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FISCAL IMPACT REPORT

ORIGINAL DATE 3/01/19

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Collect Data on Children in State Custody SB 629

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$300.0- \$600.0	\$300.0- \$600.0	\$600.0- \$1,200.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 629 would amend the Children’s Code, Section 32A-4, which deals with child abuse and neglect to add a requirement that CYFD each year beginning in October 2021 report to the Legislative Health and Human Services Committee aggregate data regarding children taken into custody by the department and then returned to their families within thirty days, their cases closed. Data required would include whether

- the child had been returned to his/her parents,
- the child had been placed with relatives
- the child had been released to another agency, e.g., the juvenile justice system
- the child had been placed with another entity
- the child had been taken to a medical facility.

The department would be required to follow each child among this group for that child’s wellbeing at the following intervals after case closure: 30 days, three months, twelve months, 24 months, and five years, and to report on this follow-up.

FISCAL IMPLICATIONS

There is no appropriation. CYFD estimates that it would take five to ten employees, averaging \$60,000 in salary and benefits, to complete the work to comply with this bill's provisions. Here are the procedures that CYFD believes would be necessary, requiring these additional employees:

First, because CYFD does not have a mechanism for tracking cases *after* case closure, with the exception of repeat maltreatment if another allegation is received by CYFD, a tracking mechanism would need to be developed.

Second, because CYFD does not capture the reason for law enforcement granting CYFD custody in a reportable manner, this capability will need to be added to the database and additional procedures developed and enacted to ensure accurate data capture.

Third, because CYFD does not capture any of the information related to case disposition in a reportable manner, this capability would need to be added to the database and additional procedures developed and enacted to ensure accurate data capture. This would require significant changes to the current Management Information System (FACTS).

Next, the New Mexico Administrative Code will have to be amended to allow for continuous contact with the family after case closure. This process requires significant time and resources to accomplish.

Fifth, CYFD will need to devote additional staff and administrative resources to remaining in contact with families following case closure for the full five-year period required by this bill.

SIGNIFICANT ISSUES

Child protection work is inherently difficult, with agencies performing that work subjected to criticism if they leave children with a family after a report and the child is hurt, and, on the other hand, the agencies being criticized for removing children without adequate cause. Trying to walk the line between the extremes of underprotection and traumatizing children through unnecessary removal becomes a central focus of child protection.

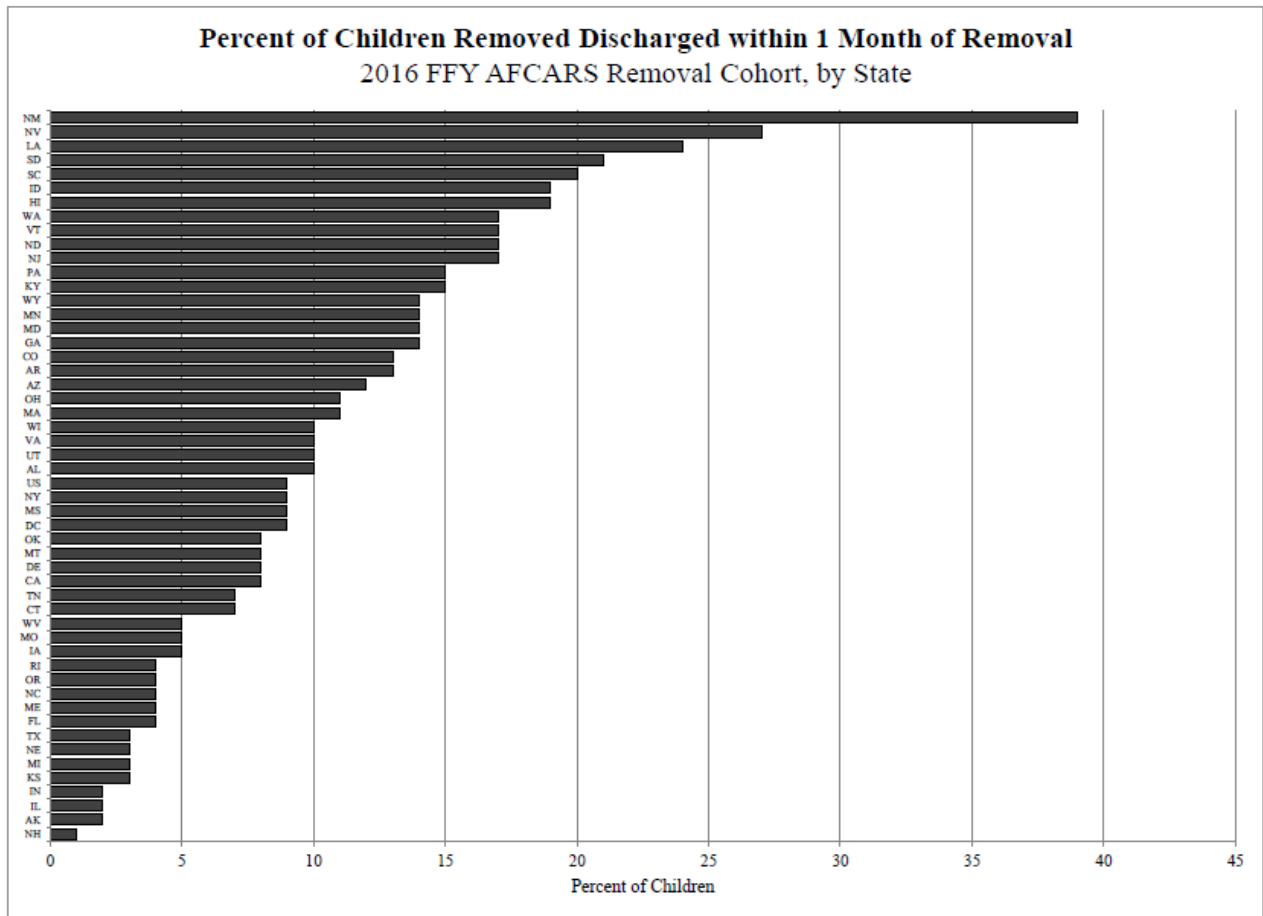
The social science and child legal literature has recently addressed the concern over “short-stayers,” arbitrarily defined as children who are taken into custody and returned to their parents within 30 days. Were the conditions which led the child to be taken into custody truly remediated within those 30 days, was the child released prematurely, or was the reason for removal into custody found to be insufficient?

