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FISCAL IMPACT REPORT

SPONSOR Chasey ORIGINAL DATE 02/11/19
 LAST UPDATED 03/01/19 HB 376/aHJC

SHORT TITLE Abuse and Neglect Multilevel Response System SB _____

ANALYST Courtney/Klunt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		TBD	TBD	TBD		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Children, Youth and Families Department (CYFD)
- New Mexico Attorney General (NMAG)
- Public Defender Department (PDD)
- Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendments to House Bill 376 propose the following:

Page 3-Provides CYFD the ability offer a multilevel response upon completion of an evaluation by the department at intake.

Page 4-Provides flexibility for CYFD to employ licensed social workers to provide services to families, relatives, caretakers or guardians participating in the multilevel response system “to the extend that licensed social workers are available for employment.”

Pages 5 and 10-Moves the effective date and reporting dates back one year.

Page 7-Recognizes that children may be receiving in-home services (maintenance at home) prior to a child’s parent, guardian or custodian having legal custody returned.

Page 8- Replaces the word “jeopardize” with “impact” regarding the safety or well-being of a

child.

Synopsis of Bill

House Bill 376 bill amends existing statute requiring require CYFD to establish a multilevel response system to evaluate and provide services to children and their families or caretakers when a report of child abuse or neglect has been made. The multilevel response system allows CYFD to, after evaluation, include an alternative to investigating the report when the evaluation indicates that there is no immediate concern for the child’s safety. The bill defines “family assessment” as a comprehensive, evidence-based assessment tool to determine the needs of a family and the likelihood of imminent danger to a child’s well-being, the child becoming an abused or neglected child and the strengths and needs of the child’s family members or caretakers.

CYFD must investigate reports instead of utilizing the multilevel response system when the report alleges sexual abuse or serious or imminent harm to the child, indicates a child fatality, requires law enforcement involvement or requires a specialized assessment or traditional investigative approach.

The bill permits CYFD to reassign a case from investigation to the multilevel response system and to proceed with an investigation if the family declines services offered under the multilevel response system.

The bill requires CYFD to employ licensed social workers to provide services to families participating in the multilevel response system.

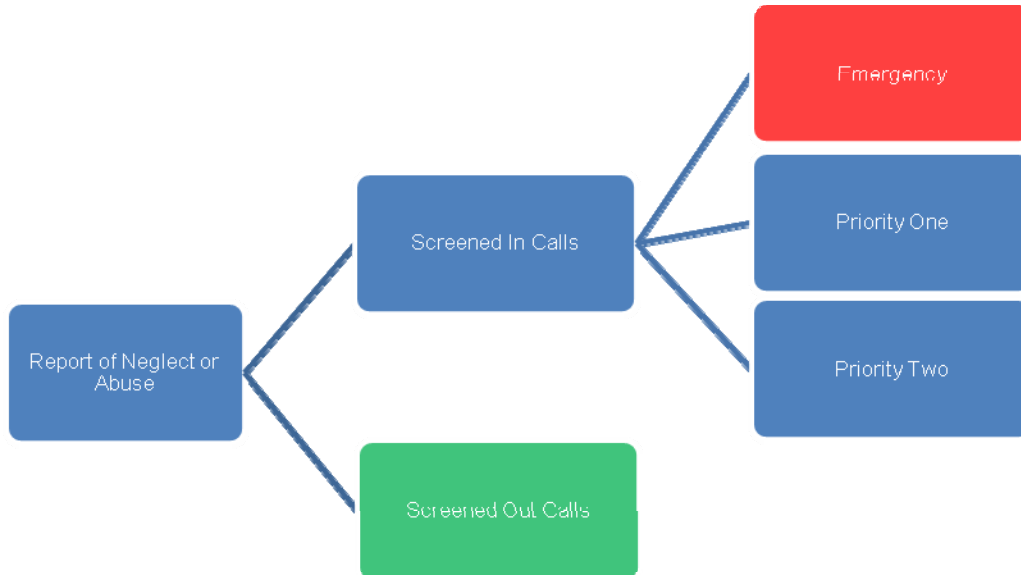
The bill permits to CYFD to pilot the system prior to statewide implementation and to limit implementation to areas of the state where appropriate services are available and operate the system within available state and federal resources.

The bill requires CYFD to provide an annual report on the system, arrange for independent evaluation of the system, incorporate the system into its quality assurance review process, and develop performance measures.

If CYFD pilots or geographically limits the system, the bill requires CYFD to submit a plan to LFC and the department of finance and administration by July 1, 2021, on how to expand the system statewide.

