

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: 2/17/2025 *Check all that apply:*
Bill Number: SB 360 Original Correction
 Amendment Substitute

Sponsor: Michael Padilla , David Gallegos **Agency Name and Code** Office of Family Representation & Advocacy 6800
Short Title: Safe Have for Infants Act Changes **Number:** _____
Person Writing Wolfgang J. Bomgardner
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Amends the Safe Haven for Infants Act.

Clarifies that only a parent or parent's designee may leave a child at a safe haven.

Removes the requirement that the Children Youth and Families Department (CYFD) make reasonable efforts to determine whether an infant is an Indian child, while still requiring CYFD to follow certain notice and placement requirements if it has information to determine that a relinquished infant is an Indian child.

Creates new standards regarding the medical care and equipment required for safe havens.

Requires a safe haven site to contact law enforcement to determine whether an infant has been abducted or is missing.

Makes all information regarding a child being left at a safe haven confidential and not subject to public disclosure. Creates a civil penalty of up to \$500 for unlawful disclosures.

Grants CYFD "emergency custody" over an infant who has been relinquished at a safe haven site.

Removes the requirement that CYFD inform the public about the Safe Haven for Infants Act.

Requires CYFD to file for custody of a relinquished infant the next business day following the child being left at a safe haven.

Requires CYFD commence proceedings to terminate parental rights of any parent of a child left at a safe haven, except:

- (1) in the case of father listed on the putative father registry. In that case, CYFD must contact the putative father to obtain consent prior to proceeding to terminate parental rights; and
- (2) When CYFD determines there is evidence of abuse or neglect of the relinquished child. In that case, CYFD shall conduct an investigation, initiate abuse and neglect proceedings, and attempt to locate the infant's relatives.

Expands civil and criminal immunity to safe haven workers who provide medical care for children.

Declares that safe haven staff have no duty to detain or identify people leaving a child at

a safe haven, unless there is evidence of abuse or neglect.

Requires CYFD promulgate rules regarding the Safe Haven for Children Act.

FISCAL IMPLICATIONS

Could place additional burdens on safe havens and CYFD without providing commensurate funding for staffing, training, or medical equipment.

There would likely be no or minimal fiscal implications for the Office of Family Representation and Advocacy (OFRA).

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

This bill makes it permissive, not required, for safe havens to inquire into a child's relation to any Indian nation, tribe, or pueblo. The bill also removes the requirement that CYFD make reasonable efforts to determine a child's Indian heritage. However, the New Mexico Indian Family Protection Act (IFPA) and the Indian Child Welfare Act (ICWA) require CYFD to make reasonable efforts to determine whether a child is an Indian Child. IFPA and ICWA create heightened standards for cases involving Indian Children to address the crisis of Indian children being taken from their tribes and families at highly disproportionate rates with consideration to the unique cultural and political position and history of indigenous people and communities. The proposed change would be inconsistent with IFPA and ICWA.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

OFRA continues to be concerned about the growing number of bills that directly affect the Children, Youth, and Families Department (CYFD) and the child and family welfare system more broadly. While these bills may not directly conflict with one another or duplicate efforts, this piecemeal approach could lead to a patchwork of uncoordinated requirements. Together, these changes would create significant administrative and programmatic burdens on CYFD.

Additionally, many of the requirements proposed in the multitude of bills would not improve practices or lead to better outcomes for children and families. OFRA is concerned that these

bills, if passed without coordination, would negatively impact our clients and their ability to work with CYFD to reunify their families.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

Page 9, line 15: suggest changing “shall not proceed with proceedings to terminate . . .” to “shall not initiate proceedings to terminate”

Page 11, lines 9-13: this provision may mislead safe haven staff into thinking that they must attempt to detain a person/parent relinquishing their child at a safe haven site in the event that there is evidence of abuse or neglect. This could endanger safe haven staff. Suggest rewriting as follows:

A safe haven site and the safe haven site’s staff have no legal duty to detain a person relinquishing an infant or identify the parents of an infant relinquished at a safe have site or in an infant safety device when there is no evidence of abuse or neglect of the infant. In the event that a relinquished infant shows evidence of abuse or neglect, the safe haven site’s staff shall inquire about the identity of the infant’s parents.