

<b>LFC Requester:</b>	<b>Carlie Malone</b>
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 1/22/2026 *Check all that apply:*  
**Bill Number:** HB 86 Original  Correction   
 Amendment  Substitute

**Sponsor:** Eleanor Chavez **Agency Name and Code** AOC 218  
**Short Title:** CHILDREN, YOUTH AND FAMILIES COMMISSION **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
N/A	N/A	N/A	N/A	

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>				N/A	N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HJR 4 (Companion)  
Duplicates/Relates to Appropriation in the General Appropriation Act:

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: House Bill 84 amends certain sections of the Children’s Code and proposes new sections; it also recompiles and repeals certain sections of the Children, Youth and Families Department Act, as follows:

- **Section 32A-1-4 NMSA 1978:**
  - Subsection D: replaces the definition of “council” with the definition of “commission” that means the children, youth, and families commission.
  - Subsection E: strikes the phrase “appointed pursuant to the provisions of the Children’s Code or supreme court rule.”
  - Subsection R: cleans up the language in the definition of “Indian tribe.”
  - Subsection X: strikes the definition of “person.”
  - Subsection EE: strikes the definition of “secretary” and replaces it (in renumbered DD) with “superintendent,” defining it as the “superintendent of children, youth and families.”
- **New Section 32A-1A-1:** a new section of the Children’s Code entitled the “Children’ Youth and Families Department Act.”
- **New Section 32A-1A-2:** creates a children, youth and families to establish operational policy in compliance with law and generally direct the operations of CYFD.
  - The commission consists of three members, with an appointment from the governor, the speaker of the house, and the president pro tempore. The members must have educational credentials and child welfare and administrative experience. Members serve for six year, staggered terms, and removal for malfeasance, misfeasance, or neglect is by the supreme court who has exclusive removal jurisdiction.
  - The commission meets monthly to conduct business, approve proposed rules, and hearing testimony and comments from the public.
- **New Section 32A-1A-3:** establishes the powers and duties of the commission that includes what the commission may and shall do.
  - The commission may:
    - adopt procedural rules to implement the laws for which the commission and department are charged;
    - take administrative action by issuing orders and instructions not inconsistent with the law to ensure compliance with the provisions of law for which the commission or department is responsible, and to have the department enforce those orders and instructions in court;
    - delegate authority to the superintendent, but with limitations to the commission’s delegations.
  - The commission shall:
    - exercise general supervisory authority over CYFD;
    - appoint the superintendent;
    - approve organizational changes, subject to provisions of law requiring or establishing specific organizational units;
    - approve the department’s budgets including compensation of employees;
    - approve contracts over a certain monetary limit;

- meet monthly;
  - and “do such other things as necessary and allowable under the law to carry out the purposes of the Children’s Code.”
- **New Section 32A-1A-4:** makes the children, youth, and families department an adjunct agency of the executive branch consisting of:
  - the office of superintendent, that includes:
    - chief general council and staff attorneys
    - quality assurance bureau
    - tribal affairs bureau
  - administrative services division, that includes:
    - budget bureau
    - employee support bureau
    - human resource bureau
    - information technology bureau
    - procurement and contracts management
  - child and family welfare division, that includes:
    - foster care bureau
    - protective services bureau
  - juvenile justice division, that includes:
    - corrections and rehabilitation bureau;
    - juvenile probation bureau
  - The superintendent may establish divisions within each bureau and reorganize them with approval of the commission.
- **New Section 32A-1A-5:** provides the superintendents powers, duties, appointment, and qualifications.
- **New Section 32A-1A-6:** includes other duties of the department such as developing priorities based on best practices; strengthening collaboration; maintaining a statewide database; developing standards of service; analyzing policies of other departments affecting children, youth, and families; proposing rules for the commission; assuming and implementing responsibility for children’s mental health and substance abuse services in the state in coordination with HCA; assume, implement, and lead responsibility among all departments for domestic violence services; implement prevention and early intervention services; conduct service gap assessments; ensure behavioral health services are provided; implement the Families First Prevention and Services Act; fingerprint and conduct criminal history background checks for employees.
- **Recompiled Section 32A-1A-7:** recompiled to include cleanup language pursuant to the proposed new language in earlier sections of this bill.
- **Section 32A-19-1 NMSA 1978:** amended to include cleanup language pursuant to the proposed new language in earlier sections of this bill.
- **New Section 32A-1A-8:** requires the department to ensure that employees of the department maintain national licensures in good standing.
- **New Section 32A-1A-9:** prohibits those who are the subject of substantiated child abuse allegations or have been convicted of felony charges related to job duties from being employees or volunteers of the department unless their case was dismissed by a court.
- **New Section 32A-1A-10:** lays out the qualifications and powers of juvenile corrections officers.
- **New Section 32A-1A-11:** aligns state law with the federal Juvenile Justice and Delinquency Prevention Act of 1974 that includes the juvenile justice advisory committee and its powers and duties.

