FISCAL IMPACT REPORT

SPONSOR	House Health and Human Services Committee	**LAST UPDATED** **ORIGINAL DATE**	 3/8/2025
SHORT TITLE	CYFD Plans of Safe Care for Certain Children	**BILL NUMBER**	CS/House Bill 343/HHHCS/aHGE IC
		ANALYST	Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25**	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH**	No fiscal impact	$2,269.7	$2,269.7	$4,539.4	Recurring	General Fund
CYFD	No fiscal impact	$220.0 to $1,000.0	$220.0 to $1,000.0	$440.0 to $2,000.0	Recurring	General Fund and Federal Funds
ECECD	No fiscal impact	$3,600.0 to $6,300.0	$3,600.0 to $6,300.0	$7,200.0 to $12,600	Recurring	General Fund and Federal Funds
OFRA	No fiscal impact	At least $200.0	At least $300.0	At least $500.0	Recurring	General Fund and Federal Funds
AOC	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		
Total	**No fiscal impact**	**$7,289.7 to $9,769.7**	**$7,289.7 to $9,769.7**	**$14,579.4 to $19,539.4**	**Recurring**	**General Fund and Federal Funds**

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.
**DOH provided cost estimates for FY25 because the Executive has already moved the CARA program to DOH. However, this bill does not contain an effective date and thus would not go into effect until June 20, 2025. As such, LFC analysis in this table does not include cost estimates for DOH in FY25.

Conflicts with House Bill 205 (which previously passed the House), House Bill 173, and Senate Bill 458
Duplicates Senate Bill 42, as introduced
Conflicts with appropriation in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis for HGEIC Substitute Received From
Children, Youth and Families Department (CYFD)
Health Care Authority (HCA)

Agency Analysis was Solicited but Not Received From
New Mexico Attorney General (NMAG) - provided analysis for a duplicate bill
Administrative Office of the Courts (AOC) - provided analysis for a duplicate bill
Department of Health (DOH) - provided analysis for a duplicate bill

Office of Family Representation and Advocacy (OFRA)- provided analysis for a duplicate bill.

Early Childhood Care and Education Department (ECECD)- provided analysis for a duplicate bill.

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of the HGEIC Amendment to HHHC Committee Substitute for House Bill 343

- The amendment adds home visiting alongside the Family Infant Toddler (FIT) program as a required plan of safe care referral, such that the plan may refer to either home visiting or FIT. The amendment then removes home visiting from the list of programs to which a plan of safe care may refer families. The amendment also removes several other services to which plans of care may refer families.
- The amendment replaces the word "procedures" with the word "rules" in the section of the bill related to the rules which the Department of Health shall promulgate and notes the Department of Health shall be responsible for providing training to hospital staff about the use of the screening, brief intervention, and referral to treatment program.
- The amendment removes some of the information that was previously required to be included in plans of safe care.

Synopsis of the HHHC Substitute for House Bill 343

The House Health and Human Services Committee substitute for House Bill 343 (CS/HB343) makes a variety of amendments to the Children's Code, related to the state's implementation of the federal Comprehensive Addiction and Recovery (CARA) Act, including moving the responsibility to implement plans of safe to the Department of Health, outlining activities CARA navigators will complete to engage families in plans of safe care, establishing required components for plans of safe care, and clarifying the actions the Children, Youth and Families Department (CYFD) will take for non-compliance. There is no appropriation contained within the bill, though the HAFC substitute for the General Appropriations Act contains an appropriation of $1.8 million to the Health Care Authority (HCA) to implement plans of safe care.

Definitions and Agency Responsibilities. First, the bill amends the definition of "plans of care" in existing statute (Section 32A-1-4) to include the word "safe," in alignment with federal statute, and updates the definition to mean:

> a written plan of care created by a health care professional intended to ensure the immediate and ongoing safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child's parents, relatives' guardians, family members or caregivers to the extent those treatments are relevant to the safety of the child.

