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<p><b>32A-8-1. Short title.</b></p> <p>Chapter 32A, Article 8 NMSA 1978 may be cited as the "Citizen Substitute Care Review Act".</p>	<p>NONE</p>
<p><b>32A-8-2. Purpose of act.</b></p> <p>The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of children placed in the custody of the department by examining the policies, procedures and practices of the department and, where appropriate, specific cases to evaluate the extent to which the department is effectively discharging its child protection responsibilities.</p>	<p><b>The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of the department by examining the policies, procedures and practices of the department to evaluate its effectiveness in discharging its child protection responsibilities and to meet federal requirements for citizen review panels.</b></p>
<p><b>NEW MATERIAL Definitions: As used in the Citizen Substitute Care Review Act.</b></p>	<p>A. “administratively attached” means to function independently of and not under the control of another agency and in accordance with Section 9-1-7 NMSA 1978;</p> <p>B. “case” means one or more identified children or adults.</p> <p>C. “council staff” means those persons hired by the council to fulfill the responsibilities of the Citizen Substitute Care Review Act;</p> <p>D. “county office manager” means the person who is assigned day to day operations of county department offices or their successor;</p> <p>E. “identified child/youth or adult” means any child or adult who meets of the following criteria:</p> <ol style="list-style-type: none"> <li>1) A child/youth who is subject of a referral of abuse and neglect made to the department;</li> <li>2) a child/youth to whom the department has been providing services;</li> </ol>

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	<p>3) a child/youth in the custody of the department due to abuse and neglect proceedings or juvenile justice proceedings;</p> <p>4) an adult who is participating in the Foster Care to 21 Program or its successor;</p> <p>F. “grievance” means a real or perceived wrong or other cause for complaint or protest related to:</p> <p>1) any action or inaction that may adversely affect the health, safety, welfare or rights of an identified child or adult identified child or adult; or</p> <p>2) the failure of the department to comply with the law or department policies;</p> <p>G. “member” means a citizen who has met eligibility requirements to participate in activities deemed appropriate by the council;</p> <p>H. “substitute care review board” means a board of members facilitated by council staff convened for the purpose of reviews of designated cases or other activities deemed appropriate by the council.</p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>A. The "substitute care advisory council" is created and, in accordance with the provisions of Section 9-1-7 NMSA 1978, is administratively attached to the regulation and licensing department. The general purpose of the council is to 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 shall be composed of nine persons, including:</p>	<p>A. The "substitute care advisory council" in accordance with the provisions of Section 9-1-7 NMSA 1978, is administratively attached to the office of state auditor. The council functions independently of any state agency in the performance of their responsibilities. The council shall be composed of ten voting members and one non-voting member. Voting members include:</p>

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<p>(1) the secretary of public education or the secretary's designee;</p> <p>(2) the secretary of human services or the secretary's designee;</p> <p>(3) the secretary of finance and administration or the secretary's designee;</p> <p>(4) the secretary of health or the secretary's designee;</p> <p>(5) two public members, appointed by the governor, who:</p> <p>(a) are at least eighteen and no more than thirty years of age at the time of appointment; and</p> <p>(b) were previously placed in substitute care;</p> <p>(6) two public members, appointed by the governor, who have expertise in the area of child welfare; and</p> <p>(7) one children's court judge, appointed by the governor.</p>	<p><b>(1) the secretary of public education or the secretary's designee;</b></p> <p><b>(2) the secretary of human services or the secretary's designee;</b></p> <p><b>(3) the secretary of finance and administration or the secretary's designee;</b></p> <p><b>(4) the secretary of health or the secretary's designee;</b></p> <p><b>(5) the secretary of early childhood education &amp; care department or the secretary's designee;</b></p> <p><b>(6) two public members, appointed by the governor, who:</b></p> <p><b>(a) are at least eighteen and no more than thirty years of age at the time of appointment; and</b></p> <p><b>(b) were previously placed in substitute care;</b></p> <p><b>(7) two public members, appointed by the governor, who have expertise in the area of child welfare; and</b></p> <p><b>(8) one children's court judge, appointed by the governor.</b></p> <p><b>Non-voting member includes:</b></p> <p><b>(9) the secretary of the children, youth and families department or the secretary's designee.</b></p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>B. The council may hire staff and contract for services to carry out the purposes of the Citizen Substitute Care Review Act. Except as provided pursuant to Paragraph (7) of Subsection A of this section, a person or a relative of a person employed by the department or a district court shall not serve on the council.</p>	<p><b>B. Except as provided pursuant to Paragraphs (8 and 9) of Subsection A of this section, a person or a relative of a person employed by the department or a district court shall not serve on the council.</b></p>

