

LFC Requester:

Allegra Hernandez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}***Date Prepared:** 03/04/2025*Check all that apply:***Bill Number:** HB 203Original ☐ Correction ☐Amendment ☒ Substitute ☐**Sponsor:** Representative Meredith Dixon  
Representative Sarah Silva**Agency Name  
and Code  
Number:**Office of Family Representation &  
Advocacy 6800**Short  
Title:** Use of State Devices  
for CYFD Business**Person Writing** Wolfgang J. Bomgardner**Phone:** 505-538-0134 **Email** wolf.bomgardner@ofra.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None made in bill, requirements would cost well in excess of \$1.5M per year	None made in bill, requirements would cost well in excess of \$1.5M per year	Non recurring and Recurring	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	n/a	n/a

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	1.5M	\$1.5M	\$1.5M	\$3.0M	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:**

The House Judiciary Committee amendment makes several changes to the proposed bill:

- Software and applications would now only have to comply with Federal and State law – not local, territorial, or tribal law.
- The Children Youth and Families Department (CYFD) would now retain records for an employee's tenure year and an additional 7 years, instead of the duration of an employee's tenure and 24 additional years.
- Creates a requirement that CYFD back up retained records daily, monthly, and yearly.

#### **FISCAL IMPLICATIONS**

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.

Please see our original analysis for in-depth discussion of the significant funding and costs this bill would require due to implementing and maintaining the requirements of this bill.

#### **SIGNIFICANT ISSUES**

The amendments address several of our initial concerns with this bill:

The amendment to only require software comply with Federal and State law alleviates the incredible burden of having to comply with individual laws implements by the 23 federally recognized Tribes, Nations, and Pueblos in New Mexico alone.

It is much more feasible to imagine CYFD retaining records for an employee's tenure year and an additional 7 years, instead of the duration of an employee's tenure and 24 additional years.

However, some concerns remain unaddressed.

There is still no funding provided by this bill to implement this costly mandate.

CYFD currently issues state-issued electronic devices to employees and requires their use for state business.

CYFD also already requires that all software and apps installed on a state device comply with state and federal law.

The bill would require retention of records that are highly confidential (HIPPA and records with personally identifiable information) and, in some cases, protected by the attorney-client privilege, for a period that far exceeds the applicable retention timeframes for those records. This is especially problematic where other rules, regulations, or statutes require specific types of records to be destroyed after a certain timeframe (e.g., NMAC 21.2.831 requires that medical records be destroyed 10 years after file closure).

## **PERFORMANCE IMPLICATIONS**

Given the current state of technology and CYFD's bandwidth in offices or when staff are in the field, this bill would affect the performance of front-line workers, whose electronic devices would need to be continually sending back up data to DoIT, thereby severely impacting the bandwidth at office locations and for phone transmissions. Many CYFD field offices do not currently have WiFi but only plug-in-the-wall internet connectivity.

## **ADMINISTRATIVE IMPLICATIONS**

CYFD would need to develop policies and procedures to ensure compliance with HB 0203, especially for the hourly back-up requirement.

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

None identified at this time.

## **TECHNICAL ISSUES**

The amendment created one apparent discrepancy. Section 1(c) states that backups will occur hourly. However, Section 1(d) state that all records will be backed up daily, monthly, and yearly.

## **OTHER SUBSTANTIVE ISSUES**

None identified at this time.

## **ALTERNATIVES**

None identified at this time.

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

CYFD and DoIT would continue to apply the various requirements already contained in the NMAC for retention of different categories of documents. As noted above, CYFD already issues state electronic devices to employees that utilize only software and apps that comply with federal and state law.

## **AMENDMENTS**

None identified at this time.