

LFC Requester:	
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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}

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 2025-02-07
Bill No: SB307

Sponsor(s) Katy M. Duhigg
: Heather Berghmans
Crystal Brantley
Mimi Stewart
Joseph Cervantes

Agency Name CYFD 69000
and Code
Number:

Person Writing Kathyleen M. Kunkel
Analysis:

Short CHILD OMBUD ACT
Title:

Phone: 5053018418

Email: Kathy.kunkel@exec.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		
0	0		

REVENUE (dollars in thousands)

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

0	0	0		
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ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	339.2	332.2	674.1	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

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SB 307 creates the Office of Child Ombudsman Act; Provides Direction for the creation of the office, attaches office to the Administrative Office of the Courts, enumerates powers and duties of the office; creates the nominating committee and provides an appropriation.

The Office of Child Ombud creates a new section of the Children’s Code. The Ombud is to be identified by a selection committee consisting of nine members (2 from Senate, 2 from the House, four selected by Governor, and a chair of the committee. The authority of the selection committee is limited to the nomination process. Members of the nominating committee must have specialized expertise in ICWA/IFPA, child protection services, juvenile justice services and child welfare. The Child Ombud will be appointed by the Governor for a term of six years.

Powers and duties of the Child Ombud: The Ombud will review the provision of services, receive complaints and make referrals; review the department’s policies, promulgate rules to carry out the Child Ombud Act; create and operate a toll free hotline; investigate (or decline to investigate) complaints; update the complainant every 90 days; provide information to service recipients regarding their rights; provide information to the governor and legislature annually; subpoena witnesses and access records, even of third parties, hire and contract for staff, meet with children in the state system.

Website and Annual Report: The annual report includes quantitative data re number of out of state placements, number of children in state custody, number of interrupted placements, number of runaways, demographic data, ICWA/IFPA

implementation.

The Kevin S. Settlement has a comprehensive Data Validation Plan that requires very specific data collection and production. Kevin S. compliance is a priority for the department and creating parallel reporting agents is likely to complicate the department's successful fulfillment of this obligation.

Training and Certification: Requires the Child Ombud to train investigators in state, federal and tribal laws, trauma informed care and questioning, investigative techniques.

Reporting: CYFD provides reports on all physical injuries to children investigated whether substantiated or not; notice of a fatality or near-fatality within 72 hours of a report; the restraint or seclusion of a child in state custody. Requires law enforcement to provide reports on children; requires CYFD to notify all children, families, foster families and other kin about the existence of the Ombud Office.

Tribal concerns: While SB307 requires the Child Ombud to be informed regarding ICWA/IFPA, it does not require the Ombud to consult with nations, tribes and pueblos prior to engaging in investigations or demands for confidential information. Disaggregation of data, required by the bill, is also a concern to NTP.

Appropriation: One million dollars appropriated to the AOC for FY 26.

FISCAL IMPLICATIONS

SB 307 requires significant collaboration with CYFD to provide data and reports. The investigation process will also generate records requests that will need to be responded to by CYFD program staff and records custodians, with oversight by Children's Court Attorneys (CYFD, PS Legal) or the Office of General Counsel.

SIGNIFICANT ISSUES

Confidentiality and Information Sharing: While the bill grants the Ombud access to certain records, it should also address the handling of confidential information. Establishing protocols for information sharing, data protection, and the privacy rights of children and families would be prudent to ensure compliance with state and federal laws.

Data sharing: The data the Office is required to create is already collected by

CYFD, but due to the outdated data systems it is difficult to collect and verify. The Ombuds Office will add another layer of data production on an agency that is in the process of upgrading to a new federally approved Child Welfare data system and should take this into consideration.

Duplicate to CYFD Office of Advocacy: CYFD has an established Office of Advocacy. This office is required by the Kevin S Settlement. CYFD has established a website and warm line for parties to file grievances and complaints. The procedures provide a process by which a child or youth can request a review of a resource families' decisions in applying the prudent parenting standard, or to report a violation of their rights under the Foster Child and Youth Bill of Rights. Any youth age 14 and older who disagrees with a resource family's decision on the youth's involvement in certain activities can contact the Director of CYFD's Office of Advocacy and request a review of the foster care providers' decision within 15 days after the decision was made. The timeline for the Ombuds to respond to complaints suggests 90 days. The CYFD Office provides free training and information regarding the CYFD Bill of Rights for children and families. CYFD Office of Advocacy (formerly the Office of Children's Rights) has responded successfully (resolving the complaint) in areas such as direct assistance, advocacy, needed information, and administrative matters.

SB307 proposes giving the Ombudsman authority to conduct investigations on behalf of substitute caregivers or children in custody. This has the potential to be in direct conflict with investigations carried out by CYFD, or that may be in process.

Overlap with Existing Entities: It's important to assess how the proposed Office will interact with existing child welfare agencies and oversight bodies in New Mexico. Defining the scope of the Ombud's authority and its relationship with other entities can prevent duplication of efforts and promote collaborative approaches to child welfare.

The bill duplicates the role and function of the Substitute Care Advisory Council (SCAC), which is authorized by both state and federal law NMSA 1978, §§32A-8-1 et seq., and the Child Abuse Prevention & Treatment Act (CAPTA), 42 U.S.C. §5101 et seq). The SCAC provides independent monitoring of children placed in CYFD custody and evaluates the extent to which CYFD is effectively discharging its child protection responsibilities. These evaluations also include reporting of systemic issues and concerns. It is unclear how this office would interact with the Council, or indeed any of the other existing entities that perform similar review processes, including the New Mexico Children's Court Improvement Commission, the New Mexico Child Fatality Review Board, Juvenile Justice Advisory Committee and Boards, and the Governor's Children's Cabinet.

Administrative Attachment: There may be constitutional issues and challenges

that arise in delegating an executive function by attaching it to the administration of the courts which potentially blurs the lines of separation of powers. In attaching it to AOC, the bill maintains autonomy over its budget and decisions. While this structure aims to balance independence with administrative support, it could lead to ambiguities regarding oversight and operational procedures. Clarifying the nature of this attachment and delineating the roles of the AOC and the Ombud's office may prevent potential conflicts.

Removal Provisions: The bill states that the Governor or the Supreme Court may remove the Ombud only for malfeasance, misfeasance, or abuse of office. However, the process for such removal is not detailed. Establishing a clear procedure, including due process protections and an appeals mechanism, would ensure fairness and transparency in any removal actions.

PERFORMANCE IMPLICATIONS

CYFD has performance measures concerning the safety and well-being of children which may be affected by the diversion of resources necessary to fulfill the obligations placed on CYFD by this bill without commensurate fiscal support.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB363 - Child Protection Authority

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

CYFD will continue to resolve grievances through its Office of Advocacy and Office of the Inspector General and the data collection requirements of the Kevin S. Settlement will continue to be met without duplication and possible impact on compliance.

AMENDMENTS

None.