

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 42

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO CHILD WELFARE; AMENDING AND ENACTING SECTIONS OF
THE NMSA 1978 TO ENACT A NEW MEXICO CHILD SAFETY AND WELFARE
ACT; ENHANCING THE STATE PROGRAM ADMINISTERED PURSUANT TO THE
FEDERAL COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2016;
MOVING THAT PROGRAM FROM THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO THE DEPARTMENT OF HEALTH; AMENDING REQUIREMENTS
FOR PLANS OF SAFE CARE; REQUIRING THE CHILDREN, YOUTH AND
FAMILIES DEPARTMENT TO IMPLEMENT THE MULTILEVEL RESPONSE SYSTEM
STATEWIDE; ENACTING THE FAMILIES FIRST ACT WITHIN THE
CHILDREN'S CODE; REQUIRING THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO DEVELOP AND IMPLEMENT A STRATEGIC PLAN FOR
APPROVAL BY THE FEDERAL ADMINISTRATION FOR CHILDREN AND
FAMILIES; REQUIRING PROVISIONS OF THE STRATEGIC PLAN TO
IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES THAT MEET
THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST PREVENTION

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1 SERVICES ACT; PROVIDING ACCESS TO AND REQUIREMENTS FOR
2 CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION; SPECIFYING
3 TO WHOM AND UNDER WHAT CIRCUMSTANCES INFORMATION THAT IS HELD
4 BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT THAT PERTAINS TO
5 CHILD ABUSE AND NEGLECT MAY BE SHARED; REQUIRING THAT
6 INFORMATION BE PROVIDED ABOUT CHILD FATALITIES OR NEAR
7 FATALITIES; PROTECTING PERSONAL IDENTIFIER INFORMATION OF
8 DEPARTMENT CLIENTS; PROVIDING FOR RULEMAKING; REQUIRING
9 REPORTS; DECLARING THAT FOSTER CHILDREN ARE NOT RESIDENTS OF
10 FOSTER HOMES FOR PURPOSES OF HOMEOWNERS INSURANCE.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 SECTION 1. Section 9-2A-8 NMSA 1978 (being Laws 1992,
14 Chapter 57, Section 8, as amended) is amended to read:

15 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
16 other duties provided by law or assigned to the department by
17 the governor, the department shall:

18 A. develop priorities for department services and
19 resources based on state policy and national best-practice
20 standards and local considerations and priorities;

21 B. strengthen collaboration and coordination in
22 state and local services for children, youth and families by
23 integrating critical functions as appropriate, including
24 service delivery, and contracting for services across divisions
25 and related agencies;

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1 C. develop and maintain a statewide database,
2 including client tracking of services for children, youth and
3 families;

4 D. develop standards of service within the
5 department that focus on prevention, monitoring and outcomes;

6 E. analyze policies of other departments that
7 affect children, youth and families to encourage common
8 contracting procedures, common service definitions and a
9 uniform system of access;

10 F. [~~enact regulations~~] adopt rules to control
11 disposition and placement of children under the Children's
12 Code, including [~~regulations~~] rules to limit or prohibit the
13 out-of-state placement of children, including those who have
14 developmental disabilities or emotional, neurobiological or
15 behavioral disorders, when in-state alternatives are available;

16 G. develop reimbursement criteria for licensed
17 child care centers and licensed home providers establishing
18 that accreditation by a department-approved national
19 accrediting body is sufficient qualification for the child care
20 center or home provider to receive the highest reimbursement
21 rate paid by the department;

22 H. assume and implement responsibility for
23 children's mental health and substance abuse services in the
24 state, coordinating with the [~~human services department~~] health
25 care authority and the department of health;

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1 I. assume and implement the lead responsibility
2 among all departments for domestic violence services;

3 J. implement prevention and early intervention as a
4 departmental focus;

5 K. conduct biennial assessments of service gaps and
6 needs and establish outcome measurements to address those
7 service gaps and needs, including recommendations from the
8 governor's children's cabinet and the children, youth and
9 families advisory committee;

10 L. ensure that behavioral health services provided,
11 including mental health and substance abuse services for
12 children, adolescents and their families, shall be in
13 compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA
14 1978 and any rules adopted pursuant to that section;

15 M. develop and implement the families first
16 strategic plan for the delivery of services and access to
17 programs as required pursuant to the Families First Act; and

18 [~~M.~~] N. fingerprint and conduct nationwide criminal
19 history record searches on all department employees, staff
20 members and volunteers whose jobs involve direct contact with
21 department clients, including prospective employees and
22 employees who are promoted, transferred or hired into new
23 positions, and the superiors of all department employees, staff
24 members and volunteers who have direct unsupervised contact
25 with department clients."

