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HOUSE BILL 496

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

INTRODUCED BY

Kelly K. Fajardo

AN ACT

RELATING TO FAMILIES; ENACTING A NEW SECTION OF THE CHILDREN'S
CODE TO REQUIRE THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO
ESTABLISH A STANDARD SET OF RULES RELATING TO FOSTER PARENT
RIGHTS AND RESPONSIBILITIES STATEWIDE; CREATING THE FOSTER
FAMILY OMBUDSMAN OFFICE AND ESTABLISHING THE POWERS AND DUTIES
OF THAT OFFICE.

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] FOSTER PARENTS--RULEMAKING ON RIGHTS AND
RESPONSIBILITIES--FOSTER FAMILY OMBUDSMAN OFFICE CREATED.--

A. The secretary of children, youth and families
shall adopt and promulgate rules establishing the rights and
responsibilities of foster parents statewide, including

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1 procedures and requirements for matters relating to placement,
2 conversion adoptions and the receipt of maintenance payments
3 and other assistance that the department provides. These rules
4 shall provide for uniform applicability statewide and shall
5 preempt any policies and procedures established in local
6 department offices.

7 B. The "foster family ombudsman office" is created
8 in the department. The foster family ombudsman office:

9 (1) shall:

10 (a) operate a toll-free hotline and
11 electronic communication portal to receive complaints pursuant
12 to this section;

13 (b) disseminate information on: 1) the
14 hotline and communication portal established pursuant to
15 Subparagraph (a) of this paragraph, which information shall
16 include notification that conversations with the office may not
17 be confidential; 2) the rights of children and youth in foster
18 care; and 3) the services provided by the foster family
19 ombudsman office;

20 (c) investigate and attempt to resolve
21 complaints made by or on behalf of foster parents or children
22 placed in foster care and related to foster care, placement or
23 services;

24 (d) decide, in its discretion, whether
25 to investigate a complaint or refer complaints to another

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1 agency for investigation;

2 (e) upon rendering a decision to
3 investigate a complaint from a complainant, notify the
4 complainant of the intention to investigate and, if the office
5 declines to investigate a complaint or continue an
6 investigation, notify the complainant of the reason for the
7 action of the office;

8 (f) update the complainant on the
9 progress of the investigation and notify the complainant of the
10 final outcome;

11 (g) document the number, source, origin,
12 location and nature of complaints on an annual basis; and

13 (h) compile and make available on an
14 annual basis to the secretary of children, youth and families,
15 the legislature and, by posting on the office's website, the
16 public, a report of all data, in aggregate form, collected over
17 the course of the year, including the number of contacts to the
18 toll-free telephone number and electronic communications
19 portal, the number of complaints made, including the type and
20 source of those complaints, the number of investigations
21 performed by the office, the trends and issues that arose in
22 the course of investigating complaints, the number of referrals
23 made and the number of pending complaints; and

24 (2) may:

25 (a) access any record of a state or

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1 local agency that is necessary to carry out the office's
2 responsibilities;

3 (b) meet or communicate with any foster
4 child in the child's placement or elsewhere; and

5 (c) establish, in consultation with a
6 committee of interested individuals, regional or local foster
7 care ombudsman offices for the purposes of expediting
8 investigations and resolving complaints, subject to legislative
9 appropriation."