

LFC Requester:	
----------------	--

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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}*

Check all that apply:

Original  Amendment  
Correction  Substitute

Date Prepared: 2025-02-17  
Bill No: SB406

Sponsor(s) Linda M. Lopez  
: Antoinette Sedillo Lopez

Agency Name CYFD 69000  
and Code  
Number:

Person Writing Aaron Salas  
Analysis:

Short TERMINATION OF  
Title: PARENTAL RIGHTS

Phone: 5055493411

Email: aaron.salas@cyfd.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		

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	0	0	0		

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

SB 406 proposes the removal of one of the three grounds for the termination of parental rights in cases of child abuse or neglect under the Children's Code Abuse and Neglect Act. Specifically, it seeks to eliminate the provision that permits the termination of parental rights based on a rebuttable presumption of abandonment. This presumption applies and allows termination of parental rights when 1) a child has been placed in the care of another family for an extended period, 2) the parent-child relationship has disintegrated, 3) a psychological bond has formed between the child and the substitute family, 4) the child no longer wishes to reside with the biological parent, and 5) the substitute family wishes to adopt the child.

**FISCAL IMPLICATIONS**

There is no direct fiscal impact on the Children, Youth, and Families Department (CYFD). However, by eliminating a basis for the termination of parental rights, which is a prerequisite for adoption, this bill may result in extended foster care placements and delay the achievement of permanency for children. Consequently, this could necessitate additional resources from CYFD's permanency and legal teams.

**SIGNIFICANT ISSUES**

This bill proposes the removal of one of the three legal grounds for the termination of parental rights in child abuse or neglect cases. The provision in question—the rebuttable presumption of abandonment—permits the Children, Youth, and Families Department (CYFD) to petition the Children's Court for the termination of parental rights when a child has been separated from the parent for an extended period and when other criteria are met about the child's attachment and wishes, including that the parent-child relationship disintegrated or never existed, that a psychological bond has developed between the child and their resource or foster family, that the child no longer wishes

to reside with the biological parent, and the resource or foster family wishes to adopt the child.

Eliminating this provision as a basis for the termination of parental rights is not in the best interest of children. While the other two grounds for termination consider whether a parent has legally abandoned the child or failed to address the conditions that led to CYFD involvement, the rebuttable presumption of abandonment focuses on the child's best interests by prioritizing the child's relationship with their resource or foster family. This ground allows the Court to consider the child's attachment and emotional well-being when parental rights should be terminated, especially when a child has been in foster care for an extended period—usually over a year—due to the actions or inactions of the biological parent. If the child has formed strong bonds with their resource family, who seeks adoption, but lacks a relationship with the biological parent, this provision facilitates the child's permanency through termination of rights and ultimately, adoption.

Eliminating this provision could lead to prolonged child abuse and neglect cases, as it may result in situations where the other two grounds for termination are not met, but where termination is best for the child's well-being due to their attachment to the resource family and their lack of relationship with the biological parent. If this bill were passed, it could prevent the Court from considering the child's attachment and preferences, which are crucial to their future.

Most critically, this provision recognizes the significant role that resource and foster parents play in children's lives. A child's attachment to their caregivers is essential for long-term stability and well-being. Removing this ground for termination may dissuade potential resource parents from fostering and could lead to the loss of existing resource parents, further jeopardizing children's chances for permanency and stability.

## **PERFORMANCE IMPLICATIONS**

State and federal laws impose limits on the duration a child may remain in foster care without achieving permanency, and CYFD is held to performance measures regarding the length of time children spend in foster care. This bill proposes the elimination of one of the grounds for terminating parental rights, which may unnecessarily extend the time children remain in foster care, potentially delaying their path to permanency.

## **ADMINISTRATIVE IMPLICATIONS**

None.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

Status quo. CYFD would continue to file motions for termination of parental rights under any of the three eligible bases and the Children's Court could terminate parental rights if any of the criteria were met by clear and convincing evidence.

**AMENDMENTS**

None.