- **New Section 32A-1A-12:** creates the “juvenile continuum grant fund” as a non-reverting fund in the state treasury for the purpose of awarding grants to juvenile justice continuums.
- **New Section 32A-1A-12:** prevents department employees from erasing data from electronic devices issued by the department and requires the department to implement a system to back up electronic records daily.
- **Section 32A-22-2 NMSA 1978:** updates the title of the secretary of the health care authority and changes the title of CYFD secretary to superintendent.
- **Section 16:** a temporary provision providing that the children, youth and families commission shall take office on July 1, 2027 and shall assist in the transition from cabinet secretary to adjunct agency. Candidates for the superintendent may be interviewed for appointment and qualification on or after January 1, 2028.
- **Section 17:** recompiles Section 9-2A-21, 9-2A-22, and 9-2A-24 to Sections 32A-1A-14 through 32A-1A-16.
- **Section 18:** repeals Sections 9-2A-2 through 9-2A-20, 9-2A-23, and 9-2A-25. Act.

The effective date of this bill is contingent on the passage of a constitutional amendment (proposed in HJR 4) July 1, 2025. If passed and certified by the secretary of state, then Sections 1 through 15, 17, and 18 of this bill will have an effective date of January 1, 2028; Section 16 will have an effective date of July 1, 2027.

There is no appropriation listed in this bill.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase court hearing time, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

1) If passed, House Bill 86 would make the Children, Youth and Families Department (CYFD) an adjunct agency of the executive branch, pursuant to Section 9-1-6 NMSA 1978. The adjunct agency would be led by a three-member commission that appoints a superintendent. The creation of this commission is proposed in the companion to HB 86, House Joint Resolution 4, which seeks to present a constitutional amendment to the citizens of New Mexico to vote for the approval or rejection of the creation of a three-person commission that will make policy decisions and direct operations for the children, youth, and families department. The three-member commission will consist of appointees made by the governor, speaker of the house, and the senate president pro tempore.

2) HB 86’s New Section 32A-1A-9 prohibits the employment of a person with substantiated allegations of child abuse or neglect. Although this law is already in effect under Section 9-2A-8.2, it is at odds with the national movement towards utilizing the voices of people with lived experience. According to the federal Child Welfare Information Gateway found at <https://www.childwelfare.gov/topics/casework-practice/lived-experience/?top=275>

Lived experience, sometimes called lived expertise, refers to the knowledge and

perspectives of those who have firsthand involvement with child welfare. These individuals have valuable insights about the system's impact, so it is crucial that family-serving organizations collaborate with them to develop, implement, and improve policies, practices, and programs. Those who have lived experience, such as parents, youth, and kinship caregivers, have unique perspectives and wisdom that can drive overall system improvement.

Additionally, a substantiation of abuse or neglect does not necessarily mean that a petition was filed with the court or a child was taken into custody. When a case is referred to CYFD, an investigation is started. Upon completion of the investigation, the department will make a determination whether or not the referral is substantiated or unsubstantiated. Section 8.10.3.17 NMAC found at [www.srca.nm.gov/wp-content/uploads/attachments/08.010.0003.pdf](http://www.srca.nm.gov/wp-content/uploads/attachments/08.010.0003.pdf). If a case is substantiated, that means the department determined there is credible evidence to support the conclusion that the child has been abused or neglected, but it does not necessarily require a petition be filed with the court to initiate a children's court case or removal of a child. If the referral is substantiated but there is no children's court case pending, the CYFD worker notifies the parents or guardians who were the subject of the investigation in writing that they may request an administrative review of the decision to substantiate. 8.10.3.22 NMAC.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

See "Fiscal Implications," above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Companion of HJR 4

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

Although the superintendent reports to the three-member commission, the superintendent is the person who would serve in the Children's Cabinet with the cabinet secretaries, as proposed by HB 86's amendments to Section 32A-22-2. Consequently, the superintendent may have difficulty collaborating and making decisions on behalf of the department as a Children's Cabinet member due to the requirement to report to the commission for major decisions.

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**