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1 SECTION 2. Section 32A-1-4 NMSA 1978 (being Laws 1993,
2 Chapter 77, Section 13, as amended) is amended to read:

3 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

4 A. "active efforts" means efforts that are
5 affirmative, active, thorough and timely and that represent a
6 higher standard of conduct than reasonable efforts;

7 B. "adult" means a person who is eighteen years of
8 age or older;

9 C. "CARA" means the federal Comprehensive Addiction
10 and Recovery Act of 2016 that established a comprehensive,
11 coordinated and balanced strategy for substance-exposed
12 newborns and those newborns' caregivers through enhanced grant
13 programs that expand prevention and education efforts while
14 promoting treatment and recovery;

15 ~~[G.]~~ D. "child" means a person who is less than
16 eighteen years old;

17 ~~[D.]~~ E. "council" means the substitute care
18 advisory council established pursuant to Section 32A-8-4 NMSA
19 1978;

20 ~~[E.]~~ F. "court", when used without further
21 qualification, means the children's court division of the
22 district court and includes the judge, special master or
23 commissioner appointed pursuant to the provisions of the
24 Children's Code or supreme court rule;

25 ~~[F.]~~ G. "court-appointed special advocate" means a
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1 person appointed pursuant to the provisions of the Children's
2 Court Rules to assist the court in determining the best
3 interests of the child by investigating the case and submitting
4 a report to the court;

5 ~~[G.]~~ H. "custodian" means an adult with whom the
6 child lives who is not a parent or guardian of the child;

7 ~~[H.]~~ I. "department" means the children, youth and
8 families department, unless otherwise specified;

9 ~~[I.]~~ J. "disproportionate minority contact" means
10 the involvement of a racial or ethnic group with the criminal
11 or juvenile justice system at a proportion either higher or
12 lower than that group's proportion in the general population;

13 ~~[J.]~~ K. "federal Indian Child Welfare Act of 1978"
14 means the federal Indian Child Welfare Act of 1978, as that act
15 may be amended or its sections renumbered;

16 ~~[K.]~~ L. "foster parent" means a person, including a
17 relative of the child, licensed or certified by the department
18 or a child placement agency to provide care for children in the
19 custody of the department or agency;

20 ~~[L.]~~ M. "guardian" means a person appointed as a
21 guardian by a court or Indian tribal authority;

22 ~~[M.]~~ N. "guardian ad litem" means an attorney
23 appointed by the children's court to represent and protect the
24 best interests of the child in a case; provided that no party
25 or employee or representative of a party to the case shall be

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1 appointed to serve as a guardian ad litem;

2 [N-] O. "Indian" means, whether an adult or child,
3 a person who is:

4 (1) a member of an Indian tribe; or

5 (2) eligible for membership in an Indian
6 tribe;

7 [O-] P. "Indian child" means an Indian person, or a
8 person whom there is reason to know is an Indian person, under
9 eighteen years of age, who is neither:

10 (1) married; or

11 (2) emancipated;

12 [P-] Q. "Indian child's tribe" means:

13 (1) the Indian tribe in which an Indian child
14 is a member or eligible for membership; or

15 (2) in the case of an Indian child who is a
16 member or eligible for membership in more than one tribe, the
17 Indian tribe with which the Indian child has more significant
18 contacts;

19 [Q-] R. "Indian custodian" means an Indian who,
20 pursuant to tribal law or custom or pursuant to state law:

21 (1) is an adult with legal custody of an
22 Indian child; or

23 (2) has been transferred temporary physical
24 care, custody and control by the parent of the Indian child;

25 [R-] S. "Indian tribe" means an Indian nation,

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1 tribe, pueblo or other band, organized group or community of
2 Indians recognized as eligible for the services provided to
3 Indians by the secretary because of their status as Indians,
4 including an Alaska native village as defined in 43 U.S.C.
5 Section 1602(c) or a regional corporation as defined in 43
6 U.S.C. Section 1606. For the purposes of notification to and
7 communication with a tribe as required in the Indian Family
8 Protection Act, "Indian tribe" also includes those tribal
9 officials and staff who are responsible for child welfare and
10 social services matters;

