AN ACT

RELATING TO CHILDREN; ENACTING THE CURFEW ENFORCEMENT ACT; PROVIDING MUNICIPALITIES AND COUNTIES WITH AUTHORITY TO ENACT CURFEW ORDINANCES; ENACTING NEW SECTIONS OF THE CHILDREN'S CODE.

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

    Section 1.   A new section of the Children's Code is enacted to read:

    "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Curfew Enforcement Act"."

    Section 2.   A new section of the Children's Code is enacted to read:

    "[NEW MATERIAL] DEFINITION.--As used in the Curfew Enforcement Act:

        A.   "abused child" means a child:

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1   (1)   who has suffered or who is at risk of

2   suffering serious harm because of the action or inaction of the

3   child's parent, guardian or custodian;

4   (2)   who has suffered physical abuse,

5   emotional abuse or psychological abuse inflicted or caused by

6   the child's parent, guardian or custodian;

7   (3)   who has suffered sexual abuse or sexual

8   exploitation inflicted by the child's parent, guardian or

9   custodian;

10   (4)   whose parent, guardian or custodian has

11 knowingly, intentionally or negligently placed the child in a

12 situation that may endanger the child's life or health; or

13   (5)   whose parent, guardian or custodian has

14 knowingly or intentionally tortured, cruelly confined or

15 cruelly punished the child; and

16   B.   "neglected child" means a child:

17   (1)   who has been abandoned by the child's

18 parent, guardian or custodian;

19   (2)   who is without proper parental care and

20 control or subsistence, education, medical or other care or

21 control necessary for the child's well-being because of the

22 faults or habits of the child's parent, guardian or custodian

23 or the failure or refusal of the parent, guardian or custodian,

24 when able to do so, to provide them;

25   (3)   who has been physically or sexually

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1 abused, when the child's parent, guardian or custodian knew or

2 should have known of the abuse and failed to take reasonable

3 steps to protect the child from further harm; or

4 (4) whose parent, guardian or custodian is

5 unable to discharge his responsibilities to and for the child

6 because of incarceration, hospitalization or physical or mental

7 disorder or incapacity."

8 Section 3. A new section of the Children's Code is

9 enacted to read:

10 "[NEW MATERIAL] PURPOSE.--The purpose of the Curfew

11 Enforcement Act is to:

12 A. protect children from dangerous circumstances as

13 a result of being without proper supervision during the hours

14 between 12:00 a.m. and 5:00 a.m.; and

15 B. provide for the general protection of children

16 and the community."

17 Section 4. A new section of the Children's Code is

18 enacted to read:

19 "[NEW MATERIAL] AUTHORITY TO ENACT CURFEW ORDINANCES.--A

20 municipality or county may enact a curfew ordinance if:

21 A. the curfew applies only to children less than

22 sixteen years of age;

23 B. the curfew applies only to the time period

24 between 12:00 a.m. and 5:00 a.m.; and

25 C. the municipality or county has established a

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1   family education program that provides information about the

2   purposes of the curfew ordinance and the availability of

3   community services."

4   Section 5.   A new section of the Children's Code is

5   enacted to read:

6   "[NEW MATERIAL] EXCEPTIONS.--A municipal or county curfew

7   ordinance shall include exceptions for:

8   A.   activities authorized by a school, religious

9   organization or community organization;

10   B.   verified employment, including a work-related

11   errand;

12   C.   instances when a child's parent, legal guardian

13   or custodian has provided the child with permission to be out

14   between the hours of 12:00 a.m. and 5:00 a.m; and

15   D.   an emergency."

16   Section 6.   A new section of the Children's Code is

17   enacted to read:

18   "[NEW MATERIAL] ENFORCEMENT.--

19   A.   A municipal or county curfew ordinance shall

20   provide for enforcement of the ordinance in the following

21   manner.   Upon a first violation, a law enforcement officer

22   shall issue a warning to the child.   Upon a second violation, a

23   law enforcement officer shall issue a citation to the child.

24   The citation shall include a notice of the child's right to

25   appeal the citation to a hearing officer appointed by the

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1   department.   The citation shall also include a notice that,

2   unless the citation is appealed, the child and the child's

3   parents or legal guardians are required to attend a family

4   education program no later than thirty days after issuance of

5   the citation.   Upon issuing a second citation, the law

6   enforcement officer shall contact the department's juvenile

7   justice call center and attempt to contact the child's parents

8   or legal guardians.

9   B.   If the child and the child's parents or legal

10 guardians fail to attend a family education program and the

11 parents or legal guardians of the child received actual notice

12 of the requirement to attend the family education program, the

13 child shall be referred to the department for an assessment of

14 whether the child is an abused child or a neglected child.

15   C.   Upon a third or subsequent violation of a curfew

16 ordinance, the child shall be referred to the department for an

17 assessment of whether the child is an abused child or a

18 neglected child."

19   Section 7.   A new section of the Children's Code is

20 enacted to read:

21   "[NEW MATERIAL] DATA--RULES.--The department shall adopt

22 rules regarding collection of data from municipalities and

23 counties that enact a curfew ordinance.   The department shall

24 provide the legislature with an annual report regarding data

25 collected from the municipalities and counties."

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1   Section 8.   EFFECTIVE DATE.--The effective date of the

2 provisions of this act is July 1, 2005.

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