

<b>LFC Requester:</b>	<b>Kelly Klundt</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

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

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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: Date 1/30/17  
**Original**     **Amendment**        **Bill No:** SB20  
**Correction**     **Substitute**   

**Sponsor:** Senator Michael Padilla    **Agency Code:** 924  
**Short Title:** CHILD OUT-OF-HOME CARE ACTIVITIES & PLANNING    **Person Writing:** Aguilar/Torrez  
**Phone:** 827-6519    **Email:** Paul.Aguilar@state.nm.us

**SECTION II: FISCAL IMPACT**

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

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

Section 1 of Senate Bill 20 (SB 20) amends Section 32A-1-4 NMSA 1978 of the Children’s Code by adding definitions of ‘caregiver’ and ‘reasonable and prudent parent standard’.

Section 2 adds a new section to the Children’s Code to allow for children placed in out-of-home placements to participate in age appropriate activities without prior approval from the Children Youth and Families Department (CYFD).

Section 3 amends Section 32A-4-21 NMSA 1978 of the Neglect and Abuse Act requiring the child’s participation in age appropriate activities as defined in Section 2, or limitations in the activities to be a part of the child’s predisposition study.

Section 4 amends Section 32A-4-25.2 NMSA 1978 requiring CYFD to request and review the child's Next Step Plan (NSP) or Individualized Education Program (IEP) transition plan. Reporting on the child's progress in meeting post-secondary goals must be included in the child's treatment plan.

Section 5 adds a new section of the Abuse and Neglect Act to provide for a child's right of participation in the development of case and transition plans.

## **FISCAL IMPLICATIONS**

SB 20 amends the Children's Code without fiscal implications to the Public Education Department (PED) or public schools.

## **SIGNIFICANT ISSUES**

While the number of children in foster care in New Mexico fluctuates, in 2016, approximately 2,000 children were in the foster care system in New Mexico.

Additionally, according to the New Mexico Children, Youth and Families Department, on any given day in New Mexico, nearly 2,500 children need short or longer term foster care (<http://cyfd.org/foster-care>). Children and youth in transition also include homeless children and youth. In the 2015-2016 school year, New Mexico public school districts and state charter schools reported an aggregate total of 10,075 homeless children and youth in the Student Teacher Accountability Reporting System (STARS).

According to the report of Children with Disabilities under the Individuals with Disabilities Act (IDEA) [http://ped.state.nm.us/ped/SEBdocuments/data/2016/SY1516\\_IDEA\\_ChildCount.pdf](http://ped.state.nm.us/ped/SEBdocuments/data/2016/SY1516_IDEA_ChildCount.pdf) for SY 2015-2016, there were 13,851 students with Individualized Education Programs (IEP's) ages 14 through 18 years.

Data from states indicates that foster youth are more likely than non-foster youth to repeat a grade, score poorly on standardized tests, and drop out of school. (See, National Youth in Transition Database, 5-15-11; Courtney, M., et. al., Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 26, Chapin Hall at the University of Chicago, 2011). There is also evidence that academic failure, truancy, and school disciplinary actions like suspension and expulsion increase the odds that a student will drop out or become involved in the juvenile justice system. SB 20, through the clarifying language around out-of-home care provide children the opportunity to participate in age-appropriate activities when such activities are approved by the caregiver; this opportunity allows for strengthening protective/resiliency factors (assets) of children and youth through their connectivity with the school, community, and with peers.

SB 20 requires the Children Youth and Family Department (CFYD) to request and review the Next Step Plan or IEP transition plan, and if there is no plan, it will request a meeting with the youth's school to develop a transition plan. Transition services are a results-oriented process with a focus on improving the academic and functional achievement for all youth, including those with a disability as defined under Federal special education law (IDEA 34 CFR Sec. 300.43).

The intention of transition planning is to facilitate a successful movement from school to post-school activities including postsecondary education, vocational education, continuing and adult education, adult services, independent living, and/or community participation; based on the individual child's needs, taking into account the child's strengths, preferences, and interests. Therefore, transition planning is important to the success of all youth when they reach adulthood.

SB 20 provides that if a NSP is not available then a transition plan will need to be developed. This plan should adhere to current state laws regarding Next Step Planning which require the student's parents (or legal guardians) and the student's guidance counselor (or other school officials charged with coursework planning) to consult with and assist the student in developing the NSP. The bill only requires the invitation of the child, the child's attorney and the adult who is making educational decisions to the meeting with the school. This discrepancy of those in attendance should be addressed.

The Individuals with Disabilities Education Act (IDEA) mandates that students with disabilities, age 16 or older, who have an IEP, must include a postsecondary transition plan. In New Mexico, transition requirements begin no later than in the first IEP that will be in effect when the child is 14 and updated annually thereafter. SB 20 aligns with state rules to address the transition planning of a child at age 14, exceeding the federal regulation at age 16.

SB 20, Section 4, subsection C (page 14), will develop a transition plan prior to a child's reaching sixteen years of age. This transition plan addresses the child's needs after their eighteenth birthday as they will no longer be under the care of the department. This plan will include the Next Step Plan or the Transition Plan in the IEP for the transition out of CYFD care.

#### **ADMINISTRATIVE IMPLICATIONS**

SB 20 requires the PED to communicate the new requirements to school districts and charter schools in collaboration with CYFD. This can be done with existing resources.

#### **TECHNICAL ISSUES**

On page 13, lines 14 and 16, 'plan' should be changed to 'program' to align with federal and state laws.

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

The Children's Code would not provide clarifying language for out-of-home children in relation to age-appropriate activities and transition service. The federal and state laws regarding the development of transition plans for students with disabilities, at age 14, will remain in effect for all students. Students without disabilities will still be required to have a Next Step Plan beginning at age 14 in accordance with State law.