

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

SECTION I: GENERAL INFORMATION

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 2025-01-22
Bill No: SB26

Sponsor(s) Antoinette Sedillo Lopez
:

Agency Name CYFD 69000
and Code
Number:
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Short PROTECTION AGAINST
Title: ABUSE AND VIOLENCE
ACT

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

If enacted SB26 would;

Change the name of the Family Violence Prevention Act to the Protection Against Abuse and Violence Act across statutes:

The definition of “abuse” is expanded to encompass a broader range of abusive tactics and methods than is currently recognized. The use of mutual orders of protection is eliminated. The bill explicitly states that minors (aged 13 to 18) may petition the court for an order of protection.

Revisions to the Emergency Orders of Protection (EOP) section include the incorporation of electronic means for requesting and receiving EOPs. It clarifies that law enforcement does not require a criminal complaint to request an EOP on behalf of a victim. The bill mandates law enforcement to document any known location or telephone number for alleged perpetrators. Additionally, it changes the grounds for a judge to grant an EOP from “immediate danger of domestic abuse following an incident of domestic abuse” to finding that the alleged victim and household members “are in immediate danger or that an act of abuse has occurred or may occur.” The bill requires courts to be available at all times to respond to requests for EOPs.

Revisions to Temporary Orders of Protection (TOP) sections align the grounds for issuance with EOPs. It adjusts hearing timelines, removes service requirements to hold hearings and make findings, and outlines the necessary components of a TOP.

Revisions to the Order of Protection (OP) sections align the grounds for issuance with EOPs and TOPs. It clarifies that custody and property determinations in an OP are independent of other court actions. Judicial discretion is broadened (using “may” in several paragraphs), protections and ownership of animals are added, and courts are prohibited from ordering protected parties to participate in counseling or treatment. The bill clarifies firearm possession requirements for stipulated orders, allows courts to issue orders of protection if a respondent fails to appear at the hearing, and grants

courts discretion over the length of the order of protection. It also clarifies the use of domestic violence offender treatment or intervention programs rather than “professional counseling.”

Law enforcement officers' obligations are clarified, including the documentation of whether a party acted in self-defense, documenting the names and relationships between people present at the incident, and expanding perpetrator release, escape, and transfer notifications to include victims.

Definitions of “health care practitioners” with obligations under the act are defined in greater detail.

Prohibitions of internet publication prohibitions of orders of protection and victim information are defined in greater detail.

FISCAL IMPLICATIONS

The proposed bill does not have a fiscal impact to CYFD. There may be potential fiscal implications to other agencies or local government agencies based on the need to update court and law enforcement forms as well as additional training for court and law enforcement partners related to updates of bill.

SIGNIFICANT ISSUES

The change in the Act's name reflects the acknowledgment that orders of protection extend beyond family members to encompass a broader array of relationships and vulnerable victims. This includes non-family household members, sexual assault victims, and minors.

A pivotal modification within the Act, evident in various definitional and procedural adjustments, is the recognition of abuse as a pattern of behavior over time. Definitions and grounds are updated to permit the identification of a wider range of coercive and controlling tactics. Loopholes, such as a perpetrator's failure to appear at a hearing, have been eliminated as barriers to court-granted protection.

Another category of changes involves technological advancements, allowing orders to be requested and issued electronically. The Act acknowledges the role of

technology in patterns of abuse.

Of particular significance to the Children, Youth, and Families Department are amendments related to minors. These changes clarify that orders of protection can be issued to safeguard or restrain minors, and individuals aged 13 to 18 are empowered to directly petition a court for an order of protection against the minor's co-parent, a person the minor has had a continuing personal relationship, or in cases of stalking or sexual assault. This removes a barrier that youth have faced when seeking protection from violence in co-parenting, dating, and other intimate partner violence situations.

There is a potential risk that this bill could be misused in a way that may cause disruptions in youth placements within CYFD. Specifically, a youth could potentially file a false order of protection against CYFD staff, foster or resource family members, or other children in state custody with the intent to disrupt placement.

Additionally, the bill does not clearly define CYFD's role in cases where a youth successfully files an order of protection against a parent, sibling, or co-parent. This lack of clarity could result in confusion and operational challenges.

PERFORMANCE IMPLICATIONS

Implementation from the standpoint of CYFD and CYFD's contractors will require a legal update for service providers to understand the new provisions, how to support victims to petition for orders of protection, and coordinate efforts with law enforcement.

Some intended outcomes are an increase in successful petitions for Orders for Protection through more accurate definitions of abuse, clarified understanding of included relationships, and more robust protocols for petitions and judicial response.

Administrative Office of the Courts data will demonstrate changes in the use of provisions under the Act.

ADMINISTRATIVE IMPLICATIONS

None Identified

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None Identified

TECHNICAL ISSUES

None Identified

OTHER SUBSTANTIVE ISSUES

None Identified

ALTERNATIVES

None Identified

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Failure to enact this bill could result in continued exposure to violence, aggression, abuse, and coercive control for children, youth, and families affected by domestic violence. Moreover, without this legislation, young people may remain unable to access necessary protection from such violence, while outdated definitions or frameworks for abuse could allow incidents of violence to go unaddressed

AMENDMENTS

None

Identified