

House Bill 5: Office of Child Advocate Act

Representative Michelle Paulene Abeyta, Speaker Javier Martinez, House Majority Leader
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Problem House Bill 5 Addresses:

- New Mexico children are dying in CYFD custody. New Mexico needs an independent, impartial means to gather, investigate, and proactively address the well-being of children in state custody.
- New Mexico is among the last states to create this critical service. As a result, we are missing significant opportunities to support children and parents, keep our Legislators and Governor proactively informed, and improve child well-being.

Purpose/ Scope:

- House Bill 5 would establish the Office of Child Advocate which would be administratively attached to the Office of the Attorney General.
- The “State Child Advocate” would serve a term of six years.
 - o The State Child Advocate will be appointed by a selection committee composed of nine (9) members, including:
 - o (1) member president pro tempore; (1) member minority floor leader of the senate; (1) speaker of the house; (1) minority floor leader; (1) member minority floor leader house of representatives; (1) governor (ICWAS and IFPA experience); (1) attorney general; (2) members chief justice of the supreme court.
- The Office of Child Advocate is an *independent, impartial* office of state government responsible for receiving complaints and grievances from children, parents, and other stakeholders related to state services for children, investigating these matters, assisting and assuring their resolution, and reporting to inform the public, Legislature, and Governor about general and specific opportunities for improvement.
 - o The Office of Child Advocate is responsible for reviewing CYFD’s provision of services to children and families, receive and investigate complaints, review CYFD policies and procedures, adopt and promulgate rules for the OCA office, operate a toll-free hotline, compile and annual report, subpoena witnesses, access information and records, and other duties as set forth in the bill (pgs. 6-10).

Policy Arguments:

- National Standard: New Mexico is one of the last states without an Office of Child Advocate; this is a critical element of child well-being and available in 90% of other states. New Mexico lacks a fundamental component of infrastructure to improve child well-being.
- Independent Oversight: The New Mexico Legislature needs an independent means to receive objective information about public child-serving agencies.

- Autonomy: The Child Advocate is an independent and impartial public official who receives and investigates complaints about government actions related to children's services.
- Systemic Accountability: The Office of Child Advocate would monitor programs and protect the rights of children and families—providing a systemic accountability mechanism.
- Accountability: The Office of Child Advocate reports are crucial for helping decision-makers make informed choices about how New Mexico cares for children.
- Mitigation of Risk: The lack of the Office of Child Advocate leads to inadequate and harmful services, negatively impacting children's futures.
 - The lack of a system results in expensive, confidential settlements to children harmed in the New Mexico child welfare system.
- Parity in Services: New Mexico has Ombuds/Advocacy Offices for aging and long-term care, special education, and worker's compensation, but not for children and families. New Mexico is one of the two lowest ranked states for child well-being.
 - Neither New Mexico nor Mississippi, ranked worst in the nations for child well-being, have an Office of Child Advocate.