

LFC Requestor: Self Assigned

2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate  
Number: 363

Category: Bill  
Type: Introduced

Date (of THIS analysis): 02/21/2025

Sponsor(s): Michael Padilla

Short Title: CHILD PROTECTION AUTHORITY ACT

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

### **Section III: Relationship to other legislation**

Duplicates: None

Conflicts with: HJR5 and SB458

Companion to: None

Relates to: None

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

### **Section IV: Narrative**

#### **1. BILL SUMMARY**

a) Synopsis

Senate Bill 363 (SB363) proposes to create the Child Protective Authority, administratively attached to the Regulation and Licensing Department (RLD), whose purpose would be to receive and investigate complaints regarding the handling of child abuse, neglect and foster care cases by the Children, Youth and Family Department (CYFD) and other child welfare agencies.

In Section 2: There is new language added that defines “authority” as the Child Protection Authority and “department” as Children, Youth and Families Department.

Section 3: There is new language added that creates the Child Protection Authority which will be administratively attached to the Regulation and Licensing Department. It will be governed by nine members appointed as follows:

- Five members appointed by the governor and confirmed by the senate to include one child welfare representative and one representative from a child advocacy agency.
- Four members appointed by the legislature: one each by the speaker of the house, the minority floor leader of the house of representatives, the president pro-tempore of the senate and the minority floor leader of the senate.
- Members shall serve a four-year term with the initial terms being staggered.

Duties of the authority would include:

- Receipt and investigation of complaints regarding the handling of child abuse, neglect, and foster care cases by CYFD and other child welfare agencies.
- Monitoring and evaluation of CYFD policies and practices to ensure compliance with federal and state laws.
- Making recommendations to the governor, legislature, and CYFD to improve the child welfare system and address systemic issues.

- Issuing public reports on the authority’s findings and making recommendations for policy reforms.
- Accessing records and data, subject to confidentiality safeguards.
- Providing education and outreach to families, children, and mandated reporters regarding child welfare rights and responsibilities.
- Operating a toll-free hotline and electronic portal to receive complaints.

Section 4: There is new language added that defines the roles, term, and responsibilities of the director, and staff of the authority.

Section 5: There is new language added that describes the complaint process for individuals to report their concerns regarding child protective services. Complaints can be submitted anonymously and will be investigated promptly.

Section 6: There is new language added requiring the authority to submit an annual report to the governor, legislature and CYFD. The authority will also hold quarterly public meetings to receive input and will be subject to performance and fiscal audits.

Section 7: There is new language regarding the confidentiality of all records and the identity of complainants. Authority staff are granted whistleblower protection and immunity from civil liability for actions taken in good faith.

Section 8: There is new language regarding the maintenance of confidentiality of all records pertaining to the child. Disclosure of all mental health and developmental disability records are pursuant to the Children’s Mental Health and Developmental Disabilities Act.

Section 9: There is new language that requires CYFD to provide information about the child protection authority, its purpose and function, the toll-free hotline and electronic communication portal to all children placed in custody of CYFD, receiving services under the supervision of the department, referred to the department or whose parents, guardians or custodians are under investigation by CYFD. This information shall also be provided to the children’s parents, guardians, foster parents or identified fictive kin.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

b) Significant Issues

SB363 proposes the establishment of an independent oversight authority for child welfare concerns, creating a structure for reviewing complaints related to child protective services (CPS).

States are required to establish citizen review panels under the federal Child Abuse Prevention and Treatment Act (CAPTA). State governments house their review boards in various entities, including entities outside of the formal child welfare system. Review boards may take different forms, including statewide review boards, local advisory boards, and child fatality review panels. According to CAPTA, states have flexibility in determining how to implement the citizen review panels requirement in section 106(b)(2)(B)(xiv) but must meet the requirements set forth in section 106 (c) of CAPTA, which include requirements for membership of these panels.

States are encouraged to give special attention to the qualifications of the panel as review invariably involves complex cases of child maltreatment, and should include a balance of children's attorneys, child advocates, and volunteers who are familiar with the difficulties of the child protection system.