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<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>C. Terms of office of public members of the council shall be three years. Public members shall be eligible for reappointment. In the event that a vacancy occurs among the members of the council, the governor shall appoint another person to serve the unexpired portion of the term.</p>	<p>NONE</p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>D. The council shall select a chairperson, a vice chairperson and other officers as it deems necessary.</p>	<p>Move to 'E'. No change in wording.</p>
	<p><b>D. Council members shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978]; provided that, if a different provision of that act applies to a specific member, that member shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.</b></p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>E. The council shall meet no less than twice annually and more frequently upon the call of the chairperson.</p>	<p>Move to 'F' and change of wording.</p>
	<p><b>E. The council shall select a chairperson, a vice chairperson and other officers as it deems necessary.</b></p>
	<p><b>F. The council shall meet no less than quarterly and more frequently upon the call of the chairperson.</b></p>

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<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>F. The council shall adopt reasonable rules relating to the functions and procedures of the substitute care review boards and the council in accordance with the duties of the boards as provided in the Citizen Substitute Care Review Act. These rules shall:</p> <p>(1) establish training requirements for substitute care review board members;</p> <p>(2) establish criteria for council designation of cases for substitute care review board review;</p> <p>(3) establish procedures for substitute care review board review of designated cases;</p> <p>(4) establish criteria for membership and tenure on and operating procedures for substitute care review boards;</p> <p>(5) specify the information needed for designated cases to be monitored by substitute care review boards; and</p> <p>(6) specify case information to be tracked and reported to the council.</p>	<p>Move to 'H' and change of wording.</p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>G. When adopting rules establishing criteria for designation of cases for substitute care review board review, the council shall weigh the importance of the following factors, including:</p> <p>(1) sibling placements;</p> <p>(2) the frequency and severity of neglect or abuse;</p> <p>(3) the behavioral health status of household members;</p> <p>(4) the placement of children in households where there are no relatives of the children;</p> <p>(5) data related to demographics; and</p> <p>(6) relevant trend data.</p>	<p><b>DELETE</b></p>

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	<p><b>G. The council shall hire its own personnel in accordance with the Personnel Act [Chapter 10, Article 9 NMSA 1978], contract for services, establish work groups, and enter into contracts, memorandums of understanding and joint powers agreements to carry out the purposes of the Citizen Substitute Care Review Act.</b></p>
	<p><b>H. The council shall adopt reasonable rules relating to the functions and procedures of the council. These rules shall establish:</b></p> <ul style="list-style-type: none"> <li><b>(1) procedures to comply with the New Mexico open meetings act;</b></li> <li><b>(2) requirements for citizen participation, to include selection of participation on work groups and substitute care review boards;</b></li> <li><b>(3) criteria for council designation of cases for review;</b></li> <li><b>(4) procedures for review of designated cases;</b></li> <li><b>(5) procedures for receipt and processing of grievances;</b></li> <li><b>(6) procedures to provide for public outreach and comment in order to assess the impact of current child protection procedures and practices upon children and families in the community ; and</b></li> <li><b>(7) other procedures as needed to ensure the requirements of the Citizen Substitute Care Review Act and the Child Abuse Prevention and Treatment Act</b></li> </ul>

