

**LFC Requester:****Rachel Mercer-Garcia****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** March 3, 2025 *Check all that apply:*  
**Bill Number:** HB205 Original        Correction         
 Amendment        Substitute   X  

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**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI		

(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>						

(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**

**Original:** HB205 proposes to make a number of changes related to the selection of the CYFD cabinet secretary and to how the CARA plans of care are implemented.

HB205 proposes to change the Children Youth and Families (CYFD) enabling statute to require that the cabinet secretary of CYFD be appointed by the governor from a list of no fewer than 5 nominees submitted to the governor by a 9-member nominating committee. The members of the nominating committee will be required to be a New Mexico resident, knowledgeable about child welfare, not contractors of CYFD, and not be applicants for the position. One member will be appointed by each of the speaker of the house, the majority floor leader of the house, the minority floor leader of the house, the president pro tem of the senate, the majority floor leader of the senate, and the minority floor leader of the senate. Two members will be appointed by the governor, and one member will be appointed by the chief justice of the supreme court.

Each member will serve a four-year term and not be compensated but shall be reimbursed for expenses pursuant to the Per Diem and Mileage Act.

HB205 also amends NMSA section 32A-1-4 to expands definition of “guardian” to include a “person authorized to care for the child by a parental power of attorney as permitted by law,” and expands the definition of “plan of care” to include a plan developed by a health care professional to provide support to a pregnant person dealing with substance use disorder.

HB205 additionally amends the plan of care requirements in NMSA 1978 § 32-3A-13 to identify the Health Care Authority (HCA) as the lead agency for plan of care creation and implementation. Health Care Authority would be required to consult with CYFD, and Department of Health. Identifies prenatal medical visits as an additional opportunity to develop a plan of care. Requires the HCA to ensure each birthing hospital has at least one care coordinator available for care coordination for substance exposed children. It requires hospitals, birthing centers and prenatal care providers to use the Screening, Brief Intervention and Referral to Treatment (SBIRT) at all prenatal medical visits and live births. Requires that a plan of care include home visiting and substance use disorder prevention and treatment provider referrals. For the implementation of the plan of care, care coordinators will be required to actively work with the substance exposed child’s family and caregivers or pregnant person utilizing an evidence-based intensive care coordination model. If a pregnant person or family/caregivers does not follow the plan of care, the care coordinator must attempt to contact the individuals through mail, telephone, text message or in person. Requires HCA to report annually to the Legislative Finance Committee, Legislative Health and Human Services Committee and Department of Finance and Administration that shares aggregated data with five specific statistics required.

Proposed Amendments to NMSA 1978 § 32-3A-14 include a requirement that for non-compliance with a plan of care, HCA or care coordinators must notify CYFD, who will then conduct a family assessment. If CYFD deems services not being followed are necessary for the child’s safety, CYFD shall open an investigation.

Additionally, HB205 creates the Families First Act, requiring CYFD to, in consult with the Early

Childhood Education and Care Department, the Health Care Authority, and the Department of Health, to develop and implement a families first strategic plan in alignment with requirements under the federal Families First Prevention Services Act. The Families First Act proposed by HB205 includes detailed requirements for the contents of the strategic plan, and requirements for the timeline and strategy for providing families first services statewide. Services provided under Families First are required to be directly monitored by CYFD and any state agency working with CYFD to provide services. These services include mental health or substance abuse prevention and treatment, in-home parent skill-based programs, kinship navigator programs, or any other programs or services that are eligible or may become eligible for reimbursement under the federal Family First Prevention Services Act. Under the Families First Act, a pilot program must be implemented no later than June 30, 2027. The Families First Strategic plan is required to be finalized by August 1, 2025, and must be submitted to the Federal Administration for Children and Families for approval no later than September 1, 2025.

Amendments to NMSA 1978 § 32A-4-21 require identification of any families first services provided to a family in the predisposition study. Allows substitute care advisory council staff to review records relating to neglect or abuse proceeding.

NMSA 1978 § 32-8-2: Moves the Substitute Care Advisory Council to the Administrative Office of the Courts (AOC) and designates the Secretary of ECECD or their designee to serve on the council. Allows council members to claim per diem and mileage in accordance with the Per Diem and Mileage Act. Adds new sections to the Citizen Substitute Care Review Act to hire a director, and council staff; requires attorney general to advise and consult with the council and provide legal services upon request of the council; adds rules for council member participation and adds confidentiality requirements for council members and staff.