According to CAPTA, each panel must evaluate the extent to which the State is fulfilling its child protection responsibilities with a state plan by examining the policies, procedures, and practices of state and local child protection agencies, and reviewing specific cases, where appropriate. A panel may examine other criteria that it considers important to ensure the protection of children, including the extent to which the State and local CPS system is coordinated with the title IV-E foster care and adoption assistance programs of the Social Security Act. To assess the impact of current procedures and practices upon children and families in the community, citizen review panels must provide for public outreach and comment and prepare an annual report that summarizes the activities of the panel and makes recommendations to improve the CPS system at the State and local levels, and submit it to the State and the public (section 106(c)(6) of CAPTA).

Oversight authorities can play a critical role in promoting accountability, conducting thorough investigations, and providing potential resolutions for families navigating the child welfare system. By ensuring transparency and adherence to best practices, well composed and implemented oversight authorities can enhance trust and efficiency within the system. SB363 has the potential to positively impact children and families involved in the child protection system by strengthening oversight and ensuring that policies and interventions are carried out in a fair and effective manner.

Research suggests that interactions with child protective services may be linked to increased stressors for children and families, including emotional and behavioral challenges ([PubMed](#)). By establishing an independent oversight authority, SB363 seeks to mitigate potential challenges by ensuring that child welfare actions are conducted with consistency, transparency, and a focus on minimizing disruption to children's lives.

New Mexico has one of the highest rates of child poverty (25%) in the country and disproportionate child removals among Indigenous and Hispanic communities (New Mexico Voices for Children, 2023). Enhanced oversight of the child protection system could contribute to improved outcomes by identifying systemic issues, addressing concerns in a timely manner, and reinforcing best practices across child welfare agencies. A proactive approach to monitoring and evaluating child welfare services can lead to higher-quality care, greater public confidence in the system, and stronger support for families.

Several states have implemented oversight mechanisms tailored to their child welfare systems. For example, citizen advisory boards operate in Iowa, South Carolina, Alabama, Arizona, and Hawaii, providing community-driven insights into child welfare practices. States such as Texas, Nebraska, Nevada, and Oregon have established Child Welfare Commissions and Councils to guide policy and accountability measures. Meanwhile, Idaho, Michigan, Virginia, Illinois, Montana, Ohio, and Minnesota have adopted the Children's Ombudsman model, offering an independent office dedicated to reviewing concerns and advocating for children's best interests. These varying approaches highlight the flexibility in designing oversight structures that align with state needs while maintaining a commitment to transparency and accountability in child welfare services (<https://www.nmlegis.gov/handouts/CCJ%20090924%20Item%2015%20Governance%2>

[0Oversight%20and%20Accountability.pdf](#) ). Similar legislation in other states has led to improved case resolutions and fewer family separations.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?  
 Yes  No
- Is this proposal related to the NMDOH Strategic Plan?  Yes  No
  - Goal 1:** We expand equitable access to services for all New Mexicans
  - Goal 2:** We ensure safety in New Mexico healthcare environments
  - Goal 3:** We improve health status for all New Mexicans
  - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

## 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

## 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

## 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB363 conflicts with HJR5 which proposes to amend the constitution of NM by adding a new section to provide for the creation of the CYFD Commission which consists of an executive director and five members to assume the management and operations of CYFD.

SB363 conflicts with SB458 which proposes to create the “secretary of CYFD nominating committee” with 9 members, as well as many other requirements for CYFD.

## 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

## 7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No

- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

## 8. DISPARITIES ISSUES

Health disparities in child welfare are often shaped by Adverse Childhood Experiences (ACEs)—traumatic events that occur in childhood and increase the risk of poor long-term health outcomes. ([The Intersection of Adverse Childhood Experiences and Mental Health Concerns for Youth involved in the Child Welfare System - PMC](#))

CDC studies show that ACEs are directly correlated with higher risks of chronic illnesses, such as:

- Heart disease
  - Diabetes
  - Hypertension
  - Obesity
  - Mental health disorders (depression, anxiety, PTSD)
  - Substance use disorders
  - Cognitive and academic impairments
- (CDC, 2022).