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<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>H. The council shall review and coordinate the activities of the substitute care review boards and make a report with its recommendations to the department, the courts and the appropriate legislative interim committees, on or before November 1 of each year, regarding statutes, rules, policies and procedures relating to substitute care. This report shall include recommendations for any changes to substitute care review boards.</p>	<p><b>I. The council shall provide periodic reports on the work of the council, including but not limited to an annual written report for the governor, legislature, department, courts and other persons, agencies and organizations deemed appropriate. The annual report shall be distributed electronically on or before November 1 of each year. The annual report shall at a minimum include, a summary of the activities of the council and recommendations to improve the child protection services system at the state and local levels. Other reports on trends or specific topics are provided at the request of the governor, legislature or the administrative office of the courts.</b></p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>I. Council members shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978]; provided that, if a different provision of that act applies to a specific member, that member shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.</p>	<p>Moved to 'D'.</p>
<p><b>32A-8-4. Substitute care advisory council; members; compensation; responsibilities; advisory committee.</b></p> <p>J. The council shall appoint by October 1 of each year a six-member advisory committee from a list of substitute care review board members that the substitute care review boards shall nominate. The advisory council shall meet with the council at least once per year to advise the council on matters relating to substitute care review. Advisory committee members shall serve terms of one year and may be reappointed.</p>	<p><b>DELETE</b></p>

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<p><b>NEW MATERIAL. ADMINISTRATION-STAFFING</b></p>	<p><b>A. The council shall hire a Director who shall:</b></p> <ol style="list-style-type: none"> <li><b>1) oversee, manage and direct activities;</b></li> <li><b>2) act impartially and refrain from engaging in partisan political activity;</b></li> <li><b>3) promote public awareness of the purpose and services of the council and the methods for submitting grievances or requests for case reviews;</b></li> <li><b>4) employ and fix the compensation of council staff;</b></li> <li><b>5) prepare a budget and if appropriate, apply for and accept grants, gifts and bequests of funds from other states, federal and interstate agencies, independent authorities, private firms, individuals and foundations for the purpose of carrying out the responsibilities of the council.</b></li> </ol> <p><b>B. Qualifications of the Director shall include:</b></p> <ol style="list-style-type: none"> <li><b>1) a master social worker licensed pursuant to the Social Work Practice Act; or</b></li> <li><b>2) an attorney licensed to practice law in New Mexico; and</b></li> <li><b>3) 1t least five years of experience in child welfare with an emphasis on child abuse and neglect.</b></li> </ol> <p><b>C. The office of the attorney general shall designate an attorney to provide legal representation and advice to the council.</b></p>



