

SUBSTITUTE CARE ADVISORY COUNCIL SFY 25 INTERIM REPORT

**TO
CYFD
COURTS
LEGISLATIVE INTERIM COMMITTEES**



**Approved
6 June 2025**

NM Stat § 32A-8

The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of children in the custody of the Children, Youth and Families Department (CYFD) to evaluate the extent to which CYFD is effectively discharging their child protection responsibilities.

The Act was revised effective FY 17 to establish a Substitute Care Advisory Council to identify systemic policy issues regarding substitute care and to report annually its recommendations regarding statutes, policies and procedures relating to substitute care.

www.scacnm.org
nm.crb@rld.nm.gov



Substitute Care Advisory Council
PO Box 3204, Mesilla Park, New Mexico 88047
(833) CRB-CALL ▪ nm.crb@rld.nm.gov ▪ www.scacnm.org



6 June 2025

Dear Judicial, Legislative, and Executive Members,

NM Stat § 32A-8, *Citizen Substitute Care Review Act (Act)* is the only New Mexico legislation with the purpose to provide *a permanent system of independent and objective monitoring of children and youth in the custody of the Children, Youth and Families Department (CYFD)*.

Through the examination of policies, procedures, and practices in specific case reviews, CYFD's effectiveness in the discharge of its child protection responsibilities is evaluated. The Substitute Care Advisory Council (Council) reviews and coordinates the activities of substitute care review boards and makes an annual report with its recommendations in regard to statutes, rules, policies and procedures relating to substitute care to CYFD, the courts and the appropriate legislative interim committees on or before 1 November. Council reports may be found on the Council's website www.scacnm.org.

As an annual report is limited in its contribution to ongoing discussion and collaboration to implement positive change of the New Mexico's child protection response system, the Council is providing this interim report which includes demographics of the cases reviewed during July – December 2024 as well as the status of recommendations in the Council's SFY 24 report.

We hope you find this interim report useful as we all work together to implement recommendations which will improve outcomes for our children, youth and families. Please contact our Director, Shelly A. Bucher, LMSW at 505.469.4781 (cell with text) or Email shelly.bucher@rld.nm.gov for further information or request to be notified directly of Council meetings.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Scates".

Sean Scates
Chair

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EXECUTIVE SUMMARY

NM Stat § 32A-8, the Citizen Substitute Care Review Act (Act) was enacted in 1985 evolving from a Summary Judgement and Consent Decree (*Joseph A. by Wolfe v. N.M. Dept. of Human Services*, 575 F.Supp.346 (1983)), familiarly known as *Joseph A*, a class action lawsuit brought against New Mexico on behalf of children in foster care. While the Act has undergone revisions throughout the years, the basic purpose of providing ‘a permanent system for independent and objective monitoring of children placed in the custody’ of the state, to review cases of children in the care of the state, submit a case review report to the court and annually report ‘recommendations regarding statutes, policies and procedures relating to substitute care’ to the department, the courts and the legislature has remained constant.

An annual report, however, is not, in and of itself, beneficial in ongoing solution focused discussions which result in system improvement. As such, the intent of the Council is to provide reports at more frequent intervals. This interim report meets this intent as it provides demographics and trends from case reviews of children/youth in the care of CYFD during July – December 2024 (the first six months of SYF 25), as well as the status of recommendations included in the Council’s SFY 24 annual report (<https://www.scacnm.org/wp-content/uploads/2024/10/SFY-24-NMSCAC-Report.pdf>).

In its SFY 24 annual report Executive Summary, the Council noted there are many entities providing information on the effectiveness of New Mexico’s response to child abuse and neglect. Existing entities at that time included CYFD’s internal resources of Office of Constituent Affairs, Office of Performance & Accountability, Office of Inspector General, Office of Advocacy; the Policy Council created by gubernatorial executive order in February 2023; Kevin S Settlement’s co-neutrals evaluation towards agreed upon commitments; Legislative Finance Committee Agency Performance Report Cards; Senate Memorial (SM) 5 Taskforce; the Citizen Substitute Care Review Act; and, the federal Children and Family Services Review (CFSR) which requires CYFD to meet seven outcomes in the safety, permanency and well-being of children/youth and develop and monitor a program improvement plan for specific areas which do not meet outcome standards.

Each entity has its own process and timelines to provide information about the functioning of CYFD. Yet there is no effort to have an institutionalized monitoring system which coordinates the information or collaborates on the identification, implementation and monitoring of solutions to improve our child protection response system thus raising concerns of the effectiveness of these entities to result in change. The Council recommended an examination of those existing processes prior to creating another entity to provide a report and recommendations to CYFD.

In the 2026 legislative session, HB 5 Office of Child Advocate passed and was signed by Governor Lujan Grisham. This Office creates yet another entity to provide an annual report with recommendations as to the functioning of CYFD. This legislation does not give authority or expectation to create an institutionalized monitoring system which coordinates the efforts of the already existing entities providing reports and recommendations. Nor did this legislation subsume the Act to combine similar purposes. Further, this legislation does not require any action from the recipients of its report, an element which is critical to bridge recommendations to results.

