

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/4/25

Check all that apply:

Bill Number: HB173

Original x Correction
Amendment Substitute

Sponsor: Rep. Gail Armstrong
Rep. Rebecca Dow

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: CYFD Investigation for Plan
of Care Failure

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB173 would amend NMSA 1978, Section 32A-3A-14(A) (2019) to change various Children, Youth and Families Department (CYFD) duties relating to “plan of care” violations from permissive to mandatory. A “plan of care” is “a plan created by a health care professional intended to ensure the safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child’s parents, relatives, guardians, family members or caregivers to the extent those treatment needs are relevant to the safety of the child.” NMSA 1978, § 32A-1-4(Y) (2023).

Currently, Section 32A-3A-14(A) provides that “[i]f the parents, relatives, guardians or caretakers of a child released from a hospital or freestanding birthing center pursuant to a plan of care fail to comply with that plan, CYFD must be notified and it “may” conduct a family assessment, as defined in Section 32A-3A-14(B). Based on the results of that assessment, CYFD “may” provide or offer referrals for services. If the child’s parents, relatives, guardians, or caretakers decline such services, CYFD “may” conduct an investigation. HB173 would amend the statute to change the “may” language to “shall” in all these instances, thus imposing nondiscretionary duties on CYFD.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

Any failure by CYFD to comply with nondiscretionary duties could lead to the filing of a mandamus petition seeking to compel CYFD to comply with its duties. *See, e.g., Mimbres Valley Irrigation Co. v. Salopek*, 2006-NMCA-093, ¶ 11, 140 N.M. 168 (“Mandamus lies only to compel a public officer to perform an affirmative act where, on a given state of facts, the public officer has a clear legal duty to perform the act and there is no other plain, speedy, and adequate remedy in the ordinary course of the law.”).

ADMINISTRATIVE IMPLICATIONS

The mandatory duties imposed could result in an increased workload for CYFD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None