<p><b>32A-8-5. Substitute care review boards; appointments; exclusion; terms; training; compensation; meetings</b></p> <p>A. The council shall establish no fewer than three substitute care review boards and, in each judicial district established pursuant to Section 34-6-1 NMSA 1978, no more than the following number of substitute care review boards:</p> <p>(1) two substitute care review boards in the first judicial district;</p> <p>(2) three substitute care review boards in the second judicial district;</p> <p>(3) one substitute care review board in the third judicial district;</p> <p>(4) two substitute care review boards in the fourth judicial district;</p> <p>(5) two substitute care review boards in the fifth judicial district;</p> <p>(6) two substitute care review boards in the sixth judicial district;</p> <p>(7) two substitute care review boards in the seventh judicial district;</p> <p>(8) two substitute care review boards in the eighth judicial district;</p> <p>(9) one substitute care review board in the ninth judicial district;</p> <p>(10) one substitute care review board in the tenth judicial district;</p> <p>(11) two substitute care review boards in the eleventh judicial district;</p> <p>(12) two substitute care review boards in the twelfth judicial district; and</p> <p>(13) two substitute care review boards in the thirteenth judicial district.</p> <p>B. The council, or a contractor performing services for the council pursuant to Subsection B of Section 32A-8-4 NMSA 1978, shall provide administrative support to substitute care review boards in accordance with the Citizen Substitute Care Review Act and rules that the council has adopted.</p> <p>C. A person or a relative of a person employed by the department of finance and administration, the children, youth and families department, the human services department, the public education department, the department of health, a contractor of the council or a district court shall not serve on a substitute care review board.</p> <p>D. The composition of each substitute care review board shall be broadly representative of the community in which the board</p>	<p><b>32A-8-5. Citizen Participation</b></p> <p><b>A. When establishing rules for citizen participation, the council shall include:</b></p> <ol style="list-style-type: none"><li><b>1) efforts to recruit and retain citizens who are broadly representative of the community in which they serve to include citizens with expertise in the prevention and treatment of child abuse and neglect and adult former victims of child abuse or neglect but does not include a current employee of the department;</b></li><li><b>2) membership process, to include but is not limited to background checks and orientation training;</b></li><li><b>3) protocol to address any real, perceived or potential conflict of interest of a citizen participating in any activity where a conflict of interest exists or may exist;</b></li><li><b>4) ongoing training requirements;</b></li><li><b>5) code of conduct; and</b></li><li><b>6) confidentiality of information.</b></li></ol> <p><b>B. Members meeting the established requirements shall participate at least once quarterly in case reviews or other activities deemed appropriate by council staff.</b></p> <p><b>C. Members meeting the established requirements may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978]; provided that, if a different provision of that act applies to a specific participating citizen, that participating citizen shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.</b></p>
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<p>serves and include members with expertise in the prevention and treatment of child abuse and neglect and may include adult former victims of child abuse or neglect.</p> <p>E. Each substitute care review board shall meet at least once per quarter to review cases designated in accordance with council rules.</p> <p>F. Substitute care review board members may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978]; provided that, if a different provision of that act applies to a specific member, that member shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.</p> <p>G. Upon request of the council, a substitute care review board shall prepare a report summarizing its activities. These reports shall not contain confidential information.</p>	

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<p><b>32A-8-6. Substitute care review board reviews of cases.</b></p> <p>When council rules designate the review of a case, a substitute care review board shall conduct the review in accordance with the provisions of the Children's Code and the Abuse and Neglect Act [Chapter 32A, Article 4 NMSA 1978] and council rules. The designated substitute care review board shall submit a report to the court for each case that it reviews. The substitute care review board shall give the parties in a children's court case under substitute care review board review notice of a substitute care review board meeting related to that case and afford the parties an opportunity to participate fully in the substitute care review board meeting.</p>	<p><b>32A-8-6. Review of cases.</b></p> <p><b>A. When a case has been designated for review, council staff will convene a substitute care review board in accordance with council rules.</b></p> <p><b>B. When the case is a children’s court case, council staff shall give the parties notice of the review and afford the parties an opportunity to provide input to the review.</b></p> <p><b>C. Following the review of a children’s court case, council staff shall submit a report to the court, the department and other known parties regarding strengths, concerns and recommendations;</b></p> <p><b>D. If the department does not agree with a recommendation in the report, the county office manager, or their designee shall provide a written response to council staff within 10 business days of receipt of the report detailing the specifics of the disagreement;</b></p> <p><b>E. Within 30 calendar days of the receipt of the department’s timely written disagreement, the department and council staff shall meet with the purpose of reconciling said disagreement.</b></p>

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<p><b>NEW MATERIAL. GRIEVANCES</b></p>	<p><b>A. When establishing rules regarding grievances, the council shall include:</b></p> <ol style="list-style-type: none"> <li><b>1) criteria for grievances to be accepted for resolution by council staff;</b></li> <li><b>2) referral of grievances involving allegations of abuse and neglect of children to the department or law enforcement;</b></li> <li><b>3) referral of grievances not accepted to the appropriate regulatory agency;</b></li> <li><b>4) timelines to respond to grievances;</b></li> </ol> <p><b>B. Following the assessment of a grievance, council staff shall submit a report to the department regarding the strengths, concerns and recommendations;</b></p> <p><b>C. If the department does not agree with the recommendations, the department secretary, or their designee, shall provide a written response to council staff within 10 business days of receipt of the report detailing the specifics of the disagreement;</b></p> <p><b>D. Within 30 calendar days of the receipt of the department's timely written disagreement, the department and council staff shall meet for the purpose of reconciling said disagreement.</b></p> <p><b>E. An individual who requests remedy pursuant to the Citizen Substitute Care Review Act is not precluded other legal or equitable remedies.</b></p> <p><b>F. A state agency or municipal agency shall not discharge, or in any manner discriminate or retaliate against any employee, volunteer or contractor, who in good faith makes a grievance to the council.</b></p>

