

LFC Requester: Rachel Mercer-Garcia

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{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}

Check all that apply:

Date 1/19/2024

Original [X] Amendment

Bill No: HB 103

Correction [] Substitute []

Sponsor: Stefani Lord, Harlan Vincent
Short

Agency Name
and Code

Number: 770-NMCD

Person Writing Brittany Roembach

Title: Child Exposure to Controlled
Substance

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with 4 columns: Appropriation (FY24, FY25), Recurring or Nonrecurring, Fund Affected. Row 1: 0, \$1,000,000, Nonrecurring, General Fund.

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Table with 5 columns: Estimated Revenue (FY24, FY25, FY26), Recurring or Nonrecurring, Fund Affected. Row 1: 0, 0, 0, N/A, N/A.

(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

BILL SUMMARY

Synopsis:

HB 103 adds exposure of a child to a Schedule I or II controlled substance to the definition of abuse of a child. Amends the Abuse and Neglect Act to provide for the taking of a newborn child into temporary protective custody without a court order when the child is identified as affected by substance abuse or demonstrating withdrawal symptoms from prenatal drug exposure or when the child is subject to an environment exposing the child to a laboratory for manufacturing controlled substances. Appropriates \$7 million (GF) for use in FY2025 to carry out the purposes of the act (see last para. for specifics).

EXPOSURE TO A CONTROLLED SUBSTANCE. Abuse of a child includes a child being exposed to the extent that the child tests positive at birth for either a Schedule I or II controlled substance, unless the positive test is a result of the mother’s lawful prescribed intake of the substance.

If a child has been allowed to enter or remain in a vehicle or building that contains chemicals and equipment used for the manufacture of a controlled substance or if a child has been exposed to the use of methamphetamine, which is prima facie evidence of child abuse, it is no defense to the crime that a defendant did not know that a child was present, “could be found” (context unclear), or resided on the premises or a vehicle contained a child.

TAKING NEWBORNS INTO TEMPORARY PROTECTIVE CUSTODY.

A newborn child (less than 72 hours old) in a hospital setting shall not be taken into temporary protective custody without a court order that the child is seriously endangered. A newborn not in a hospital setting shall not be taken into temporary protective custody for more than 24 hours without a court order that the child is seriously endangered.

EXCEPTIONS. A newborn child may be taken into temporary protective custody without a court order if:

- The child is identified by a physician, registered or licensed practical nurse, or physician assistant as affected by substance abuse or demonstrating withdrawal symptoms from prenatal drug exposure
- The child is subject to an environment exposing the child to a laboratory for manufacturing controlled substances.

The taking of the newborn into temporary protective custody shall not be deemed an arrest nor constitute a police record.

APPROPRIATIONS:

- \$3 million to CYFD to carry out the purposes of the act
- \$3 million to the Administrative Office of the Courts to carry out the purposes of the act
- \$1 million to the Corrections Department to carry out the purposes of the act.

FISCAL IMPLICATIONS

This bill would appropriate one million dollars (\$1,000,000) to NMCD for expenditure in FY25 to carry out the purposes of this act. Not knowing how many persons might be sentenced to prison under this bill, at the current average cost-per-inmate calculation of \$57,103 the \$1.0 million would cover approximately 17 individuals. Assuming we wouldn't have 17 inmates sentenced on day one of FY25, partial year coverage would allow for more than 17. If they were sentenced to multiple years, then additional appropriations would be needed in future years.

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

The additional language in 30-6-1(J) ("It shall be no defense to the crime of child abuse that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child.") does not make sense in context because the existing sentence in (J) is "Evidence that demonstrates that a child has been *knowingly and intentionally* exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child." (emphasis supplied). It is also repetitive of the proposed new language in 30-6-1(I). In addition, the crime is called "abuse of a child" elsewhere in the statute, not "child abuse." Finally, the new language reads like a generally applicable statement about the knowledge requirement for the crime of abuse of a child, and does not add anything to (I) and (J)'s prima facie evidence examples, so it should probably be in a separate subsection by itself.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

This bill presents the potential for additional inmates to be housed at NMCD.

AMENDMENTS

N/A