Children who experience four or more ACEs are:

- 3 times more likely to develop heart disease
- 2.5 times more likely to experience anxiety or depression
- Twice as likely to develop Type 2 diabetes
- More likely to experience homelessness or incarceration later in life

Children from Indigenous, Hispanic, and low-income communities are overrepresented in New Mexico's child welfare system. In New Mexico, these children face higher rates of ACEs due to systemic barriers, including poverty, family instability, lack of access to healthcare, and historical trauma. The overrepresentation in the child welfare system exposes these children to additional ACEs such as family separation, placement instability, and exposure to foster care trauma. Centers for Disease Control and Prevention. (2022). *Adverse Childhood Experiences and Health Risks*. Retrieved from <https://www.cdc.gov/violenceprevention/aces/index.html>  
New Mexico Department of Health. (2023). *ACEs and Health Impacts in New Mexico's Child Welfare System*. Retrieved from <https://www.nmhealth.org/aces-report>

Native American children make up 11% of the state's child population but account for nearly 30% of children in foster care (New Mexico CYFD, 2023).

Disparities between Tribal children and child protection agencies stem from historical, systemic, and jurisdictional challenges that impact Native American families. Some of the key issues include:

- Overrepresentation in Child Welfare Systems
  - Native American children are disproportionately removed from their homes and placed in foster care compared to non-Native children. Many removals occur due to biases, misinterpretations of cultural practices, or systemic racism. Poverty is often mistaken for neglect, leading to unnecessary removals.
- Violation of the Indian Child Welfare Act (ICWA)
  - ICWA (1978) was enacted to protect Tribal children by keeping them connected to their culture and families. Many states fail to fully comply with ICWA, leading to improper removals and placements outside of Tribal communities. There have been

legal challenges attempting to weaken ICWA protections, threatening Tribal sovereignty.

- Lack of Cultural Competency Among Child Welfare Agencies
  - Many child protection workers lack training on Native American history, traditions, and family structures. Agencies often misinterpret kinship care and community caregiving, leading to unnecessary child removals. Non-Tribal placements contribute to the loss of cultural identity and trauma among Native children.
- Jurisdictional Conflicts
  - Tribal governments have the right to handle child welfare cases involving their citizens, but states often interfere or fail to notify Tribes. Federal, state, and Tribal agencies have overlapping responsibilities, leading to confusion and gaps in service.
- Underfunding of Tribal Child Welfare Services
  - Tribal child welfare programs receive significantly less funding than their state counterparts. Limited resources make it difficult for Tribes to provide adequate foster care, prevention services, and family support.
- Historical Trauma and Systemic Barriers
  - Native American communities continue to face intergenerational trauma from past policies, including forced boarding schools and family separations. Discrimination, poverty, and inadequate healthcare contribute to challenges that increase child welfare involvement.
- High Rates of Foster Care Placements Outside of Tribal Communities
  - Despite ICWA mandates, many Native children are still placed in non-Native foster homes. This separation leads to cultural disconnection, identity struggles, and increased trauma.

Hispanic children, who comprise over 60% of the state's population, also face disproportionate child welfare interventions, many driven by poverty-related neglect findings (New Mexico Voices for Children, 2023).

Children who enter the foster care system due to child welfare interventions are at significantly higher risk for ACE accumulation and long-term health disparities. Key concerns include:

- Higher rates of PTSD among former foster youth than among combat veterans (CDC, 2022).
- Increased risk of homelessness for foster youth who age out of the system.
- Greater likelihood of experiencing food insecurity and unemployment after leaving care.

Stronger oversight can help reduce unnecessary removals and ensure stable placements, which can prevent secondary ACEs (such as multiple foster placements, school instability, and disruptions in medical care) (New Mexico Department of Health, 2023). Centers for Disease Control and Prevention. (2022). *Adverse Childhood Experiences and Health Risks*. Retrieved from <https://www.cdc.gov/violenceprevention/aces/index.html>. New Mexico Department of Health. (2023). *ACEs and Health Impacts in New Mexico's Child Welfare System*. Retrieved from <https://www.nmhealth.org/aces-report>. The oversight provided by CPA under SB363 has the potential to reduce racial disparities in child removals by ensuring more thorough investigations before family separation occurs and incorporating culturally responsive child welfare policies (New Mexico CYFD, 2023).

