

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: 2/11/2025 *Check all that apply:*
Bill Number: HB 343 Original Correction
 Amendment Substitute

Sponsor: Gail Armstrong, Meredith Dixon, Eleanor Chavez, Jenifer Jones, Rebecca Dow **Agency Name and Code** AOC 218
Short Title: CYFD PLANS OF SAFE CARE FOR CERTAIN CHILDREN **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: Conflicts with HB 205 and HB 173.
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 343 seeks to amend Section

- **Section 32A-3A-2 NMSA 1978:**
 - New Subsection I: adds the definition of “substance-exposed newborn.”
- **Section 32A-3A-13 NMSA 1978:** changes the title of the section to add the word “safe” and “substance-exposed newborn children” to the title. Throughout the section, changes the term from “plan of care” to “plan of safe care.”
 - Subsection B: adds the term “substance exposed newborn” to the rules and requirements to be written.
 - New Section G: adds a section requiring those who were involved in a substance–exposed newborn’s plan of safe care to report the child to CYFD if the person has concerns about the “continued safety of the newborn prior to or after a newborn’s discharge from a hospital or birthing facility...” CYFD is then required to perform an assessment, determine if the newborn’s needs are being met, and if not, initiate an investigation.
- **Section 32A-3A-14 NMSA 1978:**
 - Adds a new Subsection B(4) that allows for any relevant involvement with CYFD to be considered when conducting a family assessment.
- **Section 32A-4-3 NMSA 1978:** changes the title of the section to add the word “safe” and “substance-exposed newborn children” to the title. Throughout the section, changes the term from “plan of care” to “plan of safe care.”
 - Subsection G: unless a newborn tests positive for methamphetamine, fentanyl, cocaine, or heroin, then a finding that a newborn is identified with substance abuse or being affected by substance abuse cannot, alone, form a sufficient basis to report child abuse or neglect.
 - New Subsection J: defines substance-exposed newborn” for the section.

There is no appropriation listed in this bill.

The effective date for this bill is July 1, 2025.

FISCAL IMPLICATIONS

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 prosecutions, and appeals from convictions. 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

- 1) House Bill 343 amends “plan of care” to “plan of *safe* care” throughout Sections 32A-3-13, 32A-3-14, and 32A-4-3. “Plan of care” is a term that is defined in the definitions section of the Children’s Code, Section 32A-1-4(T) NMSA 1978 as, “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...” In Section 32A-1-4, there is no definition for “plan of safe care.”
- 2) HB 343 adds the term "substance-exposed newborn" and defines it in both Section 32A-3A-2(I) and Section 32A-4-3(J) as “a newborn child who is affected by prenatal exposure to a controlled substance, including a prescribed or non-prescribed drug or alcohol ingested by the newborn's mother in utero...” This definition is overly broad and may unintentionally encompass newborns whose mothers were taking medications prescribed during pregnancy or even eating poppy seeds.

The single biggest challenge in identifying prescription drug abuse in pregnancy by drug testing is separating out misuse from other causes such as dietary poppy seeds, legitimate maternal prescriptions, or medications given to mother or infant in the peripartum period.

The Challenge of Detecting Prescription Opioid Abuse in Pregnancy, Matthew D. Krasowski, page 2, <https://www.iowaepsdt.org/wp-content/uploads/2015/03/Fall13.pdf>

Even common medications prescribed by physicians during pregnancy, such as antidepressants, can cause a newborn to suffer from short-term symptoms of quitting the medication. (See *Antidepressants: Safe During Pregnancy*, Mayo Clinic, <https://www.mayoclinic.org/healthy-lifestyle/pregnancy-week-by-week/in-depth/antidepressants/art-20046420>. See also *Antidepressants and Pregnancy: What to Know*, John Hopkins Medicine, <https://www.hopkinsmedicine.org/health/wellness-and-prevention/antidepressants-and-pregnancy-tips-from-an-expert> “About 30 percent of babies whose mothers take SSRIs will experience neonatal adaptation syndrome, which can cause increased jitteriness, irritability and respiratory distress (difficulty breathing), among other symptoms.”)

- 3) Subsection G of Section 32A-4-3 NMSA 1978 is amended so that positive toxicology screens in infants for methamphetamine, fentanyl, cocaine, or heroin can form a sufficient basis to report child abuse or neglect to the department. Yet, “Urine, meconium, and umbilical cord drug testing of newborns may pick up opioids from legitimate prescriptions and from poppy seeds in the diet.” The Challenge of Detecting Prescription Opioid Abuse in Pregnancy, Matthew D. Krasowski, page 3, <https://www.iowaepsdt.org/wp-content/uploads/2015/03/Fall13.pdf> . See also *She Ate a Poppy Seed Salad Just Before Giving Birth. Then They Took Her Baby Away*, The Marshall Project, <https://www.themarshallproject.org/2024/09/09/drug-test-pregnancy-pennsylvania-california> .

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

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 205 and HB 173.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The impact of not enacting this bill should be minimal, as the state can already prosecute under the theory of placing the child in a situation that may endanger the child's life or health under this statute.

AMENDMENTS