

<b>LFC Requester:</b>	<b>Rachel Mercer-Garcia</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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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}*

**Date Prepared:** 2/24/2025 *Check all that apply:*  
**Bill Number:** HB 500 Original  Correction   
 Amendment  Substitute

**Sponsor:** ALAN T. MARTINEZ **Agency Name and Code** AOC 218  
**Short Title:** CYFD SUBSTITUTE CARE REVIEW **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	Unknown	Recurring	

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	Unknown	Unknown	Recurring	

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	Unknown	Unknown	Unknown	Recurring	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflict: HB 205 and SB 458

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: House Bill 500 updates the Citizen Substitute Care Review Act of the Children's Code. Specifically, Chapter 32A is amended to read:

- **Section 32A-4-33 NMSA 1978:** cleans up the language of Subsection B(6) regarding the Substitute Care Advisory Counsel.
- **Section 32A-8-2 NMSA 1978:** changes the language for the purpose of the Citizen Substitute Care Review Act by changing the target of objective monitoring from the children placed in custody to CYFD, while also including language regarding the need to meet federal requirements under the federal Child Abuse Prevention and Treatment Act.
- **New Section** provides the following definitions used in the Substitute Care Review Act: board, case, council, department, grievance, identified adult, public member, substitute care, and voluntary member.
- **Section 32A-8-4 NMSA 1978:** keeps the Substitute Care Advisory Council (SCAC) as an administratively attached agency, per Section 9-1-7 NMSA 1978, to the Regulation and Licensing Department although the Council shall exercise its functions independently and is not under the control of the RLD.
  - The number of voting members of SCAC is increased from nine to ten. The Early Childhood Education and Care Secretary position is added, and the CYFD Secretary position is also included, but as a no-voting member.
  - The rules SCAC shall adopt are modified to the following:
    - Procedure to ensure compliance with Open Meetings Act;
    - Initial and annual training for SCAC staff;
    - Requirements for public participation inc. work groups and boards;
    - Criteria for establishment of SCAC's designation of cases;
    - Procedures for SCAC's review of designated cases;
    - Procedures for public outreach and comment to assess impact of current child protection procedures and practices on children and families in the community;
    - Other procedures to ensure compliance for the Citizen Substitute Care Review Act and Federal Child abuse Prevention and Treatment Act.
  - Requires the SCAC to provide reports, submitted electronically, to stated entities.
  - There is no mention of the Indian Family Protection Act (IFPA) throughout.
- **New Section** establishing the SCAC director qualifications, ability to hire staff with specific qualifications, and also the requirement of annual training that must be completed by staff.
- **New Section** providing that the attorney general shall advise and consult with SCAC and render legal services upon request.
- **New Section** regarding grievances.
  - Establishes that SCAC shall review grievances submitted to council staff, while also requiring:
    - SCAC to promulgate rules around acceptance and processing of grievances. how the SCAC shall review;

- Submission of a report to CYFD after the grievance review of the strengths, concerns, and recommendations relating to the grievance;
- CYFD Secretary (or designee) to acknowledge receipt of the report and indicate CYFD's position as to each recommendation;
- SCAC staff and CYFD to meet quarterly to develop mutually agreed-upon solutions;
  - Does not preclude those who submit a grievance from pursuing other remedies;
  - CYFD shall not discriminate or retaliate against an employee, volunteer, or contractor who submits in a grievance in good faith.
- **New Section** establishing that the SCAC may promulgate rules relating to volunteer member participation.
- **New Section** establishing the SCAC Board and case review process.
- **New Section** establishing the SCAC's access to records.
- **New Section** establishing the SCAC's confidentiality of information.

The final section of this bill repeals Sections 32A-8-5 and 32A-8-6 NMSA 1978.

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is June 20, 2025, which is 90 days following adjournment of the Legislature.

## **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 commitment actions and appeals. 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) The federal Child Abuse Prevention and Treatment Act (CAPTA) requires each state to create citizen review panels to meet quarterly and report annually on efforts to ensure that the state is in compliance with child protection requirements. In New Mexico, under the Citizen Substitute Care Act, the Substitute Care Advisory Council organizes, oversees, and staffs the substitute care review boards (SCRBs). The SCRBs are directed to evaluate state child welfare agencies and make recommendations for improvement in child protective services. In doing so, they are to assess how well the state is coordinating adoption and foster care programs and how child fatalities are reviewed. The substitute care review boards are composed of volunteer citizens who are broadly representative of the community in which the panel is established and include members with expertise in the prevention and treatment of child abuse and neglect. A key requirement for the SCAC is to submit an annual report that details its work for the year and makes recommendations for improvement or changes in child protective services.

2) House Bill 500 updates the Citizen Substitute Care Review Act, but two other bills have been filed this session that also amend this act (among other things) – House Bill 205 and Senate Bill 458. Both HB 205 and SB 458 attempt to administratively attach the SCAC to the Administrative Office of the Courts, while this bill (HB 500), administratively attaches it to the Regulation and

Licensing Division (RLD). Currently, the SCAC is attached to RLD through the Executive Reorganization Act, specifically, Section 9-1-7 NMSA 1978, that governs how an agency is “administratively attached” to another executive agency. The Judiciary does not have an equivalent statute, and the AOC is not the proper entity to house the Substitute Care Advisory Council.

3) House Bill 500 is a close duplicate of 2021’s Senate Bill 242 that unanimously passed both chambers of the legislature but was vetoed on April 9, 2021, wherein Governor Michelle Lujan Grisham stated in her message:

SB 242 prematurely expands the authority of the Council without any appropriation to implement its new power to accept, investigate and negotiate solutions with CYFD. During the legislative process, New Mexico’s Native American communities’ leadership were not consulted regarding SB 242, even though the Council must adhere to the Indian Child Welfare Act. Additional collaboration is therefore needed between the Council, state agencies, and our Native American communities before any of the amendments in SB 242 can be enacted.

<https://www.nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=242&year=21>

Although House Bill 500 is duplicative to 2021’s SB 242 in most parts, it is not identical. Yet, HB 500 still does not address the Indian Family Protection Act (IFPA) nor the federal Indian Child Welfare Act (ICWA). Both 2025’s HB 205 and SB 458 require that, “At least one of the public members shall have expertise in the Indian Family Protection Act and the federal Indian Child Welfare Act of 1978.” There is no requirement regarding knowledge of either in HB 500.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

Conflict: HB 205 and SB 458

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

House Bill 500 may strengthen the organization of the SCAC and SCRBS, as well as the federally-mandated obligations of CYFD to cooperate in providing access to records, responding to reports, and collaborating in implementing recommendations. The SCAC and SCRBS have operated as directed by law, but the amendments and additions in HB 500 provide the SCAC with more tools for assessment and accountability, as the bill details the structure and notice of case reviews, dissemination of case review reports, provides an obligation of CYFD to implement recommendations if parties are in agreement, and allows SCAC to collaborate in reconciling any disagreement of report recommendations.

## **ALTERNATIVES**

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