

LFC Requester: _____

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}

Date Prepared: _____ *Check all that apply:*
Bill Number: HB084 Original Correction
 Amendment Substitute

Sponsor: G Armstrong **Agency Name and Code** CYFD - 690
Short Title: EXPOSURE TO CERTAIN DRUGS AS CHILD ABUSE **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		500.0 and up	500.0 and up	1,500.0 and up	Recurring	General

(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 amends several sections of existing statute as follows:

- Amends the criminal code to create a new criminal offense of child abuse defined as deliberate ingestion of Schedule I or II narcotics without a prescription while pregnant if the child tests positive for said drug at time of birth; and to define evidence that a child has been knowingly or intentionally exposed to fentanyl as prima facie evidence of child abuse.
- Amends the plan of safe care act to require individuals involved in the development of plans of safe care to report child abuse or neglect if they have safety concerns; to require CYFD upon receipt of that call to assess the plan of safe care and determine whether it meets the newborn's needs; and to require CYFD to assess past or potential involvement with child protective services.
- Amends the abuse and neglect act to add a new category of neglect: the failure of a parent, guardian, or custodian to comply with a plan of safe care for a newborn.
- Amends the duty to report section of the abuse and neglect act to require a newborn's toxicology screen to be positive for methamphetamine, fentanyl, cocaine, or heroin for the in utero drug exposure to be considered an indicator of child abuse or neglect.
- Prohibits a child in a hospital setting from being taken into protective custody without a court order, but allows a newborn to be taken into protective custody if specific hospital staff identify the child as being affected by substance abuse or demonstrating withdrawal, or if the child is subject to an environment exposing them to a drug laboratory.
- Allows a newborn not in a hospital setting to be taken into protective custody for a period of twenty-four hours.

FISCAL IMPLICATIONS

There is no appropriation contained within this bill. CYFD cannot absorb the anticipated expansion of investigations and legal cases expected to result from the new allegation of neglect when a child's parent, guardian or custodian is not following the plan of safe care. Each one percent increase in investigations will require 1.5 FTE investigators (\$105.0); in legal cases, 2 FTE in placement workers (\$140.0) and 1 FTE in attorneys (\$105.0); and overall 2 FTE in administrative support (\$138.0). Additional community support services and resources, and licensed resource families, will also be necessary.

SIGNIFICANT ISSUES

Although this bill requires CYFD to assess and update plans of safe care, the development and implementation of plans of safe care transitioned from CYFD to the Health Care Authority in 2025. To avoid possible confusion, it would be more appropriate CYFD to assess solely for compliance with the plan of safe care, and to initiate and complete an investigation and potential legal action if the parent, guardian, and/or custodian is not complaint with the plan of safe care.

This bill makes it a crime to ingest certain drugs if a person knows that they are pregnant. In essence, this bill makes it a crime to expose a fetus to drugs in utero, provided that the exposure carries over into post-partum status. While the bill does require that the child be born and test positive, the bill nevertheless suggests that the prenatal fetus is a "person" against whom a criminal offense can be committed.

CYFD anticipates that this bill will lead to an increased rate of criminal prosecution for parents, guardians, or legal custodians who have knowingly and intentionally exposed their children to fentanyl. As a result, CYFD expects a higher demand for staff to conduct investigations, perform safety assessments, and develop safety plans, where appropriate, with a support network. Additionally, CYFD will need to make referrals to, and ensure families engage with, community resources designed to mitigate the risk of repeat maltreatment. This legislation may also lead to an increase in the number of children entering CYFD custody, particularly if parents are arrested and no relatives or support systems are available to care for the child. In such cases, there may be a need for placement in resource foster homes, and these homes may require specialized training to care for children who are exposed to substances and experiencing withdrawal symptoms or other adverse medical conditions because of the exposure.

Current law states that the use or abuse of drugs by a pregnant person is itself not sufficient basis for a child abuse report. This bill changes that to state that a toxicology screen positive for methamphetamine, fentanyl, cocaine and heroin may alone be sufficient to form a basis to report child abuse. This will likely lead to an increase in reports to CYFD and potentially to additional abuse/neglect petitions being filed.

Finally, this bill use the vague and ambiguous “seriously endangered” as grounds for taking a child into protective custody. The phrase “seriously endangered” does not give reporting parties sufficient guidance to determine what it means or when they shall report these types of cases to SCI. Requiring reporting parties to make the determination of whether a child is “seriously endangered”, a significant departure from the current “reasonable suspicion” standard, places a significant burden on practitioners, requiring them to interpret the law about what “seriously endangered” means on their own.

PERFORMANCE IMPLICATIONS

CYFD’s performance measures concerning permanency (e.g., reunification or adoption) will be negatively affected by this bill as case plans will need to be developed to reunify the family or adopt the child if reunification is not possible. Services will also need to be put in place to meet case plan objectives. As mentioned above, this may result in an increase of children coming into CYFD custody should parents be arrested and no relatives or support system is available to help care for the child. Performance measures in the investigations process will also be impacted as safety assessments and safety planning will need to be conducted as well as referrals to community resources when needed to prevent repeat maltreatment. Increased children in care will also require increased recruitment of resource foster families.

ADMINISTRATIVE IMPLICATIONS

Administrative implications due to an increase in investigations, children in care, resource families, CYFD caseworker involvement in court cases, and procedure and regulation reissuance cannot 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

To support the requirements of this bill concerning reporting by professionals, the list of professionals who are expected to report child abuse or neglect regardless of patient confidentiality issues should be expanded to include hospital social workers.