Additionally, SB363 has the potential to mitigate the long-term health consequences of child maltreatment by ensuring timely interventions, preventing unnecessary removals, and promoting trauma-informed care. New Mexico CYFD. (2023). *Child Welfare Data Report*. Retrieved from <https://www.cyfd.org/2023-child-welfare-report>

New Mexico Voices for Children. (2023). *Child Well-being in New Mexico: 2023 Data Report*. Retrieved from <https://www.nmvoices.org/2023-childwellbeing-report>

By reducing unnecessary child removals, increasing oversight of CYFD, and ensuring culturally competent interventions, SB363 can significantly reduce ACE exposure for marginalized children. This will lead to better long-term health outcomes, lower rates of chronic illness, and improved economic stability for impacted communities.

## 9. HEALTH IMPACT(S)

Research has shown being in contact with child protective services increases the rates of substance use, anxiety, depression, and being expelled.

The involvement of Tribal children with state child protection agencies has significant health impacts, both immediate and long-term. These effects stem from historical trauma, cultural disconnection, and systemic issues within the child welfare system. Below are key health impacts:

- **Mental and Emotional Health Issues**
  - **Increased Risk of PTSD & Trauma:** Forced removals and placement in non-Native foster care can trigger deep psychological distress, especially given the historical trauma of Native American family separations.
  - **Higher Rates of Depression & Anxiety:** Displacement from family, community, and cultural identity can lead to severe emotional struggles.
  - **Suicidal Ideation & Self-Harm:** Native youth in foster care experience higher rates of suicide compared to their peers, driven by loss of identity and feelings of isolation.
- **Cultural Identity Loss & Psychological Harm**
  - Separation from Tribal culture, language, and traditions can lead to identity confusion and a lack of belonging.
  - The disruption of cultural connections contributes to low self-esteem and increased risk of substance use as a coping mechanism.
- **Physical Health Consequences**
  - **Higher Rates of Chronic Illness:** Native children in foster care are at greater risk for conditions like asthma, diabetes, and obesity due to stress and inadequate healthcare access.
  - **Delayed Medical Care:** Many Native children in state care experience inconsistencies in healthcare, leading to untreated medical conditions.
  - **Increased Substance Use & Addiction Risk:** Trauma and instability raise the likelihood of engaging in substance use at an early age.
- **Developmental Delays & Educational Barriers**
  - Frequent foster home placements disrupt education, leading to lower academic achievement and developmental delays.
  - Children experience difficulty forming secure attachments, which impacts cognitive and emotional development.
- **Increased Risk of Involvement in the Juvenile Justice System**
  - Native youth in foster care are at a higher risk of being placed in the juvenile justice system, continuing the cycle of institutionalization.
  - The lack of culturally appropriate rehabilitation services leads to higher recidivism rates.
- **Lack of Access to Traditional Healing & Support**
  - State-run child welfare systems often fail to provide access to Indigenous healing practices, spiritual guidance, or culturally competent therapy.



- The absence of traditional support networks (elders, extended family, community) increases feelings of isolation and neglect.
- Intergenerational Trauma & Long-Term Effects
  - The removal of Tribal children mirrors past government policies (e.g., boarding schools), perpetuating historical trauma.
  - Children who grow up disconnected from their culture may struggle with relationships, parenting, and community reintegration later in life.

SB363 has the potential to improve child health outcomes by reducing ACEs, promoting trauma-informed care, and decreasing racial disparities in child welfare.

#### **10. ALTERNATIVES**

None.

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

If SB 363 is not enacted, then the Child Protection Authority will not be created.

#### **12. AMENDMENTS**

SB363 calls for the Authority to be governed by a board, however there is no identification of Tribal representation on the board.