11 ~~[S.]~~ T. "judge", when used without further
12 qualification, means the judge of the court;

13 ~~[F.]~~ U. "legal custody" means a legal status
14 created by order of the court or other court of competent
15 jurisdiction or by operation of statute that vests in a person,
16 department or agency the right to determine where and with whom
17 a child shall live; the right and duty to protect, train and
18 discipline the child and to provide the child with food,
19 shelter, personal care, education and ordinary and emergency
20 medical care; the right to consent to major medical,
21 psychiatric, psychological and surgical treatment and to the
22 administration of legally prescribed psychotropic medications
23 pursuant to the Children's Mental Health and Developmental
24 Disabilities Act; and the right to consent to the child's
25 enlistment in the armed forces of the United States;

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1 [~~U.~~] V. "member" or "membership" means a
2 determination made by an Indian tribe that a person is a member
3 of or eligible for membership in that Indian tribe;

4 [~~V.~~] W. "parent" or "parents" means a biological or
5 adoptive parent if the biological or adoptive parent has a
6 constitutionally protected liberty interest in the care and
7 custody of the child or a person who has lawfully adopted an
8 Indian child pursuant to state law or tribal law or tribal
9 custom;

10 [~~W.~~] X. "permanency plan" means a determination by
11 the court that the child's interest will be served best by:

12 (1) reunification;

13 (2) placement for adoption after the parents'
14 rights have been relinquished or terminated or after a motion
15 has been filed to terminate parental rights;

16 (3) placement with a person who will be the
17 child's permanent guardian;

18 (4) placement in the legal custody of the
19 department with the child placed in the home of a fit and
20 willing relative; or

21 (5) placement in the legal custody of the
22 department under a planned permanent living arrangement;

23 [~~X.~~] Y. "person" means an individual or any other
24 form of entity recognized by law;

25 [~~Y.~~] Z. "plan of safe care" means a written plan

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1 created by a health care professional intended to ensure the
2 immediate and ongoing safety and well-being of a substance-
3 exposed newborn or to provide perinatal support to a pregnant
4 person with substance use disorder by addressing the treatment
5 needs of the child and any of the child's parents, relatives,
6 guardians, [~~family members~~] custodians or [~~caregivers~~]
7 caretakers to the extent those treatment needs are relevant to
8 the safety of the child;

9 [Z-] AA. "preadoptive parent" means a person with
10 whom a child has been placed for adoption;

11 [~~AA-~~] BB. "protective supervision" means the right
12 to visit the child in the home where the child is residing,
13 inspect the home, transport the child to court-ordered
14 diagnostic examinations and evaluations and obtain information
15 and records concerning the child;

16 [~~BB-~~] CC. "relative" means a person related to
17 another person:

18 (1) by blood within the fifth degree of
19 consanguinity or through marriage by the fifth degree of
20 affinity; or

21 (2) with respect to an Indian child, as
22 established or defined by the Indian child's tribe's custom or
23 law;

24 [~~CC-~~] DD. "reservation" means:

25 (1) "Indian country" as defined in 18 U.S.C.

1 Section 1151;

2 (2) any lands to which the title is held by
3 the United States in trust for the benefit of an Indian tribe
4 or individual; or

5 (3) any lands held by an Indian tribe or
6 individual subject to a restriction by the United States
7 against alienation;

8 [~~DD-~~] EE. "reunification" means either a return of
9 the child to the parent or to the home from which the child was
10 removed or a return to the noncustodial parent;

11 [~~EE-~~] FF. "secretary" means the United States
12 secretary of the interior;

13 GG. "substance-exposed newborn" means an infant
14 under the age of one who has been prenatally exposed to a
15 controlled substance, including misuse of a prescribed or non-
16 prescribed drug or alcohol, that may affect the infant's health
17 or development;

18 [~~FF-~~] HH. "tribal court" means a court with
19 jurisdiction over child custody proceedings that is either a
20 court of Indian offenses, a court established and operated
21 under the law or custom of an Indian tribe or any other
22 administrative body that is vested by an Indian tribe with
23 authority over child custody proceedings;

24 [~~GG-~~] II. "tribal court order" means a document
25 issued by a tribal court that is signed by an appropriate

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1 authority, including a judge, governor or tribal council
2 member, and that orders an action that is within the tribal
3 court's jurisdiction; and

4 ~~[HH-]~~ JJ. "tribunal" means any judicial forum other
5 than the court."