The bill also defines "substance-exposed newborn" as "an infant under the age of one who has been prenatally-exposed to a controlled substance, including a prescribed or non-prescribed drug or alcohol, that may affect the infant's health or development." The bill also provides definitions for birthing facilities, to include hospitals, clinics, and birthing centers, and CARA navigators, who are "professionals employed by the Department of Health (DOH) to provide intensive case management linking families to resources." Finally, the bill defines "care coordinators" as "a person assigned to a newborn and the newborn's biological parents by a managed care organization (MCO), private insurance company, or family health bureau of the public health division of the Department of Health to coordinate care and services."

The bill also establishes a definition of a "family assessment" that is similar to the definition in other sections of the Children's Code but is to be administered by a CARA navigator, instead of CYFD.

The bill repeals language in Section 32A-3A-13 that positioned CYFD as responsible for implementing plans of safe care and gives DOH rule-making authority for the program.

Screening Infants and Developing Plans of Safe Care. The bill requires health care providers at the birthing facility to use "evidence-based screening tools" to identify substance-exposed newborns. The bill requires birthing facility staff create plans of safe care prior to the discharge of a substance-exposed newborn and notes specific information including:

- The address and contact information for the newborn's caregiver;
- The substances to which the infant was exposed, and consideration for whether the parent is or will be engaging in ongoing substance use disorder treatment;
- The family member that will be living with the substance-exposed newborn who have substance use disorders; and
- A determination that the substance-exposed newborn will have a safe environment.

The bill would require plans of safe care include a referral to the early intervention Family Infant Toddler (FIT) Program or, as a result of the amendment, a home visiting program, and notes plans of safe care may include referrals to other services and providers.

Implementing Plans of Safe Care. The bill requires the CARA navigator to conduct an in-home visit with the newborn's family upon discharge and conduct a "family assessment" to identify the need for access to substance use treatment or other physical or behavioral health conditions that may impact the safety, early childhood development, and well-being of the newborn.

The bill directs DOH to develop rules related to the implementation of the program, including requirements for hospitals, birthing facilities, medical providers, managed care organizations, state agencies, and private insurance companies to monitor compliance with the plans of safe care and evaluate outcomes for substance-exposed newborns and the families of substance-exposed newborns. CARA navigators must make active efforts to connect substance exposed newborns and their families with services to which they have been referred, and CARA navigators and care coordinators must work in partnership to ensure plans of safe care are followed.

Training and Reporting. The bill makes DOH responsible for ensuring all federal and state reporting is completed and outlines a variety of entities, including CYFD, with whom DOH should coordinate and notes specific data should be reported to the legislature annually. The bill notes DOH should work in partnership with CYFD to deliver training related to the CARA program and adds specific information that should be included in training materials. The bill adds statutory language that notes any individual, entity, or agency fulfilling specific obligations, including implementing and monitoring plans of safe care, shall be immune from civil or criminal liability arising from such actions. This bill requires CYFD and DOH be notified when plans of safe care are created.

CYFD Notification for Non-Compliance. CS/HB343 updates Section 32A-3A-14 NMSA 1978 to require CYFD be notified within 24 hours if a family refuses to engage in the family assessment, disengages with a CARA navigator and the family assessment indicates that the disengagement will result in risk of imminent harm, or the family fails to comply with the plan of safe care. The bill would require DOH, a managed care organization care coordinator, or a care coordinator contracted with DOH to notify CYFD to conduct a family assessment. If the family then refuses services CYFD determines are necessary to address concerns of imminent harm, CYFD would be required to conduct an investigation.

CS/HB343 would also add language to this section of statute noting civil and criminal liability immunity for any individual, entity, or agency arising from actions related to this section of law, provided that the actions are not grossly negligent or conducted with willful misconduct.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The 2023 LFC program evaluation *Implementation and Outcomes of the Comprehensive Addiction and Recovery Act* found that, between 2020 and 2022, the state established plans of safe care for 3,770 infants. Throughout the analysis below, LFC assumes the plans of safe care will be established for roughly 1,200 newborns annually, or roughly 6 percent of all births in New Mexico.

