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FISCAL IMPACT REPORT

ORIGINAL DATE 2/12/15

SPONSOR Chasey LAST UPDATED _____ HB 269

SHORT TITLE Family Support Services Program SB _____

ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	TBD	TBD	TBD	TBD		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Children, Youth and Families Department (CYFD)
- Attorney General’s Office (AGO)
- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorney’s (AODA)

SUMMARY

House Bill 269 amends the Abuse and Neglect Act to establish a family support services program that would provide an alternative response pathway to provide services to a family upon completion of an evaluation where there is no immediate concern for the child’s safety. Under this program, rather than investigating or not responding to a low risk referral, the family is put in touch with a support worker to conduct an assessment and provide services. This bill requires certain types of maltreatment reports be ineligible for the program, requires that a comprehensive assessment tool be developed and used by the department for program participants, requires service providers be licensed social workers, requires reporting on program implementation and outcomes, requires development of performance measures specific to the program, and requires development of a plan to expand the program statewide. This bill also allows the courts to require the family’s participation in services.

FISCAL IMPLICATIONS

There is no appropriation included in HB 269; however, both the executive and Legislative Finance Committee (LFC) budget recommendations include \$1 million from the general fund for family support service centers statewide. Additionally, LFC analysis indicates evidence based

options to improve outcomes for at-risk families, including an alternative response pathway to provide services for families, may result in a return on investment of \$4 to every \$1 expended in taxpayer benefits and \$12 to \$1 expended in non-taxpayer benefits. Taxpayer benefits are defined as avoidance of child welfare system costs such as investigation and foster care and non-taxpayer benefits are defined as improved outcomes for avoided maltreatment victims including increased earnings and avoided health care costs. For example, an investment of \$1 million would result in \$4 million in taxpayer benefits most of which would accrue to the state of New Mexico and \$12 million in non-taxpayer benefits over the lifetimes of the avoided victims. According to LFC analysis the benefits surpass program costs by year four of implementation.

The Children, Youth and Families Department (CYFD), believes the fiscal implication of this bill will be significant and the agency may not be absorbed without additional resources. However, the agency did not quantify additional resources needed.

The Administrative Office of the Courts (AOC) states that the fiscal impact to provide to services to families in need may be significant given the increased statewide abuse and neglect caseload for children's court and court appointed attorneys. The AOC reports that in FY14 caseloads increased 18 percent in statewide abuse and neglect case filings, and thus far FY15 is continuing this trend.

Additionally, the AOC also believes the Court Appointed Attorney Fee Fund (CAAFF) could be impacted as attorneys are statutorily required to for children and indigent respondents in abuse and neglect cases. The statewide increase in the abuse/neglect caseload has already strained CAAFF. In the Second Judicial District court appointed attorneys reached caseloads of over 100. In FY15 the AOC had to request two supplemental appropriations.

SIGNIFICANT ISSUES

Family support assessment and response systems respond to Child Protective Services referrals and is an alternative to a traditional investigation. If there are no imminent concerns about a child's safety, the alternative response method conducts a family assessment, with the goal of engaging a family to determine strengths and needs and plan for the future, without requiring a determination that maltreatment has occurred or that the child is at risk of maltreatment. It is perceived by some as less intrusive and less confrontational than a traditional investigation. A similar pilot to the program proposed by this bill was run by CYFD from 2005-2007 and outcome data showed families who accepted assessment services had a lower rate of repeat maltreatment, had fewer children removed and placed in foster care, and had almost half as many repeat reports compared with families who declined services. Furthermore, families that did re-enter the system after accepting assessment services had their children returned to them more often after the children were placed on a 48-hour hold, meaning that fewer children were removed from their homes and put into costly foster care. Additionally, research indicates programs as proposed by this bill may reduce maltreatment for at-risk families by 11 percent and reduce recurrence of maltreatment by 9 percent.

In New Mexico, the Protective Services program expends about \$113 million responding to child maltreatment, through investigation, in-home services, foster care, adoption and associated administrative costs. CPS spends most of its funding on foster care, adoption and administration. However, only about \$900 thousand was dedicated to preventative services and \$7.4 million to

intervention services, and federal data reflects New Mexico spends less on preventative services than most other states.

