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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>HB461/HAFCS</u>	Sponsor	<u>HAFCS</u>
Tracking Number	<u>.226051.1</u>	Committee Referrals	<u>HHHC/HAFCS</u>
Short Title	<u>Children’s and Families’ Rights Act</u>		
Analyst	<u>Andrews</u>	Original Date	<u>3/14/2023</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

The House Appropriations and Finance Committee Substitute to House Bill 461 (HB461/HAFCS) enacts the Children’s and Families’ Rights Act and the Child Welfare Innovation Center Act in the Children’s Code.

HB461/HAFCS creates the Office of Children’s and Families’ Rights, which would be administratively attached to the Children, Youth, and Families Department (CYFD) to provide independent and objective recommendations to CYFD “to improve outcomes and well-being for foster children and to give a voice to children so that every child in foster care understands [their] rights and can achieve [their] potential.” The bill requires the Office of Children’s and Families’ Rights to administer the grievance process, provide mediation services for disputed grievances, help navigate available services within the CYFD, provide civil rights consultations, and recommend improvements to systemic issues adversely impacting the department. HB461/HAFCS requires the office to contract with a nongovernmental law firm to provide an independent audit on grievance trends and the grievance process, and provide an annual report including legislative and other policy reforms. The bill requires the Office of Children’s and Families’ Rights to independently investigate and respond to grievances and complaints, and make findings and recommendations to CYFD.

The bill establishes the Provider Advisory Council to collect and communicate community service provider concerns and make recommendations to CYFD. The Provider Advisory Council would include seven members appointed in staggered two-year terms by the governor from various and diverse service provider types. The Provider Advisory Council would also include one youth or young adult who is or was previously in state custody as well as one parent who currently has or had previously had a child in state custody. The council would be required to meet four times per year and provide an annual report on their work to improve services.

HB461/HAFCS also creates the Child Welfare Innovation Center as an independent center to use scientific approaches and evidence-based practices to strengthen the capacity and sustainability of New Mexico’s child welfare system. The Child Welfare Innovation Center would have a qualified

director, would be established through a request for proposal (RFP). The Child Welfare Innovation Center would advise the CYFD, conduct research, and make recommendations. The bill would also require an annual report to the governor and require a response from CYFD.

Finally, HB461/HAFCS repeals the Citizen Substitute Care Review Act and establishes Child and Family Advocacy Boards, which are citizen review boards that meet quarterly and are administratively attached to the Child Welfare Innovation Center. The boards would be required to make recommendations and report to CYFD annually. The boards would review critical incidents to include fatalities and near-fatalities.

The effective date of this bill is July 1, 2023.

FISCAL IMPACT

The bill does not contain an appropriation.

SUBSTANTIVE ISSUES

On February 16, 2023, Governor Michelle Lujan Grisham issued [Executive Order 2023-020, Transforming Services for Children, Youth and Families, and the Children, Youth, and Families Department](#), which notes the necessity “to transform and reorganize CYFD to address the issues identified by [CYFD Secretary Justice Barbara Vigil] and ensure CYFD best serves the interests of our State’s children and families.” CYFD notes HB461/HAFCS “enshrines into law the changes made through Executive Order 2023-020 and improves CYFD’s ongoing commitment to increasing accountability, collaboration, and transparency with its constituents and stakeholders while maintaining all federal and state child welfare mandates. It will also support innovative child welfare practices.”

HB461/HAFCS would codify some of the changes mentioned in Executive Order 2023-020, including:

- Establishing the Child Welfare Innovation Center;
- Establishing a grievance system “to allow families to engage in meaningful dialogue with CYFD and ensure that all clients receive the care they need”
- Creating the Office of Children’s and Families Rights to administer the grievance process; and
- Requiring the Office of Children’s and Families’ Rights to contract with a nongovernmental legal firm to provide an independent audit of grievance trends and the grievance process.

National Context. In 2021, the [21st Century Children and Families Act](#), which expands nondiscrimination requirements for state agencies involved in adoption or foster care placement, was introduced in Congress. The act requires states to address disparities in service access and extends the timeline for modifying parental rights when a child is not in the care of a relative.

ADMINISTRATIVE IMPLICATIONS

According to CYFD, any administrative implications to CYFD from the establishment of the Office of Children’s and Families’ Rights, Child Welfare Innovation Center, or Provider Advisory Council, or their ongoing operations, will be absorbed by existing resources. CYFD anticipates administrative implications include:

- Participating collaboratively in processes established by the Office of Children and Families’ Rights, including reviewing recommendations and developing plans to implement changes accordingly, and evaluate ongoing implementation.
- Participating collaboratively in the processes established by the Child Welfare Innovation Center, including the child and family advocacy boards, to ensure access to all information and stakeholders needed to effectively review cases and provide recommendations for improvement. CYFD additionally notes the department will be responsible for reviewing recommendations and developing plans to implement changes accordingly, and evaluate ongoing implementation. The department will also be required to issue a written response to the Child Welfare Innovation Center’s annual report within 90 days and a follow-up report on progress or changes made six months later.

According to the Early Childhood Education and Care Department (ECECD), HB461/HAFCS accomplishes many important improvements to the child welfare system. ECECD notes the bill would codify and expand CYFD’s Office of Children’s Rights, allowing the department to continue to use effective evidence-based processes for resolving grievances and give a voice to children. ECECD continues, the bill incorporates important stakeholders in the process of arriving at recommendations for system improvement through the Provider Advisory Council. ECECD notes that along with citizen review boards, this bill significantly increases community engagement in the process of child and family welfare reform. Finally, ECECD says the creation of a Child Welfare Innovation Center is a powerful way to continue the process of using innovative research and evidence-based practices to bring recommendations for necessary reforms to the child welfare system and improving the lives of children and families.

The Human Services Department (HSD) notes beneficiaries of HB461/HAFCS include children and families in state-administered foster care programs. According to HSD, their department provides Medicaid insurance covering 2,450 foster children: 2,359 under managed care organizations and 91 through fee-for-service. HSD notes these individuals would potentially be impacted favorably by HB461/HAFCS.

RELATED BILLS

Conflicts with HB11 and SB373, Office of Child Advocate Act, duplicate bills which would create the Office of Child Advocate, administratively attached to the Attorney’s General’s Office.

SOURCES OF INFORMATION

- LESC Files
- Early Childhood Education and Care Department
- Human Services Department
- New Mexico Courts
- New Mexico Attorney General
- Children, Youth and Families Department

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