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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/21/2025

SPONSOR López/Sedillo Lopez

BILL

SHORT TITLE Reinstatement of Parental Rights **NUMBER** Senate Bill 429

ANALYST Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
OFRA	No fiscal impact	\$60.0	\$70.0	\$130.0	Recurring	General Fund
AOC	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	\$60.0	\$70.0	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 406.

Sources of Information

LFC Files
 National Conference of State Legislatures
 Children’s Code Reform Taskforce

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

SUMMARY

Synopsis of Senate Bill 429

Senate Bill 429 (SB429) creates a new section in the Children’s Code, titled the “Reinstatement of Parental Rights Act” to outline a legal process through which a former parent may have parental rights reinstated.

The bill defines “former parent” as a parent whose rights to the child were legally terminated or a parent who relinquished parental rights.

The bill outlines the jurisdiction and venue for filing petitions to reinstate parental rights and items to be included in the petition. The bill would allow the petition to be filed by the former parent’s attorney, the child’s attorney, or the department.

SB429 would not permit reinstatement of parental rights if the child is adopted or in permanent guardianship and the adoptive parents or guardians of the child do not consent to the reinstatement of parental rights of the former parent.

SB429 would require the state to appoint an attorney to represent a former parent petitioning to reinstate parental rights if the parent is indigent or if the appointment of an attorney is required in the interest of justice. Similarly, an attorney shall be appointed for the child.

Under the bill, the Court shall grant a petition to reinstate parental rights if the court finds:

- Reinstatement is in the best interest of the child;
- A material change in circumstances in which the former parent or parents can provide for the safety and stability of the child;
- The date of terminated parental rights is greater than 12 months;
- The child has not reached permanency through adoption or permanent guardianship;
- The child is not in an adoptive or other potentially permanent placement that will result in permanency for the child, and a potential permanent placement is not likely to occur within six months; and
- The Indian tribe or the Indian custodian of the child has received notice of the proceedings, if the child is an Indian child, and consent is attained.

The bill outlines procedures and timelines for ordering a return to the reinstated parent's home and order of reinstating parental rights, which may include a new or restored name for the child. Under the provisions of SB429, reinstated parents regain full legal rights but are not liable for child support. A parent whose parental rights have been reinstated can apply for a new birth certificate for the child.

SB429 states the Reinstatement of Parental Rights Act shall not supersede the Children, Youth and Families Department's (CYFD) obligation or ability to investigate allegations of abuse or neglect on a child who is the subject to a petition of reinstated parental rights.

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

CYFD reports no fiscal impact will result from SB429. Given the Children's Code Reform Taskforce estimation that the proposed legislation would be leveraged in rare cases, this analysis assumes minimal fiscal impact to CYFD.

The Office of Family Representation and Advocacy (OFRA), which provides legal representation for children and respondents in abuse and neglect proceedings in children's court, does not anticipate many petitions brought to the courts annually under the proposed legislation and believes the actions can be handled by 0.5 FTE, at an estimated cost between \$60 and \$70 thousand annually.

The Administrative Office of the Courts (AOC) reports minimal administrative costs for statewide update, distribution, and documentation of statutory changes. AOC reports any new laws have the impact to increase caseloads within the courts.

SIGNIFICANT ISSUES

According to the National Conference of State Legislatures (NCSL), every state has statutes for terminating parental rights by a court. Termination of parental rights, which can be voluntary or involuntary, ends the legal parent-child relationship. Once parental rights have been terminated by a Court, the child is legally free to be placed for adoption.

The federal Adoption and Safe Families Act requires state child welfare agencies to seek termination of parental rights when a child has been in custody for 15 months.

NCSL reports 22 states have legislation in place that allows for the reinstatement of parental rights following termination of parental rights. In 13 states, if a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court, requesting reinstatement of parental rights. In 10 states, statutes specify that reinstatement is only available to older children who have not attained a permanent placement. NCSL notes that states have generally adopted reinstatement of parental rights laws in response to children who are aging out of the foster-care system and re-establishing ties with parents and family members. Currently, New Mexico law does not provide a statutory framework for reinstating parental rights.

In 2024, the Children’s Code Reform Taskforce recommended legislation to allow for the reinstatement of parental rights, in the care cases when children in the foster care system or aging out of foster care, may desire this option and the conditions resulting in the termination of parental rights have changed. This bill aims to implement this recommendation of the taskforce, which noted “rarely, but occasionally, a young person’s best interest would be served by reuniting safely with a parent who has...been able to address the causes and conditions which brought the child into state custody.”

CYFD raised a variety of concerns related to this bill which the agency notes may undermine the stability and safety of children in the child welfare system, explaining:

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, Senate Bill 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.

CYFD also reports the bill may disrupt adoption and guardianship placements and raises Indian Child Welfare (ICWA) and Indian Family Protection Act (IFPA) concerns and notes the bill may conflict with federal laws, including the Adoption and Safe Families Act.

OFRA reports instances when a parent’s rights to their child or children are terminated because they have not fulfilled the terms of their treatment plan with CYFD in the course of the abuse or neglect proceedings within certain timelines, and there are instances in which a parent voluntarily relinquishes their parental rights. In both cases, OFRA suggests a parent may later be in a position to safely care for their child or children. In addition, OFRA notes there are also instances in which no permanent placement has been found for a child and, in cases when both are true, SB429 would provide a legal mechanism to reunite the family.

PERFORMANCE IMPLICATIONS

CYFD reports the bill places “significant burden on CYFD and could require diversion of resources from current child protection efforts.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to Senate Bill 406, which removes rebuttal presumption of abandonment as a basis to consider termination of parental rights in abuse or neglect cases.

TECHNICAL ISSUES

CYFD reports the bill conflicts with ICWA and IFPA, which reinforce tribal sovereignty and authority over child welfare cases, stating the bill requires notice to tribes but does not clarify the tribe’s authority in reinstatement decisions.

CYFD also notes the bill does not define what qualifies as a “material change.”

AOC reports Section 9 of the bill requires a mandatory meeting but does not say who shall lead or direct the meeting, schedule it, or where it will be held.

ALTERNATIVES

CYFD reports permanent guardianship statutes already provide a legal pathway for a parent to regain custody of their child without the need for reinstating parental rights because parents do not have their rights terminated with a permanent guardianship.

RMG/sgs/hj/SR