

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS 2023 REGULAR SESSION

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 02/17/2023

Bill No: HB 11

Sponsor: Tara Jaramillo, Kathleen Cates,
Reena Szczepanski, Eleanor
Chavez & Marian Matthews
Short Office of Child Advocate
Title:

Agency Name

and Code

305–Office of the Attorney General

Number:

Person Writing

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	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

This analysis is neither a formal Attorney General Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.

BILL SUMMARY

Synopsis:

HB 11 enacts 14 new sections of the Children's Code, is referred to as the Office of Child Advocate Act ("Act"). As part of the creation of the Act, the bill sets definitions and outlines the duties of the office; creates the Office of Child Advocate that is administratively attached to the Office of the Attorney General and details their responsibilities; creates the position of State Child Advocate and sets their terms; creates the State Child Advocate Selection Committee and defines its duties and makeup; defines and prohibits conflicts of interest; requires that the CYFD and law enforcement provide the office with prompt reports regarding children who have been physically injured or where this a significant risk to injury in the department's custody and any fatalities or restraints and seclusions of any children in the custody of the department and provides for some confidentiality; prohibits the state child advocate or office staff from being compelled to testify or produce evidence in any judicial or administrative proceedings and provides that any documents held or produced by the office are not subject to discovery, subpoena, or "other means of legal compulsion" and are not admissible as evidence; and allows individuals who are pursuing remedies pursuant to the act to also pursue other legal or equitable remedies.

Finally HB 11 appropriates \$500,000 from the general fund to the office of the attorney general to create and staff the office and provides that any unexpended funds remaining at the end of the 2025 fiscal year shall revert back to the general fund.

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.

HB 11 appropriates \$500,000 to the office of the attorney general to create and staff the office of child advocate. The office is administratively attached to the office of the attorney general pursuant to NMSA 1978, Section 9-1-7 which requires the office of the attorney general to include the office's budgetary requests in its budget.

SIGNIFICANT ISSUES

The act makes several references to "department". Presumably, "department" refers to the Children, Youth and Families Department. However, HB 11 does not contain a definition for "department" or provide an explanation for who "department" refers to throughout the bill.

PERFORMANCE IMPLICATIONS

See Administrative Implications.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 373—Office of Child Advocate.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.