

LFC Requester:

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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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: SB 56

Original x Correction
Amendment Substitute

Sponsor: Sen. Michael Padilla

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: CREATE CHILD WELFARE AUTHORITY

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: SB 56 overhauls the current structure of the Children, Youth and Families Department (CYFD) such that CYFD would be replaced by the Child Welfare Authority. The Child Welfare Authority would be headed by the state superintendent of child welfare and would be overseen by board of regents appointed by the governor. The Authority would be an adjunct agency of the executive branch. Sections 2 through 13 create new statutes, Sections 14 through 19 amend various provision of existing law, Section 20 through 22 create new temporary provisions and Section 23 repeals most of the CYFD Act.

Section 1 amends 32A-1-4, adding definitions for “authority” and “department” (the child welfare authority). It also adds the definition of the “board of regents” (governing body of the authority). The “authority” is substituted for the “department” throughout the proposed bill. It deletes the definition for “person.” It deletes the definition of “secretary,” referring to the secretary of the interior, and inserts the definition of secretary into Subsection S referring to the definition of “Indian Tribe.” It adds the definition of “state superintendent” (state superintendent of child welfare)

Sections 2 is new material proposing Sections 32A-1A-1 through 12 of the children code, titled the “Child Welfare Authority Act.”

Section 3 provides that the purpose of the Child Welfare Authority is to be an “independent, accredited state agency governed by a board of regents to administer the state’s child welfare and juvenile justice programs formerly administered by the children, youth and families department and other children and family programs assigned to it by law” and cooperate and collaborate with state and local agencies to create a coordinate child welfare system.

Section 4 creates the authority as an “adjunct agency” governed by a board of regents. This Section includes additional requirements for board composition, such as that it is composed of 7 members appointed by the governor with the advice and consent of the senate and that the board shall include people in certain positions and/or with particular expertise. The board is required to approve the mission, goals and objectives, policies and procedures of the authority; appoint a state superintendent; approve the budget of the authority; approve rules recommended by the authority; select the accrediting agency to accredit the authority; and appoint advisory committees.

Section 5 includes requirements for the state superintendent and the authority. The superintendent shall be appointed with the advice and consent of the senate based on merit and without consideration for political affiliation. The state superintendent must meet education and experience requirements.

The superintendent may employ staff and shall employ a deputy superintendent for child welfare who has experience with abuse and neglect, family supports, foster care and child welfare policy. The superintendent shall also employ a deputy superintendent for juvenile justice who has experience in juvenile justice policy, programs and facilities.

Section 6 is titled Authority Organizational Units and provides that the authority is comprised of the following offices:

1. office of the state superintendent (legal, QA, tribal affairs)
2. the administrative services division
3. the child and family welfare division
4. juvenile justice division.

The superintendent who oversees these divisions can appoint directors with the approval of the board as well as chiefs to administrative division. They can also reorganize or merge the different units.

Section 7 includes additional information on the duties and powers of the state superintendent. This includes managing all operations of the authority under the general direction of the board as well as administering and enforcing the laws for which the state superintendent or the authority is charged.

These powers and duties include

1. Exercising supervisory power;
2. Delegating subordinates;
3. Employ people and fix compensation necessary to discharge duties;
4. Take administrative action to assure implementation and enforcement of the law as required by the responsibilities of the superintendent;
5. Provide training opportunities for employees of the authority to improve operations, and promote comprehensive, coordinated, culturally sensitive services for the whole child;
6. Prepare an annual budget for the authority for approval by the board;
7. Cooperate with other state agencies to avoid duplication of services, coordinate services, and resolve agreements;
8. Develop and implement English language access for Authority programs;
9. Conduct state and federal criminal records checks on employees and people who will have unsupervised contact with minors who are clients or in custody;

The superintendent can apply for and receive, with board approval, grants, gifts or donations for the Authority to carry out its duties. The superintendent can also create advisory committees that can last no longer than 2 years. The authority can adopt, amend and repeal rules to carry out the provision of the Act with board approval. All rules shall be adopted and

promulgated as provided by the State Rules Act.

Section 8 contains additional duties for the authority, which include:

- 1) Developing priorities;
- 2) Strengthening collaboration and coordination with state and local services for children and families;
- 3) Developing and maintaining a statewide database for tracking services for children and families;
- 4) Developing standards for service focused on prevention, monitoring and outcomes;
- 5) Analyze policies of other state agencies that affect children and families;
- 6) Adopt rules to control disposition and placement of children as provided in the children's code and other state laws, including rules to limit out of state placement of children;
- 7) Assume and implement responsibility for children's mental health and substance abuse services in the state, coordinating with the healthcare authority and department of health;
- 8) Assume and implement the lead responsibility among all state agencies for domestic violence services;
- 9) Implement prevention and early intervention as an authority focus;
- 10) Conduct biennial assessments of service gaps;
- 11) Ensure behavioral health services provided to children and their families comply with the Behavioral Health Reform and Investment act;
- 12) Develop and implement families first strategic plan as required by the Families First Act.