It is the position of the Council that this critical gap can and must be filled in the absence of legislation. The results-oriented process the Council and CYFD are developing to coordinate information and collaborate solutions is a foundational step in building a coalition for an institutionalized monitoring system to improve what we all want: better outcomes for our children, youth and families.

COUNCIL

Per the revision of the Act in 2016, the Council was established consisting of nine members which includes the Cabinet Secretary or their designee of the Department of Finance and Administration (DFA), Public Education Department (PED), Human Services Department (HSD), now known as the Health Care Authority (HCA) and the Department of Health (DOH) and five members appointed by the Governor. Members of the Council as of June 2025 are listed in Appendix II.

The Council does not include the Secretary of the Early Childhood Education & Care Department (ECECD) launched in 2020, nor does it include the Secretary of CYFD as a non-voting member. Since its onset, the Council has never been fully appointed and by design is transitory in nature.

Per the Act *‘the general purpose of the Council is oversee substitute care review boards in their monitoring of children placed in the custody of the children, youth and families department to identify systemic policy issues regarding substitute care’*. The Council receives advice on matters related to substitute care from its Advisory Committee of volunteers (listed in Appendix II).

TRENDS NOTED IN CASE REVIEWS JULY – DECEMBER 2024

Per the Act, the Council conducts specific case reviews to fulfill the purpose of the Act. Case reviews are via a Substitute Care Review Board (SCRB) following administrative rules of the Council. Each SCRB is formed of trained volunteers and facilitated by trained Council Staff. Following the adopted Quality Services Review model, case reviews include research of documents, examination of CYFD policy and procedures (<https://www.cyfd.nm.gov/program-support/policy-and-procedure/>), the Children’s Code and Children’s Court Rules (<https://www.nmcompcomm.us/>), best practices, and receipt of confidential individual perspectives. Per Council rules, at least one case is reviewed in each of the thirteen judicial districts each quarter. A case represents one or more children/youth.

Following each SCRB case review, per the Act, a written report is submitted to the court. The report is also provided to CYFD and other Interested Parties to a case. Each report provides case demographics, a summary narrative, strengths, concerns and recommendations.

Observations from case reviews conducted July – December 2024 are similar to case reviews noted in earlier Council annual reports. Broad areas of concern include case planning; Youth Services; medication oversight; family connections; notices of change of placements; CYFD data; court hearings and orders; Educational Decision Makers and information provided to the Council. Each of these broad areas are multi-layered requiring targeted resolution as to the specific concerns observed in each.

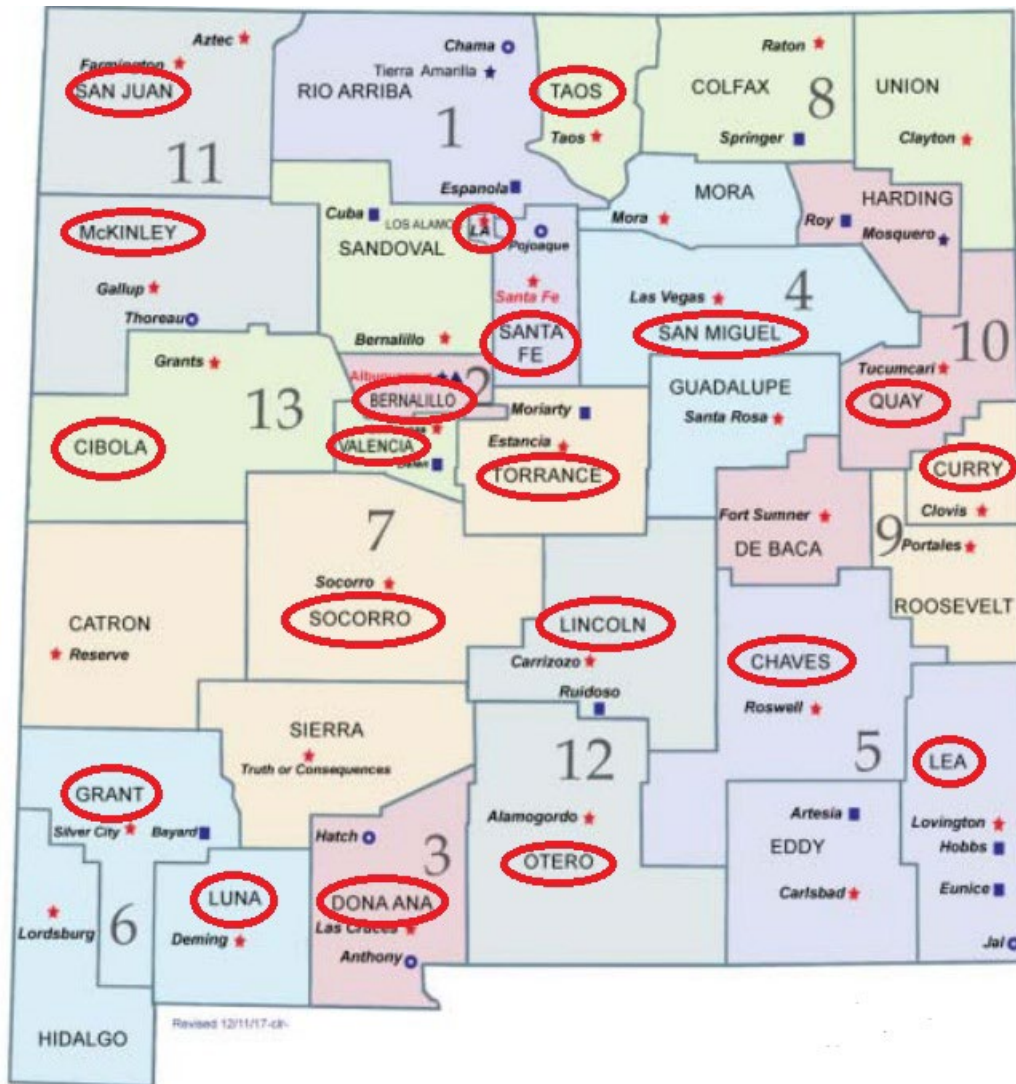
In general, concerns fall into the categories of existing policy/procedures/statutes/rules not adhered to, or an absence of policy/procedures/statutes/rules. This commonality has led the Council to pursue collaborative efforts with CYFD and the courts to focus on the challenges of adhering to existing policy/procedures/statutes/rules and to develop existing policy/procedures/statutes/rules when there is an absence.

