

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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:

Original Amendment
Correction Substitute

Date Jan 22

Bill No: SB012

Sponsor: Sen Sedillo Lopez
Short Title: RENAME FAMILY VIOLENCE
PROTECTION ACT

Agency Name
and Code CYFD / 690

Number: _____

Person Writing Julie Sakura

Phone: 5054698806 Email Julie.sakura@cyfd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	-0-		

(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: This bill is a comprehensive overhaul of the existing Family Violence Protection Act, renaming it the Protection Against Abuse and Violence Act, and making the following changes:

- Removing language regarding dual arrests to eliminate ambiguity and prevent confusion with existing statute, which mandates law enforcement to identify a predominant aggressor.
- Expanding the definition of “abuse” to encompass a pattern of behavior rather than being solely incident-based.
- Revising the definition of “abuse” to include modern technology and acknowledge a broader range of abusive tactics, including credible threats.
- Eliminating the use of mutual orders of protection.
- Explicitly stating that minors (aged 13 to 18) may petition the court for an order of protection.
- Revising the Emergency Orders of Protection (EOP) section to include the incorporation of electronic means for requesting and receiving EOPs.
- Clarifying that law enforcement does not require a criminal complaint to request an EOP on behalf of a victim.
- Mandating law enforcement to document any known location or telephone number for alleged perpetrators.
- Changing the grounds for a judge to grant an EOP from “immediate danger of domestic abuse following an incident of domestic abuse” to finding that the alleged victim and household members “are in immediate danger or that an act of abuse has occurred or may occur.”
- Requiring courts to be available at all times to respond to requests for EOPs.
- Revising Temporary Orders of Protection (TOP) sections to align with the grounds for issuance with EOPs, as well as adjusting hearing timelines, removing service requirements to hold hearings and make findings, and outlining the necessary components of a TOP.
- Revising the Order of Protection (OP) sections to align with the grounds for issuance with EOPs and TOPs, and clarifying that custody and property determinations in an OP are independent of other court actions.
- Expanding judicial discretion for Orders of Protection to include protections and ownership of animals, and prohibiting courts from ordering protected parties to participate in counseling or treatment.
- Clarifying firearm possession requirements for stipulated orders, allowing courts to issue orders of protection if a respondent fails to appear at the hearing, and granting courts discretion over the length of the order of protection.

- Clarifying the use of domestic violence offender treatment or intervention programs rather than “professional counseling.”
- Clarifying law enforcement officers' obligations, including their obligation for documentation of whether a party acted in self-defense and the names and relationships between people present at the incident; and expanding perpetrator release, escape, and transfer notifications to include victims.
- Providing greater detail for the definitions of “health care practitioners” with obligations under the act are defined in greater detail.
- Defining in greater detail the against of internet publication of prohibitions of orders of protection and victim information.

FISCAL IMPLICATIONS

There are no fiscal implications for CYFD.

SIGNIFICANT ISSUES

The Act's rewrite, spanning two years, was orchestrated by a Task Force established through Senate Memorial 50 (2021 session). The Task Force comprised a diverse range of members, including representatives from the judiciary, law enforcement, advocacy, legal advocates, healthcare, state agencies, animal protection, and social services. The National Center for State Courts contributed a technical assistance team to assist in incorporating national best practices, and CYFD served on the Task Force.

The change in the Act's name reflects the acknowledgment that orders of protection extend beyond family members to encompass a broader array of relationships and vulnerable victims. This includes non-family household members, sexual assault victims, and minors.

A pivotal modification within the Act, evident in various definitional and procedural adjustments, is the recognition of abuse as a pattern of behavior over time. Definitions and grounds are updated to permit the identification of a wider range of coercive and controlling tactics. Loopholes, such as a perpetrator's failure to appear at a hearing, have been eliminated as barriers to court-granted protection.

Another category of changes involves technological advancements, allowing orders to be requested and issued electronically. The Act acknowledges the role of technology in patterns of abuse.

Of particular significance to the Children, Youth, and Families Department are amendments related to minors. These changes clarify that orders of protection can be issued to safeguard or restrain minors, and individuals aged 13 to 18 are empowered to directly petition a court for an order of protection against the minor's co-parent or against a person the minor has had a continuing personal relationship; or in cases of stalking or sexual assault. This removes a barrier that youth have faced when seeking protection from violence in co-parenting, dating, and other intimate partner violence situations. Also significant is the fact that there are currently no youth Domestic Violence Offender and Intervention (DVOTI) programs available in the state, which will likely become a specific programmatic need.

PERFORMANCE IMPLICATIONS

CYFD has performance measures concerning the safety and well-being of children which may be improved by enshrining more robust domestic violence prevention supports in statute.

ADMINISTRATIVE IMPLICATIONS

The administrative implications to CYFD of updating service provider contract language to incorporate new related provisions, supporting victims who are petitioning for orders of protection, and coordinating efforts with law enforcement will be absorbed by existing resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed.