

1 SENATE BILL 279

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 David M. Gallegos

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10 AN ACT

11 RELATING TO CHILDREN; PROVIDING AN EXCEPTION TO THE REQUIREMENT
12 THAT A CHILD BE IMMEDIATELY REMOVED FROM AN EMERGENCY PLACEMENT
13 HOME FOR AN ADULT RESIDENT'S FAILURE TO PROVIDE FINGERPRINTS OR
14 SUBMIT TO A CRIMINAL HISTORY RECORD CHECK; DECLARING AN
15 EMERGENCY.

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

18 SECTION 1. Section 32A-3A-11 NMSA 1978 (being Laws 2013,
19 Chapter 50, Section 1, as amended) is amended to read:

20 "32A-3A-11. EMERGENCY PLACEMENT--CRIMINAL HISTORY RECORD
21 CHECK.--

22 A. In an emergency placement situation, when a
23 child must be placed in a home due to the absence of parents or
24 custodians, the department or a criminal justice agency shall
25 perform a federal name-based criminal history record check of

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1 each adult residing in the home. The results of the name-based
2 check shall be provided to the department, and, within fifteen
3 days from the date that the name-based check was conducted, the
4 department shall provide a complete set of each adult
5 resident's fingerprints to the department of public safety for
6 immediate submission to the federal bureau of investigation.
7 The department of public safety shall positively identify the
8 fingerprint subject, if possible, and forward the fingerprints
9 to the federal bureau of investigation within fifteen calendar
10 days from the date that the name-based search was conducted.
11 The child shall be removed from the home immediately if any
12 adult resident fails to provide fingerprints or written
13 permission to perform a federal criminal history record check
14 when requested to do so, unless an agreement is entered into
15 with the department that provides for the immediate removal
16 from the home of an adult resident who refuses to provide
17 fingerprints.

18 B. When placement of a child in a home is denied as
19 a result of a name-based criminal history record check of a
20 resident and the resident contests that denial, the resident
21 shall:

22 (1) within five business days, submit to the
23 department a complete set of the resident's fingerprints with
24 written permission allowing the department to forward the
25 fingerprints to the department of public safety for submission

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1 to the federal bureau of investigation [~~The resident shall~~];
2 and

3 (2) be entitled to review the information
4 obtained from the resident's criminal history record check if
5 that check was performed using the resident's fingerprints
6 submitted pursuant to this subsection.

7 C. The department [~~may~~] of public safety shall not
8 charge [~~the federal~~] a fee for processing a fingerprint-based
9 criminal history record check pursuant to this section. [~~The~~
10 ~~department of public safety shall not charge a state fee for~~
11 ~~processing a fingerprint-based criminal history record check~~
12 ~~pursuant to this section.~~]

13 D. As used in this section, "emergency placement"
14 refers to those limited instances when the department is
15 placing a child in the home of private individuals, including
16 neighbors, friends or relatives, as a result of sudden
17 unavailability of the child's primary caretaker."

18 SECTION 2. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect immediately.