

LFC Requester:	Rachel Mercer-Garcia
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/30/2025 *Check all that apply:*
Bill Number: HB 173 Original Correction
Amendment Substitute

Sponsor: GAIL ARMSTRONG **Agency Name and Code** AOC 218
Short Title: CYFD INVESTIGATION FOR PLAN OF CARE FAILURE **Number:** _____
Person Writing Alison B. Pauk
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	N/A	

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	N/A	

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	N/A	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 173 amends Section 32A-3A-14 NMSA 1978, entitled “Notification to the department of noncompliance with a plan of care,” by changing “may” to “shall” in several places to require CYFD to:

- 1) conduct a family assessment in the event of noncompliance with a plan of care upon release from the hospital or birthing center after the birth of a child;
- 2) offer or provide referrals for counseling, training, or other services aimed at addressing the underlying causation;
- 3) proceed with an investigation in the event a newborn’s parents, relatives, guardians, or caretakers decline services or programs offered because of the assessments.

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is June 20, 2025, which is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

No appropriations are requested in HB 173, however, there may be fiscal implications for the judiciary. The requirement that the department shall proceed with an investigation upon the parent, guardian, or custodian declining services offered could lead to more petitions filed in the courts alleging abuse or neglect against said parent, guardian, or custodian.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced commitment actions and appeals. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The development and enactment of the Comprehensive Addiction and Recover Act (CARA) followed the amendment to the federal Child Abuse Prevention and Treatment Act (CAPTA) that requires all state child welfare agencies to ensure every baby born exposed to substances receives a plan of care and that data be reported to the federal agency. In 2023, the study, *An Implementation Evaluation of the Comprehensive Addiction Recovery Act (CARA) Policy in New Mexico*, evaluated how CARA is working in New Mexico and came to the following conclusion:

Program funding, limited system capacity, lack of systematic screening for prenatal substance use, regional differences in access to care, and provider biases toward pregnant people using substances affected health-care workers’ ability to identify at-risk families and develop plans of safe care. To support CARA implementation, healthcare systems must implement universal prenatal substance use screening, increase the level of anti-bias training pertaining to substance use,

increase hospital supports, and improve data management systems.

See The Nation Library of Medicine, <https://pmc.ncbi.nlm.nih.gov/articles/PMC10691990/> .

HB 173 may result in the plan of care being viewed as a punitive tool by those it is meant to help, discouraging pregnant people from seeking prenatal care and treatment for substance use disorders. This could result in greater risks for pregnant persons and their child[ren] and lessen opportunities for treatment for pregnant women as well as appropriate therapy for exposed infants. “Early identification and treatment of women with substance use disorders and/or dependence is a critical component of preconception and prenatal care and is important for supporting healthy birth outcomes.” See *Criminalization of Pregnant Women with Substance Use Disorders*, AWHONN Position Statement, [https://www.jognn.org/article/S0884-2175\(15\)31770-6/fulltext](https://www.jognn.org/article/S0884-2175(15)31770-6/fulltext) .

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

HB 173 may increase the number of filings in abuse and neglect proceedings while also requiring administrative adjustment to protocols, possibly increasing the demand on resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Section 32A-3A-14(A) does not define what constitutes “fail[ure] to comply with that plan [of care].”

OTHER SUBSTANTIVE ISSUES

Removal of CYFD’s discretion may create a more punitive atmosphere. The hospital or freestanding birthing center is already required in Sec. 32A-3A-14(A) to notify CYFD when there is a failure to comply with a plan of care, but CYFD can then address each case individually considering fact-specific modifiers, such as a lack of resources, when determining the next steps. This allows for ‘failure to comply’ to be balanced against each scenario.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS