

HOUSE BILL 312

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO CHILDREN; REQUIRING A BEST INTERESTS OF THE CHILD
DETERMINATION IN ALL ABUSE AND NEGLECT PROCEEDINGS; PROVIDING A
BEST INTERESTS OF THE CHILD STANDARD IN ABUSE AND NEGLECT
PROCEEDINGS.

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

SECTION 1. A new section of the Abuse and Neglect Act is
enacted to read:

"[NEW MATERIAL] BEST INTERESTS OF THE CHILD DETERMINATION
REQUIREMENT--BEST INTERESTS OF THE CHILD STANDARD.--

A. The best interests of the child standard
reflects the protection of a child from abuse and neglect. In
proceedings to terminate parental rights and for permanent
guardianship, the standard encompasses stability and permanency
in placement.

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1 B. In all matters and proceedings that concern a
2 child, the best interests of the child shall apply and the
3 following factors shall be considered in determining the best
4 interests of the child:

5 (1) the child's age and physical and mental
6 vulnerabilities;

7 (2) the frequency and nature of any out-of-
8 home placements for the child;

9 (3) the frequency, magnitude and other
10 circumstances of the harm to the child;

11 (4) any repeated harm suffered by the child;

12 (5) any fear by the child of living in or
13 returning to the home from which the child was removed, current
14 placement or potential placement;

15 (6) the results of psychiatric, psychological
16 or developmental evaluations of the child, the child's parents
17 or other family members;

18 (7) any history of abusive conduct by the
19 child's family or others who have access to the child's home;

20 (8) any history of substantiated claims of
21 substance abuse by the child's family or others who have access
22 to the child's home;

23 (9) whether the perpetrator of the harm to the
24 child is identified;

25 (10) whether an identified perpetrator has or

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1 may have continued access to the child;

2 (11) the circumstances under which a parent
3 voluntarily relinquished parental rights to the child;

4 (12) the willingness and ability of the
5 child's family to:

6 (a) seek, accept and complete family
7 services, including services that address specific needs of the
8 child or family;

9 (b) cooperate with and facilitate close
10 supervision by an appropriate agency; and

11 (c) complete psychological, domestic
12 violence and substance abuse assessments;

13 (13) the willingness and ability of the
14 child's family to effect positive environmental and personal
15 changes within a reasonable period of time;

16 (14) a demonstration by the child's family of
17 adequate parenting skills, including providing the child and
18 other children under the family's care with:

19 (a) minimally adequate health and
20 nutritional care;

21 (b) nurture, care and appropriate
22 discipline consistent with the child's physical and
23 psychological development;

24 (c) guidance and supervision consistent
25 with the child's safety;

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(d) a safe home environment;

(e) protection from repeated exposure to violence even though the violence may not be directed at the child; and

(f) an understanding of the child's needs and capabilities; and

(15) the availability of an adequate social support system for the child consisting of an extended family and friends."