In its SFY 24 annual report the Council and CYFD named Education Decision Makers Policy and Procedures, Updating CYFD PR 29 as it pertains to the Substitute Care Review Board, Youth Services, Progress Reports to the Courts and Case Planning as areas to develop workplans in SYF 25. These workplans are under development.

CASE REVIEW DEMOGRAPHICS JULY – DECEMBER 2024

Following Council rules, case reviews were conducted in all thirteen judicial districts each quarter. Twenty-six cases were reviewed, twelve of which had been reviewed in prior fiscal years with two of these cases having their sixth review. Twelve of the cases included sibling groups, with five cases with a sibling group of four. A total of fifty-one children/youth were reviewed July – December 2024.

Counties which had cases reviewed are circled in this map of NM First – Thirteenth Judicial Districts



The following pages provide the demographics of the children/youth reviewed as to

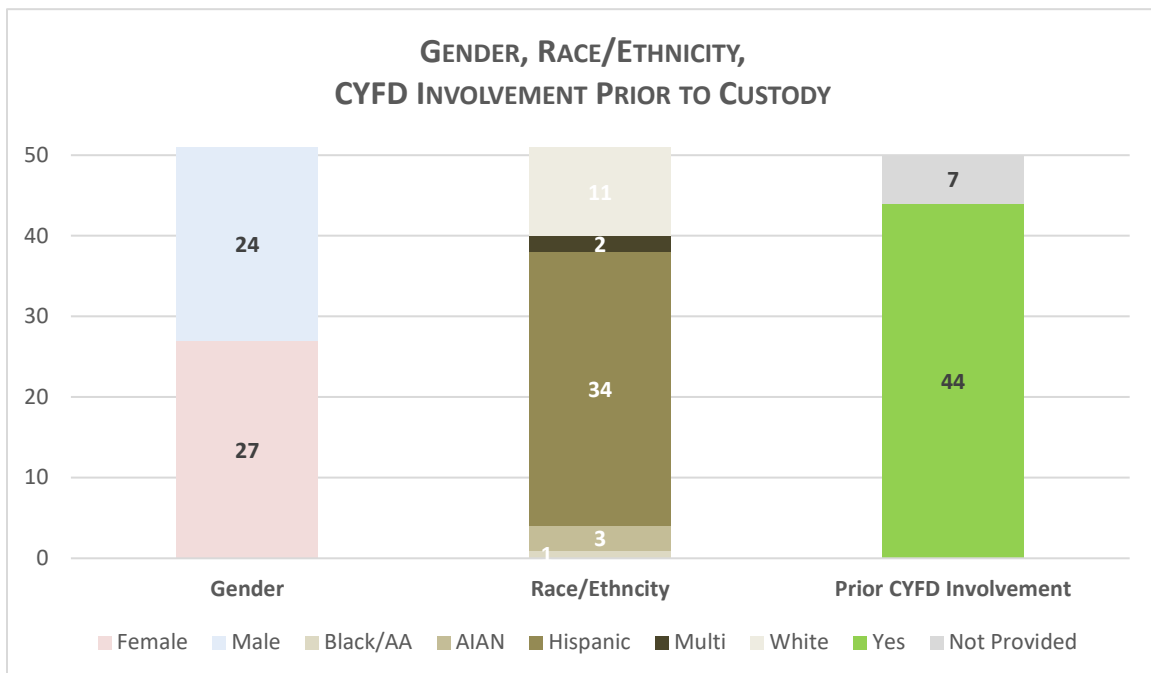
- Gender
- Race/Ethnicity
- Age at the time of custody
- Length of custody at the time of review
- Number of federal changes in placement at the time of review
- CYFD involvement before custody
- Placement type at the time of review
- Age at the time of case review

GENDER, RACE/ETHNICITY AND CYFD INVOLVEMENT PRIOR TO CUSTODY

Gender: CYFD provides a monthly list of children/youth in its custody; information provided includes gender as female or male. During this period of review a youth identified as a gender different from the sex assigned at birth. CYFD does not have policy or procedures for transgender youth and reports the gender assigned at birth. For our reporting, this youth is included in the gender category the youth has named.

