

LFC Requester:	
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
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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 Prepared:** 2025-02-13  
**Bill No:** HB424

**Sponsor(s)** Rebecca Dow  
: Gail Armstrong

**Agency Name and Code Number:** CYFD 69000  
**Person Writing Analysis:** Scott J Patterson-Alatorre  
**Phone:** 5056954626

**Short Title:** PREGNANCY & FAMILY CARE ACT

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

**ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	0	0	0		

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

If enacted, HB 424 would:

Create a new section of the Children's code, referred to as the Pregnancy and Family Care Act.

HB 424 also provides definitions for terminology used in the Pregnancy and Family Care Act to include:

- \* Department, meaning the department of health
- \* Family Care Plan, meaning a plan that is created by a health care provider or substance use disorder treatment provider for pregnant or postpartum patient, a substance-exposed infant, a caregiver or a patient's family members aimed at providing a range of services to address needs related to substance use disorder treatment, mental health issues, health care needs, parenting skills, child development, education and other related needs
- \* Infant, meaning a child under the age of one (1) year
- \* Substance-Exposed Infant, meaning an infant for whom prenatal substance exposure is indicated and confirmed by a health care provider
- \* Substance Use Disorder, meaning a pattern of use of alcohol, cannabis, hallucinogens, opioids, sedatives, or other drugs leading to clinical or functional impairment in accordance with the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

Create a new section of the Children's Code, referred to as Prenatal Screening for Substance Use Disorders - Development of Family Care Plans that includes the following guidance:

- \* During the first visit with a pregnant patient a health care provider will, with permission of the patient, conduct a written or verbal screening for substance use disorder to determine whether further assessment is required
- \* At any point of treatment with a pregnant patient a health care provider will, with permission of the patient, conduct a follow up screening for substance use disorder

\* If a health care provider determines through screening that a pregnant patient may have a substance use disorder they are directed to complete an assessment to determine whether there is a need for treatment, determine which type of treatment and/or services are appropriate, and refer the pregnant patient to another provider to conduct the assessment

\* If a health care provider conducting an assessment determines that the pregnant patient meets the criteria for a diagnosis of an untreated substance use disorder, with permission of the patient, the health care provider will develop a family care plan

Creates a new section of the Children's Code, referred to as Screening and Assessing Substance Use Disorder Treatment for Pregnant or Postpartum Patients that includes the following guidance:

\* A pregnant or postpartum patient referred for substance use disorder treatment shall be given priority for beginning available treatment

\* A substance use disorder treatment provider who receives state or federal funding is prevented from refusing to treat the patient based on the following criteria: patient is pregnant, patient is postpartum, patient is already receiving medication for substance use disorder treatment

\* A patient with a substance use disorder who has been determined by a health care provider to need treatment shall be allowed to receive or continue to receive treatment regardless of the following: is incarcerated in a state correctional facility or county jail, is participating in a court-supervised program, and/or is on probation or parole

\* A health care provider shall not directly bill a pregnant or postpartum patient for substance use disorder treatment with insurance coverage unless they have received a prior authorization rejection, a claim rejection or denial of coverage from the patient's insurer.

\* A pregnant or postpartum patient with a substance use disorder may chose to pay a health care provider for substance use disorder treatment at their own discretion

Creates a new section of the Children's Code, referred to as Notification Requirements - Process that includes the following guidance:

\* The department of health shall establish a system, no later than October 1, 2025, that is separate from the established system at the children, youth and families department, that will be used by health care providers to report the birth of a substance-exposed newborn to both the department of health and the hospital or birthing center where the substance-exposed newborn was born via an online portal or written form

\* The information reported must be in compliance with both the Child Abuse Prevention and Treatment Act and the Comprehensive Addiction and Recovery Act of 2016 including the following disaggregated and non-identifying personal information: the zip code of the patient who gave birth to the substance-exposed infant, the birthing facility where the birth occurred if the patient is unhoused, the race or ethnicity of the patient who gave birth

to the substance-exposed newborn, whether the birth was pre-term, the substances used by the patient who gave birth to the substance-exposed newborn and whether the substances were prescribed by a health care provider, the substances affecting the infant, whether a family care plan was developed prior to the birth of the substance-exposed infant, whether the health care provider providing the information made a separate, concurrent report of suspected abuse or neglect to the children, youth and families department

- \* Requiring, prior to discharge, the provision of information regarding a family care plan and any associated instructions and follow up to the patient, a caregiver, or a family member

- \* Requiring, beginning January 1, 2026, quarterly reporting by hospitals, birthing centers, or other facilities where a substance-exposed newborn may be born, to the department of health regarding the number of patients who have been provided with information related to the development of a family care plan

