

LFC Requester:

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: 2/07/2025 *Check all that apply:*
Bill Number: HB 303 Original Correction
 Amendment Substitute

Sponsor: Rebecca Dow **Agency Name and Code Number:** Administrative Office of the District Attorneys 264
Short Title: Exposure to Certain Drugs as Child Abuse **Person Writing:** Troy Davis
Phone: 505-3858461 **Email:** davistr@msn.com

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

BILL SUMMARY

Synopsis:

House Bill 303 would amend existing crimes regarding the abandonment or abuse of a child to apply penalties for exposing a child, in utero, to a Schedule I or II narcotic. Exposure that does not result in a child's death or great bodily harm would be punishable as a third-degree felony (which carries a sentence of three years of incarceration) for a first offense and as a second-degree felony (which carries a sentence of nine years of incarceration) for second or subsequent offense. Exposure resulting in death or great bodily harm would be punishable as a first-degree House Bill 303 – Page 2 felony (which carries a sentence of 18 years of incarceration) or, in some circumstances, a first-degree felony resulting in the death of a child (which carries a sentence of life imprisonment). In addition, the bill would eliminate certain legal defenses to the charge of exposing a child to methamphetamine use or manufacture. The bill would also add a new statute to the Abuse and Neglect Act allowing medical personnel to “recommend” that law enforcement “detain” a newborn child, pending a court order.

FISCAL IMPLICATIONS

Add costs to the District Attorney's, Law Office of the Public Defender's, and judicial branch for increased trials and to law enforcement to investigate and arrest individuals for the new crimes under HB303.

SIGNIFICANT ISSUES

The new language in House Bill 303 in Sections I and J precluding a defense based on the defendant's ignorance that a child was present would conflict with abuse of child statute intent elements in Section 30-6-1(D), which state “Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be harmed.” This current language requires that a person know a child is present or was present. Therefore, it is an irreconcilable conflict to add new language that ignorance of the child's presence is not a viable defense. If the new Section 2 proposed in HB303 is passed, Sections 32A-4-3 duty to report, 32A-4-6 custody of a child, and 32A-4-7 release of a child under the Children's Code would also have to be amended to avoid a conflict in the statutes.”

Section I provides that knowingly, intentionally, or negligently leaving a child in a facility used for production of a controlled substance is a prima facie case of child abuse, but the amendment does away with any defense that the person did not know a child was present. Similarly, Section J provides that knowingly or intentionally exposing a child to use of methamphetamine is a prima facie case of child abuse, with the same amendment as Subsection I. New Mexico precedent has long recognized that a person cannot be convicted of child abuse for generally negligent conduct without knowing that their behavior endangered a particular child that was foreseeable at the time of the conduct.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

ALTERNATIVES

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WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None

AMENDMENTS