Department of Health. DOH provided the following annual cost estimates totaling $2.3 million associated with implementing the bill, primarily to hire CARA navigators and other FTE:

Staffing and costs for CARA navigation and program administration, including required data collection at the Department of Health	Salary	W/Benefits	FTE	Annual Cost
Social & Com III -70 Navigator	$34.23	$46.21	14	$1,345,635.20
Social & Com Super-75	$38.46	$51.92	3	$323,980.80
Admin Ops I-80	$42.69	$57.63	1	$119,870.40
Admin Ops II-85	$46.92	$63.34	1	$131,747.20
Epidemiologist Advanced-75 - .50 FTE	$38.46	$51.92	0.5	$53,996.80
[redacted]			19.5	$1,975,230.40
Hardware	$1,700.00		19.5	$33,150.00
Software and fees	$700.00		19.5	$13,650.00
Phones	$700.00		19.5	$13,650
Office Space	10.00 per SF 120sf per office x19.5 (12,000 per staff)			$234,000.00
			Annual Total	$2,269,680.40

DOH assumes the need for recurring General Fund to cover these costs, though the state may be eligible to bill either federal Title IV-E or Medicaid if implementing care coordination or other service models eligible for these funding sources. DOH cost estimates do not include any federal funding, which may be available and leveraged to cover a portion of the costs associated with providing care coordination.

The amendment will require DOH to provide Screening, Brief Intervention and Referral to Treatment (SBIRT) training to hospitals. DOH analysis of the amendment was not received prior to the posting of this analysis. However, the amendment would likely result in additional costs to DOH. However, in recent years the Legislature has provided funding for the Health Care Authority to provide SBIRT training to hospitals; thus DOH could potentially coordinate with HCA and not incur additional costs.

Children, Youth and Families Department. CYFD reported a fiscal impact of roughly $3 million annually to hire 28 FTE, including additional staff for Statewide Central Intake, additional investigators, and additional epidemiologists, family support specialists, and trainers. However, the agency estimated no fiscal impact for a duplicate bill. Additionally, the bill would remove from CYFD responsibilities the agency previously held related to overseeing and implementing plans of safe care. Thus, is it difficult to isolate the projected costs for this bill.

The bill would require CYFD to conduct an investigation in cases of non-compliance or disengagement. The 2023 LFC Program Evaluation found 40 percent of families with a safe care plan were referred to CYFD, 27 percent of referrals were ultimately screened in as an accepted report, and 18 percent of accepted reports ultimately resulted in cases of substantiated abuse or neglect. If DOH implements effective CARA navigation, subsequent referrals to CYFD should decrease. Nevertheless, the bill could increase investigations and subsequent entrances in foster care. LFC estimates the cost of one investigation to be $1,000 and the cost of one year of foster care to be $21,000. This analysis assumes at least ten additional investigations and instances of foster care for a year will result from this bill, at an estimated cost of $220 thousand annually. For the purposes of this analysis, LFC estimates costs ranging between $220 thousand and $1

million annually. A portion of the costs associated with providing foster care would be eligible for federal Title IV-E reimbursement.

Early Childhood Education and Care Department. DOH also notes the bill may result in increased costs to the Family Infant Toddler Program, administered by the Early Childhood Education and Care Department (ECECD) because the bill requires referrals to this program and notes the program is prohibited from developing a waiting list. LFC estimates the state currently spends $5,257 per child for the FIT program. Providing FIT services to all newborns with plans of safe care would cost at least $6.3 million annually. Children may be enrolled in the program up to three years, so this is likely a conservative estimate of total annual costs to the FIT program. Roughly 52 percent of New Mexico's FIT expenditures are covered by federal funds, according to FY21 program expenditure data. The HGEIC amendment would allow families to be referred to either FIT or a home visiting program. If families are primarily referred to home visiting and enroll in home visiting programs eligible for Medicaid or Title IV-E reimbursement, the state would be able to receive roughly 78 percent in federal reimbursement, resulting in a cost of roughly $2 million. ECECD currently prioritizes higher-risk families and could likely absorb some influx of home visiting referrals. However, the state would need to build capacity for specific home visiting models designed to serve higher-risk families. LFC assumes an estimated increase of 1,000 children, resulting in a potential cost increase of $3.6 million, with a general fund impact of $898 thousand. The bill allows referral to either program. The analysis below assumes a cost to ECECD of at least $3.6 million and up to $6.3 million annually.

