

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:** 2025-02-21  
**Bill No:** SB474

**Sponsor(s)** Anthony L. Thornton  
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**Agency Name and Code Number:** CYFD 69000  
**Person Writing Analysis:** Dominic LaFayette

**Short Title:** STREAMLINE CERTAIN ADOPTION PROCESSES

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

**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>						

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

SB474 aims to amend the Adoption Act to streamline the adoption process for children who have been prenatally abandoned. It defines "prenatal abandonment" as an acknowledged or alleged father's failure to provide reasonable support or maintain significant contact with pregnant mother and child for at least 60 days. The bill allows courts to terminate parental rights based on prenatal abandonment and also removes the requirement for consent from fathers who have prenatally abandoned their child. There are no appropriations attached to SB474.

**FISCAL IMPLICATIONS**

No Fiscal Impact to CYFD.

**SIGNIFICANT ISSUES**

SB474 is likely unconstitutional as it violates due process by allowing termination of parental rights and adoption without a fair opportunity for fathers to contest claims of prenatal abandonment. It lacks clear evidentiary standards and a judicial review process, making it arbitrary and subject to inconsistent application. Additionally, it raises equal protection concerns by imposing stricter obligations on fathers without similar requirements for mothers. By depriving certain fathers of their parental rights without proper notice or a hearing, the bill fails to meet constitutional safeguards under the Fourteenth Amendment.

By adding prenatal abandonment to the reasons for Termination of Parental Rights and as a reason to forego adoption consent or relinquishment of parental rights, it undermines that parent's natural right and duty to care for and make choices that are in the best interest of their child and doesn't allow that parent to

engage in rehabilitative services that may be offered prior to the decision to terminate their parental rights is made.

This amendment does not address potential conflicts with the Indian Child Welfare Act or New Mexico's Indian Family Protection Act.

### **PERFORMANCE IMPLICATIONS**

If SB474 is enacted, a court would have to determine whether or not an acknowledged or alleged father was aware of the pregnancy, made efforts to initiate or maintain significant contact with the mother, or made efforts to provide financial and emotional support. The definitions or determinations can be left up to interpretation.

### **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

### **TECHNICAL ISSUES**

SB474 adds prenatal abandonment as a ground for termination of parental rights and adds it to the list of situations where a father's consent is not required for adoption. These two legal concepts serve different purposes. Termination of Parental Rights is a legal process requiring a judicial finding before severing a parent's legal relationship with their child. Consent Not Required for Adoption applies to fathers who have no established legal rights. By treating the father as if he never had parental rights in the first place, SB474 circumvent due process protection. In addition, the amendment does not address the definition of failure to provide emotional support and how this determination is made. It also doesn't define or specify how the determination is made on whether or not the acknowledged or alleged father initiates or maintains any significant contact with the pregnant mother and does leaves a lot to interpretation.

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

None.

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

If this Bill is not enacted, acknowledged or alleged fathers would maintain their due process rights, their right to a trial before ordering the termination of parents rights, their right to consent to an adoption, their right to relinquish their parental rights, and their right to access services to address the causes and conditions that brought that child into the state's custody.

### **AMENDMENTS**

None.