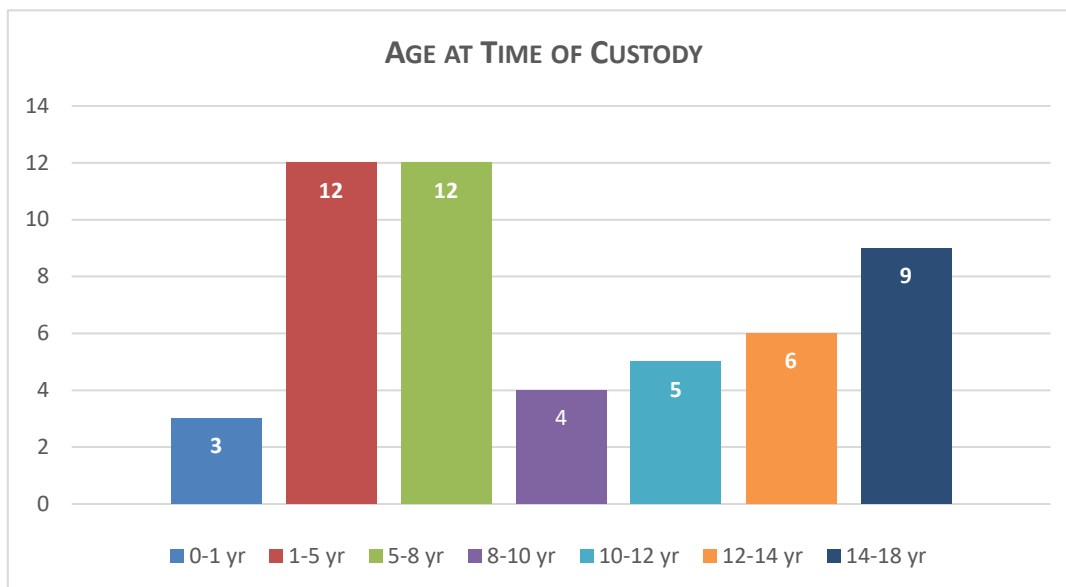
Race/Ethnicity: CYFD provides a monthly list of children/youth in its custody; information provided includes 'race/ethnicity'. CYFD does not separate race from ethnicity, having categories of AIAN (American Indian/Alaska Native), Asian, Black/AA (African American), Hispanic, Multi-race, Other and White. Earlier Council reports noted concerns with the accuracy of information provided within the monthly list. For example, in a case involving a sibling group of three who the court determined were 'Indian children', CYFD reported only one child as AIAN while the other two children were reported as Hispanic.

CYFD Involvement Prior to This Episode of Custody: The Affidavit which accompanies the *Motion for Ex Parte Custody Order* requires a listing of the reasonable efforts made by CYFD to prevent removal from home. Content of Affidavits generally include the past involvement of CYFD such as number/type of investigations, outcomes, referrals to services, prior custodies. As noted in the Council's SFY 24 annual report, the information contained in Affidavits is inconsistent across the state and may not be comprehensive. As such reporting for our demographics is yes/no/not provided. In this period of review, CYFD involvement was noted with 86% of children/youth prior to petitioning the court for custody; no information on prior involvement for 14% of children/youth was provided.



