

LFC Requester:

Rachel Mercer-Garcia

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 x **Amendment**
Correction **Substitute**

Date Prepared: 1/20/2024

Bill No: HB 103

Sponsor: Stefani Lord
 Harlan Vincent

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

Short Title: Child Exposure to
 Controlled Substance

Person Writing
Analysis: Jane A. Bernstein
Phone: 505-537-7676
Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(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

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

HB 103 proposes to add to the existing definition of “abuse of a child” causing the exposure of a child (newborn) to certain Schedule I and Schedule II drugs, such that the child tests positive at birth. HB 103 proposes to add the following non-defense to the crime of child abuse—that the defendant did not know that a child (1) was present, (2) could be found, (3) resided on the premises, or (4) was in any vehicle that is involved in the incident at issue.

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

Section 32A-4-6 of the Abuse and Neglect Act already contains provisions permitting law enforcement and medical personnel to take a child into custody in limited circumstances. Although the bill’s proposed new section of the Abuse and Neglect Act would appear to supersede Section 32A-4-6 where newborn children are concerned, it is likely that Section 32A-4-7 would still govern the release of a newborn child from said custody.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at this time

TECHNICAL ISSUES

Section 1(I) and (J) use the phrase “a child could be found”, which could be considered vague.

OTHER SUBSTANTIVE ISSUES

None at this time

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS