

LFC Requester:	Rachel Mercer-Garcia
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date March 3, 2025
Bill No: HB 205

Sponsor: Meredith A. Dixon & Gail Armstrong

Agency Name and Code Number: Regulation and Licensing Department - 420

Short Title: CYFD Nominating Committee

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

SUMMARY OF SUBSTANTIVE CHANGES: House Judiciary Committee Substitute for House Bill 205 (HJC Sub. HB205):

At Section 18, HJC Sub. HB 205 amends §32A-8-4 NMSA 1978 to administratively attach the Substitute Care Advisory Council (SCAC) to the New Mexico Department of Justice (NMDOJ). Under current law the SCAC is administratively attached to the Regulation and Licensing Department (RLD); the original HB 205 would have transferred the SCAC to be administratively attached to the Administrative Office of the Courts.

Also at Section 18, HJC Sub. HB 205 adds new language requiring that at least one member of the SCAC have expertise in the Indian Family Protection Act and the federal Indian Child Welfare Act of 1978, and the Attorney General is added to the list of offices and individuals to whom the SCAC shall periodically and annually issue reports summaries of the SCAC's activities to.

At Section 19, HJC Sub. HB 205 specifies that budgetary requests for the SCAC shall be submitted through the NMDOJ.

Section 25 of HJC Sub. HB 205 sets out temporary provisions for the transfer of all functions, employees, money, appropriations, records, equipment and other property of the RLD pertaining to the SCAC to the NMDOJ; deems all contractual obligations of the SCAC to be contractual obligations of the NMDOJ; and deems all statutory references to the SCAC or other functions transferred from the RLD to the NMDOJ to be references to the NMDOJ.

BILL SUMMARY House Bill 205 (HB205)

Synopsis: HB205 creates a new mechanism for the Secretary of the Department of Children, Youth and Families (CYFD), to be selected and appointed. The bill has an effective date of July 1, 2025.

- The Secretary of CYFD will be appointed by the governor, with the consent of the senate, and shall be selected from a list of qualified nominees submitted to the governor by the secretary of children, youth and families nominating committee (the nominating committee).

The nominating committee will consist of nine (9) members who are knowledgeable about child welfare, not recipients of contracts or other forms of compensation from the CYFD, and not applicants or nominees for the secretary position. Members shall be New Mexico residents, serve four-year terms, and serve without compensation but shall receive reimbursement for expenses incurred. The nominating committee shall receive administrative support from the CYFD.

- One member will be appointed by the speaker of the house of representatives.
- One member will be appointed by the majority floor leader of the house of representatives.
- One member will be appointed by the minority floor leader of the house of

representatives.

- One member will be appointed by the president pro tempore of the senate.
- One member will be appointed by the majority floor leader of the senate.
- One member will be appointed by the minority floor leader of the senate.
- Two members will be appointed by the governor.
- One member will be appointed by the chief justice of the supreme court.

The nominating committee shall meet prior to September 1, 2026, and as often as necessary submit a list of no fewer than five qualified nominees for appointment by the governor.

- Subsequent to January 1, 2027, the nominating committee shall meet at least ninety days prior to the date on which the term of the secretary ends and as often as necessary thereafter to submit a list of no fewer than two qualified nominees to the governor at least thirty days prior to the beginning of the new term.
- Upon the occurrence of a vacancy of the secretary position, the nominating committee shall meet within thirty days of the date of the vacancy beginning and as often as necessary thereafter submit a list to the governor within sixty days of the first meeting after the vacancy occurs, of at least two qualified nominees.
- The nominating committee shall actively solicit, accept and evaluate applications.
- A majority vote of all members of the nominating committee in favor of a person is required for that person to be included in the list submitted to the governor.

HB205 requires that the CYFD develop and implement the families first strategic plan for the delivery of services and access to programs as required pursuant to the Families First Act.

HB205 amends sections of the Voluntary Placement and Family Services Act (the Act).