- \* Provides direction that a substance use disorder diagnosis for the patient; the presence of a controlled substance, prescribed medication, non-prescribed medication, alcohol or cannabis in prenatal or postnatal toxicology testing of the patient or infant; shall not by itself be considered a sufficient basis to require the following: that a health care provider make a report of alleged child abuse or neglect to CYFD, that CYFD begin an investigation of the family or caregiver for alleged child abuse or neglect, that CYFD remove custody of the infant from the patient or patient's family members, that a law enforcement agency start a criminal investigation of the infant or the infant's family

- \* Provides direction that a health care provider is not prohibited from making a report of alleged child abuse or neglect to CYFD if there are factors other than substance use by the patient that are present and may harmfully impact the health and safety of the infant

- \* The notification required to be submitted to the department of health is confidential and not subject to subpoena, discovery or disclosure pursuant to the Inspection of Public Records Act

- \* Provides clarification that no portion of this act shall prevent an agency, with the consent of the patient, from obtaining identifying information about the patient or the substance-exposed infant for the purposes of collaborating with other agencies or providers to provide the services indicated to support the infant, the patient or the patient's family in the family care plan

Creates a new section of the Children's Code, referred to as Family Care Plans - Management - Participation that includes the following guidance:

- \* A patient shall select one of the following individuals to manage the patient's family care plan: a health care provider, a substance use disorder treatment provider, a community health worker, or another person of their choice

- \* Participation in a family care plan is voluntary for the patient, the patient's family and/or a caregiver

\* Provides direction refusal to participate in a family care plan shall not by itself be considered a sufficient basis to require the following: that a health care provider make a report of alleged child abuse or neglect to CYFD, that CYFD begin an investigation of the family or caregiver for alleged child abuse or neglect, that CYFD remove custody of the infant from the patient or patient's family members, that a law enforcement agency start a criminal investigation of the infant or the infant's family

\* Provides clarification that a patient who refuses to participate in a family care plan or who terminates participation is allowed to begin or resume participation at any time for up to twelve (12) months post birth

Creates a new section of the Children's Code, referred to as Education and Training Materials for Service Providers and Information for Members of the Public, that includes the following guidance:

\* Directs the department of health, in collaboration with relevant state agencies and other stakeholders to create educational and training materials to support the following groups: health care providers, substance use disorder providers, first responders, law enforcement agencies, and others providing services to pregnant and postpartum patients and substance-exposed infants

\* Requires the educational and training materials to include information regarding the following: Notification requirements related to the Pregnancy and Family Care Act; Distinguishing the circumstances that would require a report of alleged child abuse and neglect to CYFD; The development and management of family care plans; Promoting early intervention; Approaches for reducing stigma associated with substance use disorders; Using trauma-informed techniques for work with patients with substance use disorder

\* Requires the department to create educational materials for members of the public who may become pregnant and have a substance use disorder that include the following: Services available pursuant to the Pregnancy and Family Care Act; The availability of contraceptives and information on how to access them in their home community; The prevention and treatment of sexually transmitted infections; The availability of services providing harm reduction programs in their home community

\* Directs the department to make the educational and training materials available by: Posting the educational materials on the department of health website and providing the educational materials at no cost to entities that provide services to the following populations: individuals with substance use disorder, pregnant individuals, individuals who are postpartum, and individuals who are parenting

Creates a new section of the Children's Code, referred to as Statewide Perinatal Advisory Council - Membership - Appointment - Duties, that includes the following guidance:

\* The statewide perinatal advisory council is established and administratively attached to the department of health

- \* The council shall hold meetings at a minimum of a quarterly basis at the call of the chair with the first meeting occurring no later than September 1, 2025
- \* The council shall consist of 15 members who are citizens of the state of New Mexico who shall serve at the pleasure of the Secretary of Health
- \* Membership in the statewide perinatal advisory council shall consist of the following: Secretary of Health or their designee, Secretary of CYFD or their designee, Secretary of ECECD or their designee, Secretary of HCA or their designee, A representative from the Administrative Office of the Courts, A representative of law enforcement officers, and nine (9) members from diverse linguistic and cultural backgrounds and varied geographic regions, at least six (6) of whom shall be providers who provide services to pregnant or postpartum patients for substance use disorders that promote positive pregnancy and postpartum outcomes, and at least three (3) of whom shall be parents with lived experience regarding substance use disorder appointed by the Secretary
- \* The Secretary of Health shall endeavor to appoint members from underserved communities
- \* The Secretary of Health shall adopt and promulgate rules for the conduct of the meetings
- \* Members shall be appointed to serve an initial two (2) year term, and any vacancies shall be filled using the same manner of the original appointment with the newly appointed member serving out the remainder of the term
- \* Non-state employee council members may receive per diem and mileage reimbursement pursuant to the Per Diem and Mileage Act
- \* No later than September 1, 2026 and annually thereafter the council must provide a report to the department that includes the following information: Recommendations regarding perinatal substance use disorder; Models that emphasize coordination of substance use disorder treatment with other types of treatment that support individuals with substance use disorders; Improvement of coordinated responses across state agencies to include workforce development in underserved communities; Racial or ethnic disparities regarding access to substance use disorder treatment, involvement with the criminal justice system and/or child welfare system; Promotion and distribution of educational and training materials pursuant to the Pregnancy and Family Care Act; Communication with policy makers at the state and federal level regarding the prevention and treatment needs of pregnant and postpartum patients with substance use disorder and their children; Allocation of resources where needed; Coordination with the local councils that will be established at the county level through the Pregnancy and Family Care Act; Any other duties as determined by the department

