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FISCAL IMPACT REPORT

SPONSOR <u>Armstrong/Dow</u>	LAST UPDATED _____
<u>CYFD Investigation for Plan of Care</u>	ORIGINAL DATE <u>2/4/2025</u>
SHORT TITLE <u>Failure</u>	BILL NUMBER <u>House Bill 173</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	Indeterminate but minimal	\$760.0 to \$1,800.0	\$760.0 to \$1,800.0	\$1,520.0 to \$3,600.0	Recurring	General Fund
OFRA	Indeterminate	At least \$125.0	At least \$125.0	At least \$250.0	Recurring	General Fund
Total	Indeterminate but minimal	\$885.0 to \$1,925.0	\$885.0 to \$1,925.0	\$1,770.0 to \$3,850.0	Recurring	General Fund

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

Conflicts with House Bill 205

Relates to an appropriation in the General Appropriation Act, which will provide \$1.8 million to the Health Care Authority to implement plans of safe care and \$10 million to CYFD to address Protective Services caseloads.

Sources of Information

LFC Files
 National Center on Substance Abuse and Child Welfare
 Federal Administration for Children and Families

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

Agency Analysis was Solicited but Not Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of House Bill 173

House Bill 173 (HB173) would amend Section 32A-3A-14 NMSA 1978, which relates to the notification the Children, Youth and Families Department (CYFD) receives when a plan of safe care is not followed.

The bill would require CYFD be notified in all cases and would require CYFD to conduct a family assessment. Based on the results of the assessment, the bill would amend statute to require CYFD to refer families to services.

“Family assessment” is defined in existing statute and includes an assessment of the likelihood of:

- 1) Imminent danger to a child’s well-being,
- 2) The child becoming an abused child or neglected child, and
- 3) The strengths and needs of the child’s family members and care givers

The bill then amends existing statute to require CYFD to conduct an investigation if the family declines the services or programs recommended by the family assessment.

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

The bill would require CYFD to implement a family assessment in instances of noncompliance with plans of safe care. The 2023 LFC program evaluation on CARA found the state established plans of safe care for 3,770 infants between 2020 and 2022. Of these, 40 percent of families with a safe care plan were ultimately referred to CYFD, 27 percent of referrals were ultimately screened into the investigation process, and 18 percent of accepted reports ultimately resulted in cases of substantiated abuse or neglect.

CYFD could implement family assessments and a subsequent differential or multilevel response in alignment with evidence-based practices and existing statute. LFC analysis and national research suggests differential response or multilevel response may result in returns on investment of up to \$15 per \$1 invested. Projected costs from an alternative response range between \$98 and \$286 per family, according to previous LFC reports and the Washington State Institute for Public Policy. If half of all plans of care created were ultimately referred to CYFD, the cost to implement differential response in all those cases could range between \$50 thousand and \$100 thousand annually. During the 2024 legislative session, CYFD received \$4.2 million over three years through the government results and opportunity (GRO) fund to pilot and implement multilevel or differential response statewide, in accordance with statute. CYFD may, thus, be able to absorb additional costs associated with family assessments. In addition, if CYFD were to implement multilevel response with fidelity to evidence-based models, the state could ultimately experience cost-savings.

LFC analysis estimates a child welfare investigation costs New Mexico roughly \$1,000/, and

LFC reports have estimated a single year of foster care, including foster care maintenance payments and administrative costs, are roughly \$21 thousand per child. Given the number of CARA cases the LFC report found were subsequently referred to CYFD and ultimately substantiated, CYFD may already be absorbing investigation costs with existing resources. As an estimate, this analysis assumes CYFD could experience an increase of 150 cases that ultimately require investigation, the agency could experience a cost of roughly \$150 thousand. As an estimate, this analysis assumes 75 additional children experience a year in foster care, the state could experience a cost of roughly \$1.5 million, with an estimated \$815 thousand covered by federal Title IV-E (foster care) reimbursement and an estimated \$760 thousand impact to the general fund.

CYFD reports the bill would require the agency to hire 10 additional FTE, including 6 FTE related to investigations and 4 FTE related to family preservation services, who conduct family assessments. CYFD did not provide an estimated cost, though LFC analysis projects up to \$1 million. LFC analysis of CYFD's FY25 budget suggests Protective Services has the ability to fill roughly 10 positions within their FY25 budget, and the LFC recommendation for the General Appropriation Act includes sufficient funding to fill an additional 101 caseworker positions within the government results and opportunity fund, which may also allow the agency to absorb additional caseworker costs.

Taken together, LFC estimates the potential additional cost to the general fund for Protective Services ranges between \$810 thousand and \$1.8 million.

Office of Family Representation and Advocacy (OFRA) notes mandated investigations could result in increased filing of abuse/neglect petitions, creating a higher need for attorneys appointed by OFRA. The agency estimates the potential need for at least one more staff member to absorb additional cases. LFC estimates this cost at \$125 thousand annually.

The Health Care Authority (HCA) and Department of Health (DOH) reported no fiscal impact related to the bill.

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. Under CAPTA, a plan of safe care is a collaborative plan designed to ensure the safety and well-being of infants affected by prenatal substance exposure, by addressing the health and substance use treatment needs of the infant and their caregivers and aiming to prevent child safety risks.

States which 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 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, the 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.

