

LFC Requester:	Rachel Mercer-Garcia
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 1-18-2024
Original **Amendment** **Bill No:** HB 121
Correction **Substitute**

Sponsor: Gail Armstrong, Andrea Reed, Stefani Lord, Harlan Vincent, Jenifer Jones **Agency Name and Code Number:** Office of Family Representation and Advocacy, 680
Short Title: Responses to failures to comply with plans of care **Person Writing:** Beth Gillia
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Modifies the Voluntary Placement and Family Services Act to make certain actions by the Children, Youth and Families Department (CYFD) mandatory rather than discretionary if CYFD is notified that the parents, relatives, guardians or caretakers of a child released from a hospital or freestanding birthing center pursuant to a plan of care fail to comply with that plan.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

Mandated investigations could result in increased filing of abuse/neglect petitions, creating a higher need for court-appointed attorneys, as well as out-of-home placements and all of the services associated with removal.

SIGNIFICANT ISSUES

Requiring CYFD to conduct a “family assessment” when a parent, guardian, or custodian allegedly fails to comply with a *voluntary* plan of care does not allow the department to discern whether an assessment is actually necessary. For example, CYFD would no longer be able to determine whether the alleged failure to comply with the plan of care was substantive (resulting in immediate concern for the infant’s safety) or temporary or whether an alternative but equally safe plan was put in place. The bill could require CYFD to expend time and resources unnecessarily and without an increase in child safety. The bill would require CYFD to initiate a more formal child abuse or neglect investigation simply when a family declines to accept “offered” services, which may not be consistent with existing protocols for investigations and may unintentionally deprive the family and CYFD from using its multilevel response system.

Further, limiting the department’s discretion and mandating actions that may be seen as punitive in this arena is contrary to the public health policy supporting voluntary engagement of families in plans of care. If families fear that the slightest failure to comply with a plan of care could result in mandatory action against them, they may be less willing to voluntarily seek the services and support of a plan of care, increasing rather than decreasing the risk of harm to the

children. Moreover, they may be less likely to seek post-partum care and newborn care/well-child care from a pediatrician.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Mandated investigations could result in increased filing of abuse/neglect petitions, creating a higher need for court-appointed attorneys, as well as out-of-home placements and all of the services associated with removal. No appropriation is included to address the potential for increased case filings.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The discretionary provisions of the Voluntary Placement and Family Services Act regarding plans of care will remain the same.

AMENDMENTS