

LFC Requester:	Mercer-Garcia, Rachel
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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: 2/18/25 *Check all that apply:*
Bill Number: SB 430 Original Correction
 Amendment Substitute

Sponsor: Sen. Linda M. Lopez **Agency Name and Code:** AOC 218
Short Title: "Neglected Child" Definition **Person Writing:** Alison Pauk
Title: "Neglected Child" Definition **Phone:** 505-470-6558 **Email:** aocabp@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 470 and SB 84 (also amending Section 32A-4-2 NMSA 1978).

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 430 amends Section 32A-4-2 NMSA 1978, within the Abuse and Neglect Act, to revise the definition of “neglected child”, as used in the Abuse and Neglect Act, to include a child

...who is without food, shelter, clothing, education, medical or mental health treatment, supervision or other care or support necessary for the child's well-being because of the behaviors of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian to provide such care or support, when able to do so or when offered financial or other reasonable means to enable the parent, guardian or custodian to do so.

Additionally, the SB 430 amendment to Section 32A-4-2 NMSA 1978 provides that “neglected child” does *not* mean a child

- (a) whose parent, guardian or custodian is unable to provide food, shelter, clothing, education, medical or mental health treatment, supervision or other care or support necessary for the child's well-being due to the parent's, guardian's or custodian's inadequate financial resources alone;
- (b) whose circumstances include any of the following, based on the existence of the circumstance alone: 1) community or family poverty; 2) geographic or social isolation; 3) a parent, guardian or custodian who is single or unmarried; 4) a parent, guardian or custodian who is considered young or advanced in age; 5) housing that is considered crowded or inadequate; or 6) substance abuse or nonconforming social behavior among family or household members; or
- (c) who is an Indian child being raised in a manner or in a household that conforms to the cultural or social standards that prevail in the child's Indian community.

SB 430 also amends Section 32A-4-7 NMSA 1978, governing release or delivery from custody, to provide that

When an alleged neglected child is delivered to the department, a department caseworker shall review the need for placing the child in custody and shall:

- (1) make reasonable efforts to help the child's parent, guardian or custodian obtain financial and other practical supports needed to provide basic needs for the child, including food, shelter, clothing, education, medical or mental health treatment, supervision or other care or support necessary for the child's well-being; and
- (2) release the child from the department's custody if the sole reason for placement of the child in custody was the inadequate financial resources of the child's parent, guardian or custodian and if, subsequent to the child's placement in custody, the parent, guardian or custodian has accepted resources that enable the parent, guardian or custodian to meet the child's basic needs.

Finally, SB 430 amends Section 32A-4-22 NMSA 1978, governing the disposition of an adjudicated abused or neglected child to require the court, at the conclusion of the dispositional hearing, to make and include in the dispositional judgment its findings on the conditions, other than the inadequate financial resources of the parent, guardian or custodian, that justify continued out-of-home placement.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any additional required court findings or proceedings. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) In June 2024, the Children’s Code Reform Task Force released its initial report in which it put forth draft legislation revising the definition for a neglected child and preventing child removal and longer stays in custody when poverty is the only issue. In presenting the legislation, the task force noted the amendment to the definition of “neglected child” as currently proposed in SB 430: (1) clarified that poverty alone is not neglect; and (2) clarified processes to prevent child removal and longer stays in custody when poverty is the only issue. See *Report from the Children’s Code Reform Task Force*, June 2024, https://childlaw.unm.edu/assets/docs/childrens_code_reform_task_force_june_2024_report.pdf . See also *Disentangling Poverty and Neglect in the Child Welfare System*, September 2023, <https://childlaw.unm.edu/assets/docs/disentangling-poverty-and-neglect-in-the-child-welfare-system-in-nm-and-beyond.pdf> .

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 470 and SB 84 (also amending Section 32A-4-2 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS