

LFC Requester:	Rachel Mercer-Garcia
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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 1-31-24
Bill No: SB 258

Sponsor: Katy M. Duhigg **Agency Name and Code Number:** Office of Family Representation and Advocacy, 680
Short Title: Sharing Certain CYFD Info **Person Writing:** Beth Gillia
Title: _____ **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)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 175
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB258 expands the types of information CYFD is required and/or permitted to provide to various parties and in various circumstances.

FISCAL IMPLICATIONS

Mandated data collection and reporting, and mandated public disclosures, will increase workload for CYFD’s Performance and Accountability unit, Public Information Officer, IT staff, Records Bureau, and Protective Services Division, which will likely create the need for additional staff and an increased budget for these positions.

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

Page 7 line 20 through Page 8 line 8 and Page 9 lines 15-18: The media’s right to an immediate appeal when excluded from a hearing should not delay proceedings in the children’s court nor deprive the children’s court of jurisdiction during the pendency of the appeal. It is in the best interests of children for the case to continue and delay would jeopardize the state’s ability to meet federal (Adoption and Safe Families Act) timelines. Language could be added like that in Section 32A-4-18(I) to clarify this point: “While an appeal pursuant to this section is pending, the court shall have jurisdiction to take further action in the case pursuant to Subsection B of Section 32A-1-17 NMSA 1978.”

Page 10, line 12 through Page 11, line 4: As written, Section 3 of the bill would allow disclosure of personal identifier information, including addresses, for children and parents under certain specific circumstances and to specific enumerated parties.

While disclosure of names and contact information to certain entities may be appropriate for the child’s safety, law enforcement, or other purposes under the enumerated circumstances, broad

public disclosure of the child's or parent's contact information (defined as home or business address, email address, or phone number) is unnecessary and could expose children and parents to harassment or harm.

Page 12, line 8 through Page 15, line 2: SB258 would require disclosure of unredacted information including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio records of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding to the parties enumerated in Section E. Such broad disclosure of this type of extremely sensitive, confidential information with unredacted personal identifiers would be a significant violation of the child's and family's confidentiality and is unnecessary to meet the needs of the enumerated parties.

Page 18, line 13-14: The requirement for the department to disclose the location of fatalities could expose parents, family members, or others to harassment or harm.

Page 21, line 25 through Page 22, line 17: This section requires disclosure of highly personal and sensitive information regarding parties who have been arrested or merely suspected of, but not found guilty of, abandonment, abuse or neglect and household members who may have had no involvement whatsoever. This has the potential to cause many types of damage to completely innocent parties.

PERFORMANCE IMPLICATIONS

If additional staff were not hired to meet the provisions of SB258 due to budgetary or other reasons, the necessary time of current staff to comply with requirements of the bill would significantly impact their other duties. This would have a high probability of worsening job performance and increasing both burnout and vacancy rates.

ADMINISTRATIVE IMPLICATIONS

Mandated data collection and reporting, and mandated public disclosures, will increase workload for CYFD's Performance and Accountability unit, Public Information Officer, IT staff, Records Bureau, and Protective Services Division, which will likely create the need for additional staff and an increased budget for these positions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified

TECHNICAL ISSUES

None identified

OTHER SUBSTANTIVE ISSUES

None identified

ALTERNATIVES

None identified

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The confidentiality provisions of the Abuse and Neglect Act will remain the same and the Act's prohibitions against disclosure of non-identifying information are likely an unconstitutional restriction of free speech, in violation of the First Amendment of the U.S. Constitution. See *Peck v. McCann*, 43 F.4th 1116 (10th Cir. Aug. 9, 2022).

AMENDMENTS

None