

HOUSE BILL 149

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO JUVENILE DELINQUENCY; REQUIRING NOTICE TO NATIVE AMERICAN NATIONS, TRIBES AND PUEBLOS IN CERTAIN PROCEEDINGS CONCERNING NATIVE AMERICAN MINORS.

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

SECTION 1. Section 32A-1-14 NMSA 1978 (being Laws 1993, Chapter 77, Section 23, as amended) is amended to read:

"32A-1-14. NOTICE TO INDIAN TRIBES.--

A. In a case involving a family in need of court-ordered services, if the child is an Indian child, the Indian child's tribe shall be notified when the petition is filed. The form of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.

B. In abuse, neglect or adoption proceedings, if the child is an Indian child, the Indian child's tribe shall be

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1 notified. The form of the notice shall comply with the
2 provisions of the federal Indian Child Welfare Act of 1978.

3 C. In a delinquency proceeding, if the child is an
4 Indian child, the Indian child's tribe shall be notified of the
5 filing of the petition. The form and manner of the notice
6 shall comply with the provisions of the federal Indian Child
7 Welfare Act of 1978."

8 SECTION 2. Section 32A-2-5 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 34, as amended) is amended to read:

10 "32A-2-5. JUVENILE PROBATION AND PAROLE SERVICES--
11 ESTABLISHMENT--JUVENILE PROBATION AND PAROLE OFFICERS--POWERS
12 AND DUTIES.--

13 A. Juvenile probation and parole services shall be
14 provided by the department.

15 B. To carry out the objectives and provisions of
16 the Delinquency Act, but subject to its limitations, the
17 department has the power and duty to:

18 (1) receive and examine complaints and
19 allegations that a child is a delinquent child for the purpose
20 of considering beginning a proceeding pursuant to the
21 provisions of the Delinquency Act;

22 (2) make case referrals for services as appear
23 appropriate or desirable;

24 (3) make predisposition studies and
25 assessments and submit reports and recommendations to the

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1 court;

2 (4) supervise and assist a child placed on
3 probation or supervised release or under supervision by court
4 order or by the department;

5 (5) give notice to any individual who has been
6 the subject of a petition filed pursuant to the provisions of
7 the Delinquency Act of the sealing of that individual's records
8 in accordance with that act;

9 (6) informally dispose of up to three
10 misdemeanor charges brought against a child within two years;

11 (7) give notice to the children's court
12 attorney of the receipt of any felony complaint and of any
13 recommended adjustment of such felony complaint;

14 (8) identify an Indian child for the purpose
15 of contacting the Indian child's tribe in delinquency cases;
16 and

17 (9) ~~[contact an Indian child's tribe to~~
18 ~~consult and exchange information for the purpose of preparing a~~
19 ~~predisposition report when commitment or placement of an Indian~~
20 ~~child is contemplated or has been ordered and indicate in the~~
21 ~~report the name of the person contacted in the Indian child's~~
22 ~~tribe and the results of the contact]~~ notify the child's tribe
23 if the filing of a delinquency petition is recommended by the
24 department.

25 C. A juvenile probation and parole officer does not

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1 have the powers of a law enforcement officer. A juvenile
2 probation and parole officer may take into physical custody and
3 place in detention, subject to application of a detention risk
4 assessment instrument, a child who is under supervision as a
5 delinquent child or as a youthful offender when there is
6 reasonable cause to believe that the child has violated the
7 conditions of the child's probation or that the child may leave
8 the jurisdiction of the court. Taking a child into custody
9 under this subsection is subject to and shall proceed in
10 accordance with the provisions of the Delinquency Act relating
11 to custody and detention procedures and criteria."

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