- Rules promulgated pursuant to the Act shall include guidelines to hospitals, birthing centers, medical providers, Medicaid managed care organizations and private insurers regarding: participation in the plan of care development process; definitions and evidence-based screening tools; collection and reporting of data to meet federal and state reporting requirements; identification of appropriate agencies to be included as supports and services in the plan of care; engagement of the child's relatives, parents, guardians or caretakers in order to identify the need for access to treatment; and implementation of plans of care.
- The bill requires the health care authority to provide an annual report to the legislative finance committee, the interim legislative health and human services committee and the department of finance and administration on the status of the plan of care system.

HB205 amends sections of the Abuse and Neglect Act.

- The bill requires the CYFD to provide an annual report of multilevel response system implementation and outcomes to the legislative finance committee, the interim legislative health and human services committee, the interim committee that studies courts, corrections and justice, and the department of finance and administration as part of its budget submission.
- The bill also requires the CYFD to implement the multilevel response system statewide no later than July 1, 2027.

HB205 establishes the Families First Act.

- The Families First Strategic Plan shall be developed by the CYFD in consultation with the early childhood education and care department, health care authority, and department

of health.

- The strategic plan shall: include descriptions of the CYFD's responsibilities and duties for providing Families First services; include a list of Families First services provided to eligible persons; identify all network services providers; identify and define eligible persons who may receive services; identify processes and procedures to identify eligibility; identify processes and procedures to maximize federal reimbursement, funding, and resources available; identify the process to monitor and oversee the safety of children receiving services; establish metrics to evaluate outcomes from services; and provide description of how the Families First Strategic Plan will be continuously monitored.
- The Families First Strategic Plan shall be finalized no later than August 1, 2025.
 - No later than September 1, 2025, the Families First Strategic Plan must be submitted to the federal administration for children and families and services pursuant to the Families First Act must be provided.

HB205 establishes a new section of the Citizen Substitute Care Review Act providing definitions as used in the Citizen Substitute Care Review Act and amends other sections of the Citizen Substitute Care Review Act.

- HB205 removes the Substitute Care Advisory Council (SCAC) from being administratively attached to the Regulation and Licensing Department (RLD) and places the SCAC in the Administrative Office of the Courts (AOC). The SCAC will exercise its functions independently and not under the control of AOC.
 - The SCAC consists of ten voting members:
 - The secretary of public education or the secretary's designee;
 - The secretary of health care authority or the secretary's designee;
 - The secretary of finance and administration or the secretary's designee;
 - The secretary of health or the secretary's designee;
 - The secretary of early childhood education and care of the secretary's designee;
 - One children's court judge, appointed by the governor; and
 - Four public members, with three-year terms.
 - Two with expertise in child welfare,
 - Two with experience in abuse and neglect proceedings.
 - The secretary of the CYFD or the secretary's designee shall serve as a nonvoting member of the SCAC.
 - Members of the SCAC shall be entitled to receive per diem and mileage as provided for nonsalaried public officers pursuant the Per Diem and Mileage Act.
- The SCAC shall, on or before October 1 of each year, designate cases for review that involve children in substitute care who are under the age of five or have remained in substitute care for longer than six months.
- HB205 gives the SCAC the ability to establish work groups and enter into contracts, memoranda of understanding, and joint powers agreements to carry out the provisions of the Citizen Substitute Care Review Act.
- The SCAC will be required to provide periodic reports on the work of the council, including an annual written report to the governor; the appropriate legislative interim committee studying courts, corrections and justice; the legislative finance committee; the legislative health and human services committee; CYFD; the AOC; and other persons, organizations or agencies deemed appropriate.
 - The report shall include a summary of the activities of the SCAC and recommendations to improve child protective services at the state and local levels.

- HB205 requires the SCAC to hire a director to oversee, manage and direct the processing of cases, provide administrative support to the SCAC, and conduct activities deemed necessary by the SCAC to support its function.
 - The director will employ staff for the SCAC and prepare budgetary request to be submitted through the AOC.
- HB205 requires the Attorney General to advise and consult with the SCAC and render legal services upon request of the SCAC.
- HB205 requires the SCAC to establish boards composed entirely of volunteer members to review cases designated in accordance with council rules.
- The bill establishes that information obtained or generated by a member of the SCAC, a staff member of the SCAC or a member of a board for the purpose of performing duties in compliance with the Citizen Substitute Care Review Act is not subject to the provisions of the Inspection of Public Records Act.