Finally, the bill amends the custody hearing statute (32A-4-18) to include an alternative disposition at the custody hearing of the court returning legal custody to the parent, guardian or custodian and ordering their participation “in programs or services aimed at addressing the underlying causative factors that jeopardize the safety or well-being of the child.”

Current NM Protective Services Flow Chart for Reports of Abuse



FISCAL IMPLICATIONS

There is no appropriation included in HB 376; however, the Children, Youth and Families Department operating budget includes funding for family support service centers along with in-home services. Note that according a 2014 LFC report, the model of in-home (family preservation) services currently being run by CYFD is not an evidence-based model and is likely not providing a positive return on investment. The FY19 operating budget for family support services in \$800 thousand with no outcome data for the program having been shared. Alternatively, LFC analysis indicates an alternative response pathway to improve outcomes for at-risk families may result in a return on investment of up to \$15.64 for every \$1 spent per participant. CYFD could theoretically divert resources from non-evidence based programs such as family preservation to alternative response.

LFC estimates alternative response to cost \$98 per family; current family support service program costs approximately \$2,000 per family. A 2011 LFC program evaluation acknowledged potential start-up costs but also found that long term costs are reduced because fewer children are brought into the child welfare system. The evaluation also found that caseworkers and families are more satisfied with differential response.

CYFD offers the following analysis on fiscal implications:

“There is no appropriation attached to this bill. CYFD cannot absorb the fiscal implications of the bill with existing resources. The most cost-efficient way to ensure implementation of this bill would entail hiring a consultant to assess the current system; make recommendations regarding the different alternative response systems or differential response systems that would work in our state with our technology; and develop an implementation plan takes into consideration other initiatives in process.

At a minimum, CYFD anticipates additional FTE required in the beginning to provide the multi-level assessment. In addition, the bill contemplates an alternative response or differential response. There is significant research regarding these interventions. The implementation of this system changes requires time for planning, consideration of external factors, root cause analysis and development of a new system to process cases, whether this is in a pilot phase or not. Finally, CYFD reimburses licensed social workers for their license. Limiting service providers to licensed social workers only will increase the fiscal impact noticeably.

CYFD implemented a Family Support Service Program pursuant to a 2014 Executive Order, which was established using a \$1.2 million legislative appropriation. This program operates in nine counties in the state – Bernalillo, Sandoval, Taos, Rio Arriba, Los Alamos, Santa Fe, San Juan and Chaves – and during fiscal years 2016 and 2017, served 474 families.

In FY17, CYFD used federal dollars to expand the program to 3 additional counties served/contracts. The services are contracted to private nonprofit providers in the state and managed by CYFD-Protective Services. CYFD is on track to serve some 600 families in 9 counties at a cost of \$1.2 million.

CYFD investigated 20,927 reports of child abuse and neglect in 2016. This bill contemplates that some portion of this number would be diverted to the “Family Support Services” upon evaluation of the referral by the department. CYFD is still required to complete an “evaluation” of the referral, which will most likely continue to be the role of the CPS investigators. This bill therefore may create an additional step for CYFD and for the families. ”

According to the U.S. Department of Health and Human Services Children’s Bureau “Cost studies suggest that differential response may be cost effective over the long term.” The Children’s bureau cost studies in Minnesota, Colorado, and Ohio showed costs for differential response families were less than those of traditional investigation responses, and differential response was cost neutral in Illinois compared to investigative responses. Minnesota’s analysis showed a decreased cost incurred over three to five years for differential response families of \$1,279 compared to the control group.

The Administrative Office of the Courts reported any additional fiscal impact to the judiciary would be proportional to the number of abuse and neglect cases filed. The intent of the HB 376 would ultimately be fewer children entering the child welfare system, and less filed cases, so long term savings may result for the judiciary. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

The Public Defender Department reported it is unlikely that this legislation would result in an increase in agency expenditures. If it did, any increase in Public Defender Office expenditures brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

SIGNIFICANT ISSUES

Alternative response was run as a pilot in Bernalillo County New Mexico by CYFD from 2005-2007 and outcome data showed families who accepted assessment services:

- had lowered rate of repeat maltreatment;
- fewer children removed and placed in foster care; and
- almost half as many repeat maltreatment reports compared with families who declined services.

In addition, New Mexico families that did re-enter the system after accepting assessment services through alternative response had their children returned to them more often after the children were placed on a 48-hour hold, meaning that fewer children were removed from their homes and put into costly foster care. Note that some states are moving toward implementing differential response and the federal government is creating requirements around the program as well. The Child Abuse Prevention and Treatment Act of 2010 requires states to include in their state plan “triage procedures, including the use of differential response, for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service.”