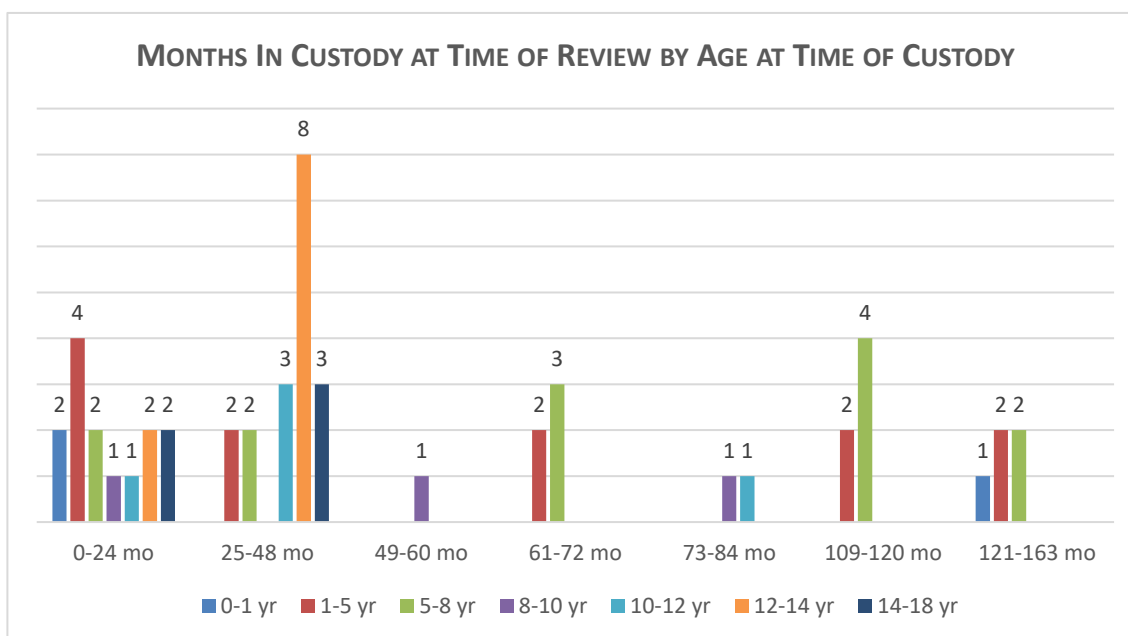
AGE AT TIME OF CUSTODY

The age of the child/youth at time they entered this episode of custody ranged from 7 days to 17 years 1 month. As this chart shows, most of the children/youth (61%) reviewed were placed in the care of CYFD by age 10 and of those, 48% were placed in the care of CYFD by age 5.



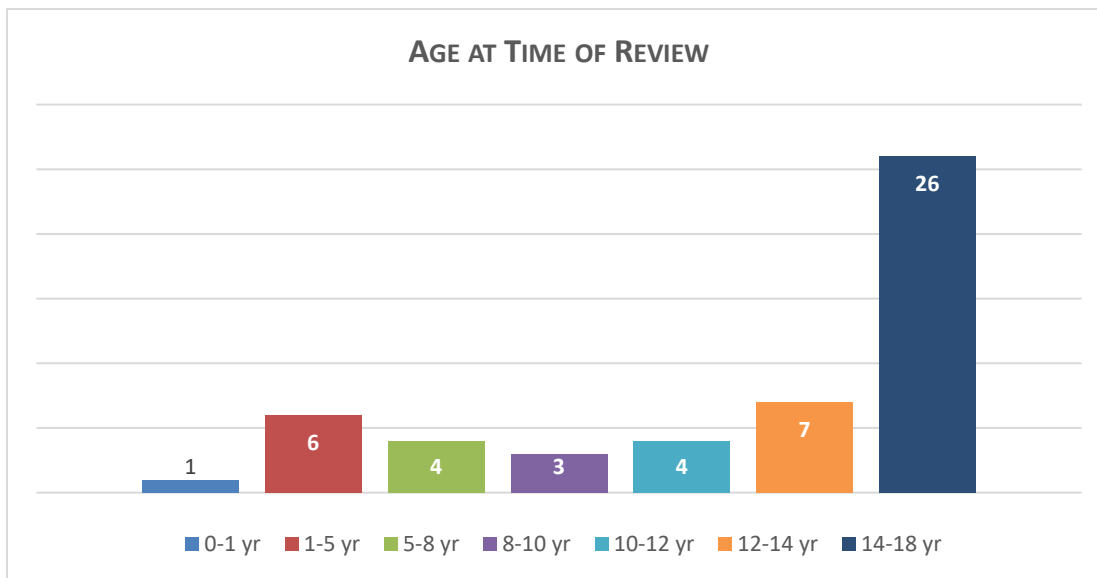
NUMBER OF MONTHS IN CUSTODY AT THE TIME OF REVIEW

The number of months CYFD had care of the children/youth in the above chart at the time of review ranged from 10 months to 163 months. Using the color of age ranges in the above chart, the chart below depicts how long a child/youth had been in the care of CYFD at the time of review. For example, a child placed in the care of CYFD at age 7 months (0-1 yr column) had been in the care of CYFD 122 months or 10 years 2 months at the time of review. Another example is of a child placed in the care of CYFD at age 3 years 11 months (1-5 yr column) had been in the care of CYFD for 163 months, or 13 years 6 months at the time of review.



