

LFC Requestor: Self Assigned

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 343

Type: Introduced

Date (of THIS analysis): 2/10/2025

Sponsor(s): Gail Armstrong, Meredith A. Dixon, Eleanor Chavez, Jennifer Jones and Rebecca Dow

Short Title: PLANS OF SAFE CARE FOR SUBSTANCE-EXPOSED NEWBORNS

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$2,323.69	\$2,323.69	\$2,323.69	\$6,971.07	Recurring	GF

In December, 2024, the CARA program was moved from CYFD to DOH. Estimated budget impact includes the cost of

staff and office set-up.

<i>Positions</i>	<i>Mid Point</i>	<i>Plus benefits</i>	<i>Number of positions</i>	<i>Annual Cost</i>
<i>Social & Com III -70</i>	<i>\$34.23</i>	<i>\$46.21</i>	<i>14</i>	<i>\$1,345,635.20</i>
<i>Social & Com Super-75</i>	<i>\$38.46</i>	<i>\$51.92</i>	<i>3</i>	<i>\$323,980.80</i>
<i>Admin Ops I-80</i>	<i>\$42.69</i>	<i>\$57.63</i>	<i>1</i>	<i>\$119,870.40</i>
<i>Admin Ops II-85</i>	<i>\$46.92</i>	<i>\$63.34</i>	<i>1</i>	<i>\$131,747.20</i>
<i>Epi Advanced-75 - Part time</i>	<i>\$38.46</i>	<i>\$51.92</i>	<i>0.5</i>	<i>\$53,996.80</i>
<i>Total</i>				<i>\$1,975,230.40</i>

PS&EB- see separate table	\$ 1,975,230.40
Office setup	
Computer set up 2,500 per employee (<i>non-recurring</i>)	\$ 50,000.00
Desktop software (Office 365, Adobe, etc)	\$ 13,980.00
Phones (desk or cell)	\$ 34,480.00
IT costs -Enterprise costs, subscriptions	\$ 10,000.00
Office space 10.00 per SF 120sf per office x20 (12,000 per staff)	\$ 240,000.00
total	\$ 2,323,690.40

Section III: Relationship to other legislation

Conflicts with: None

Companion to: None

Relates to: HB303, HB230, HB205

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 343 (HB343) proposes additional requirements and amended language to the Children’s Code related to the creation of plans of safe care for substance-exposed newborns.

HB343 proposes to amend the language “plan of care” to “plan of safe care”.

In Section 1: Language is added to define a substance-exposed newborn 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.

In Section 2: A. The Human Services Department is changed to the Health Care Authority.

In Section 2B(1) there is new language to require hospitals, birthing providers, medical providers, Medicaid managed care organizations and insurers to participate in the discharge planning process for substance exposed newborns.

Sections 2B(2-5) propose to add requirements centering around screening tools, the collection and reporting of data by hospitals and birthing centers, the identification of appropriate agencies to be included in supports and services, engagement of the child's relatives and caretakers in identifying needs.

Sections 2C-F add language related to the collection and handling of reports.

Section 2G proposes child safety reporting guidelines for anyone involved in creating a substance-exposed newborn's plan of safe care. There is new language that outlines CYFD's responsibilities for assessment, investigation and subsequent actions to take if it is determined that a newborn's needs are not being met.

Section 2H instructs Statewide Central Intake (SCI) staff at CYFD to work with the Department of Health in creating targeted training materials for discharge planners or social workers.

Sections 2I-J includes language regarding "cause of action" for any loss or damage from implementing Section H, and guidance regarding the training in Section H to impose a duty of care.

Section 3 presents amendments for Section 32A-3A-14 NMSA 1978 and introduces new language regarding failure to comply with plans of care, adding that "any involvement with the protective services division of CYFD" should be included in the family assessment.

