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FISCAL IMPACT REPORT

SPONSOR <u>López/Sedillo Lopez</u>	LAST UPDATED _____ ORIGINAL DATE <u>2/20/2025</u>
SHORT TITLE <u>“Neglected Child” Definition</u>	BILL NUMBER <u>Senate Bill 430</u>
ANALYST <u>Garcia</u>	

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	\$450.0	\$450.0	\$900.0	Recurring	General Fund and Federal Funds

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

Conflicts with House Bill 205 and House Bill 470

Sources of Information

LFC Files
 Children’s Bureau, Administration for Children and Families
 New Mexico Supreme Court Opinion

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

SUMMARY

Synopsis of Senate Bill 430

Senate Bill 430 changes the statutory definition of a “neglected child” within the Children’s Code (Section 32A-4-2), aiming to explicitly note in statute that poverty alone is not neglect. The bill would define a “neglected child” as a child who:

Is without food, shelter, clothing, education, medical or mental health treatment, supervision or other care or support necessary for the child’s well-being because of the behaviors of the child’s parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian to provide such care or support when able to do so.

The bill also adds language that notes a neglected child does *not* mean a child whose parents or guardians were unable to provide food, shelter clothing, education, treatment, or supervision to support the child’s well-being due to the parent’s financial resources alone.

The bill would clarify that a neglected child is not an “Indian child being raised in a manner or household that conforms to the cultural standards that prevail in the child’s Indian community.”

Senate Bill 430 then requires the Children, Youth and Families Department (CYFD) to make “reasonable efforts” to address the financial needs of the child and family when an alleged neglected child is taken into CYFD custody and to release the child from CYFD custody if the “sole reason” for placement of the child in custody is the result of inadequate financial resources of the child’s parent, guardian, or custodian.

Finally, Senate Bill 430 amends Section 32A-4-22 NMSA 1978, governing the disposition of adjudicated abused or neglected child, to require the court, at the conclusion of the dispositional hearing, make and include in the dispositional judgment its findings on the conditions, other than the inadequate financial resources of the parent, guardian or custodian, that justify continued out-of-home placement.

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

Senate Bill 430 does not contain an appropriation.

The Administrative Office of the Courts (AOC) notes minimal administrative cost for statewide update, distribution, and documentation of statutory changes as well as potential impacts from any new laws or policies.

CYFD notes potential fiscal impacts to CYFD, as the bill requires CYFD to provide financial and practical support to families before placing a child in custody, including housing assistance, healthcare assistance, and tangible items such as food, clothing, and utility support. CYFD notes:

Some of these supports are available via community-based providers but are not all currently available statewide.

CYFD notes Senate Bill 430 would likely result in the need for additional FTE to connect families with available community-based resources that have the potential to mediate the poverty-related concerns that caused involvement with the department, estimating the need for 6 additional FTE and cost of \$672 thousand annually.

At the same time, LFC analysis assumes the bill could result in a small decrease in the number of investigations and subsequent placements in foster care annually. LFC estimates the cost of one investigation to be \$1,000 and the cost of one year of foster care to be \$21,000. For the purpose of this analysis, LFC assumes 10 fewer investigations and placements into foster care annually, for a cost savings of \$220 thousand annually. LFC thus projects a net impact of \$450 thousand annually to CYFD. The HAFC adopted version of the General Appropriation Act includes a transfer of roughly \$17.8 million to CYFD from the Temporary Assistance for Needy Families (TANF) Program; CYFD could use some of this funding to support FTE to connect families to income support resources.

SIGNIFICANT ISSUES

Federal law provides a definition of “child abuse and neglect” but does not separately define “abuse” and “neglect,” leaving states to define each of these categories. The federal Children’s Bureau notes “a wide variety of child experiences and needs fall under state definitions of neglect.” According to the Children’s Bureau of the federal Administration for Children and Families, states generally define neglect as the failure to provide a child with needed food, clothing, shelter, medical care, or supervision, and three-quarters of child welfare cases nationally involve reports of neglect.

Neglect is consistently the most common form of child maltreatment reported and substantiated in New Mexico, reflecting similar trends in other states. According to data reported by the federal Administration of Children and Families, New Mexico reported a total of 6,673 child maltreatment victims in New Mexico, of which 4,090 (66 percent) were for neglected.