AGE AT TIME OF REVIEW

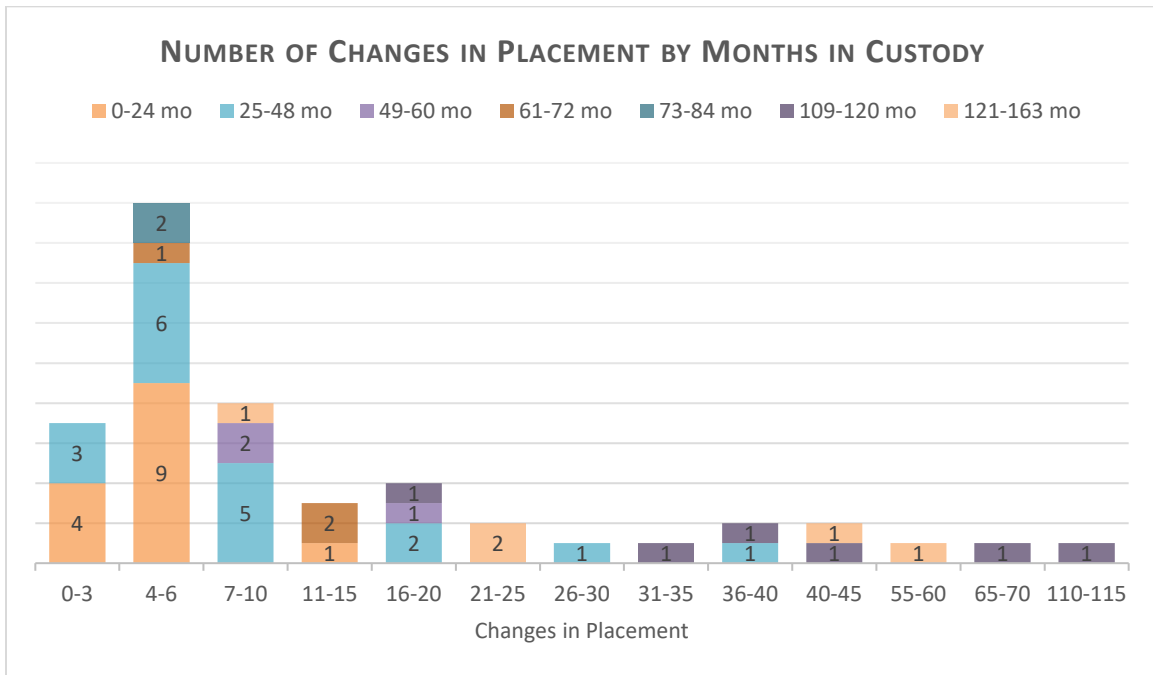
As noted in the *Age at the Time of Custody* chart, 61% of the children/youth reviewed were placed in the care of CYFD by age 10. As the chart below depicts, at the time of review 73% of children/youth were aged 10 and older with 84% of these youth aged 14 and older. As shown in the *Months in Custody at Time of Review by Age at Time of Custody* chart, children are being raised in CYFD's care which increases the negative impacts on their physical, emotional, mental, academic and social development. In addition, the case reviews conducted this period continue to show the concern that CYFD is not delivering Youth Services to the youth in its care which exacerbates youth will leave the care of CYFD unprepared to successfully navigate adulthood.



NUMBER OF CHANGES IN PLACEMENT BY MONTHS IN CUSTODY

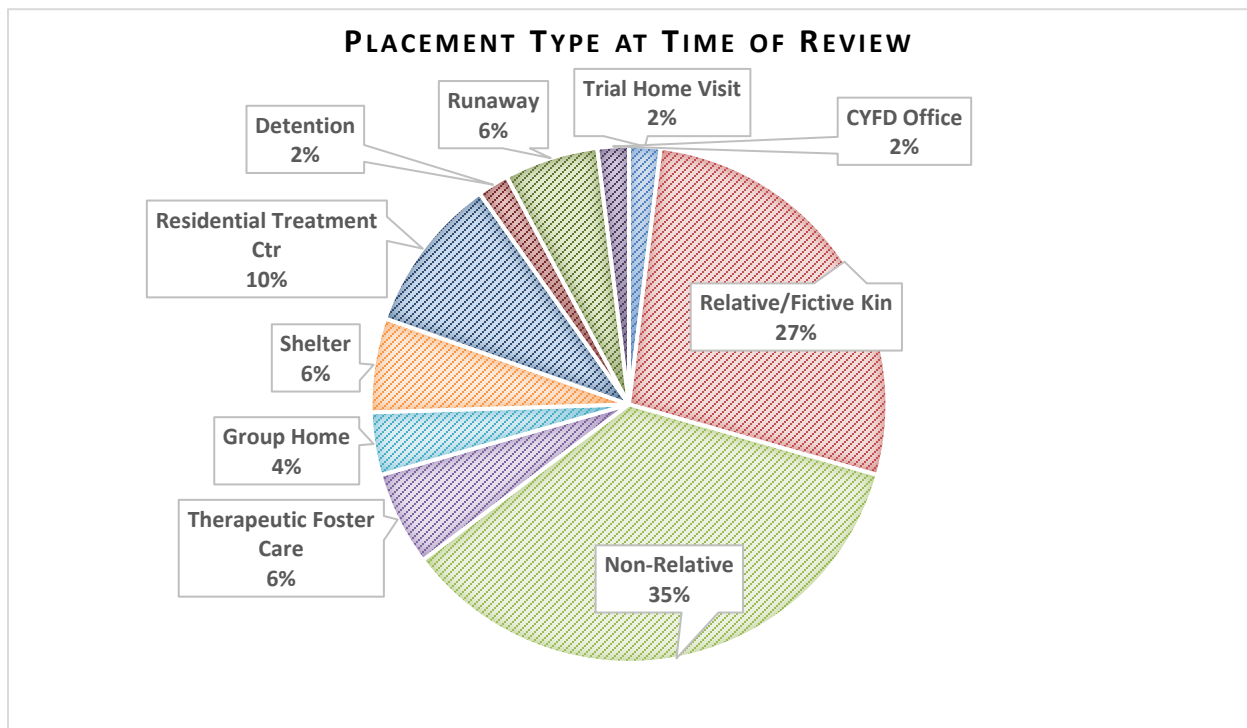
CYFD provides a monthly list of children/youth in its custody; the information provided includes the number of Federal changes in placement a child/youth has experienced while in custody. Temporary absences, such as visitation with a sibling, relative, or other caretaker (i.e., preplacement visits with a subsequent foster care provider or pre-adoptive parents), hospitalization for medical treatment, acute psychiatric episodes or diagnosis, respite care, day or summer camps, trial home visits and runaway episodes should not be counted as a change in placement. Earlier Council annual reports have noted that the information provided by CYFD contains errors and that notices of changes of placement are not in accordance with NM Stat § 32A-4-14.