HB205 establishes that on July 1, 2025, the functions, employees, money, appropriations, records, equipment and other property of RLD pertaining to the SCAC shall be transferred from RLD to AOC.

- All contractual obligations pertaining to the SCAC shall be deemed to be the contractual obligations of AOC.

FISCAL IMPLICATIONS

In FY25 the Regulation and Licensing Department (RLD) received just thirty-one thousand dollars (\$31,000) as an appropriation directed to fund operations of the SCAC. Total operational costs of the SCAC for FY25 are projected at close to three hundred and fifty thousand dollars (\$350,000). The total operational costs for the SCAC include all associated personnel wages and benefits, as well as equipment, travel and other overhead expenses. There are currently four (4) full-time equivalent (FTE) employees directly working for the SCAC, with an additional two (2) positions that are vacant. Funds to cover the estimated three hundred nineteen thousand dollar (\$319,000) shortfall in FY25 between the appropriation received by the RLD for the SCAC and actual total expenses for operations had to be made up from other funds appropriated to the RLD within the RLD's overall budget. This was also the funding situation for the SCAC and RLD in in FY24.

SIGNIFICANT ISSUES

The changes proposed to the selection process for the secretary of the CYFD under HB205 would be unlike what is required for any other agency head of a New Mexico state executive agency. This non-standard nomination/selection process could present a deterrent to qualified, experienced individuals seeking to serve as the CYFD cabinet secretary. The nomination and selection process, including the extensive vetting process by multiple parties required under HB205, may be seen as exhaustive and overly laborious, leading to potential candidates opting not to apply for the position.

The timeframe to complete the final selection and appointment of a secretary for the CYFD can reasonably be expected to take a longer period of time under the requirements of HB205 than would a standard appointment process for an executive agency head. Given the potential for an extended timeframe to complete the nomination and selection process under HB205, a question exists as to how the membership of the nominating committee would be impacted if one of the individuals specified to make an appointment to the nominating committee were to change while the selection process for a CYFD secretary was ongoing. For example, HB205 mandates the majority and minority leaders of the House and Senate each make an appointment to the

nominating committee. If an individual in one of those floor leader positions were to resign while the nominating committee was still meeting, would the member of the nominating committee who had been appointed by the former floor leader remain on the nominating committee or would the current floor leader be able to appoint someone new? If there was a change in membership of the nominating committee while the nominating process was ongoing, would the process need to be restarted? If a nominee had been put forward by the nominating committee but no final appointment made at the time a new member is added to the nominating committee, would the nomination process need to be reopened to allow the new member of the committee to put forward a nomination? The answers to these questions are not clear from the language of HB205.

PERFORMANCE IMPLICATIONS

The administrative support functions the RLD currently performs for the SCAC primarily involve handling the SCAC's payroll, staff and SCAC member per diem and mileage payments, and all other expenses in connection with the operations of the SCAC. These functions would be transferred to the Administrative Office of the Courts (AOC). All records of the SCAC, as well as all computers, office supplies and furnishings, and other equipment currently in the possession of/utilized by the staff immediately supporting the SCAC would be transferred to the AOC. The RLD anticipates no significant performance implications for RLD from the enactment of HB205.

ADMINISTRATIVE IMPLICATIONS

Administrative support of the Council will be removed from the RLD and placed with the AOC under HB205. While there are currently two other committees/commissions placed under the administrative umbrella of the AOC pursuant to Article 34, chapter 9, there does not appear to be similarity between the operations of those other bodies and the SCAC.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Selection, appointment, and confirmation of the Secretary of the CYFD will remain as provided under current law. The SCAC will remain administratively attached to the RLD, dependent on the RLD to locate and delegate funding from within the RLD's overall operating budget to make up the shortfall in revenue necessary for the annual expenses of the SCAC.

AMENDMENTS