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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Martinez, A. **ORIGINAL DATE** 3/4/2025

BILL

SHORT TITLE CYFD Substitute Care Review **NUMBER** House Bill 500

ANALYST Hernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SCAC	\$341.5	\$516.5	\$535.8	\$1,393.9	Recurring	General Fund

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

Conflicts with House Bill 205

Sources of Information

LFC Files

Agency Analysis Received From

Regulation and Licensing Department (RLD)
 Office of Family Representation and Advocacy (OFRA)
 Administrative Office of the Courts (AOC)
 Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From
 Children, Youth, and Families Department (CYFD)

SUMMARY

Synopsis of House Bill 500

House Bill 500 (HB500) would amend the Citizen Substitute Care Review Act and the Children’s Code to change the make-up and mission of the Substitute Care Advisory Council, including clarifying that the council oversees Children, Youth and Families Department (CYFD) effectiveness in its child protection responsibilities. Provisions of the bill:

- Section 1 amends the confidentiality of records section of the Children’s Code.
- Section 2 amends the Citizen Substitute Care Review Act of the Children’s Code by shifting the monitoring from children in the of custody CYFD to monitor CYFD itself.
- Section 3 adds definitions to the Citizen Substitute Care Review Act to include “board,” “case,” “council,” “identified child,” and “substitute care.”
- Section 4 amends the Citizen Substitute Care Review Act by increasing the number of Substitute Care Advisory Council (SCAC) members from nine to 10; expressly states the SCAC “shall exercise its functions independently and not under the control of the

department” or RLD; and requires SCAC to provide an annual report to the governor, the Legislature, CYFD, and the Administrative Office of the Courts (AOC).

- Section 5 adds a new section to the Citizen Substitute Care Review Act providing that SCAC shall hire a director and staff to review cases and process grievances and that budgeting requests shall be submitted through the Regulation and Licensing Department (RLD).
- Section 6 adds a new section that provides that the New Mexico Attorney General’s Office shall advise and consult with SCAC and render legal services on the request of SCAC.
- Section 7 adds a new section that provides that SCAC staff shall review each grievance submitted to SCAC staff.
- Section 8 adds a provision for volunteer members.
- Section 9 adds a new section that requires SCAC to establish boards (volunteers) to review cases designated in accordance with SCAC rules. SCAC staff are required to meet quarterly with CYFD regarding the findings.
- Section 10 adds a section giving SCAC staff access to CYFD records subject to state and federal law.
- Section 11 adds a provision for confidentiality of information

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

While SCAC has been administratively attached to RLD for the last three years, past General Appropriation Act has included an appropriation for SCAC within AOC, contingent on enactment of legislation to move SCAC to the courts. Because no legislation has passed, these appropriations have been vetoed. RLD has funded the salaries of three existing SCAC employees with fee revenue collected by the department.

RLD reports the agency received \$31 thousand for the operations of SCAC in FY25, while current total operating costs, including 4 FTE, total roughly \$350 thousand, and the agency has been funding the SCAC function with other agency revenue in recent years. RLD notes that if it were to fill the two remaining vacant positions, costs would increase by \$175 thousand.

The House version of the General Appropriation Act includes a \$550 thousand special appropriation to AOC, with \$450 thousand from the general fund and \$100 thousand in federal Title IV-E revenue transferred from CYFD. The appropriation would allow for the staffing of up to five full-time employees. The appropriation should allow SCAC to significantly increase the number of cases reviewed annually; however, it may not provide sufficient resources to fully meet the number of case reviews outlined in the bill if the number of cases trends at the high end of the estimates presented above. Contingent on the enactment of this bill, the Legislature would need to consider recurring funding in future years.

SIGNIFICANT ISSUES

In New Mexico, the federally mandated CAPTA citizen review panel function was codified in the 2016 Citizen Substitute Care Review Act, and its duties are performed by SCAC. SCAC is

administratively attached to RLD in accordance with Section 9-1-7 NMSA 1978 and conducts its evaluations through oversight of the regional substitute care review boards' monitoring of children placed in CYFD's custody and identification of systemic policy issues related to substitute care. LFC reports have highlighted gaps in the existing function. SCAC is mandated through state statute to produce an annual report; however, due to issues maintaining sufficient council membership, reports have not always been filed. In addition, the number of cases reviewed annually by SCAC does not provide a representative sample. For example, SCAC reviewed 242 cases reviewed from July 2020 through December 2022, and SCAC reviewed 54 cases that involved 101 children in FY24, less than 5 percent of children in foster care in a single month in New Mexico in 2024. Previous iterations of SCAC reviewed all cases annually.

SCAC is required by existing statute to establish priority case criteria for case review each year. Within the most recent report, its priority case review criteria focused on (1) placements in institutional or congregate care settings, (2) number of children in placement, (3) youth ages 13-18, (4) sibling groups, (5) three or more 48-hour holds, (6) requested by an interested party, (7) follow-up on previous case reviews. These criteria led to most of the reviewed cases focusing on teenagers in care; while these may be high-risk cases, the reviewed cases and annual report do not reflect the overall distribution of children in care. For example, CYFD reported to the Senate Memorial 5 taskforce during the 2024 interim that around 50 percent of children in care are 5 years old or younger. Outcomes for children in foster care, such as time to permanency, could improve if more cases are reviewed on an annual basis.

Prior to 2016, SCAC was situated within the Department of Finance and Administration and every child abuse and neglect case was reviewed by SCAC through a contractual function. Following its move to the Regulation and Licensing Department, SCAC has not always published annual reports or had sufficient membership, despite requirements within statute. SCAC's most recent report, published in October 2024, reviewed 54 cases impacting 101 children. In the same year, roughly 2,000 children were in care.

AOC notes:

House Bill 500 is a close duplicate of 2021's Senate Bill 242 that unanimously passed both chambers of the Legislature but was vetoed on April 9, 2021, wherein Governor Michelle Lujan Grisham stated in her message: "SB 242 prematurely expands the authority of the Council without any appropriation to implement its new power to accept, investigate and negotiate solutions with CYFD. During the legislative process, New Mexico's Native American communities' leadership were not consulted regarding SB 242, even though the Council must adhere to the Indian Child Welfare Act. Additional collaboration is therefore needed between the Council, state agencies, and our Native American communities before any of the amendments in SB 242 can be enacted.:"

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB500 conflicts with HB205, which moves SCAC under the Attorney General's Office.

AEH/hj/hg