

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 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}

Check all that apply:

Original Amendment _____
Correction _____ Substitute _____

Date Jan 17

Bill No: HB095

Sponsor: Rep Lord
Short Title: Family in Need of Court-Ordered Services
Agency Name and Code: CYFD 690
Number:
Person Writing: Julie Sakura
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	1,000.0	Recurring	General

(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		\$3,200.0	\$3,200.0	\$6,400.0	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 expands the definition of “family in need of court-ordered services” to include families in which allegations of child abuse or neglect against the child’s parent, guardian, or legal custodian have been investigated by CYFD and found credible (substantiated).

FISCAL IMPLICATIONS

The bill appropriates \$1,000.0 from the state general fund to the Administrative Office of the Courts for expenditure in state fiscal year 2025, with any unexpended or unencumbered amount reverting.

The bill does not contain an appropriation to the Children Youth and Families Department. The expansion in CYFD’s service population will require a minimum of 25 additional Social & Community Services Coordinator Advanced positions and 5 additional Attorney IV positions, at a respective annual cost of \$3,200.0 in salary, benefits, and overhead (\$3,153.0 salary benefits, \$75.0 overhead).

SIGNIFICANT ISSUES

With the comprehensive re-organization of CYFD and the renewed focus on our Family Services Division (focusing on prevention and intervention services), any statutory changes will need to be incorporated into the overall restructuring of CYFD. That will take time as CYFD stands up the Family Services Division and evaluates and improves on the systemic changes to the agency structure. Changes to the Children’s Code should be viewed in context with the entirety of the Code, should be made as a comprehensive effort, and then integrated into the new structure. Rather than a piecemeal approach, Code changes should be synthesized and presented cohesively at next year’s long session.

For this specific bill, while an expanded ability to deploy this type of court intervention provides CYFD with another tool to assist families, decisions on the effective handling of these cases must first be made regarding utilization of the multi-level response system; and an assessment and determination as to which program services division is most appropriately responsible for FINCOS cases will need to be completed (example, will the expanded program more appropriately fall into protective services permanency units, where FINCOS cases currently reside, or under the new Family Services division). Safety and risk tools must also be assessed and potentially modified to

accommodate the new case option.

Positives: For families meeting the broader definition, CYFD will be able to assess, on a case-by-case basis, whether an Abuse/Neglect case, a FINCOS case, or some other method of addressing a situation would be the best tool to assist a family and provide safety and permanency for a child. From a field perspective, it will offer a mechanism to provide services for a much wider array of circumstances. We could see a shift in filing fewer abuse/neglect cases and more FINCOS cases which, if driven by appropriate policy and procedure and consistent assessments, could be a more supportive and helpful way to work with some families.

Concerns:

1. There is a strong concern that this definition could be used to force or mandate CYFD to file a FINCOS case for every investigation substantiation in which CYFD does not file an abuse/neglect case. This will have serious fiscal consequences and, more importantly, a negative impact on the families CYFD serves. As the experts in the field, CYFD needs to preserve the ability of its staff to efficiently and correctly assess a family's needs and the best approach to supporting them while maintaining safety and well-being for the child.
2. The Indian Family Protection Act (IFPA) includes FINCOS cases in the definition of a child custody proceeding and, therefore, the protections provided by IFPA do apply in FINCOS cases (notice, active efforts, etc.). However, there is a concern that more families will be brought into the system through FINCOS and that concern is heightened for CYFD's tribal partners, particularly with respect to cases where poverty or factors other than neglect may be the root cause of the circumstances necessitating court intervention.
3. The definition is not limited to current or recent investigations, which could result in FINCOS cases being filed against families previously investigated where no current concerns exist.
4. Finally, the bill's effective date of July 24, 2024, will not be sufficient time to develop and implement policy and procedure; develop and implement training; assess and/or modify assessment tools; or hire adequate additional personnel. As the effectiveness of this legislation is dependent on proper implementation, CYFD asks that an implementation date of no earlier than January 1, 2025, be adopted.

PERFORMANCE IMPLICATIONS

CYFD currently has no performance measures concerning FINCOS cases specifically. CYFD has performance measures concerning the safety and well-being of children which could be affected by this bill. Without appropriate additional resources to absorb the service population expansion, there will be a negative performance impact.

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

The Families in Need of Court-ordered Services Act (NMSA 1978, §32A-3B) and the Abuse and Neglect Act (NMSA 1978, §32A-4) have significant embedded differences in the populations they are targeted to help. These differences must be addressed in a comprehensive manner.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

CYFD proposes the following language:

32A-3B-2. [~~DEFINITIONS~~] DEFINITION.--As used in [~~Chapter 32A, Article 3B NMSA 1978~~] the Family in Need of Court-Ordered Services Act, "family in need of court-ordered services" means the child or the family has refused family services, has failed to follow through with family services, or the department has exhausted appropriate and available family services and the department has determined that court intervention pursuant to the Family in Need of Court-Ordered Services Act is necessary to provide family services to the child or family and it is a family:...

E. in which the child's parent, guardian or custodian was investigated by the department within the last three months, and the department substantiated the investigation, and the department determined filing an abuse/neglect petition was not in the child's best interest;

F. in which the child's parent, guardian or custodian was investigated by the department within the last three months, the family had more than one prior investigation in the past two years, and the department's risk assessment tool has determined there is a high risk for future system involvement found credible evidence that the child is an abused or neglected child as provided in the Abuse and Neglect Act; or

Effective Date: January 1, 2025 (to allow for proper policy and procedure revision)