6 SECTION 3. Section 32A-3A-2 NMSA 1978 (being Laws 1993,
7 Chapter 77, Section 64, as amended) is amended to read:

8 "32A-3A-2. DEFINITIONS.--As used in the Voluntary
9 Placement and Family Services Act:

10 A. "birthing facility" means a hospital, clinic or
11 birthing center where a pregnant person gives birth to a baby
12 with assistance from a health care provider;

13 B. "CARA navigator" means a professional employed
14 by the department of health to provide intensive case
15 management to a pregnant person with substance use disorder or
16 a substance-exposed newborn and the newborn's parents,
17 relatives, guardians, custodians or caretakers;

18 C. "care coordinator" means a person assigned to a
19 substance-exposed newborn and the newborn's parents, relatives,
20 guardians, custodians or caretakers by a managed care
21 organization, private insurance or the health care authority;

22 ~~[A-]~~ D. "child or family in need of family
23 services" means a family:

24 (1) whose child's behavior endangers the
25 child's health, safety, education or well-being;

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1 (2) whose child is excessively absent from
2 public school as defined in the Attendance for Success Act;

3 (3) whose child is absent from the child's
4 place of residence for twenty-four hours or more without the
5 consent of the parent, guardian or custodian;

6 (4) in which the parent, guardian or custodian
7 of a child refuses to permit the child to live with the parent,
8 guardian or custodian; or

9 (5) in which the child refuses to live with
10 the child's parent, guardian or custodian;

11 E. "family assessment" means a comprehensive
12 assessment based on standards of professional practice prepared
13 by a CARA navigator during a home visit;

14 [~~B.~~] F. "family services" means services that
15 address specific needs of the child or family;

16 [~~G.~~] G. "guardian" means a person appointed as a
17 guardian by a court or Indian tribal authority or a person
18 authorized to care for a child by a parental power of attorney
19 as permitted by law;;

20 [~~D.~~] H. "guardianship assistance agreement" means a
21 written agreement entered into by the prospective guardian and
22 the department or Indian tribe prior to the establishment of
23 the guardianship by a court;

24 [~~E.~~] I. "guardianship assistance payments" means
25 payments made by the department to a kinship guardian or

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1 successor guardian on behalf of a child pursuant to the terms
2 of a guardianship assistance agreement;

3 ~~[F.]~~ J. "guardianship assistance program" means the
4 financial subsidy program provided for in the Voluntary
5 Placement and Family Services Act;

6 ~~[G.]~~ K. "kinship" means the relationship that
7 exists between a child and a relative of the child, a
8 godparent, a member of the child's tribe or clan or an adult
9 with whom the child has a significant bond;

10 L. "managed care organization" means a person or
11 entity eligible to enter into risk-based capitation agreements
12 with the health care authority to provide health care and
13 related services;

14 ~~[H.]~~ M. "subsidized guardianship" means a
15 guardianship that meets subsidy eligibility criteria pursuant
16 to the Voluntary Placement and Family Services Act; and

17 ~~[I.]~~ N. "voluntary placement agreement" means a
18 written agreement between the department and the parent or
19 guardian of a child."

20 SECTION 4. Section 32A-3A-13 NMSA 1978 (being Laws 2019,
21 Chapter 190, Section 3) is amended to read:

22 "32A-3A-13. PLAN OF SAFE CARE--~~[GUIDELINES]~~
23 REQUIREMENTS--CREATION--DATA SHARING--TRAINING.--

24 A. By ~~[January 1, 2020]~~ July 1, 2026, the
25 department of health, in consultation with ~~[medicaid-managed~~

1 ~~care organizations, private insurers]~~ the office of
 2 superintendent of insurance, the [~~human services department]~~
 3 health care authority and the department, [~~of health]~~ shall
 4 develop rules to guide [~~hospitals, birthing centers]~~ birthing
 5 facilities, medical providers, medicaid managed care
 6 organizations and private insurers in the care of pregnant
 7 persons with substance use disorder and newborns who exhibit
 8 physical, neurological or behavioral symptoms consistent with
 9 prenatal drug exposure, withdrawal symptoms from prenatal drug
 10 exposure or fetal alcohol spectrum disorder.

