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HOUSE BILL 309

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

INTRODUCED BY

Rebecca Dow

AN ACT

RELATING TO CHILDREN; AMENDING A SECTION OF THE CHILDREN'S CODE TO PROVIDE FOR INTERVENTION OF FOSTER PARENTS UNDER CERTAIN CIRCUMSTANCES IN ABUSE OR NEGLECT PROCEEDINGS.

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

SECTION 1. Section 32A-4-27 NMSA 1978 (being Laws 1993, Chapter 77, Section 121, as amended) is amended to read:

"32A-4-27. INTERVENTION--PERSONS PERMITTED TO INTERVENE.--

A. At any stage of an abuse or neglect proceeding, a person described in this subsection may be permitted to intervene as a party: [~~with a motion for affirmative relief~~

~~(1) a foster parent whom the child has resided with for at least six months;~~

~~(2)] (1) a relative within the fifth degree of~~

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1 consanguinity with whom the child has resided;
2 [~~(3)~~] (2) a stepparent with whom the child has
3 resided; or
4 [~~(4)~~] (3) a person who wishes to become the
5 child's permanent guardian.

6 B. When determining whether a person described in
7 Subsection A of this section should be permitted to intervene,
8 the court shall consider:

- 9 (1) the person's rationale for the proposed
10 intervention; and
11 (2) whether intervention is in the best
12 interest of the child.

13 C. When the court determines that the child's best
14 interest will be served as a result of intervention by a person
15 described in Subsection A of this section, the court may permit
16 intervention unless the party opposing intervention can
17 demonstrate that a viable plan for reunification with the
18 respondents is in progress and that intervention could impede
19 the progress of the reunification plan.

20 D. The persons described in this subsection shall
21 be permitted to intervene during any stage of an abuse or
22 neglect proceeding:

- 23 (1) a parent of the child who is not named in
24 the petition alleging abuse or neglect; and
25 (2) when the child is an Indian child, the

underscored material = new
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1 child's Indian tribe.

2 E. The child's foster parent shall be permitted to
3 intervene when:

4 (1) the child has resided with the foster
5 parent for at least six months;

6 [~~(1)~~] (2) the foster parent desires to adopt
7 the child;

8 [~~(2)~~] ~~the child has resided with the foster~~
9 ~~parent for at least six months within the year prior to the~~
10 ~~termination of parental rights;~~

11 [~~(3)~~] ~~a motion for termination of parental~~
12 ~~rights has been filed by a person other than the foster parent;~~
13 and

14 [~~(4)~~] ~~bonding between the child and the child's~~
15 ~~foster parent is alleged as a reason for terminating parental~~
16 ~~rights in the motion for termination of parental rights] and~~

17 (3) the department moves the child or proposes
18 to move the child to:

19 (a) a different foster care placement;

20 (b) place the child with a relative; or

21 (c) return the child to a biological
22 parent.

23 F. The foster parent, preadoptive parent or
24 relative providing care for the child shall be given notice of,
25 and an opportunity to be heard in, any review or hearing with

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1 respect to the child, except that this subsection shall not be
2 construed to require that any foster parent, preadoptive parent
3 or relative providing care for the child be made a party to
4 such a review or hearing solely on the basis of the notice and
5 opportunity to be heard."

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