### **Committee Substitute:**

The House Judiciary Committee Substitute for HB205 (CSHB205) amends NMSA 1978 Section 32A-1-4 to change the definition of “plan of care” to a “plan of safe care”, This definition is expanded to include prenatal or perinatal support to a pregnant person experiencing substance use disorder.

CSHB205 amends NMSA 1978 Section 32A-3A-13 to replace references to “plan of care” with “plan of safe care” throughout the statute. Adds requirements for the written plan of safe care to be sent to either the Medicaid managed care organization’s care coordinator or a care coordinator employed the HCA (the original bill only had language for care coordinators who were contracted with HCA).

CSHB205 adds requirements for HCA to ensure there is at least one care coordinator available in every birthing hospital, that all substance exposed children with a plan of safe care receive care coordination to implement the plan of safe care, and provide training to hospital, birthing center staff and prenatal care providers on screening, brief intervention and referral to treatment program. Care coordinators are required to contact any person who is not following the plan of safe care – CSHB205 defines this as “pregnant person or a substance-exposed child's parents, relatives, guardians, family members or caregivers”-- through mail, telephone, text message or in person and make attempts to provide support services to them.

CSHB205 requires HCA to report on the availability and uptake rate of services in its annual report and added “disaggregated” to geographic and demographic reporting requirements. HCA is also required to create and distribute training materials to social workers or discharge planners. The

CSHB205 removes the requirement to consult with the DOH and CYFD on these materials.

CSHB205 proposes amendments to NMSA 1978 § 32A-4-3 to require clinics that provide prenatal or perinatal care to complete a plan of safe care for any pregnant person who agrees to create one. It also changes plan of safe care notification requirements from CYFD to HCA and requires HCA to ensure compliance with any federal reporting requirements related to plans of safe care.

CSHB205 amends NMSA 1978 § 32-8-2 to move the Substitute Care Advisory Council to the State Department of Justice and requires the Council to function independently from the Attorney General. It also adds a requirement that at least one public member have expertise in the Indian Family Protection Act and the Indian Child Welfare Act. The Attorney General must receive a copy of the council's activities and recommendations to improve services.

## **FISCAL IMPLICATIONS**

### **Original:**

Nurse Family Partnership and Parents as Teachers are home visiting curriculums offered by ECECD funded home visiting programs that are considered well-supported in the Families First Clearinghouse. In 2024, CYFD received 42,322 child maltreatment reports, with 7,598 of those cases substantiated. If 30% of those cases are referred to and enrolled in home visiting, this would result in 2,279 additional families served. Currently, ECECD reimburses home visiting providers who offer Parents as Teachers at a rate of \$5,156.80 per individual and reimburses Nurse Family Partnership providers at a rate of \$5,277.80 per individual. Additionally, in FY2026 the reimbursement rates for both models will significantly increase to further support providers, Nurse family Partnership will increase to \$7,197.00 per individual and Parents as Teachers will increase to \$7,032.00 per individual. If we assume that families will be evenly referred between these program models, the total costs for FY26 would be: \$8,000,368.00 for Parents as Teachers, and \$8,191,563.00 for Nurse Family Partnership, for a total of \$16,191,931.00. Some of these costs may be offset through Title IV-E reimbursement and/or Medicaid.

### **Amendment:**

There are no additional fiscal implications other than those noted above.

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**

**Original:** The nominating committee process for selecting a CYFD cabinet secretary would create significant administrative burdens. If a selected cabinet secretary resigned during their term, the process outlined by this bill would mean that it could be a very long time before this critical position is filled. This process also infringes on the separation of powers doctrine by significantly limiting the selection authority for an executive cabinet position.

### **Amendment:**

There are no additional significant issues other than those noted above.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

**Original:** There may be unexpected administrative challenges due to the diversity and complexity of all the areas addressed in this bill.

**Amendment:**

There are no additional administrative implications other than those noted above.

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

SB42 proposes to make the Department of Health the lead agency for the CARA program, which conflicts with HB205. HB205 is like SB42 in that both bills would provide support to prenatal individuals, substance-exposed newborns and their families.

HB205 conflicts with HB343 which amends the children's code to require a report of child abuse or neglect for a substance-exposed newborn that would require CYFD to determine if the Plan of Safe Care is complete and adequately addresses the child's safety.

**Amendment:**

There are no additional issues of conflict, duplication, companionship, or relationship other than those noted above.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**