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HOUSE BILL 208

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Paul A. Pacheco and Daniel A. Ivey-Soto

AN ACT

RELATING TO EMERGENCY PLACEMENT OF CHILDREN; REQUIRING IMMEDIATE REMOVAL OF CHILDREN FROM EMERGENCY PLACEMENT HOMES UNDER CERTAIN CIRCUMSTANCES; ALLOWING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO PERFORM CRIMINAL HISTORY RECORD CHECKS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 32A-3A-11 NMSA 1978 (being Laws 2013, Chapter 50, Section 1) is amended to read:

"32A-3A-11. EMERGENCY PLACEMENT--CRIMINAL HISTORY RECORD CHECK.--

A. In an emergency placement situation, when a child must be placed in a home due to the absence of parents or custodians, the department [~~shall request that~~] or a criminal justice agency shall perform a federal name-based criminal

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1 history record check of each adult residing in the home. The
2 results of the name-based check shall be provided to the
3 department, and, within fifteen days from the date that the
4 name-based check was conducted, the department shall provide a
5 complete set of each adult resident's fingerprints to the
6 department of public safety for immediate submission to the
7 federal bureau of investigation. The department of public
8 safety shall positively identify the fingerprint subject, if
9 possible, and forward the fingerprints to the federal bureau of
10 investigation within fifteen calendar days from the date that
11 the name-based search was conducted. The child ~~may~~ shall be
12 removed from the home immediately if any adult resident fails
13 to provide fingerprints or written permission to perform a
14 federal criminal history record check when requested to do so,
15 unless an agreement is entered into with the department
16 providing for the immediate removal from the home of the adult
17 resident who refuses to provide fingerprints.

18 B. When placement of a child in a home is denied as
19 a result of a name-based criminal history record check of a
20 resident and the resident contests that denial, the resident
21 shall:

22 (1) be entitled to review the information
23 obtained in the criminal history record check; and

24 (2) within five business days, submit to the
25 department a complete set of the resident's fingerprints with

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underscoring material = new
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1 written permission allowing the department to forward the
2 fingerprints to the department of public safety for submission
3 to the federal bureau of investigation.

4 C. The department of public safety ~~may~~ shall not
5 charge a ~~reasonable~~ fee for processing a fingerprint-based
6 criminal history record check pursuant to this section.

7 D. As used in this section, "emergency placement"
8 refers to those limited instances when the department is
9 placing a child in the home of private individuals, including
10 neighbors, friends or relatives, as a result of sudden
11 unavailability of the child's primary caretaker."

12 SECTION 2. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.