Judicial System. The Administrative Office of the Courts (AOC) notes there will be minimal administrative impact for statewide update, distribution, and documentation of statutory changes. Any new laws or amendments to laws may result in increased caseloads for the courts, requiring additional resources. The Office of Family Representation and Advocacy (OFRA) notes the bill will likely result in additional CYFD investigations, which will likely result in the filing of additional petitions and the need for increased OFRA legal services. OFRA estimates costs of at least $200 thousand in FY26 and $300 thousand in FY27.

HCA indicated the bill would result in no fiscal impact, though the agency reported HCA is responsible for providing training and oversight of MCOs for reporting and other MCO care coordinator requirements.

SIGNIFICANT ISSUES

According to LFC analysis, New Mexico has a higher rate of newborns who have been exposed to substances than the national average. The federal Comprehensive Addiction and Recovery Act (CARA) amended the federal Child Abuse Prevention and Treatment Act (CAPTA) to require states develop plans and monitor the implementation of plans of safe care. Under CAPTA, a plan of safe care is a collaborative plan designed to ensure the safety and well-being of infants affected by prenatal substance exposure, by addressing the health and substance use treatment needs of the infant and their caregivers and aiming to prevent child safety risks.

States can place CARA responsibilities within child welfare or public health agencies. According to the National Center on Substance Abuse and Child Welfare, state child welfare agencies oversee plans of safe care for families with open child welfare cases in most states. However, 18 states employ strategies for monitoring plans of safe care that do not have an open child welfare case.

In 2019, New Mexico passed legislation requiring staff in hospitals and birthing centers develop plans of care for substance-exposed newborns, which refer families to voluntary support and treatment services. New Mexico's CARA law changed reporting requirements to CYFD such that a finding that a woman is using or abusing drugs would not alone be a sufficient basis to report child abuse or neglect. However, New Mexico's CARA law spread the responsibility for developing and monitoring voluntary plans of care across multiple state agencies and healthcare organizations, including the Health Care Authority, the Department of Health, birthing hospitals, Medicaid managed care organizations, and CYFD. After New Mexico enacted its CARA law in 2019, CYFD's removal of infants from families fell below the national rate.

The 2023 LFC program evaluation found New Mexico's implementation of CARA has substantive gaps, specifically noting most CARA families were not being referred or receiving support services or substance use treatment, and that the state needed to improve CARA-related case management, screening, and identification. Specifically, the report highlighted roughly 1-in-7 CARA families were ultimately receiving substance use treatment, and families who accept services often were not participating in these services. Several bills introduced during the 2025 legislative session could make changes to sections of the Children's Code related to the state's implementation of plans of safe care (Section 32A-3A-13). The 2023 LFC program evaluation recommended many of the statutory and program changes included in this bill, though the LFC evaluation recommended HCA be the lead agency responsible for the program.

In 2023, the Legislature made appropriations from opioid settlement revenue, including $1 million to implement plans of safe care for substance-exposed newborns and $1 million to establish SafeCare Home Visiting, which is eligible for federal reimbursement. CYFD has reported continuing to explore SafeCare Home Visiting as a potential prevention program but reports workforce concerns and has not established the program to date. Both appropriations went unused and reverted. For FY25, the Legislature appropriated nearly $2 million for plans of safe care to HCA based on a recommendation from the 2023 LFC program evaluation. However, during 2024, CYFD posted 17 CARA-related positions and moved forward with hiring. As of December 1, 2024, the agency had filled 16 CARA positions; CYFD reported the agency was using Temporary Assistance for Needy Families (TANF) funding for the positions. In January 2024, the Governor reported the executive had moved these positions and leadership for the program to DOH. This bill aims to codify that effort.

DOH reports, "the prevalence of exposure to substances during pregnancy ranges from 10 percent to 40 percent for estimates across states" and "monitoring newborns identified with substance exposure is important because newborns incur risks of child abuse and neglect." The rate of newborn hospitalizations for Neonatal Abstinence Syndrome increased from under 4 hospitalizations in 2009 to nearly 15 per 1,000 in 2022. DOH also notes moving the program to the Department of Health supports a public health approach and would require the agency to collect data and report on outcomes achieved.