The federal Administration for Children and Families notes, “most families who live in poverty do not neglect their children, however, families who are poor are overrepresented in the much smaller population of people reported to state Child Protective Services agencies.” The federal Children’s Bureau similar cites research which suggests that increased stress that may result from poverty or housing instability can result in strained family dynamics and caregiver decisions.

Senate Bill 430 aims to clarify in the state’s definition of neglect that conditions of poverty alone does not constitute neglect. This policy recommendation was made by the Children’s Code Reform Taskforce, whose reported noted “the [proposed] legislation will make resources available to families and children, disentangling poverty from neglect.”

In testimony before Legislative committees, the Children’s Code reform task force noted the change to the definition of neglect would likely impact a very small number of cases.

In November 2024, the New Mexico Supreme Court clarified the state’s existing definition of neglect in the case *State of New Mexico ex rel. CYFD v. Heather S.* In the court’s opinion clarified existing law defines a neglect child as one “without parental care and control...necessary for the child’s well-being.” The Court noted the plain language of the statute requires two conditions be satisfied before a child meets the definition of a “neglected child”: the child be “without proper parental care and control...necessary for child well-being” and law requires that the lack of parental care and control must be “because of the faults or habits” of the parent or the “failure or refusal” of the parent to provide needed care and control. The Court explained:

The focus of [this culpability element] should be on the acts or omissions of the parents in their caretaking function and not on apparent shortcomings of a given parent due to any unfavorable status, poverty being the most common. When considering a parent’s ability to provide necessary care, any unfavorable status excusing parent’s responsibility must be beyond his or her control and a parent’s actions must be reasonable under the circumstances.

CYFD reports the bill aims to reduce the disproportionate impact of child welfare investigations on low-income communities and aims to prevent unnecessary family separations, balancing family preservation with child safety. However, CYFD notes:

The bill relies on CYFD finding and offering resources to struggling families before taking custody. If housing, food aid, or financial assistance programs are underfunded or unavailable, caseworkers may have limited options to support families, which could result in families staying in crisis longer.

As Senate Bill 430 does not directly provide financial assistance to families, the bill would require CYFD to make “reasonable efforts” to address family economic needs. Likely, the bill would require CYFD to coordinate with and make referrals to the Health Care Authority, which oversees the state’s income support programs.

The 2023 LFC progress report on Stacking Income Supports concluded many families in New Mexico are not accessing all of the benefits for which they are eligible, and cited a Department of Finance and Administration study from 2020 which explored the reasons New Mexican families do not participate in income support programs, including barriers in the application process, stigma, and lack of awareness regarding available programs. In 2024, a study conducted by Chapin Hall, analyzing data from the 100% Community Survey in New Mexico also concluded New Mexicans experience significant challenges accessing services, including medical and dental care, services for children, and housing assistance. During 2024 Legislative Session, the Anna Age 8 Institute also received funding to convene a task force over the next two years to convene a task force to identify communities’ needs and develop a comprehensive trauma-informed child and family services system blueprint. This work is not specific to child welfare but will map and make recommendations about primary prevention programs.

The Office of Family Representation and Advocacy notes the bill would require CYFD workers to provide additional up-front work with families struggling with poverty to prevent removal of a child and placement in foster care. In addition, attorneys will have to present evidence, and the court will have to make finds at dispositions, about the neglectful conditions or circumstances that justify continued-out-of-home placement other than poverty and notes, “presentation of this evidence and making these findings should not be burdensome.”

PERFORMANCE IMPLICATIONS

AOC notes potential impact on Court performance related to cases filed and disposed.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with House Bill 205, which amends Section 32A-4-21 to related to the description of services offered in predisposition studies to include, when appropriate and available, prevention services pursuant to the Family First Prevention Services Act and/or referrals to income support or other services.

Conflicts with House Bill 470, which amends the definition of “neglected child” to include circumstances in which a child has unsupervised access to a firearm or a deadly weapon.

Relates to the following appropriations with the HAFC-introduced version of the General Appropriation Act:

- \$17.8 million in TANF revenue transferred to CYFD for supportive housing, adoption services, foster care services, multilevel response system implementation, services for youth aging out of foster care, family support services, family preservation services, and fostering connections.
- \$30 million in the Government Results and Opportunity Fund to hire caseworkers within Protective Services.

RMG/hj/SL2