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## FISCAL IMPACT REPORT

SPONSOR Thornton LAST UPDATED 3/5/2025  
ORIGINAL DATE 2/27/2025  
BILL  
SHORT TITLE Streamline Certain Adoption Processes BILL NUMBER Senate Bill 474  
ANALYST Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 417.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Health Care Authority (HCA)

Office of Family Representation and Advocacy (OFRA)

Children, Youth and Families Department (CYFD)

## SUMMARY

### Synopsis of Senate Bill 474

Senate Bill 474 (SB474) would enact a provision for adoption of a child if that child has been “abandoned prenatally.” “Prenatal abandonment” is defined as failure of an acknowledged or alleged father to, for at least 60 days, initiate or maintain contact with the mother despite knowing of the pregnancy or provide or offer reasonable financial or emotional support. An acknowledged or alleged father would also be considered to have abandoned his child prenatally if convicted of domestic violence against the pregnant mother.

Section 2 of SB474 adds parental abandonment by an acknowledged or alleged father to the list of conditions under which a court shall terminate parental rights in Section 32A-5-15 NMSA 1978. Section 3 modifies 32A-5-19 NMSA 1978 and adds an abandoning father as among those who cannot object to the adoption or relinquishment of a child.

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

SB474 has no fiscal impact.

## SIGNIFICANT ISSUES

SB474 mandates that the court find that an alleged or acknowledged father has prenatally abandoned the child if he shows no interest and provides no support. But the Office of Family Representation and Advocacy argues the father should be able to retain his rights if he becomes engaged after birth:

If passed, this bill would *require* the court to terminate an acknowledged father's rights to their child for prenatal abandonment even when the acknowledged father has begun acting as an acknowledged father after the child's birth (in the first six months of life). As written, the court has no discretion to determine whether the acknowledged father's conduct after birth overcomes any prenatal failures on his part. There may be circumstances (for example, domestic violence against the pregnant mother during pregnancy) that warrant termination of parental rights without consideration of the acknowledged father's behavior after birth. However, there are equally imaginable circumstances where an acknowledged father who did not provide prenatal support or engagement and becomes fully engaged and involved after the child's birth. In those circumstances, the court should have the ability to weigh the facts and determine whether the presumptive abandonment warrants termination of parental rights.

The Children, Youth and Families Department (CYFD) believes that the provisions in SB474 may be unconstitutional, as they may violate due process rights:

By allowing termination of parental rights and adoption without a fair opportunity for fathers to contest claims of prenatal abandonment. It lacks clear evidentiary standards and a judicial review process, making it arbitrary and subject to inconsistent application. Additionally, it raises equal protection concerns by imposing stricter obligations on fathers without similar requirements for mothers. By depriving certain fathers of their parental rights without proper notice or a hearing, the bill fails to meet constitutional safeguards under the Fourteenth Amendment. By adding prenatal abandonment to the reasons for Termination of Parental Rights and as a reason to forego adoption consent or relinquishment of parental rights, it undermines that parent's natural right and duty to care for and make choices that are in the best interest of their child and doesn't allow that parent to engage in rehabilitative services that may be offered prior to the decision to terminate their parental rights is made.

CYFD notes that the bill's provisions may conflict with the federal Indian Child Welfare Act and/or the state Indian Family Protection Act (Section 32A-28 NMSA 1978).

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB474 relates to Senate Bill 417, which would change definitions of "alleged father" and "acknowledged father."