

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/08

SPONSOR Kernan LAST UPDATED HB

SHORT TITLE CYFD Foster Care Applicant Drug Testing SB 179

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		150.0-200.0	150.0- 200.0	300.0- 400.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General Office (AGO)

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 179 amends sections of the Child Placement Agency Licensing Act (NMSA Sections 40-7A-1 et seq.) to require the Protective Services Division of the Children Youth and Families Department to adopt rules providing for drug testing for controlled substances for applicants for foster home licenses and for licensees seeking license renewal.

The bill authorizes that Division to deny, revoke, suspend, place on probation or refuse to renew the license of any child placement agency or foster home for failure to pass a drug test or for refusing to submit to a drug test.

The bill also amends the Act to correctly identify CYFD rather than HSD as the department with responsibility.

FISCAL IMPLICATIONS

There is no appropriation contained in the bill. There would be an estimated \$150,000.00 to \$200,000 cost to CYFD to implement this requirement for CYFD licensed foster families. This estimate is based upon the current number of licensed homes and an estimate of the annual number of foster home applicants assuming \$75.00 per drug test completed. This estimate does

not include costs incurred by child placement agencies for the testing of applicants that apply to be foster parents through those agencies.

SIGNIFICANT ISSUES

There is no appropriation contained within this legislation to support the activities required of both CYFD and licensed private child placement agencies. Given the cost related to and the limitations of drug testing, it does not appear to be an efficient and effective process by which to screen all foster parent applicants. Over the counter, prescription and other legally available and appropriately used substances can influence the results of drug tests creating both false negatives and false positives. In addition, some substances that may have a significant impact on judgment and behavior do not remain evident for a sufficient period of time to be captured by a drug test.

The evaluation of the appropriateness of an applicant for foster care is a highly complex activity that is carried out by CYFD staff and child placement agency staff with sufficient education, training and experience. The current home study process, SAFE, provides for additional review and scrutiny of applicants. Currently, a review of criminal records is required of all foster parents and foster parent applicants. In addition, current policy and procedure enables CYFD to request additional evaluation and testing to assess an applicant's suitability for fostering, including drug testing.

PERFORMANCE IMPLICATIONS

Given the complexity of the assessment conducted for a foster home applicant and the limitations of drug testing, it is not believed that the bill will improve CYFD performance measure outcomes.

ADMINISTRATIVE IMPLICATIONS

This bill does not address the administrative impact for CYFD to provide and arrange drug testing for all foster parents and persons applying to be foster parents. In addition to the cost of the drug testing, CYFD would also be impacted by the administrative resources need to revise all related regulations and to monitor the private child placement agencies for compliance to the new rules.

TECHNICAL ISSUES

The new material in 40-7A—4 LICENSING—REGUALTIONS—APPLICATION FOR LICENSE, Section A lines 11 through 13 on page 3 in inserts language requiring drug testing on foster home applicants and those seeking renewal of the foster home license in a section of the Act that pertains to the licensing of Child Placement Agencies, not individual foster homes.

There should be debate over the scope of the word “reasonable” on page 2, Section 40-7A-3(E). Does the Department determine what is reasonable? Does the Division determine what is reasonable?

ALTERNATIVES

Instead of drug testing all applicants, the bill could narrow the population and only drug test those who are final candidates to receive a license.

The bill could disqualify an applicant if that person or any adult residing in that person's household was convicted of any drug-related crime during the five years preceding the application.

DL/mt