

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: 02/17/2025 *Check all that apply:*
Bill Number: SB362 Original Correction
 Amendment Substitute

Sponsor: Michael Padilla **Agency Name and Code Number:** 68000, Office of Family Representation & Advocacy (OFRA)
Short Title: Court Intervention after CYFD Determination **Person Writing:** Farra Fong
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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

SB 362 expands the definition of family in need of court ordered services to include families where the child or the family has failed to follow through with family services recommended by CYFD when CYFD has substantiated abuse or neglect but filing a petition for legal custody is not in the child's best interests.

FISCAL IMPLICATIONS

No appropriation is included in the bill; however, there may be fiscal implications for CYFD, the Courts, and OFRA due to widening the net of cases that could be opened under FINCOS.

The bill would likely expand the CYFD service population and legal filings, requiring additional FTE. Additionally, an increase in FINCOS filings would also increase OFRA's service population, requiring additional attorneys to provide legal services to children and families. There will also be an increased number of hearings requiring court oversight.

SIGNIFICANT ISSUES

This bill increases the flexibility of the child welfare system to respond to the specific needs of individual families by allowing a level of intervention above voluntary services, but below a petition for custody, when abuse or neglect has been substantiated by CYFD after an investigation. This bill acknowledges that not all abuse and neglect occurrences require the separation of children from the family unit. Currently, there are two *primary* methods for a family to receive services. On one end of the spectrum are voluntary services without court intervention or oversight. On the other end of the spectrum is court-ordered services implemented while the child is in the legal and physical custody of CYFD. The bill expands the third, lesser used, option for families that require some intervention, but where the need does not necessarily rise to the level of severity where the child must be removed.

The current FINCOS Act permits the filing of a petition when a child or family has refused family services or CYFD has exhausted the available voluntary services requiring court intervention. The number of families for whom FINCOS Act petitions are filed is relatively small, and the FINCOS Act is only currently utilized in a handful of cases annually. The bill would allow FINCOS petitions to be filed if the family or child fails to "follow through with services." Unlike cases brought under the Abuse and Neglect Act, the FINCOS Act does not require CYFD to prove by clear and convincing evidence that a child has been abused or neglected. Instead, the FINCOS Act requires clear and convincing evidence that the child is a child of a family in need of court-ordered services. Although this expansion of FINCOs could be the appropriate level of intervention for some families, it could be subject to over-use or disproportionately impact families in underserved communities, including instances in which the root causes of family circumstances may be the result of poverty.

The bill would expand CYFD's ability to work with families who deny voluntary services offered by CYFD by asking the court to order the services, but the expansion would also broaden the ability of CYFD to involve families in legal proceedings.

Section 1, Line 22: "Failed to follow through with family services" is not clearly defined. What does it mean, behaviorally, to not follow through with services – does this mean never engaged

after initial referral, does it mean that the family determined the service did not actually meet their needs or resulted in increased financial burden and could no longer be sustained (i.e., required the family to miss work to attend)?

Section 1.F, Line 22 – 24: The bill is unclear as to who determines that “court intervention is necessary to ensure the safety and wellbeing of the child or to facilitate access to services for the family”. This should be clarified.

The bill does not describe how a family’s engagement with voluntary services is to be monitored or assessed. While the bill may provide the opportunity to enforce the engagement of families in need of services who are unwilling to do so voluntarily, it creates a need to develop a process/program to monitor family and/or child engagement in voluntary services.

PERFORMANCE IMPLICATIONS

To our knowledge there are no existing performance measures related to FINCOS by any state agency. These will need to be developed.

As noted above, this bill will increase the workload of CYFD, OFRA, and the Courts with an influx of court proceedings without additional resources.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE 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

AMENDMENTS

Section 1.F, Line 22 – 24: replace “it has been determined” with “the department has determined”