

LFC Requester:	
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 3/11/2025

Check all that apply:

Bill Number: SB42

Original Correction
Amendment Substitute

Sponsor: Sen. Michael Padilla,
Rep. Gail Armstrong, Sen.
Elizabeth "Liz" Stefanics

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: COMPREHENSIVE
ADDICTION AND
RECOVERY PGM

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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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. 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 NM Department of Justice.

BILL SUMMARY

SB 42 makes changes to CYFD and adds new sections to the Abuse and Neglect Act and the Children’s Code. It amends the Children’s Code, the Family First Prevention Services Act, and the Voluntary Placement and Family Services Act, and creates the Families First Act.

Synopsis:

Section 1 amends Section 9-2A-8 NMSA 1978.

Section 1(M) requires the development and implementation of the “families first strategic plan” and access to the programs required by the Families First Act.

Section 2 amends Section 32A-1-4 NMSA 1978.

Section 2(C) adds a definition for “CARA,” the federal comprehensive addiction and recovery act of 2016 that established a comprehensive strategy for substance-exposed newborns and those newborns care takers.

Section 2(Z) updates the definition of “plan of care” to include the word “safe” (plan of safe care) and provides prenatal or perinatal support to pregnant persons dealing with substance use disorder.

Section 2 (GG) adds a definition of a “substance exposed newborn” and clarifies that it does not apply to the federal Indian child act.

Section 3 amends Section 32A-3A-2 NMSA 1978.

Section 3(A) adds the definition of a “birthing facility.”

Section 3(B) adds a definition of a “CARA navigator,” a professional employed by the department of health and providing care to a pregnant person with substance use disorder.

Section 3(C) creates the definition of a “care coordinator,” a person assigned to substance-exposed newborn.

Section 3(E) adds a definition of a “family assessment,” a comprehensive assessment based on standards of professional practice prepared by a CARA navigator.

Section 3(G) amends the definition of “guardian” to include as an alternative a person authorized to care for a child by a parental power of attorney.

Section 3(L) adds a definition of a “managed care organization,” a person or entity eligible to enter into risk-based capitation agreements with the health care authority to provide health care and related services.

Section 4 Section 32A-3A-13 NMSA 1978.

Section 4(A) puts the Department of Health and Health Care Authority in charge of developing the rules and overseeing the regulation related to hospitals, insurance, etc, in the care of pregnant women with substance use disorder, as well as newborns affected by substance abuse.

Section 4(B)(1)(b) requires that a plan of safe development is completed before discharge and that the plan is provided to the child’s primary care physician and a care coordinator. The section changes the requirements related to an insurance plan to require a care coordinator.

Section 4(B)(1)(c) removes the requirement that the plan of care be signed by an appropriate representative of the discharging hospital and the child’s parent.

Section 4(B)(3) updates requirements of collected and reported data, changing hospitals to birthing facilities and adding the term “substance-exposed newborn.”

Section 4(B)(4) lists the requirements for the health care authority, including ensuring that there is at least one birthing coordinator available in each birthing facility in the state; ensuring that all substance-exposed children who have a plan of safe care are assigned a care coordinator; and providing training to birthing facility staff and perinatal health care providers.

Section 4(B)(5) provides that the process for health care providers to participate in the development of a plan of safe care at the perinatal visit is included in the guidelines.

Section 4(B)(6) includes requirements for a birthing facility to participate in the discharge planning process.

Section 4(B)(7) and (8) provide the requirements of what the care coordinators will undertake in working with substance-exposed children and their families and to use evidence-based intensive care coordination models, including information that must be in a written plan of safe care.

Section 4(B)(9) provides a list of information that may be included in a plan of safe care.

Section 4(B)(10) lists requirements of CARA navigators, including in-home visits and family assessments.

Section 4(C) requires that by July 1, 2026, the department of health shall adopt rules for monitoring adherence to plans of safe care. Those rules must include requirements for CARA navigators to arrange home visits and complete family assessments, CARA navigators to update plans of safe care, CARA navigators and care coordinators to make

active efforts to connect substance-exposed newborns and families to services to which they have been referred, and care coordinators to make active efforts to contact persons who are not adhering to a plan of safe care.

Section 4(F) requires the Department of Health to provide an annual report which includes these aggregate statistics: which drugs the child was exposed to, which services the infants and families were referred to, the availability and uptake rate of services, whether the infant or family were reported to CYFD, and demographic/geographic data.

