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SENATE MEMORIAL 63

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

INTRODUCED BY

David M. Gallegos

A MEMORIAL

REQUESTING THE ATTORNEY GENERAL TO CONVENE A TASK FORCE TO
STUDY THE INTRODUCTION AND USE BY THE CHILDREN, YOUTH AND
FAMILIES DEPARTMENT OF A STRUCTURED DECISION-MAKING PHILOSOPHY
AND STRUCTURED DECISION-MAKING TOOLS.

WHEREAS, New Mexico's rate of repeat child abuse is among
the worst in the country; and

WHEREAS, more than forty percent of children in New Mexico
who suffered a substantiated serious injury from physical abuse
or neglect in 2022 belonged to families that had involvement
with the children, youth and families department within the
preceding year; and

WHEREAS, in 2019, the children, youth and families
department adopted a new structured decision-making philosophy
and launched structured decision-making tools intended to more

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1 robustly assess strengths and risk factors and to support the
2 department in better evaluating risk and targeting appropriate
3 support and services; and

4 WHEREAS, structured decision making is an approach to
5 child protective services that uses clearly defined and
6 consistently applied decision-making criteria to screen
7 families for investigation, determine response priority,
8 identify immediate threatened harm and estimate the risk of
9 future abuse and neglect; and

10 WHEREAS, as part of the introduction of the newly
11 structured decision-making philosophy, the children, youth and
12 families department adopted a policy position to reduce the
13 number of children taken into legal custody of the state.
14 Under this position, the department favors having children
15 remain at home with family members or relatives to mitigate
16 identified risk over seeking an ex parte custody order to
17 initiate legal action against the child's caregiver; and

18 WHEREAS, the methodology of structured decision-making
19 tools, sometimes referred to as "safety organized practice",
20 was presented to children, youth and families department staff
21 as reflective of a shift to a policy that fewer children in
22 custody is not only better for children and families but that
23 it is also a mark of the department's success; and

24 WHEREAS, the use by the children, youth and families
25 department of structured decision-making tools, safety

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1 assessments and worry statement tools was intended to help
2 staff determine the steps to take in a case in order to protect
3 the child; and

4 WHEREAS, the secretary of children, youth and families has
5 since stated that training and implementation of structured
6 decision-making tools has not achieved its original purpose and
7 that, as a result, staff will need to be retrained on the
8 appropriate use of the tool; and

9 WHEREAS, there is growing national concern about the
10 efficacy and dependability of such artificial intelligence
11 tools as these structured decision-making tools as a
12 replacement for trauma-informed professional judgment and
13 decision making in high-stress situations; and

14 WHEREAS, since 2019, several children have died as a
15 direct result of the failure by the children, youth and
16 families department to effectively implement its use of
17 structured decision-making tools; and

18 WHEREAS, the primary purpose of the children, youth and
19 families department is to protect New Mexico's abused and
20 neglected children from further abuse and neglect, and the
21 department's stated mission is to "improve the quality of life
22 for our children". Indeed, the department states in Section
23 8.10.3.10 of the New Mexico Administrative Code that "[i]f the
24 safety of the child is ever in conflict with the preservation
25 of a family unit, the child's need for protection always takes

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1 precedence"; and

2 WHEREAS, the legislature has an interest in ensuring
3 positive outcomes for New Mexico's children and reducing the
4 rate of repeat maltreatment of New Mexico's children; and

5 WHEREAS, there is an urgent need to address the crisis for
6 New Mexico's most vulnerable population;

7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
8 OF NEW MEXICO that the attorney general be requested to convene
9 a task force to study the impact, efficacy and results of the
10 children, youth and families department's use of structured
11 decision-making tools and safety philosophy, and to make
12 recommendations for the improvement or overhaul of this
13 practice; and

14 BE IT FURTHER RESOLVED that the task force be requested
15 to:

16 A. determine whether structured decision-making
17 tools and a structured decision-making philosophy lead to
18 better agreement on decisions concerning child abuse and
19 neglect;

20 B. review the success, if any, of the children,
21 youth and families department's introduction and implementation
22 of the safety-organized practice and structured decision-making
23 tools;

24 C. analyze the understanding and training by
25 children, youth and families department staff of safety

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1 decision-making tools and the related safety organized tool to
2 keep families together;

3 D. analyze data and repeat maltreatment rates since
4 the introduction of structured decision-making tools of
5 children and families who are under the supervision of the
6 children, youth and families department;

7 E. determine whether the use of structured
8 decision-making tools has resulted in better and safer outcomes
9 in child abuse and neglect cases;

10 F. review the efficacy, length, supports, practice
11 and outcomes of voluntary placement agreements under this new
12 philosophy and practice;

13 G. review the legality, efficacy, practice and
14 outcomes of the children, youth and families department's
15 safety plans under this new philosophy and practice;

16 H. make recommendations for improvements to uniform
17 staff and safety practice; and

18 I. make recommendations regarding the continued and
19 future use of safety decision-making tools and philosophy; and

20 BE IT FURTHER RESOLVED that the study involve input from
21 appropriate stakeholders and relevant agencies, including:

22 A. an expert:

23 (1) in law enforcement;

24 (2) in child maltreatment and trauma-informed
25 science;

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- 1 (3) in behavioral health services;
2 (4) in the Indian Family Protection Act; and
3 (5) from a nonprofit children's advocacy
4 organization;

5 B. a representative of:

- 6 (1) the children, youth and families
7 department;
8 (2) the human services department;
9 (3) the early childhood education and care
10 department;
11 (4) the office of the attorney general; and
12 (5) a gender minority community;

13 C. a licensed independent social worker with
14 experience in child welfare;

15 D. two or more persons with lived experience in
16 child abuse or neglect; and

17 E. other stakeholders whose expertise the attorney
18 general deems necessary to the work of the task force; and

19 BE IT FURTHER RESOLVED that the task force be required to
20 enter into an agreement with a post-secondary educational
21 institution to conduct research that supports the work of the
22 task force; and

23 BE IT FURTHER RESOLVED that the task force be requested to
24 present its findings and recommendations to the legislative
25 health and human services committee by August 1, 2024; and

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