

HOUSE BILL 625

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

INTRODUCED BY

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AN ACT

RELATING TO CIVIL ACTIONS; AUTHORIZING THE ATTORNEY GENERAL TO
BRING AN ACTION ON BEHALF OF REFUGEE CHILDREN; CREATING A FUND;
MAKING APPROPRIATIONS.

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

SECTION 1. ~~[NEW MATERIAL]~~ SEPARATION AND DETENTION OF
REFUGEE CHILDREN FROM PARENT OR GUARDIAN--INVESTIGATION BY
ATTORNEY GENERAL.--

A. It is a violation of this section to:

(1) separate a refugee child from the child's
parent or guardian without a finding by a district court that
the parent or guardian is unfit or presents a danger to the
child;

(2) detain a refugee child without a judicial
determination of probable cause to believe that the child

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1 committed an offense contrary to law; or

2 (3) allow a child to suffer great bodily harm
3 or to die through neglect of the child's basic needs as
4 determined by the children, youth and families department.

5 B. A person, governmental agency or detention
6 facility that violates Subsection A of this section shall be
7 liable for:

8 (1) a civil penalty of not less than fifty
9 thousand dollars (\$50,000) and not more than one hundred
10 thousand dollars (\$100,000) for each violation;

11 (2) the costs of a civil action brought to
12 recover damages or penalties; and

13 (3) reasonable attorney fees, including the
14 fees of the attorney general.

15 C. The attorney general shall investigate suspected
16 violations of Subsection A of this section, and if the attorney
17 general finds that a person, governmental agency or detention
18 facility has violated or is violating Subsection A of this
19 section, the attorney general may bring a civil action against
20 that person or governmental agency.

21 D. The remedies provided for in this section are
22 not exclusive and shall be in addition to any other remedies
23 provided for in any other law or available under common law.

24 E. Damages collected pursuant to this section on
25 behalf of the state shall be remitted to the state treasurer

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1 for deposit in the refugee services program fund to be used for
2 the purposes provided in Section 2 of this 2019 act.

3 F. Penalties, attorney fees or costs of
4 investigation recovered pursuant to this section on behalf of
5 the state shall be remitted to the state treasurer for deposit
6 in the refugee services program fund to be used for the
7 purposes provided in Section 2 of this 2019 act.

8 G. As used in this section:

9 (1) "detention facility" means any building or
10 structure that houses detained refugees, including a federal or
11 state prison, a private prison, a county or municipal jail or
12 any detention facility, whether government-operated or
13 privately operated; and

14 (2) "refugee" means a displaced person who has
15 crossed national boundaries and who has applied, is applying or
16 intends to apply for asylum status.

17 SECTION 2. [NEW MATERIAL] REFUGEE SERVICES PROGRAM FUND
18 CREATED.--

19 A. The "refugee services program fund" is created
20 in the state treasury. The fund consists of money appropriated
21 to the fund by the legislature, damages collected and
22 penalties, legal fees or costs of investigation recovered
23 pursuant to Section 1 of this 2019 act. Money in the fund
24 shall not revert to any other fund at the end of a fiscal year.
25 The secretary of children, youth and families shall administer

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1 the fund, and money in the fund is appropriated to the
2 children, youth and families department for services to refugee
3 children. Money in the fund shall be disbursed on warrant
4 signed by the secretary of finance and administration pursuant
5 to vouchers signed by the secretary of children, youth and
6 families or the secretary's authorized representative.

7 B. As used in this section, "refugee" means a
8 displaced person who has crossed national boundaries and who
9 has applied, is applying or intends to apply for asylum status.

10 SECTION 3. APPROPRIATION.--One hundred thousand dollars
11 (\$100,000) is appropriated from the general fund to the refugee
12 services program fund for expenditure in fiscal year 2020 and
13 subsequent fiscal years to provide services to children who
14 crossed national boundaries into New Mexico and who have
15 applied, are applying or intend to apply for asylum status.
16 Any unexpended or unencumbered balance remaining at the end of
17 a fiscal year shall not revert to the general fund.

18 SECTION 4. APPROPRIATION.--One hundred fifty thousand
19 dollars (\$150,000) is appropriated from the general fund to the
20 office of the attorney general for expenditure in fiscal year
21 2020 for support and prosecution of violations by persons,
22 governmental agencies or detention facilities pursuant to
23 Section 1 of this act. Any unexpended or unencumbered balance
24 remaining at the end of fiscal year 2020 shall revert to the
25 general fund.

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SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.