A 2014 LFC Results First report on *Evidence-Based Programs to Reduce Child Maltreatment* and the most recent ACF national report on Child Maltreatment found that the New Mexico child welfare agency spends less on preventative services than most other states and serves far fewer children through preventative services (5 per 1,000) than the national average (43 per 1,000). The LFC Results First report also provided a cost-benefit analysis of potential preventative services and found that alternative response provides the highest return on investment and is the program most likely to provide a positive return on investment.

CYFD analysis of significant issues raises concerns regarding the lack of appropriation included in the bill and with a lack of adequate resources and time to implement provisions of the bill including the development of a comprehensive assessment tool, promulgation of rules, and creation of a statewide expansion plan.

CYFD offered the following:

“Finally, the bill’s allowance for an “alternative” to investigation conflicts with NMSA 1978 §32A-4-3(C), which requires the investigation of reports received by CYFD and law enforcement.

Currently, CYFD has certain paths it may utilize when a family is referred for investigation. Upon completion of the investigation:

1. Low-risk families which do not require legal intervention to ensure the child’s safety may be referred to outside contracts who provide family support services.
2. Higher-risk families which do not require legal intervention to ensure the child’s safety are provided in-home services.
3. Legal intervention is used when the only way to ensure the child’s safety is to place the child in foster care.

This bill adds an alternative pathway that is not handled as a traditional investigation that can be utilized in cases where there is “no immediate concern for the child’s safety.”

The criteria for the previously implemented Family Support Program were:

1. The family has had three or more investigations conducted by Protective Services (PS) within the last year or six investigations within the last five years will be determined to be a priority referral and will be accepted and served first.
2. Children have been determined to be at moderate or high risk of continued abuse or neglect.
3. Child/ren are determined to be "safe" or "conditionally safe" upon completion of the CYFD New Mexico Child Safety Assessment Tool. Cases determined to be "unsafe" upon completion of the CYFD New Mexico Child Safety Assessment Tool will require county office manager approval
4. Child/ren are not placed out of the home either voluntarily or involuntarily.
5. Cases have been either substantiated or unsubstantiated.
6. The child/ren reside with the caregiver at the time of the case referral by the Agency to the Contractor and that residence with the caregiver is maintained throughout the FSS program.

The bill states that CYFD “shall” develop the program and “may” use it as an alternative to investigation. This alternative may not be used in certain circumstances, some of which must be defined by CYFD. The bill requires CYFD to develop a comprehensive assessment tool to complete a “family assessment.” Development of such tools is a lengthy process which is unlikely to be completed by July 1, 2019. CYFD will have to promulgate rules to comply with this bill. Promulgation of those rules requires input from multiple stakeholders and new rules typically take significant time to develop. States that have implemented this type of alternative to investigation programs have done so in multi-year phases. This bill requires CYFD to accomplish this task in a matter of months.

The bill states a case may be removed from the alternative path and continued with normal investigation. This will also require changes to existing regulation to account for how that potential shift would impact timelines for completion of investigation. Families are not required to participate in these services and CYFD may still determine to proceed with a full investigation.

Finally, the bill adds language to the Custody Hearing section of the Abuse and Neglect Act which states that the court may return legal custody of the child to the parents and require the family to participate in services to address the underlying causative factors jeopardizing safety. The current language states that the court can order “such conditions as will reasonable ensure the safety and well-being of the child...” There is nothing precluding services from being part of those conditions, thus making the custody hearing language of this bill unnecessary.

With regard to implementing a new system, CYFD is implementing a new Safety Tool this year and a new model for working with families that have violent family members (domestic violence). Implementing a multi-level assessment in addition to the new safety tool and the new model will result in change fatigue for the division.

The Safety Assessment Tool is part of a practice model called Safety Organized Practice. This model will require staff to work with families in a different way. It will clearly define danger indicators and complicating factors. Plans and referrals will need to be monitored and addressed sufficiently prior to case closure. Informal placement with

relative will be short lived during the investigation. Families with moderate risk levels will require a more detailed intervention up to an including custody of the child. We have spent three years planning for this change and would like to commit the time, energy and resources to ensuring that implementation is successful.

Safety Organized Practice will address the repeat referrals on families that is of concern to individuals who support the multi-level response.

Additionally, CYFD is participating in Program Improvement Plans for its Child and Family Services Review (CFSR), IVE eligibility determination, and the states implementation of the Comprehensive Services Review; and is responding to the Federal Families First Prevention Services Act. This act requires states to provide prevention services to families and work to reimburse the providers with IVE dollars. In addition, it reduces congregate care for children in foster care. This act will require the child welfare system to encourage providers to develop more community based programs for children and their families. This act is resource and time intensive. Services prioritized in this act are Mental Health, Substance Abuse and services in the home. Albuquerque, the largest city in the state with the most resources does not have the services needed to meet the requirements for FFPSA.