Section 4(H) adds that the Department of Health shall create and distribute training materials regarding mandatory reporting requirements and proper coding of substance exposure and neonatal abstinence syndrome.

Section 4(I) clarifies that nothing in this section shall apply to the Indian Family Protection act or records related to Indian children of parents.

Section 5 amends Section 32A-3A-14 NMSA 1978, adding “safe” to the title.

Section 5(A) requires the Department of Health to conduct a family assessment if the plan of safe care is not followed. The definition of “family assessment” is moved to Section 3.

Section 5(B) provides that nothing in this section shall apply to the Indian Family Protection act or records related to Indian children of parents.

Section 6 amends Section 32A-4-2 NMSA 1978.

Section 6(H) adds a definition of “personal identifier information,” the name, address, business address, email address, and phone number.

Section 7 amends Section 32A-4-3 NMSA 1978.

Section 7(H)(2) updates some requirements of volunteers to include the word “safe,” to clarify the department of health, and to require notification to be in a form and manner prescribed by CYFD.

Section 8 amends Section 32A-4-4.1 NMSA 1978.

Section 8(E) amends the reporting requirements to include the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice.

Section 9 amends Section 32A-4-21 NMSA 1978.

Section 9(B)(5) NMSA 1978, § 32(A)-4-21 adds language to the predisposition study requirements. Services described may include families first services as well as referrals to income support or other services or programs. This revised wording brings the statute in line with its current revisions.

Section 10 Section 32A-4-33 NMSA 1978.

Section 10(A) adds new requirements about confidentiality and disclosure in abuse cases,

with exceptions that may require the disclosure of such information.

Section 10(B) adds what records will be kept by CYFD and ensures that such information is kept pursuant to federal law.

Section 10(C) adds provisions about the information released by CYFD. CYFD should redact information to safeguard personal identifier information for the welfare of the child and family.

Section 10(D) provides that a bona fide researcher may have access to redacted data.

Section 10(E) provides people to whom unredacted information should be shared, including the office of the state medical investigator.

Section 10(F) provides that a party may comment about a CYFD case and department of health investigation but may not disclose personal information that identifies anyone.

Section 10(H) provides that CYFD is not required to disclose information to a district attorney if the disclosure would cause specific, material harm to a criminal investigation or prosecution.

Section 10(I) permits disclosure about a child up for adoption or in foster care

Section 10(J) allows someone to permit disclosure of CYFD information about themselves if needed.

Section 10(K) provides that CYFD must provide a summary of the outcome of an investigation to the person that reported it within 20 days after the deadline for closure of the investigation.

Section 10(N) makes clear that these changes do not prevent a person from seeking information though other provisions of law.

Section 10(O) provides that nothing in this section applies to Indian Family Protection Act or their guardians or parents.

Section 11 amends Section 32A-4-33.1 NMSA 1978

Section 11(A) defines the terms “near fatality” and “personal identifier information.”

Section 11(B) lists new information that CYFD must disclose when asked about a fatality or near fatality.

Section 11(B)(1) requires that, for a fatality, CYFD disclose the name, age, and gender of the child; the date and location of the fatality; and the cause of death, if known.

Section 11(B)(2) requires that, for a near fatality, CYFD disclose the age and gender of the child and the type and extent of injuries.

Section 11(B)(3) requires that, for either a fatality or near fatality, CYFD disclose whether the child is currently or has been in custody of CYFD within the last 5

years; whether the child lived with a parent, guardian or custodian, was in a facility, was a runaway; whether an investigation is being conducted by CYFD or a law enforcement agency; a detailed synopsis of prior reports of abuse; actions taken by CYFD to ensure safety of siblings; and any other public information.

Section 11(C) updates language to “fatality or near fatality” instead of death. CYFD’s file on the child who died must be disclosed upon written request after an investigation.

Section 11(D) updates language and requires that, prior to releasing pursuant to Section 11(C), CYFD must consult with a district attorney and redact personal identifier information for the child, parent, guardian, etc.

Section 11(I) requires that CYFD continue to provide timely allowable information to the public on a near fatality of a child and list several requirements for summary reports, including actions taken by CYFD in response to the case (policies, practices, procedures).

Section 11(J) addresses if a child was residing in the child’s home. It requires that a summary report include whether services were being provided pursuant to the abuse neglect act; whether the child, household member, or the arrested person was the subject of a CYFD report; all involvement of the child’s parents or the arrested person in a situation for which a CYFD report was made.

