Bill 42 does not define "early intervention toddler program." Senate Bill 42 is likely referencing the Family, Infant, Toddler program.

OFRA proposed an amendment in Section 32A-3A-14 to address the technical concerns the agency identified in the section of bill related to reports of non-compliance to CYFD.

OTHER SUBSTANTIVE ISSUES

The bill would require plans of safe care to include a referral to the Family, Infant, Toddler (FIT) program. Also known as early intervention, the FIT program delivers services to children up to age 3 who are eligible based on developmental delays or established conditions or disabilities, according to information shared on ECECD's website. Eligibility for FIT is typically determined by a medical diagnosis or an evaluation by a qualified clinician or therapist. However, Senate Bill 42 would require all substance-exposed newborns receive a referral to the program, regardless of medical diagnosis or evaluation.

AOC notes the definition for "substance-exposed newborn" contained in the definitions section of the bill is overly broad and may unintentionally encompass newborns whose mothers were taking medications prescribed during pregnancy. OFRA reports, "Inclusion of newborns exposed to prescribed substances taken by mothers under the care of a physician will result in unnecessary plans of safe care, investigations, and legal actions."

AOC reported Section 32A-3-2 NMSA 1978 defines the "family assessment" that is to be completed by a CARA navigator, an employee of the Department of Health, and includes an "assessment of the likelihood the of the child "becoming an abused or neglected child." However, investigation for abuse and neglect is a statutory function of CYFD.

OFRA asserts the CARA program is "a public health program that is more appropriately placed at DOH."

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