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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/17

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE CYFD Closed Child Custody Case Data Reporting SB 250

ANALYST Klunt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------------------|-------------------------|-------------------------|----------------------|------------------------------|------------------|
| Total | Possibly Significant | Possibly Significant | Possibly Significant | | Recurring | General |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 250 (250) requires the Children, Youth and Families Department (CYFD) to report annually to the Legislative Health and Human Services Committee (LHHS) prior fiscal year aggregate data for the following:

- Number of children taken into protective custody by law enforcement;
- Reasons for law enforcement granting CYFD custody;
- Case disposition following custody (being transfer of child into the custody of (a) a parent, guardian, or custodian; (b) CYFD; (c) a relative not listed in (a); (d) another agency; (e) an agency other than CYFD; (f) any other entity not previously listed; (g) a medical facility (with subsequent report as to which of (a) through (f) the child is released into the custody of following release from the medical facility));
- Actions taken *after* case closure to ascertain the well-being of these children at periods of:
 - Thirty days;
 - Three months;
 - Twelve months;
 - Twenty-four months; and
 - Sixty months.

FISCAL IMPLICATIONS

CYFD stated:

“CYFD does not have a mechanism for tracking cases *after* case closure, with the exception of repeat maltreatment if another allegation is received by CYFD: a mechanism would therefore need to be developed. CYFD does not capture the reason for law enforcement granting CYFD custody in a reportable manner: this capability would need to be added to the database, and additional procedures developed and enacted to ensure accurate data capture. CYFD does not capture any of the information related to case disposition in a reportable manner: this capability would need to be added to the database, and additional procedures developed and enacted to ensure accurate data capture. The data unit would potentially need additional FTE. The New Mexico Administrative Code would have to be re-written to allow for continuous contact with the family after case closure, a process which requires time and resources to accomplish. Finally, additional resources would be necessary to ensure CYFD has adequate staff to continue to follow up with families for the five-year period mandated by this bill.”

SIGNIFICANT ISSUES

CYFD noted a lack of legal requirements to require families to participate in activities taken pursuant to requirements contained in SB 250:

“CYFD does not have jurisdiction after a case is closed. Currently, if a family is investigated, but no abuse and neglect petition is filed, family participation with CYFD is strictly voluntary. In those instances where the family refuses to voluntarily participate, CYFD will be unable to gather the data required by this bill. Only in those cases where an abuse/neglect petition has been filed are families court-ordered to participate; but as Court and CYFD lose jurisdiction upon case closure, any follow-up would, again, be voluntary. With only voluntary participation in follow up, there is no guarantee that the data reported will prove to be an accurate representation of the full spectrum of families CYFD works with, and the value of those data is therefore questionable. Finally, it is unclear what authority CYFD would have legally and/or constitutionally to follow up with families after case closure.”

Nationally, three systems are used to collect and report data of state child welfare systems; these are the National Child Abuse and Neglect Data System (NCANDS), The Adoption and Foster Care Analysis and Reporting System (AFCARS), and the National Youth in Transition Database (NYTD).

NCANDS is a voluntary data collection system that gathers information from all 50 states, the District of Columbia, and Puerto Rico about reports of child abuse and neglect. NCANDS was established in response to the Child Abuse Prevention and Treatment Act of 1988. The data are used to examine trends in child abuse and neglect across the country, and key findings are published in our Child Welfare Outcomes Reports to Congress and annual Child Maltreatment reports.

AFCARS is collects case-level information from state and tribal title IV-E agencies on all children in foster care and those who have been adopted with title IV-E agency involvement.

Title IV-E agencies are required to submit AFCARS data twice a year. NYTD collects information about youth in foster care, including outcomes for those who have aged out of foster care.

The U.S. Health and Human Services Department publishes a series of reports annually reflecting this data. In addition, CYFD publishes the 360 annual reports on Protective Services data. This report includes county level data including the number of reports (accepted and not accepted), substantiation rates, and other trends related to foster care, reunification and adoption.

TECHNICAL ISSUES

Section G (3) of the bill (page 5, lines 3-6) discusses reporting with regard to “each case” which implies that there will be identifying information released. Pursuant to NMSA 32A-4-33 abuse and neglect records are strictly confidential, and unauthorized release is a criminal offense.

The bill states that it relates to cases of abuse or neglect “that have been closed within thirty days during the prior fiscal year.” This can be read to mean either (a) cases that were only open and pending for a period of thirty days, meaning CYFD’s involvement lasted thirty days or less; or (b) cases closed within thirty days of the prior fiscal year, meaning only cases closed from June 1 through June 30 would be reported. Currently, NMAC 8.10.3.17(A) allows CYFD up to seventy-five days to close a case, which means that few cases would meet the thirty days or less pending.

Paragraph 1 refers to number of children. Paragraph 2 refers to number of cases. Cases may have more than one child. CYFD believes this creates some ambiguity between the paragraphs.

OTHER SUBSTANTIVE ISSUES

CYFD investigates approximately 20,000 cases per year; of which 618 during the last fiscal year resulted in children being placed in CYFD custody. Of those cases, only 265 remained in CYFD custody for eight days or fewer.

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