In analysis for a duplicate bill, AOC reports within the section of the bill that outlines non-compliance, [the bill] would remove CYFD's discretion to proceed with an investigation which, "may create a more punitive atmosphere for families." AOC reports:

> [The bill] may result in the plan of care being viewed as a punitive tool by those it is meant to help, discouraging pregnant people from seeking prenatal care and treatment for substance use disorders.

OFRA similarly notes the bill would remove CYFD's discretion to investigate in cases of reported non-compliance. CYFD reports that, currently, if a family disengages from a plan of safe care, the agency follows internal screening procedures to determine if the case meets CYFD criteria for investigation.

The bill would require plans of care include a referral to the FIT Program. Also known as early intervention services, the program is intended for children from birth to age three who are at risk of developmental delays. However, the program requires a clinical evaluation to determine if a child is experiencing developmental delays; not all children will qualify or require program intervention services. The amendment addresses this issue by requiring a referral to either FIT or home visiting.

The bill directs hospitals to create plans of care and CARA navigators to conduct an assessment and support the implementation of plans of safe care. However, the bill maintains language noting MCO care coordinators have a responsibility to reports families who disengage. The role that MCO care coordinators play in supporting the implementation of plans of safe care is unclear.

Similarly, the bill would require the plan of safe care include "a determination that the substance-exposed newborn will have a safe environment." It is unclear who or how this determination will be made, as typically an assessment of child safety and risk of imminent harm to a determination made by CYFD. It is also unclear who participates in the plan of safe care development process, as the bill notes "the birthing facility or other health care provider may participate in the plan of safe care development process."

PERFORMANCE IMPLICATIONS

AOC notes potential impact on the number of cases filed and disposed.

CYFD notes if implemented, the agency would need additional staff in Statewide Central Intake, investigations, and training. CYFD notes the bill places the responsibility for developing and submitting a plan of safe care on the staff of hospitals and free-standing birthing centers.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB343 conflicts with House Bill 173, House Bill 205, and Senate Bill 458, all of which make changes to sections of statute related to plans of care for substance-exposed newborns.

House Bill 205 would place responsibility for implementation of plans of safe care to HCA and as already passed the House.

House Bill 173 would require CYFD to conduct a family assessment in cases of non-compliance and proceed to investigation if referred services are declined. House Bill 205 (HB205) would require CYFD to conduct a family assessment in cases of non-compliance and then proceed to investigation only if the assessment suggests declined services present an imminent threat to child safety. HB205 also makes several substantial changes to the statute related to implementation of plans of safe care, including making HCA the lead entity responsible for

implementing plans of safe care.

The introduced version of Senate Bill 42 is a duplicate of CS/HB343.

The House version of the General Appropriation Act includes an appropriation of $1.8 million to HCA to implement plans of safe care, conflicting with the proposed move of the CARA program to DOH.

The 2024 General Appropriation Act included the following government results and opportunity fund appropriations that may fund the implementation of portions of this bill:

- $15 million to the HCA over three years that can be used to train providers using the evidence-based screening tool SBIRT. However, the bill places SBIRT training responsibility with DOH.

TECHNICAL ISSUES

HCA notes in several places the bill references "the department" but it's unclear which department the bill is referencing.

The bill references the use of "definitions and evidence-based screening tools, based on the standards of professional practice to identify a substance-exposed newborn affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or fetal alcohol spectrum disorder." It is unclear what screening tools this may be referencing, either a toxicology screen or SBIRT, an evidence-based verbal screening. The bill may be referencing SBIRT, as the amendment requires DOH to provide SBIRT training. However, SBIRT is a verbal screening procedure and thus likely cannot be delivered to a newborn. This section of the bill may need to be clarified to provide hospitals and birthing centers with clearer direction.

OTHER SUBSTANTIVE ISSUES

Several agency analyses pointed out the bill uses the term "family assessment," which is a term already defined in the Children's Code and is an assessment conducted by CYFD to make a determination related to child safety. In House Bill 343, a "family assessment" is to be conducted by DOH CARA Navigators.

RMG/hj/SL2/sgs