Section 9 creates a quality assurance bureau whose purpose is to facilitate authority efforts to facilitate satisfactory outcomes for children and families receiving services. The quality assurance bureau shall have various specified duties, including to monitor the system for receiving and resolving complaints, to perform periodic investigations and evaluations to assure compliance with the Children's Code, and to facilitate the monitoring of the authority's performance, identify deficiencies and recommend action. The quality assurance bureau shall publish public reports assessing performance of the authority.

Section 10 creates the "child welfare advisory committee," which is composed of 11 members appointed by the board. This Section also includes additional board composition requirements, such as that at least two members shall be parents who are recipients of services provided by the authority and at least two members shall be youths between the ages of sixteen and twenty-one. The committee shall assist with the development of policies and procedures for the authority.

Section 11 provides qualifications for correctional officers of the authority. Correctional officers who have completed required training and who have at the particular time the principal duty to hold in custody or supervise any child accused or convicted of a delinquent act or criminal offense shall have the power of a peace officer with respect to arrests and enforcement of laws when: (1) on the premises of a facility of the authority or while transporting a child committed to or under the supervision of the authority; (2) supervising a child committed to or under the supervision of the authority anywhere within the state; or (3)

engaged in any effort to pursue or apprehend a child. This Section also states that no correctional officer of the authority shall be convicted or held liable for any act performed pursuant to this section if a peace officer could lawfully have performed the same act in the same circumstances. Crimes against corrections officers executing their duties are deemed the same crime as crimes committed against peace officers.

Section 12 prohibits an applicant, officer, employee or volunteer who has been the subject of a substantiated allegation of child abuse or neglect or who have been convicted of a felony “that is directly related to” job duties from having direct unsupervised contact with authority client. The section goes on to provide information concerning disciplinary action for employees who are subject to a substantiated allegation of abuse or neglect.

Section 13 provides that the juvenile justice advisory committee is created to advise the Authority and serve as a supervisory board pursuant to the federal Juvenile Justice and Delinquency Prevention Act of 1974. The committee has explicit power to continue to fulfill its duties in administering the federal funds made available to the state, if such funding is to continue.

The committee has policy making powers over the following functions pursuant to the Federal Juvenile Justice and Delinquency Act:

- 1) In conjunction with the authority, approval of state plans for expenditure of federal funds received under the act
- 2) Approval or disapproval of applications or amendments by eligible entities
- 3) In conjunction with the authority, fund accounting and auditing of programs funded pursuant to the act
- 4) In conjunction with the authority receive and review annual reports from adult jails as they apply to juveniles temporarily held
- 5) Assistance to the governor or legislature or entities created/funding by the act in developing new programs to improve juvenile justice in New Mexico
- 6) Provide technical assistance by the authority to eligible entities.

Section 14 amends NMSA 30-22-11.1, which address escape from the custody to CYFD, to change references from CYFD to the Child Welfare Authority.

Section 15 amends NMSA 30-22-11.2, which addresses aggravated escape from the custody to CYFD, to change references from CYFD to the Child Welfare Authority.

Section 16 amends NMSA 32A-22-2, which creates a children’s cabinet. The proposed amendments address the cabinet members, to change the cabinet member of the CYFD secretary to the “state superintendent of child welfare” and the secretary of human services to the secretary of the “healthcare authority.”

Section 17 amends NMSA 32A-26-11 concerning administrative appeals, to change references from the department to the authority.

Section 18 amends NMSA 40-7A-3 concerning definition in the child placement act, changing references to CYFD to the authority. Under subsection A for the definition of

“child”, it deletes “an individual” and substitutes “a person”. Under Subsection D for the definition of “division”, it deletes “protective services” and substitutes “child welfare authority.” Under Subsection G to the definition of “secretary”, it adds “state superintendent” to the term to be defined, deletes “secretary of children, youth and families” and substitutes “state superintendent of child welfare.”

Section 19 amends NMSA 40-10B-3, the definitions for the Kinship Guardianship Act, to change references to the department or CYFD to refer to the Child Welfare Authority. It also deletes Subsection E through I, which refer to definitions of “Indian”, “Indian child”, “Indian child’s tribe”, “Indian custodian”, and “Indian Tribe.” In subsection G, the definition of “relative, it deletes the phrase “an individua” and substitutes “a person.”

Section 20 is a temporary provision which states that on January 1, 2027, all functions, appropriations, money, records, furniture, equipment, supplies and other property of CYFD shall be transferred to the child welfare authority. Further, all agreements and contractual obligations of CYFD, including tribal-state agreements, shall become the child welfare authority’s obligations. All statutory references to CYFD shall be deemed references to the child welfare authority and the rules of CYFD shall be deemed rules of the child welfare agency unless amended or repealed. Lastly, this section directs the governor’s office, DFA, SPO and CYFD shall assist with the transition from CYFD to the child welfare authority.