Most areas in the state do not have provider capacity that is required for a multi-level response.

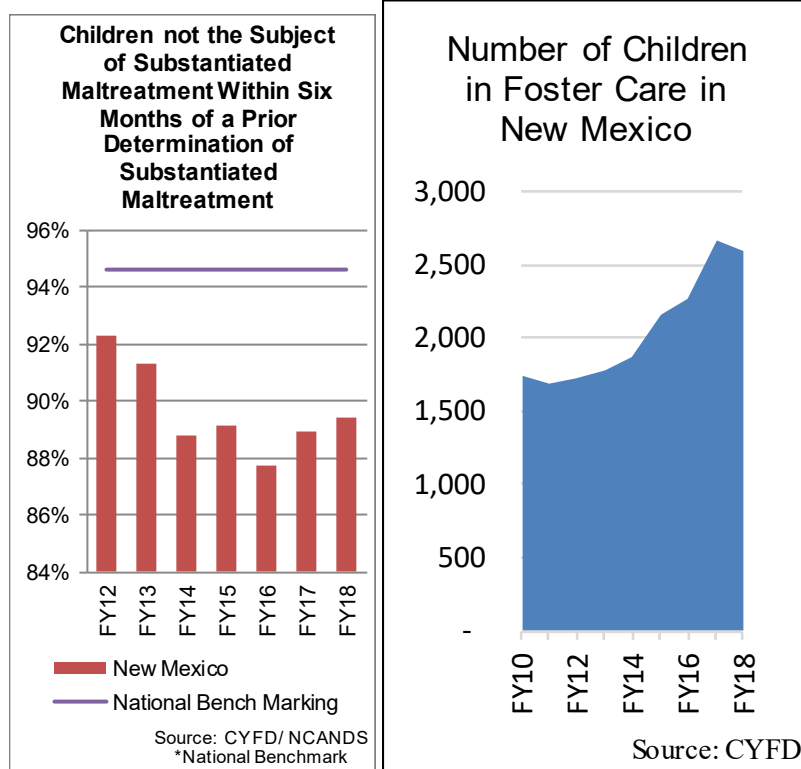
The bill also states that licensed Social Workers have to provide the multi-level services or assessment. CYFD already struggles to recruit bachelor level staff for which related degree are allowed as a substitute. It is unlikely that CYFD will be able to fully meet this bill's requirements if limited to licensed social workers only, particularly as the number of licensed social work staff has drastically dwindled due to the reduction in interest by social workers to join the Child Welfare workforce. This is a national trend.

In the last fiscal year, CYFD paid for 201 licensed Social Worker fees. This includes supervisory, manager and central office staff. There are a total of 958 staff in the division. CYFD regularly conducts recruitment at the statewide National Association of Social Workers conference; for the last several years, mirroring the national trend discussed above, conference attendee interest in CYFD has been noticeably diminished.”

PERFORMANCE IMPLICATIONS

Alternative response is a strategy for reducing maltreatment and repeat maltreatment potentially leading to cost savings from avoiding the need for costly outcomes including but not limited to foster care placements. In 2014 LFC found Alternative Response should reduce maltreatment for low income families by 11 percent and should reduce recurrence of maltreatment by 9 percent if implemented with fidelity.

According to the most recent LFC report card on CYFD (FY18-Q4) and recent reports from CYFD repeat maltreatment, the number of children in foster care remain a significant concern. Additionally the number of children in foster care has risen by 53 percent in the last eight years and the maltreatment victim rate has risen 55 percent in the last five years. New Mexico now has one of the highest child maltreatment victim rates in the country at 17.5 victims per 1,000 children, 90 percent above the national rate of 9.2 victims per 1,000 children.



CYFD states:

“CYFD has performance measures concerning the safety and well-being of children which will be impacted by the re-direction of resources to duplicate existing services.”

NMAG requested clarification on the scope of the Multilevel Response System by stating: clear objectives and targets for the system, the involvement of outside agencies, who within CYFD would be responsible for its implementation, etc.

ADMINISTRATIVE IMPLICATIONS

CYFD states:

“Significant. Establishing a new program mandated by statute which will require a complete shift in practice and development of new policies and procedures requires significant additional resources. There is no appropriation attached to this bill, and CYFD cannot absorb the effort with existing resources.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

- Relationship: SB 27 – Child Abuse Homicide Review Team.
- Relationship: HB 314 – Children’s Advocacy Centers.
- Relationship: SB 28 – Placement of Children in Protective Custody.
- Relationship: SB 125 – Child Abuse Reporting Time Limits.

JRC/al/gb/al