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FISCAL IMPACT REPORT

ORIGINAL DATE 1/18/19

SPONSOR Padilla LAST UPDATED _____ HB _____

SHORT TITLE Placement of Children in Protective Custody SB 28

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Undetermined, but probably minimal	Undetermined, but probably minimal	Undetermined, but probably minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 28 establishes the precedence of relative foster care over other formers of temporary or long-term custody. Current language in Section 32A-3B-6 NMSA indicates the possibility of considering relative foster care but does not give a preference to it, as the amendments to those statutes envisioned in Senate Bill 28.

CYFD would be tasked with making an attempt to find a relative of a child being taken into custody who could be given the foster care assignment. The relative would have to:

1. Be in the best interest of the child
2. Execute a signed statement that the parents who had allegedly abused or neglected the child would not be allowed CYFD-unsupervised contact with the child, and
3. Complete an application to become a foster care provider within three days.

If such a person were not to be found, the child could still be placed in non-relative foster care or a facility (but not in a prison or detention center).

FISCAL IMPLICATIONS

As much as CYFD currently attempts to place children with relatives, passage of Senate Bill 28 is unlikely to greatly change departmental practices or budgets. CYFD states that

Nothing in this bill would prevent CYFD from continuing its current practice of completing a provisional relative foster license upon placement of the child. However, if a family waits the three days allowed by this bill before starting the licensure process, it could have a minimal fiscal impact on the CYFD.

Current practice is for relative foster families not previously licensed to begin the process *immediately* upon placement. The waiting period of three days allowed by this bill could jeopardize Title IV-E reimbursement because CYFD *cannot* seek reimbursement for placement in a non-licensed home.

According to Child and Family Services Reviews, Title IV-A of the Social Security Act “addresses major components of child welfare. Its focus is on providing safe and stable out-of-home care for children who are in out-of-home care due to child maltreatment or other circumstances until they are able to achieve permanency in their placement by being safely returned home, placed permanently with adoptive families, or placed in other planned arrangements.

Title IV-E funds are available for:

- Monthly maintenance payments for the daily care and supervision of eligible children
- Administrative costs to manage the program
- Training of staff and foster care providers
- Recruitment of foster and adoptive parents
- Adoption assistance Implementation and operation of a Statewide Automated Child Welfare Information System.

If Title IV-E reimbursement were curtailed, the state in general, and CYFD in particular, might suffer a significant reduction in revenue.

SIGNIFICANT ISSUES

CYFD states that:

“This bill codifies CYFD’s current practice of placing children with relatives when appropriate. However, the proposed delay in processing placements by three days *will* delay discovery of potentially disqualifying factors of the family which could result in an unnecessary placement change for the child that would likely be avoided without the three-day delay.

CYFD has discretion to place children with suitable identified relatives if it is in the best interest of the child at the time of custody; and placement with a relative is one of several options CYFD has when children enter into the custody of CYFD. There are occasions when the child’s relatives live outside New Mexico where the Interstate Compact on the Placement of Children process must be followed as CYFD will not place children in an unlicensed home and without the approval and oversight of another jurisdiction. It is

possible this bill’s requirements may affect such placements.”
In an American Academy of Pediatrics policy statement from 2015¹, Szilagyi and others stated the following:

“Placement is mandated [by federal law] to be in the least restrictive environment to meet the child’s needs, so most children reside in family foster care (48%) or kinship care (26%). In some communities, more than one-third of foster families are now kinship providers. The Fostering Connections Act requires that relatives be notified within 30 days of the child’s removal from the parent, provides states increased supports for children living in kinship care or guardianship, and funds local kinship navigator programs. Although children placed in kinship care or guardianship have many of the same risk factors as children in nonrelative foster care, recent studies have shown that children living with extended family have greater placement stability and that caregivers report fewer behavior and developmental problems compared with children in nonrelative foster care. However, the prevalence of behavioral problems for these children is still well above that of community peers, and their caregivers are more likely to be older and poorer and with even less access to services than nonrelative foster caregivers. Appropriate services and treatment may strengthen the stability of placements, both foster and kinship, and improve child outcomes over the long term.”

In a research study published in the journal *Child Welfare*, Hawkins and Bland indicate their research shows a significant improvement of results in relative or kinship foster care compared with placement with an unrelated person.²

PERFORMANCE IMPLICATIONS

CYFD states that it “has performance measures related to the safety and well-being of children, and the stability of placements, which may be affected by this bill.”

LAC/cw/al

¹ Szilagyi M et al. Health Care Issues for Children and Adolescents in Foster Care and Kinship Care. *Pediatrics* Vol.136, Oct. 2015.

² Hawkins CA, Bland T. Health Care Issues for Children and Adolescents in Foster Care and Kinship Care. *Child Welfare* Vol. 81, 2002.