11 B. Rules shall include guidelines to [~~hospitals,~~
 12 ~~birthing centers]~~ birthing facilities, medical providers,
 13 medicaid managed care organizations and private insurers
 14 regarding:

15 (1) participation in the [~~discharge planning]~~
 16 plan of safe care development process, including the creation
 17 of a written plan of safe care that shall be sent to:

- 18 (a) the child's primary care physician;
 19 (b) a [~~medicaid managed care~~
 20 ~~organization insurance plan]~~ care coordinator [~~who will monitor~~
 21 ~~the implementation of the plan of care after discharge, if the~~
 22 ~~child is insured, or to a care coordinator in the children's~~
 23 ~~medical services of the family health bureau of the public~~
 24 ~~health division of the department of health who will monitor~~
 25 ~~the implementation of the plan of care after discharge, if the~~

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1 ~~child is uninsured~~]; and

2 (c) the child's parent, relative,
3 guardian, custodian or caretaker who is present at discharge
4 who shall receive a copy upon discharge; [~~The plan of care~~
5 ~~shall be signed by an appropriate representative of the~~
6 ~~discharging hospital and the child's parent, relative, guardian~~
7 ~~or caretaker who is present at discharge~~]

8 (2) [~~definitions and evidence-based~~] screening
9 tools, based on standards of professional practice, to be used
10 by health care providers to identify a child born affected by
11 substance use or withdrawal symptoms resulting from prenatal
12 drug exposure or a fetal alcohol spectrum disorder;

13 (3) collection and reporting of data to meet
14 federal and state reporting requirements, including the
15 following:

16 (a) data to be collected and reported by
17 [~~hospitals and birthing centers~~] birthing facilities to the
18 department of health when [1)] a plan of safe care has been
19 developed [and 2) a family has been referred for a plan of
20 care];

21 (b) information pertaining to a [child
22 ~~born and diagnosed by a health care professional as affected by~~
23 ~~substance abuse, withdrawal symptoms resulting from prenatal~~
24 ~~drug exposure or a fetal alcohol spectrum disorder~~] substance-
25 exposed newborn; and

1 (c) data collected by ~~[hospitals and~~
2 ~~birthing centers for use by the children's medical services of~~
3 ~~the family health bureau of the public health division of the]~~
4 birthing facilities and submitted to the department of health
5 ~~[in] for~~ epidemiological reports and to support and monitor a
6 plan of safe care; [Information reported pursuant to this
7 ~~subparagraph shall be coordinated with communication to~~
8 ~~insurance carrier care coordinators to facilitate access to~~
9 ~~services for children and parents, relatives, guardians or~~
10 ~~caregivers identified in a plan of care;~~

11 (4) ~~identification of appropriate agencies to~~
12 ~~be included as supports and services in the plan of care, based~~
13 ~~on an assessment of the needs of the child and the child's~~
14 ~~relatives, parents, guardians or caretakers, performed by a~~
15 ~~discharge planner prior to the child's discharge from the~~
16 ~~hospital or birthing center, which may include:~~

- 17 (a) ~~public health agencies;~~
18 (b) ~~maternal and child health agencies;~~
19 (c) ~~home visitation programs;~~
20 (d) ~~substance use disorder prevention~~
21 ~~and treatment providers;~~
22 (e) ~~mental health providers;~~
23 (f) ~~public and private children and~~
24 ~~youth agencies;~~
25 (g) ~~early intervention and developmental~~

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1 services;

2 ~~(h) courts;~~

3 ~~(i) local education agencies;~~

4 ~~(j) managed care organizations; or~~

5 ~~(k) hospitals and medical providers; and~~

6 ~~(5) engagement of the child's relatives,~~
7 ~~parents, guardians or caretakers in order to identify the need~~
8 ~~for access to treatment for any substance use disorder or other~~
9 ~~physical or behavioral health condition that may impact the~~
10 ~~safety, early childhood development and well-being of the~~
11 ~~child]~~

12 (4) requirements for the health care authority

13 to:

14 (a) ensure there is at least one care
15 coordinator available at each birthing facility;

16 (b) ensure all substance-exposed
17 newborns who have a plan of safe care are assigned a care
18 coordinator; and

19 (c) provide training to birthing
20 facility staff and perinatal health care providers on the
21 screening, brief intervention and referral to treatment
22 program;