**NEW MATERIAL. ACCESS TO INFORMATION**

**A, Council staff shall have:**

- 1) access to, including the right to inspect and copy, any records necessary to carry out their responsibilities. Such information includes but is not limited to:
- 2) Social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio records of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of an incident to a neglect or abuse proceeding;
- 3) Any agency, hospital, organization, school, person or office, including the Clerk of the Court, the department, CASA programs or agencies providing services to families and children, public and private health care facilities, medical and mental health care professionals including doctors, nurses, psychiatrists, counselors, and staff, expressly authorizing access to protected health information, and law enforcement agencies;
- 4) Administrative hearings conducted by the department and any findings, conclusions resulting from such hearings.
- 5) Private meetings with any child in protective custody in the child's placement or elsewhere and/or any individual with knowledge of a case or grievance.

**B. The department shall establish procedures to provide requested information timely and to ensure staff availability to provide input to case reviews and processing of grievances;**

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	<p><b>C. The department shall ensure any entity providing services to an identified child or adult provides requested information timely and to ensure said entity staff availability to provide input to case reviews and processing of grievances;</b></p> <p><b>D. A state agency or municipal agency shall not discharge, or in any manner discriminate or retaliate against any employee, volunteer or contractor, who cooperates with the council or council staff in case reviews and processing of grievances.</b></p>

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<p><b>NEW MATERIAL. CONFIDENTIALITY OF INFORMATION</b></p>	<p><b>A. Provisions of the Children’s Code relating to confidentiality are expressly waived pursuant to chapter 32A-4-33.</b></p> <p><b>B. All information obtained or generated by council staff in the course of fulfilling their responsibilities towards case reviews and grievances are confidential records and not subject to the provisions of the Inspection of Public Records Act or the federal Freedom of Information Act.</b></p> <p><b>C. The name, address and other personally identifiable information of a person whose records are released to council staff or who files a grievance shall be confidential and not subject to the provisions of the Inspection of Public Records Act or the federal Freedom of Information Act;</b></p> <p><b>D. Council, council staff or participating citizens with knowledge of cases or grievances shall not disclose information unless:</b></p> <ol style="list-style-type: none"> <li><b>1) the person or persons filing a grievance, the identified child or adult consents in writing to the disclosure;</b></li> <li><b>2) the person or persons filing a grievance, the identified child or adult gives oral consent that is documented immediately in writing by council staff;</b></li> <li><b>3) disclosure is ordered by the court; or</b></li> <li><b>4) disclosure is necessary to another agency responsible for the welfare of a child.</b></li> </ol>

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<p><b>32A-8-7. Transfer provisions; funds; contracts; references in law.</b></p> <p>On the effective date of this 2016 act:</p> <p>A. all functions, records, personnel, appropriations, money, furniture, property, equipment and supplies of the department of finance and administration relating to the Citizen Substitute Care Review Act shall be transferred to the council;</p> <p>B. all appropriations, contract funds and funds for contract administration and staff, the cost of council per diem and travel, training and all other costs relating to the Citizen Substitute Care Review Act shall be transferred from the department of finance and administration to the council;</p> <p>C. all existing rules and regulations, contracts and agreements of the department of finance and administration relating to the statewide system of substitute care review boards shall be binding and effective on the council; and</p> <p>D. all references in law to the state advisory committee shall be deemed to be references to the council.</p>	<p><b>On the effective date of this 2021 act:</b></p> <p><b>A. The legislative finance committee shall establish a line item of state general appropriation of the council in HB 2.</b></p> <p><b>B. the legislative finance committee shall include in HB 2 interagency transfer of funds from CYFD to the council.</b></p>