On the one hand, if the reason for a high “short-stayer” rate is that excellent resources are put into place to assure a child's safety and wellbeing are prevalent, the indication is that the child protective service system is working very well.

If children are being released from custody early and then are again subject to abuse or neglect and placement again in foster care, it would be suggested that they are being jeopardized by the early release. The remedy might be a presumptive need for longer stays in custody and a more intensive effort to work with the birth family.

If the third instance is the reason for a high rate of “short-stayers,” further training on reasonable expectations of families and work with them to ameliorate any adverse conditions would be an appropriate response. Removal of a child from his/her family is never without consequences; loss of a parent through any means – incarceration, substance abuse, divorce, or being placed in foster care – is one of the adverse childhood experiences that leads to later mental health, physical health, juvenile justice, and educational consequences.

New Mexico has by far the highest rate of “short-stayers” of any state in the country, the rate being more than 50 per cent greater than the next highest state, according to 2016 data depicted in the following graph:



Graph from Church C, Mitchell M, Sankaran V. "Timely Permanency or Unnecessary Removal?" *ABA Child L. Prac.* 36, no. 3 (2017): 71-2. (attached)

Determination of the reason(s) for this outlier status and remedying the problems discovered would avoid further traumatizing children in difficult situations.

CYFD comments that families to which children have been returned are not required to follow-up with CYFD once a case is closed; if only voluntary participation in the study were the case, the data would be suspect.

AOC comments on New Mexico’s 50th place standing among states in child wellbeing, according to the Kids Count data released annually by the Annie E. Casey Foundation. AOC

notes in addition that

- SB 629 may allow LHHS to more closely examine data related to short stayers and why they are happening. Once identified LHHS could focus areas of concern in the child welfare system and policies to make improvements to child well-being and reduce unnecessary removals.
- It may be difficult for CYFD to ascertain well-being when the child and the family is no longer obligated to have contact with CYFD. It would also obligate CYFD to develop data collection methods for this information.

RELATIONSHIP with statute in Sections 32A-3B-6 and 32A-4-8 NMSA 1978.

TECHNICAL ISSUES

The bill could add the requirement that families remain in contact with CYFD and vice versa for a specified period of time to be certain of the child's and family's wellbeing and to allow the collection of the necessary data.

CYFD suggests the following wording changes:

Page 4, line 8 change "delivered to" to "court ordered into the legal custody of"

Page 4, lines 10, 12, 14, 17 change "delivered" to "voluntarily released by the parent, guardian or custodian"

LAC/al/sb