Section 11(K) requires that the summary report include the following, if it involves a child who was in out-of-home placement: the name of the agency the licensee was licensed by; the licensing history, type of license, period of placement. Nothing in this section applies to the Indian Family Protection Act, information or records concerning Indian children or parents, guardians or custodians.

Section 11(L) NMSA 1978 § 32-4-33.1 stating that nothing in this section shall apply to the Indian Family Protection Act.

Section 12 adds a new section to create and maintain a dashboard on the CYFD website.

Section 12(A) requires CYFD to create a public dashboard to be updated at least quarterly.

Section 12(B) requires CYFD to publish a report on its website by February 1 of each year that includes the number of fatalities and near fatalities of children in custody; the number of children in CYFD custody and the average length of time in custody; the number of children in foster care and length of time in foster care; the number of complaints alleging abandonment; the number of investigations resulting from complaints; the number of children removed from custody of a parent, guardian, custodian, etc.; the number of children returned to a household; the number of children placed in CYFD custody who have run away; the number of cases in which families subject to court-ordered treatment plans have absconded with children; the number of adoptions; the number of children and cases transferred to Indian nations; any other information CYFD considers of interest to the public.

Section 13 provides the short title of “Families First Act,” which comprises Sections 13 – 16.

Section 14 provides definitions “families first services,” foster care prevention services, and

“families first strategic plan,” the plan developed by CYFD in accordance with the regulations of the federal Family First Prevention Services Act.

Section 15 provides guidelines for the Health department, CYFD, and health care authority to work together to develop and implement the families first strategic plan.

Section 15(A) requires CYFD to ensure that provisions of the families first strategic plan align with the requirements of the federal Family First Prevention Services Act and that they maximize resources from the federal government under Title IV-E.

Section 15(B) requires the families first strategic plan to include a description of CYFD’s responsibilities and duties for providing families first services; include a comprehensive detailed list of services CYFD will provide; identify network services providers; identify population of eligible people; identify processes and procedures to determine eligibility, maximize federal funding, oversee the safety of children receiving services; establish metrics to determine outcomes; establish a timeline for providing services statewide; provide a description of how CYFD will monitor the plan; and identify information to include in the annual report.

Section 15(D) requires CYFD to post the annual report no later than July 1, 2026, and by July 1 each year thereafter.

Section 16 requires CYFD to promulgate rules by August 1, 2027.

Section 17 adds to the New Mexico Insurance Code to state that foster children are not disqualified from coverage for purposes of premises liability insurance.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Section 10(J) NMSA 1978 § 32-4-33 doesn’t address custody cases where the parents may disagree about disclosures and the parents accusing each other of child abuse as the revised NMSA 1978 § 32-4-33 (2025) allows a parent to disclose but doesn’t clarify if both parents or just one parent can disclose for the child. This may put CYFD and the health department in the middle of custody cases.

Section 10(K) NMSA 1978 § 32-4-33 is ripe for abuse in custody cases where grandparents’ or friends of a divorcing parent may try to use allegations of child abuse to gain an advantage. It is understandable that the aim is to have timely disclosure. The issue is this can be abused by others seeking to harass people with children by someone who disagrees with their parenting style. The reporting party may be rewarded with information about the investigation to find their own satisfaction.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB136 amends NMSA 1978, § 30-6-1 to include a child exposed to fentanyl as prima facie evidence of child abuse, which may impact when a plan of safe care would be issued.

HB383 amends NMSA 1978, § 30-6-1 and is a near duplicate of HB136.

HB303 addresses child abuse as it relates to controlled substances and children that test positive at birth. HB303 would likely require that a plan of safe care be issued if a recently born child tests positive for a controlled substance without a lawful intake.

HB205 builds on many of the same concepts as SB42, including the safe care plan and the effort to bring New Mexico statutes in line with federal grants, as well as reforming CYFD and establishing new systems to address child abuse.

HB173 requires CYFD to provide services and to conduct an investigation when a safe care plan fails or is not followed by the parties.

HB 343 Enhances the state program pursuant to the federal Comprehensive Addiction and Recovery Act and amends requirements for plans of safe care.

SB84 specifies to whom and under what circumstances information held by CYFD that pertains to abuse and neglect may be shared. It requires that information be provided about child fatalities and near fatalities, protects personal identifier information, and requires that CYFD publish reports on its website. Several sections in SB42 appear to be duplicates (or near duplicates) of sections in SB84.

TECHNICAL ISSUES

In Section 11(J), it is unclear what is meant by “a child who was residing in the child’s home.” Consider revising to clarify the parties this section refers to.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

N/A