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AN ACT

RELATING TO FOSTER CARE; REQUIRING A CHILD TAKEN INTO
PROTECTIVE CUSTODY BY THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO BE PLACED WITH A RELATIVE OF THE CHILD WHEN A
RELATIVE IS AVAILABLE TO PROVIDE FOSTER CARE; REQUIRING THE
CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO MAKE REASONABLE
EFFORTS TO LOCATE A RELATIVE OF THE CHILD TO PROVIDE FOSTER
CARE; REQUIRING RELATIVES PROVIDING FOSTER CARE TO INITIATE
LICENSING PROCEDURES WITHIN THREE DAYS OF ACCEPTING CUSTODY
OF A CHILD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 32A-3B-6 NMSA 1978 (being Laws 1993,
Chapter 77, Section 78) is amended to read:

"32A-3B-6. PLACE OF CUSTODY.--

A. Unless a child from a family in need of
services who has been placed in department custody is also
alleged or adjudicated delinquent:

(1) the child shall not be held in a jail or
other facility intended or used for the incarceration of
adults charged with criminal offenses or for the detention of
children alleged to be delinquent children; and

(2) there shall be a preference that the
child be placed in the home of a relative of the child when a
relative is available to provide foster care; provided that:

1 (a) placement with a relative is in the
2 best interest of the child;

3 (b) the relative signs a sworn
4 statement that the relative will not return the child to or
5 allow unsupervised visits with the parent, guardian or
6 custodian who is alleged to have committed the abuse or
7 neglect until otherwise directed by the department or the
8 court; and

9 (c) within three days of accepting
10 custody of the child, the relative completes an application
11 form for licensure to operate a foster home pursuant to the
12 Children's Code.

13 B. The department shall make reasonable efforts to
14 locate a relative of the child to provide foster care. If a
15 relative is not available to provide foster care, the child
16 may be placed in:

17 (1) a licensed foster home or any home
18 authorized under the law for the provision of foster care or
19 group care or use as a protective residence;

20 (2) a facility operated by a licensed child
21 welfare services agency; or

22 (3) a facility provided for in the
23 Children's Shelter Care Act."

24 SECTION 2. Section 32A-4-8 NMSA 1978 (being Laws 1993,
25 Chapter 77, Section 102) is amended to read:

1 "32A-4-8. PLACE OF TEMPORARY CUSTODY.--

2 A. Unless a child alleged to be neglected or
3 abused is also alleged or adjudicated delinquent:

4 (1) the child shall not be held in a jail or
5 other facility intended or used for the incarceration of
6 adults charged with criminal offenses or for the detention of
7 children alleged to be delinquent children; and

8 (2) there shall be a preference that the
9 child be placed in the home of a relative of the child when a
10 relative is available to provide foster care; provided that:

11 (a) placement with a relative is in the
12 best interest of the child;

13 (b) the relative signs a sworn
14 statement that the relative will not return the child to or
15 allow unsupervised visits with the parent, guardian or
16 custodian who is alleged to have committed the abuse or
17 neglect, unless otherwise directed by the department or the
18 court; and

19 (c) within three days of accepting
20 custody of the child, the relative completes an application
21 form for licensure to operate a foster home pursuant to the
22 Children's Code.

23 B. The department shall make reasonable efforts to
24 locate a relative of the child to provide foster care. If a
25 relative is not available to provide foster care, the child

1 may be placed in:

2 (1) a licensed foster home or any home
3 authorized under the law for the provision of foster care or
4 group care or use as a protective residence;

5 (2) a facility operated by a licensed child
6 welfare services agency; or

7 (3) a facility provided for in the

8 Children's Shelter Care Act." _____

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