Additionally, an estimated 36 percent of children who are the victim of a substantiated case of maltreatment will be abused or neglected again before they are 18 based on historical data in New Mexico. CYFD receives over 30 thousand referrals alleging maltreatment each year. Around 55 percent of these are screened in and receive a response through investigation. The number of reports alleging maltreatment, the percentage of substantiated maltreatment reports, and the victim rate in New Mexico have all risen since 2009. Each year, over 6,500 victims of maltreatment are identified and around 2,000 children are in foster care at any given time. Reducing child maltreatment and placement in foster care, even just by 10 percent, can save tens of millions of dollars.

However, CYFD believes this bill creates conflict between investigations and referrals for services by the agency, as the former are mandated by the children’s code (32A-4-3(C)) whereas referrals for services are one possible outcome of an investigation, and conflicts with CYFD’s discretion in managing its investigation caseload, and making appropriate referrals to services but thinks existing programs at the agency already meet the intent of many of the provisions of this bill. Finally, the department believes this bill may conflict with CYFD’s discretion as an executive agency in the execution and management of the details of a statutory directive, and may complicate the Court’s legal custody options at the Custody Hearing.

AOC reports HB 269 by placing this under the Abuse and Neglect Act, the bill may create ambiguity in the areas of notice, pre-petition counsel, service, and source of funding. Implementation of a successful alternative response model in New Mexico would be a significant systemic shift, requiring not only statutory changes, but fiscal and policy considerations for CYFD and other stakeholders, and the effective development and implementation of such an effort requires the input of all invested stakeholders. Other states that have implemented such models (approximately 23) have developed these programs in multi-year phases, with very specific milestones and deliverables.

The AODA states HB 269 does not provide guidance on how the department is to determine that a case is appropriate for referral prior to an investigation, other than by “an evaluation” to determine if the case meets the statutory criteria (no allegation of sexual abuse, no indication of a child fatality, etc.). AODA analysis believes that the referral may be based on a review of the allegations made in the report alleging neglect or abuse. See Section 32A-4-4(B), as amended by HB 269. Referral on the basis of an undefined “evaluation” instead of after an “investigation” appears to violate Section 32A-4-4(A) NMSA 1978, which provides: “Reports alleging neglect or abuse shall be referred to the department, which shall conduct an investigation...” (emphasis added). Section 32A-4-3 NMSA 1978 also requires an investigation of reports alleging abuse or neglect. Changing the language in HB 269 to allow for referral to the Family Support Program in appropriate cases after the investigation of the allegations would avoid this apparent conflict.

PERFORMANCE IMPLICATIONS

CYFD has performance measures concerning the safety and well-being of children, and the department believes this bill may negatively affect performance by the redirecting resources and duplicating existing efforts.

The courts measure time to permanency in abuse and neglect cases which is part of the performance-based budgeting process. If the family support services program is used extensively and there is no change to the number of abuse and neglect petitions filed, the court dockets may increase making it difficult to handle larger caseloads and meet timelines. However, if the program disposes of concerns for safety before, and without, filing a petition for abuse and neglect, then it could be that performance implications are minor.

The AOC reports this bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type
- Length of time the case is pending.

ADMINISTRATIVE IMPLICATIONS

The AOC reports that the Supreme Court, via the Children's Court Rules Committee, will need to review the amendment to determine if it requires the adoption or amendment of court rules or forms. This process requires time and resources, and may require the committee to develop and publish for comment any such rules and forms before submitting them to the Supreme Court for approval.

CONFLICTS

CYFD believes this bill conflicts with that statutory provision by allowing for the family support services program to be an alternative to investigation. NMSA 1978 §32A-4-3(C) requires investigation of reports received by CYFD and law enforcement.

RELATIONSHIP

HB118, which has passed the House, is an alternative approach to the same issue of providing family preservation services to families. Both have similar legal and fiscal issues.

SB372 provides a private right of action against, and damages from, a state agency that fails to investigate allegations of abuse and neglect.

HB29 amends Section 32A-4-3 NMSA 1978, regarding who must report abuse and neglect. (It does not change the provision requiring investigation of abuse and neglect.)

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