

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 337

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

AN ACT

RELATING TO THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT;
PROVIDING DEFINITIONS; EXPANDING DEPARTMENT DUTIES ON
CONDUCTING BACKGROUND CHECKS.

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

SECTION 1. Section 9-29-2 NMSA 1978 (being Laws 2019,
Chapter 48, Section 2) is amended to read:

"9-29-2. DEFINITIONS.--As used in the Early Childhood
Education and Care Department Act:

A. "child" means a person from birth to age five
or, where the context otherwise provides, to age eight or
thirteen;

B. "child care home program" means the program
developed by the department to license or register homes or
residences to provide child care services to children,

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1 including those defined in Section 32A-23C-2 NMSA 1978. A home
2 may be registered or licensed pursuant to the Early Childhood
3 Education and Care Act and through department rules;

4 ~~[B.]~~ C. "department" means the early childhood
5 education and care department; ~~[and]~~

6 D. "department-contracted providers" means
7 individuals or entities that enter into contracts with the
8 department to provide child care services, federal Individuals
9 with Disabilities Education Act, Part C, early intervention
10 services, home visiting services or pre-kindergarten services
11 or those under contract with the department that have access to
12 child and family personal and confidential information;

13 E. "licensed child care center" means a
14 nonresidential facility that meets the applicable state and
15 local building and safety codes and provides care and services
16 to and supervision of children for less than twenty-four hours
17 of any day;

18 F. "licensed child care facility" means a licensed
19 child care center, licensed group child care home, licensed
20 family child care home or licensed out-of-school time program;

21 G. "licensed family child care home" means a
22 private dwelling in which the licensee resides and is the
23 primary educator that provides care and services to and
24 supervision of children as part of the child care home program
25 for a period of less than twenty-four hours of any day for no

1 more than six children;

2 H. "licensed group child care home" means a home in
 3 which the licensee resides and is the primary educator that
 4 provides care and services to and supervision of children as
 5 part of the child care home program for at least seven but no
 6 more than twelve children;

7 I. "licensed out-of-school time program" means a
 8 school-age person program at a specific site, usually a school
 9 or community center, offering on a consistent basis a variety
 10 of developmentally appropriate activities that are both
 11 educational and recreational;

12 J. "registered child care home" or "registration"
 13 means an independent primary caregiver who has registered the
 14 independent primary caregiver's home or residence with the
 15 department to provide care and services to and supervision of
 16 children as part of the child care home program for a period of
 17 less than twenty-four hours of any day for no more than four
 18 children. A registered child care home may participate in the
 19 child and adult care food program or participate in the child
 20 care assistance program; and

21 [~~G.~~] K. "secretary" means the secretary of early
 22 childhood education and care."

23 **SECTION 2.** Section 9-29-8.1 NMSA 1978 (being Laws 2022,
 24 Chapter 30, Section 4) is amended to read:

25 "9-29-8.1. CRIMINAL HISTORY INVESTIGATIONS--PROCEDURES--
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1 CONFIDENTIALITY--VIOLATION--PENALTY.--

2 A. To investigate the suitability of an applicant
3 for licensure [~~or registration~~] as a licensed child care
4 facility [~~or child care home programs~~], registration as a child
5 care home program or for employment or volunteering at a
6 licensed child care facility or registered child care home
7 [~~program~~], including any facility or program that has primary
8 custody of infants, toddlers and children for twenty hours or
9 more per week, or for employees and volunteers of department-
10 contracted providers, the department shall have access to
11 criminal history records information furnished by the
12 department of public safety and the federal bureau of
13 investigation, subject to any restrictions imposed by federal
14 law.

15 B. An applicant for a child care facility license
16 or registration or for employment or volunteering at a licensed
17 child care facility or registered child care home or employees
18 and volunteers of department-contracted providers shall undergo
19 a state and national criminal history records check, and the
20 applicant shall submit an electronic set of fingerprints to the
21 department of public safety for that purpose. The department
22 of public safety shall conduct a check of state criminal
23 history records and forward the fingerprints to the federal
24 bureau of investigation for a national criminal history records
25 check to determine the existence and content of records of

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1 convictions and arrests in this state or other law enforcement
2 jurisdictions and to generate a criminal history records check
3 in accordance with rules of the department of public safety and
4 regulations of the federal bureau of investigation. The
5 department of public safety shall review the information
6 obtained from the criminal history records check and shall
7 compile and provide that information to the early childhood
8 education and care department. The early childhood education
9 and care department shall use the information to investigate
10 and determine whether an applicant is qualified to hold a
11 license or an employment or volunteer position. The department
12 shall promulgate rules for the investigation and determination
13 of qualifications.

14 C. Criminal history information obtained by the
15 department is confidential and shall be used only for the
16 purpose of determining the suitability for licensure,
17 employment or volunteer service and shall not be disclosed to
18 anyone other than public employees directly involved in the
19 decision affecting the applicant.

20 D. A person who releases or discloses criminal
21 history records or information contained in those records in
22 violation of the provisions of this section is guilty of a
23 misdemeanor and shall be sentenced in accordance with the
24 provisions of Section 31-19-1 NMSA 1978."

25 SECTION 3. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2023.

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