Creates a new section of the Children's Code, referred to as County Perinatal Advisory Council - Membership - Appointment - Duties, that includes the following guidance:

- \* The department in conjunction with each board of county commissioners or tribal leadership shall establish county perinatal advisory councils for each

county, or groups of counties where resources are limited

\* The council shall hold meetings at a minimum of a quarterly basis at the call of the chair with the first meeting occurring no later than September 1, 2025

\* The council shall consist of members who are citizens of the county or groups of counties and shall serve at the pleasure of the Chair

\* Membership in the county perinatal advisory council shall consist of the following: A member of the county board of commissioners or tribal leadership appointed by Secretary of Health to serve as the Chair, A representative of the local county department of health office, a member of the county health council or a member of the tribal health council appointed by the director of the office or the Secretary of Health; A representative of the local CYFD office appointed by the Secretary of CYFD; A person with knowledge of prenatal and child health services available in the county appointed by the director of the county's department of health office or the Secretary of Health; a person with knowledge of outreach and intervention services available in the county, appointed by the director of the county's department of health office; a person with knowledge of early intervention services available in the county, appointed by the director of the county's early childhood and education and care department office or the secretary of early childhood education and care; a substance use disorder treatment provider with experience treating pregnant patients with substance use disorder in the county, appointed by the New Mexico medical board; a representative from a community organization in the county that focuses on equitable access to health care, appointed by the chair; a parent residing in the county with lived experience of substance use disorder while pregnant, appointed by the director of the county's department of health office or the secretary; a county law enforcement officer or district attorney, appointed by the county law enforcement agency or district attorney.

\* The Chair of the council shall adopt and promulgate rules for the conduct of the meetings

\* Members shall be appointed to serve an initial two (2) year term, and any vacancies shall be filled using the same manner of the original appointment with the newly appointed member serving out the remainder of the term

\* Non-state employee council members may receive per diem and mileage reimbursement pursuant to the Per Diem and Mileage Act

\* No later than September 1, 2026 and annually thereafter the council must provide a report to the department that includes the following information: Recommendations regarding perinatal substance use disorder; Models that emphasize coordination of substance use disorder treatment with other types of treatment that support individuals with substance use disorders; Improvement of coordinated responses across state agencies to include workforce development in underserved communities; Racial or ethnic disparities regarding access to substance use disorder treatment, involvement with the criminal justice system and/or child welfare system; Promotion and distribution of educational and training materials pursuant to the Pregnancy and Family Care Act; Communication with policy makers at the state and

federal level regarding the prevention and treatment needs of pregnant and postpartum patients with substance use disorder and their children; Allocation of resources where needed; Coordination with the Statewide Perinatal Advisory Council through the Pregnancy and Family Care Act; Any other duties as determined by the department

Creates a new section of the Children's Code, referred to as Reporting, that requires the department to provide an annual report beginning no later than November 1, 2026 that contains information and recommendations regarding perinatal substance use disorder to the following bodies: the legislative finance committee; the interim legislative health and human services committee; the interim legislative committee that studies courts, corrections and justice; and the Governor.

Repeals Sections 32A-3A-13 and 32A-3A-14 NMSA 1978 (being Laws 2019, Chapter 190, Sections 3 and 4)

## **FISCAL IMPLICATIONS**

None identified for CYFD

## **SIGNIFICANT ISSUES**

If enacted, HB 424 has the potential to create confusion regarding the difference between a Plan of Safe Care required pursuant to the state of New Mexico program that administers services related to the federal Comprehensive Addiction and Recovery Act of 2016 and the Family Care Plan created through this bill. Potential duplication of requirements and services may result from an individual electing to participate with both plans.

## **PERFORMANCE IMPLICATIONS**

If enacted, HB 424, creates the need to provide staff time for participation in statewide and county level advisory council related meetings and tasks.

## **ADMINISTRATIVE IMPLICATIONS**



If enacted, HB 424 would create additional administrative and oversight requirements for the department of health and local county administration.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

If enacted, HB424 has potential relationship, conflict, duplication and/or companionship with requirements associated with SB 42, HB 173 and HB 205

### **TECHNICAL ISSUES**

None identified for CYFD

### **OTHER SUBSTANTIVE ISSUES**

If enacted, HB 424 will create confusion at the provider level in regard to requirements associated with the creation and implementation of CARA related Plans of Safe Care and Family Care Plans associated with this bill.

### **ALTERNATIVES**

None.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The consequences of not enacting HB 424 is continuation of the status quo.

### **AMENDMENTS**

None.