Section 4 presents amendments for Section 32A-4-3 NMSA 1978 and introduces new language for departmental assessments of certain plans of care, how law enforcement handles and transmits reporting, the investigation of the report, agency and departmental access to the report, and penalties to those who unlawfully violate section 4A.

In Section 4G there is language around the duty to report child abuse or neglect regarding a newborn identified with substance exposure or is being affected by the mother's substance use. In addition to the present language stating that this alone does not form a sufficient basis to report to CYFD, it adds "unless a newborn child has a positive toxicology for methamphetamine, fentanyl, cocaine or heroin".

In Section 4H regarding who creates the plan of safe care, "a volunteer, contractor" is deleted and replaced with new language "health care provider". New language is added to reflect that the plan of safe care for a substance exposed newborn be completed "prior to the newborn's discharge from the hospital, free standing birth center, or other birthing facility.

In Sections 4I-K definitions are introduced for the terms notification, substance-exposed newborn, and school employee.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

HB343 attempts to ensure the safety and well-being of substance-exposed infants through a variety of measures and institutes more robust reporting requirements compared to the 2019 statute (HB230).

According to the federal Comprehensive Addiction and Recovery Act, States that receive CAPTA funding are required to report, to the maximum extent practicable, the number of substance-exposed infants identified; the number for whom a plan of safe care was developed; and the number for whom a referral was made for appropriate services. Changing the language from “plan of care” to “plan of safe care” aligns with the federal statute.

In the last several decades, consensus had shifted regarding the best policy response to drug-exposed newborns. Research indicates that non-punitive interventions are the most beneficial to children and families. This includes interventions that emphasize treatment and preserve attachment and bonding between mother and baby whenever *safe* and possible to do so [Substance use during pregnancy: time for policy to catch up with research - PMC](#). The NM statute, passed in 2019, was in line with this non-punitive approach in stating that substance use alone was not sufficient for a report of child abuse or neglect and that the plan of care was not sufficient to prompt a report to protective services; rather, a separate report needed to be filed with the Children, Youth and Family Department protective services division if there were additional reasons to suspect a child was not safe in the home. Again, it should be emphasized that taking a public health approach aimed at treatment and bonding may be more beneficial to the family *unless* there is evidence suggesting that the infant’s safety is an immediate concern, in which case, an immediate SCI report to CYFD protective services should be required.

HB343 requires a somewhat different response in that exposure to cocaine, meth, or heroin would prompt an automatic report to SCI for investigation of possible child abuse, shifting the original disposition of an infant’s substance exposure as being insufficient alone to prompt a SCI report. Implications of this approach may be that parents are less likely to seek prenatal care or other medical care due to substance use and fear of punitive actions. ([State Policies That Treat Prenatal Substance Use As Child Abuse Or Neglect Fail To Achieve Their Intended Goals | Health Affairs](#).) Lack of prenatal care is associated with adverse neonatal outcomes.

HB343 bill assumes that CYFD is the lead agency for receiving and monitoring the plans of safe care, however, in Dec. 2024, the executive moved the CARA program to DOH. Therefore, some of the responsibilities listed in HB343 may fall to DOH rather than CYFD.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

Please see above tables for fiscal impact of DOH taking on the CARA program.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

DOH may need to promulgate new rules in addition to other administrative tasks.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

Relates to HB303 EXPOSURE TO CERTAIN DRUGS AS CHILD ABUSE. House Bill 303 introduces new language to modify the Abuse and Neglect Act. The bill would change Section 30-6-1 NMSA 1978, ABANDONMENT OR ABUSE OF A CHILD to clarify that faults and habits of the parent or caregiver constitute ‘criminal negligence’.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

9. HEALTH IMPACT(S)

Because of the provisions in Section 4, HB343 could adversely impact health outcomes for infants if it results in people delaying or refusing to seek prenatal care.

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB343 is not enacted, then the new language that is proposed will not be added to this amendment to the Children's Code.

12. AMENDMENTS

None