

<b>LFC Requester:</b>	<b>Rachel Mercer-Garcia</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{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:*

**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** 1-18-24  
**Bill No:** SB 83

**Sponsor:** Crystal Diamond Brantley      **Agency Name and Code Number:** Office of Family Representation and Advocacy, 680  
**Short Title:** Requirements for Failure to Comply with a Plan of Care      **Person Writing:** Beth Gillia  
**Phone:** 505-231-9864      **Email:** Beth.gillia@ofra.nm.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)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 121  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Modifies the Voluntary Placement and Family Services Act to require the Children, Youth and Families Department (CYFD) to conduct a family assessment if CYFD is notified that the parents, relatives, guardians or caretakers of a child released from a hospital or freestanding birthing center pursuant to a plan of care fail to comply with that plan.

**FISCAL IMPLICATIONS**

Mandated assessments could lead to additional investigations and result in increased filing of abuse/neglect petitions, creating a higher need for court-appointed attorneys, as well as out-of-home placements and all of the services associated with removal.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

Requiring CYFD to conduct a “family assessment” when a parent, guardian, or custodian allegedly fails to comply with a *voluntary* plan of care does not allow the department to discern whether an assessment is actually necessary. For example, CYFD would no longer be able to determine whether the alleged failure to comply with the plan of care was substantive (resulting in immediate concern for the infant’s safety) or temporary or whether an alternative but equally safe plan was put in place. The bill could require CYFD to expend time and resources unnecessarily and without an increase in child safety.

Further, limiting the department’s discretion and mandating actions that may be seen as punitive in this arena is contrary to the public health policy supporting voluntary engagement of families in plans of care. If families fear that the slightest failure to comply with a plan of care could result in mandatory action against them, they may be less willing to voluntarily seek the services and support of a plan of care, increasing rather than decreasing the risk of harm to the children. Moreover, they may be less likely to seek post-partum care and newborn care/well-child care from a pediatrician.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

SB 83 is similar to HB 121 but differs by deleting language already in the Act allowing parents, relatives, guardians or caretakers to choose whether to accept or decline services or programs after a family assessment has been performed.

SB 83 differs substantially from HB 121 by retaining CYFD's discretion to decide whether to conduct a formal investigation after completing a family assessment.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

The discretionary provisions of the Voluntary Placement and Family Services Act regarding plans of care will remain the same.

## **AMENDMENTS**