Section 21 is a temporary provision which states that the governor shall appoint a board of regents of the child welfare authority by August 15, 2026. The section directs the board to become familiar with applicable statutes, rules, court cases, consent decrees, contracts and any other matters pertaining to the department and assist CYFD with the transition to the child welfare authority. CYFD shall also assist the board and provide information held by the department while the board agrees to maintain confidentiality. The board can advertise for the state superintendent position on January 1, 2027.

Section 22 is a temporary provision. Subsection A recompiles Section 9-2A-21 and 9-2A-22 as Section 32A-1A-15 and 32A-1A-16. Subsection B recompiles Sections 9-2A-24 and 9-2A-25 as 32A-1A-17 and 32A-1A-18. Subsection C directs Chapter 32A, Article 27 NMSA is an article of the Children’s Code.

Section 23 repeals Section 9-2A-1 through 9-2A-20 and 9-2A-23 NMSA 1978 as well as Section 32A-19-1.

Section 24 state that the effective date of Section 21 is July 1, 2026 while the effective date of Sections 1-2, 22, and 23 of the Act is January 1, 2027.

FISCAL IMPLICATIONS

None for the NMDOJ.

SIGNIFICANT ISSUES

There are several governing and oversight entities created with this bill. This could result in overlap of duties as well as duplication of services performed.

Section 7(E)(1) provides that the superintendent can apply for and receive private grants, gifts and donations for the authority to carry out its programs, duties or services. This is likely constrained to some degree by the New Mexico Gift Act Section 10-16-3D.

Section 8(G) directs the authority to assume and implement responsibility for children's mental health and substance abuse services in the state, coordinating with the healthcare authority and department of health. This direction is very broad and may compete with the roles and responsibilities of other agencies. The Health Care Authority and the Administrative Offices of the Court are tasked with implementing Behavioral Health Reform and Investment Act. Mental health and substance abuse services for many children in New Mexico are tied to Medicaid or paid for by private insurers that aren't necessarily connected to the Child Welfare Authority. While it makes sense to coordinate when a child or a family is in need of services, the Authority is not a healthcare provider. Moreover, it is unclear if the authority will have more capacity compared to the former CYFD to take on additional responsibilities on top of the responsibilities it already has.

Section 8(H) also directs the Authority to assume and implement lead responsibility for all domestic violence services. Domestic violence is sometimes experienced by individuals without children. Requiring the authority to take on responsibility for services for all individuals regardless of whether they have children could be burdensome for the Authority when it is already tasked with children and families in need of services.

Section 12(D) regarding disciplinary actions against employees who have a substantiated allegation of abuse or neglect would need to be reviewed in light of the protections provided under the Personnel Act.

Any changes to the governance of CYFD might require amendments to the state's Title IV-E plan to ensure continued eligibility for federal funding and compliance with the Families First Act. Title IV-E refers to a part of the Social Security Act that provides federal funding to states for the administration of foster care, adoption assistance, and kinship care programs. This funding is meant to help ensure that children in the child welfare system are placed in safe, stable, and permanent homes. Each state is required to submit a Title IV-E State Plan to the U.S. Department of Health and Human Services. Any significant modifications to CYFD's structure and governance would likely necessitate revisions to the state plan, subject to federal approval, to maintain compliance with child safety, permanency, and well-being standards.

PERFORMANCE IMPLICATIONS

None for the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

None for the NMDOJ.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 65 relates to this bill as it proposes new legislation to be added to the Child, Youth and Families Department Act regarding a short-term stabilization pilot program for children in state custody and their families. This program would fall under the Authority's responsibilities.

HB 86 may be in competition with this bill as it provides for a commission similar to the board

except that the board oversees CYFD rather than the superintendent. It also proposes creating CYFD as adjunct agency to the executive branch. The superintendent would be appointed by the commission with similar responsibilities to the superintendent in SB 56. Much of the language in this bill is the same as the language in HB 86 which both duplicate proposed language from SB 486 that was proposed during the 2025 session.

HJR 4 may be in competition with this bill as well as HB 86. This bill proposes a CYFD commission which has similar language for the proposed role of the commission as HJR 4.

HM 1 may be in competition with/companion to this bill as well as HB 86. This bill proposes a study of the feasibility of making CYFD an independent agency not under the control of the governor's office as well as having a commission overseeing CYFD and its executive director. This proposed study would have implications for the proposed legislation in HB 56, 86 and HJR 4 as they all propose similar commissions/boards to oversee CYFD as well as independence from the executive branch.

SB 67 relates to this bill. This bill proposes new legislation for the children's code that pertains to abuse and neglect specifically. It would have implications for the responsibilities of the authority. It adds the "Best Interests of a Child as the Primary Controlling Standard" for all matters under the abuse and neglect act.

SB 85 relates to this bill as poses amendments to the children's code that pertains to abuse and neglect specifically. It contains specific additions for investigating abuse and neglect involving members of the US military. This would have implications for the responsibilities of the authority.

SN 94 addresses domestic violence criminal offenses. It requires defendants who commit certain offense against household members to complete a domestic violence program approved by CYFD. This would have implications for the roles and responsibilities of the Authority.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

Proposals in HB 65 or HB 86.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None.