

LFC Requester:	Rachel Mercer-Garcia
-----------------------	-----------------------------

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: 02/18/25 *Check all that apply:*
Bill Number: SB 417 Original Correction
 Amendment Substitute

Sponsor: Mimi Stewart **Agency Name and Code:** Office of Family Representation and Advocacy
Short Title: Confirmatory Adoptions **Number:** 68000
Person Writing: Leslie Jones **Phone:** 505.549.3905 **Email:** Leslie.jones@ofra.nm.gov

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: The bill creates a new category of adoption called “confirmatory adoption.” Confirmatory adoption is an action in which a parent or parents of a child born through assisted reproduction seek to confirm parentage of the child and obtain a judgment of adoption.

The bill changes the definition of an “acknowledged father” to include a parent who has established a parent-child relationship pursuant to Article 2 of the NM Uniform Parentage Act.

The bill changes the definition of an “alleged father,” removing language referring to biological father and to acknowledgment of paternity and the putative father registry, to a person who alleges or is alleged to be a genetic parent, but whose parentage has not been adjudicated, and specifically that it does not include a presumed parent, a parent whose rights have been terminated or declared not to exist, or a donor.

The bill adds a definition of “assisted reproduction,” which includes intrauterine or vaginal insemination, donation of eggs or sperm, donation of embryos, in-vitro fertilization and transfer of embryos, and intracytoplasmic sperm injection.

The bill adds a definition of “donor,” meaning a person who contributes a gamete or gametes or an embryo or embryos to another person for assisted reproduction or gestation, whether or not there is consideration for the contribution. “Donor” does not include one who provides gametes for their spouse, one who gives birth to a child by means of assisted reproduction, unless declared otherwise by a court pursuant to a surrogacy agreement, is a parent of a child of assisted reproduction pursuant to Article 7 of the NM Uniform Parentage Act, or is an intended parent pursuant to a surrogacy agreement.

The bill adds a definition of “parent” as a person who has established a parent-child relationship, and a definition of “parent-child relationship” that means a relationship between a person and a child that is established by: giving birth to the child; an adjudication of the person’s maternity or paternity; adoption of the child by the person; a presumption of parentage pursuant to Section 40-11A-204 NMSA 1978; an effective acknowledgment of parentage by the person pursuant to Article 3 of the NM Uniform Parentage Act unless rescinded or successfully challenged; or the person’s having consented to assisted reproduction pursuant to Article 7 of the NM Parentage Act that resulted in the birth of the child.

The bill adds a new section, Applicability of Terms, stating that, to the extent practicable, any provision of the Adoption Act applicable to a father-child relationship applies to a mother-child relationship or parent-child relationship, and any provision applicable to a mother-child relationship applies to a father-child relationship or parent-child relationship.

The bill amends the requirements of amended Section 32A-5-14. Pre-Placement Study,

Section 32A-5-27. Notice of Petition--Form of Service--Waiver, Section 32A-5-34. Fees and Charges—Damages, to include a provision that these sections do not apply to Confirmatory Adoptions.

The bill adds a new section “Confirmatory Adoption” which lays out the requirements for a petition for confirmatory adoption and the findings the court must make to grant the petition. Significant provisions are that the petitioner is not required to give notice to a donor, and that, absent good cause, the usual requirements in adoptions of pre-placement study, post-placement reports, home visits, interviews, financial disclosures, letters of reference, counseling, criminal records checks, documentation of fees, minimum residency requirement, best interest of the child assessment or a hearing or appearance shall not be required.

Other significant provisions are that the petition may not be denied on the basis that any of the petitioners’ parentage is already presumed or legally recognized, the petitioners are unmarried, or there are more than two petitioners. The bill also provides that a party’s failure to petition for a confirmatory adoption shall not be considered evidence in determining parental rights disputes or the best interests of the child.

The bill amends Section 40-11A-704, Consent to Assisted Reproduction, to allow consent by signed or oral consent, and extends the time allowed to “on or after the day of birth” of the child. It further provides that the absence of evidence of a written or oral agreement does not preclude a finding of parentage if the person resided with the child after birth and openly held out the child as the person’s own jointly with the birthing parent.

FISCAL IMPLICATIONS

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.

The bill makes no appropriation. It is likely that the bill would result in increased judicial filings, resulting in increased costs to the judiciary and associated systems.

SIGNIFICANT ISSUES

This bill appropriately brings the current state of reproductive technologies to statutes that determine who is or can be entitled to the due process rights that attach to the legal status of parent.

Most importantly, this bill provides a critical layer of legal protection for children who are born as a result of reproductive technologies and their families. A judgment of adoption is entitled to the full faith and credit of all other jurisdictions in the United States. This could be critically important for a child who finds themselves and their family in a jurisdiction that does not recognize adoptions by same-sex partners or, in a state anticipating a reversal of the U.S. Supreme Court ruling in Obergefell v. Hodges, that denies the validity of a same-sex marriage and parental rights based on marriage at the time of conception or birth. A failure to acknowledge the rights of the parent in a same-sex relationship who did not give birth to the

child and/or is not married to the child's other parent could prevent a parent from being able to approve medical care, education, mental health care, or other care necessary for the well-being of the child. In a worst-case scenario, it could even result in separation of the child from their parents, if the parent who gave birth were incapacitated or otherwise unavailable and a court in that jurisdiction found that the other parent had no legal right to custody of the child.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting this bill will mean that children born via assisted reproduction and their families in New Mexico will not have the full legal protection of their parent-child relationships that are afforded to other children born naturally or adopted.

AMENDMENTS