With the caveat that CYFD's reporting is inaccurate at times, the following chart depicts the number of changes in placement CYFD reported at the time of the review. During this period of review, placement changes ranged from 2 to 114. While any change in placement can result in further trauma to a child/youth, of note is the number placement changes within a given time. For example, a 3-year-old experienced 4 placement changes in 11 months; a 10-year-old experienced 42 placement changes in 122 months; and a 13-year-old experienced 36 placement changes in 32 months. Compared to other states, New Mexico has been noted nationally as having the highest percentage of children experiencing two or more placements; a trend that has yet to be effectively addressed.



PLACEMENT TYPE

The types of placement children/youth were in at the time of review ranged from Trial Home Visits (THV) to CYFD offices. In September 2024, the Council added stays in CYFD office to its list of case review priorities. The Council’s SFY 25 annual report will include information related to children/youth who experienced at least one stay in a CYFD office. The chart below depicts the placement type of the children/youth at the time of review.



STATUS OF SFY 24 RECOMMENDATIONS

CYFD Recommendation	Recommendation Status June 2025
<p>In collaboration with the Council:</p> <ul style="list-style-type: none"> develop a pilot project for the Council to be a third party review for grievances which are not successfully resolved internally. 	<ul style="list-style-type: none"> CYFD did not opt to develop a pilot project for the Council to serve as an outside third party to process grievances. Three bills were introduced in the 2025 legislative session which included an outside third party to process grievances. Three bills were introduced in the 2025 legislative session: <ul style="list-style-type: none"> HB 500 gave the Council authority to process grievances. Scheduled for its first committee hearing, HB 500 was removed from the agenda. SB 363 created a nine-member authority, administratively attached to RLD to govern the outside third-party process of grievances. SB 363 was never scheduled to be heard in committee. HB 5 created the Office of Child Advocate, administratively attached to the Office of the Attorney General pursuant to Section 9-1-7 NMSA 1978. A duty of this office is to process grievances. Signed into law.
<p>In collaboration with the Council:</p> <ul style="list-style-type: none"> establish a Memorandum of Understanding (MOU) with the Council which includes, but is not limited to: <ul style="list-style-type: none"> the work of the Council meeting CYFD's CAPTA requirements for citizen review panels, procedures for sharing information, procedures for responding to reports following case specific reviews, procedures for responding to Council reports, procedures for responding to reviews of foster parent grievances, including Council staff on task force, workgroups, participation in Council meetings as a non-voting member. 	<ul style="list-style-type: none"> In progress, at its 02 May 2025 Council meeting, the Council expressed intent to have MOU with CYFD effective 01 July 2025.
<p>In collaboration with the Council:</p> <ul style="list-style-type: none"> create written plans to result in refinements in policies and procedures relating to Educational Decision Making, Substitute Care Review Boards, Youth Services, Case Planning and Progress Reports to the Courts. 	<ul style="list-style-type: none"> In progress.

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Council Recommendation	Recommendation Status June 2025
<ul style="list-style-type: none"> Develop standard operating procedures. 	<ul style="list-style-type: none"> In progress, at its 02 May 2025 Council meeting, the Council expressed intent to have most, if not all, of the SOPs approved by 01 September 2025.
<ul style="list-style-type: none"> Update 8.26.7 NMAC to include the role of its Advisory Committee. 	<ul style="list-style-type: none"> In progress, at its 02 May 2025 Council meeting, the Council expressed intent to have rule changes effective by 01 October 2025.
<ul style="list-style-type: none"> Submit to the Children's Court Rules Committee proposed changes to notices of changes of placement, identifying substitute care providers at hearings and affidavits for <i>ex parte</i> custody orders and establishing protocol for status hearings. 	<ul style="list-style-type: none"> In progress; clarifying the Children's Court Rules Committee process.
<ul style="list-style-type: none"> Issue an interim report by 01 May 2025 noting progress towards implementation of recommendations. 	<ul style="list-style-type: none"> Interim report distributed June 2025.
Court Recommendation	Recommendation Status June 2025
<ul style="list-style-type: none"> Review practices and make changes to result in findings for all allegations in an abuse/neglect petition included in adjudicatory orders and that the factual basis for pleas/findings are clear and specific. 	<ul style="list-style-type: none"> Through discussions it has been suggested that this could be addressed via Children's Court Rules. This will be added to the submissions to the Children's Court Rules Committee.
<ul style="list-style-type: none"> Children's Court Rules Committee adopt changes to notice of changes of placement, identifying substitute care providers at hearings and affidavits for <i>ex parte</i> custody orders. 	<ul style="list-style-type: none"> N/A: No changes submitted as of June 2025.
Legislature Recommendation	Recommendation Status June 2025
<ul style="list-style-type: none"> Establish direct funding to the Council to meet staffing and operating needs. 	<ul style="list-style-type: none"> HB 2 included \$450,000 to RLD for the Council and estimated a transfer of \$100,000 federal funds from CYFD to RLD for the Council.
<ul style="list-style-type: none"> Sponsor legislative changes to the Act regarding the composition of the Council. 	<ul style="list-style-type: none"> HB 205, a bill resulting from the work of SM 5 Taskforce included changes to the Act. HB 205 passed the House unanimously. Assigned to the Senate Judiciary Committee HB 205 was not scheduled to be heard.
RLD Recommendation	Recommendation Status June 2025
<ul style="list-style-type: none"> In collaboration with the Council, establish a Memorandum of Understanding (MOU) to meet the statutory requirements of NM Stat § 9-1-7. 	<ul style="list-style-type: none"> In progress, at its 02 May 2025 Council meeting, the Council expressed intent to have MOU with CYFD effective 01 July 2025.