According to the 2023 LFC program evaluation *Implementation of the Comprehensive Addiction and Recovery Act (CARA)*, 1,200 plans of safe care were created annually for New Mexico newborns between 2020 and 2022, accounting for roughly 6 percent of all births during that period. According to HCA data, more than 70 percent of all births in New Mexico are funded by Medicaid, while the 2023 LFC program evaluation estimated 90 percent of newborns with plans of safe care are Medicaid eligible.

The 2023 LFC program evaluation found New Mexico's implementation of CARA has substantive gaps, specifically noting most 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.

In 2023, the Legislature made appropriations to CYFD 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, an intensive home visiting program eligible for federal reimbursement and shown through research to reduce child maltreatment. 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 to implement plans of safe care to HCA, based on a recommendation from the 2023 LFC program evaluation.

The 2023 LFC report also found that a family with a plan of safe care subsequently had a higher maltreatment substantiation rate for abuse or neglect, compared to families of infants without a plan of care. At the time of the LFC report, CYFD noted this measure could indicate whether the CARA program is appropriately identifying children at-risk. The LFC program evaluation made a variety of recommendations to improve the CARA program and address system gaps. These recommendations include amending CARA statute to require a family assessment or differential response when a report involving a family is made to CYFD and amending statute to require CYFD to conduct a family assessment of families who refuse substance use treatment or do not comply with their plans of care.

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 2025, LFC became aware the executive planned to transfer the responsibility for overseeing

plans of safe care to the Department of Health, along with the CARA navigator positions hired by CYFD, without enabling legislation and potentially in conflict with existing CARA statute.

House Bill 173 would require the completion of a family assessment in all cases of noncompliance and refer families to appropriate services. In addition, the bill will require CYFD to conduct an investigation if the family declines the services recommended through the family assessment.

CYFD notes the bill and existing statute do not clarify the specific mechanism for notifying the appropriate parties when families and caregivers disengage from plans of safe care. CYFD notes it remains unclear who is responsible for notifying CYFD about noncompliance. This issue was also identified in the LFC CARA evaluation because the CARA portal lacked functionality to track service engagement and participation.

CYFD also reports CARA navigators are currently responsible for completing family assessments for families with a plan of safe care under current CYFD rules, and the CYFD CARA navigators support families to access services to which they are referred. If a family disengages from services, CYFD reports the CARA navigator follows internal procedures to report to CYFD statewide central intake (SCI), who then determines whether a CYFD investigation is warranted.

CYFD notes:

CARA navigators are already required to make an abuse of neglect referral to Protective Services if, at any point during a one-year engagement period, there is concern that the infant is being abused or neglected. If enacted, this legislation would require CARA navigators to contact Statewide Central Intake (SCI) if a family declines services. ... CYFD would need to address through rules and regulations that these screened in calls will mandate an abuse and neglect investigation on matter the level of risk

OFRA reports that requiring a family assessment and requiring an investigation may limit CYFD's discretion and be seen as "punitive and contrary to a public-health approach to voluntarily engage families in plans of safe care."

The Department of Health (DOH) reports:

Studies have found that policies that mandate referrals to child protective services for families of substance-exposed newborns deter women from seeking substance use treatment during pregnancy and may deter them from seeking prenatal care all together. By mandating a family assessment for these families who decline the plan of safe care, infants at risk of abuse or neglect could potentially be identified and, in addition, families would have another opportunity to discuss the available supports and services, and if family still declined services, the CYFD would be mandated to conduct an investigation."

DOH also notes the bill does not distinguish between high- and low-risk families, based on the results of the family assessment and highlights the degree of risk and type of substance exposure could inform different degrees of navigation, support, and interventions.

DOH reports behavioral health conditions in pregnant women are often associated with negative health outcomes, including pregnancy-related deaths. HB173 could improve the health of mothers and infants with a plan of safe care whose families otherwise declined all services and

supports. DOH cites the example of Early Intervention, a program that is proven through research to improve the developmental trajectory of infants with substance exposure; however, according to federal guidelines, it is a voluntary program. The mandatory family assessment could thus provide an opportunity for CYFD staff to explain the benefits of such programs to families.

ADMINISTRATIVE IMPLICATIONS

HCA notes, “Through the [family] assessment, if services are identified for parents and/or family members involved in the care of the child, coordination of those services can be accessed through HCA’s physical and behavioral health network.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB173 conflicts with House Bill 205, which would make similar changes to the noncompliance section of statute relating to plans of safe care, including a required family assessment, but would require investigations in cases in which refused services result in potential imminent risk to the child. In addition, House Bill 205 makes more extensive changes to the CARA program and the Children’s Code.

Relates to an appropriation in the General Appropriation Act, which will provide \$1.8 million to the Health Care Authority to implement plans of safe care and \$10 million to CYFD to address Protective Services caseloads.

OTHER SUBSTANTIVE ISSUES

CYFD notes the bill appears to place the family assessment process before an investigation and reports:

While assessments are a critical step, there may be instances where an immediate report and investigation may be necessary prior to a full family assessment. To avoid misunderstanding, it may be beneficial to clarify that all mandated reporters remain responsible for fulfilling their statutory duty to report suspected abuse and neglect, and that compliance with this bill does not exempt them from that obligation.

RMG/hg/rl