APPENDIX I

AUTHORITY, ORGANIZATION, AND FUNDING

AUTHORITY

- Chapter 32 [32], Article 8 NMSA 1978, (Act).
- 8.26.7 NMAC.
- Child Abuse Prevention & Treatment Act (CAPTA).

ORGANIZATION

- The Council is administratively attached to the Regulation and Licensing Department (RLD) in accordance with NM Stat § 9-1-7.
- The Council consists of nine members (see Appendix II).
- The Act requires the Council to appoint a six-member advisory committee (see Appendix II) to advise the Council on matters related to substitute care.
- Council staff (see Appendix III) consists of a Director, Coordinators and Administrative Assistant.
- In FY 20, the Office of the Attorney General assigned an attorney to provide legal representation and advice to the Council.

FUNDING

- HB 2 included \$550,000 for SFY 26 for specific use by the Council:
 - \$450,000 to RLD for the Council.
 - An estimated \$100,000 transfer of federal funds from CYFD to RLD for the Council.

APPENDIX II

SUBSTITUTE CARE ADVISORY COUNCIL JUNE 2025

		<i>DATE</i>
APPOINTED BY GOVERNOR		APPOINTED/DESIGNATED
Public Member with Child Welfare expertise	SEAN SCATES (COUNCIL CHAIR)	September 2022
Public Member with Child Welfare expertise	LELA WENDELL	May 2024
Public Member aged 18-30 previously in substitute care	Vacant	
Public Member aged 18-30 previously in substitute care	Vacant	
Children's Court Judge	THE HONORABLE ALMA ROBERSON Second Judicial District	November 2022
STATE AGENCY Department of Finance and Administration	HENRY VALDEZ Director of Legislative Affairs	April 2025
Department of Health	MIRANDA DURHAM, M.D. Chief Medical Officer	October 2024
Health Care Authority (formerly HSD)	BETINA MCCrackEN Director Child Support Services Division	June 2023
Public Education Department	SIMONE VANN At-Risk Intervention Response Director	February 2024

ADVISORY COMMITTEE TO THE COUNCIL

Jack Carpenter, Co-Chair	Taos County
Maria Ortiz Bustos, Co-Chair	Dona Ana County
Shannon Poynter	Taos County
Yvonne Tallent	San Miguel County
Nancy Treat	Santa Fe County
Vacant	

APPENDIX III

COUNCIL STAFF JUNE 2025

DIRECTOR: SHELLY A. BUCHER, LMSW

Ms. Bucher serves as the Director for the Council. She has been in this position since October 2016 having previously administered the Department of Finance and Administration's contract for the Citizen Substitute Care Review Act through New Mexico State University September 2013 - October 2016. Ms. Bucher holds a Master of Social Work with a concentration in Administration from the University of Kansas and a Bachelor of Social Work, Summa Cum Laude and a BS in Human Development and Family Studies from Kansas State University, Summa Cum Laude.

Ms. Bucher has 35 years of child welfare experience; over 23 years of which are in NM. Past positions include:

Director, Southwest Region National Child Protection Center at NMSU.

Interim Director, School of Social Work NMSU (3 years).

General Inspection Specialist, European Command Headquarters, Stuttgart Germany.

Relocation Readiness Program Manager, Army Community Services, Stuttgart Germany.

Settlement Administrator, Kansas Department of Social and Rehabilitation Services (SRS).

Director, Child Development Center, Saudi Arabia.

Social Worker (Investigations/Foster Care), KS SRS.

COORDINATOR: KIMBERLY ANGUIANO, BSW

Ms. Anguiano joined the Council Staff in July 2018 after completing an academic year of internship assisting Council Staff. Fully bilingual in Spanish, Ms. Anguiano graduated with honors from New Mexico State University with a Bachelor of Social Work and Minors in Counseling and Educational Psychology and Gender and Sexuality Studies.

COORDINATOR: MARY YOUNGER

Ms. Younger joined the Council Staff in October 2016 after serving as contract coordinator of citizen review boards for two years. She has 15 years of experience, including past positions of Volunteer Coordinator for the Eddy County Fifth Judicial District CASA (Court Appointed Special Advocate) program and Detention Officer for the Eddy County Detention Center.

ADMINISTRATIVE ASSISTANT: RAYMUNDO "RAY" VILLEGAS

Mr. Villegas is an Air Force veteran and retired US Postmaster who, since October 2016, has been sharing his knowledge and skills to organize and maintain resources to support the functioning of Council Staff. Mr. Villegas is from Deming, NM and attended Western New Mexico University.