23 (5) the process for a birthing facility or
24 other health care provider to participate in the development of
25 a plan of safe care at a perinatal medical visit;

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1 (6) requirements for a birthing facility to
2 participate in the discharge planning process, including the
3 creation of a written plan of safe care that shall be created
4 prior to a substance-exposed newborn's discharge from a
5 birthing facility and sent immediately to the department of
6 health and the department;

7 (7) requirements for the plan of safe care to
8 be signed by a person designated by the discharging birthing
9 facility and at least one of the substance-exposed newborn's
10 parents, relatives, guardians, custodians or caretakers;

11 (8) information that shall be in a written
12 plan of safe care, including:

13 (a) a referral to an early intervention
14 family infant toddler program or a home visiting program;

15 (b) the substance-exposed newborn's
16 name, date of birth and date of discharge;

17 (c) an emergency contact for at least
18 one of the substance-exposed newborn's parents, relatives,
19 guardians, custodians or caretakers;

20 (d) the address for the caregiver who
21 will be taking the substance-exposed newborn home from the
22 birthing facility;

23 (e) the names of the parents, relatives,
24 guardians, custodians or caretakers who will be living with the
25 substance-exposed newborn; and

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1 (f) a preliminary assessment that the
2 substance-exposed newborn will have a safe living environment
3 based on a screening tool developed by the department of
4 health;

5 (9) information that may be included in a plan
6 of safe care, including:

7 (a) maternal and child health agencies;

8 (b) mental health care providers;

9 (c) public and private children and
10 youth agencies;

11 (d) developmental services;

12 (e) managed care organizations; or

13 (f) hospitals and medical providers; and

14 (10) requirements for a CARA navigator to:

15 (a) conduct an in-home visit;

16 (b) engage a substance-exposed newborn's
17 parents, relatives, guardians, custodians or caretakers; and

18 (c) conduct a family assessment to
19 identify any risk within the substance-exposed newborn's
20 environment and the need for treatment for any substance use
21 disorder or other physical or behavioral health condition that
22 may impact the safety, early childhood development or well-
23 being of the substance-exposed newborn.

24 C. By July 1, 2026, the department of health shall
25 adopt rules for monitoring adherence to plans of safe care and

1 evaluating outcomes for substance-exposed newborns and the
2 families of substance-exposed newborns. The rules shall
3 include requirements for:

4 (1) CARA navigators to arrange a home visit
5 and complete a family assessment upon receiving a notification
6 of the creation of a plan of safe care;

7 (2) CARA navigators to update plans of safe
8 care with referrals for counseling, training or other services
9 aimed at addressing the underlying causative factors that may
10 jeopardize the safety or well-being of a substance-exposed
11 newborn;

12 (3) CARA navigators and care coordinators to
13 make active efforts to connect substance-exposed newborns and
14 the families of substance-exposed newborns to services to which
15 they have been referred;

16 (4) care coordinators to make active efforts
17 to contact persons who are not adhering to a plan of safe care
18 using multiple methods, including in person or by mail,
19 telephone call or text message; and

20 (5) confidentiality related to plans of safe
21 care.

22 ~~[G.]~~ D. Reports made pursuant to Paragraph (3) of
23 Subsection B of this section shall be collected by the
24 department and the department of health as distinct and
25 separate from any child abuse report as captured and held or

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1 investigated by the department, such that the reporting of a
2 plan of safe care shall not constitute a report of suspected
3 child abuse and neglect and shall not initiate investigation by
4 the department or a report to law enforcement.

5 ~~[D.]~~ E. The department of health shall summarize
6 and report data received pursuant to Paragraph (3) of
7 Subsection B of this section at intervals as needed to meet
8 federal regulations.

9 ~~[E.]~~ F. The ~~[children's medical services of the~~
10 ~~family health bureau of the public health division of the~~
11 ~~department of health shall collect and record data reported~~
12 ~~pursuant to Subparagraph (c) of Paragraph (3) of Subsection B~~
13 ~~of this section to support and monitor care coordination of~~
14 ~~plans of care for children born without insurance]~~ department
15 of health shall provide an annual report to the legislative
16 finance committee, the interim legislative health and human
17 services committee and the department of finance and
18 administration on the status of the plan of safe care system.
19 The report shall include the following aggregate statistical
20 information related to the creation of plans of safe care:

21 (1) the primary substances that infants were
22 exposed to;

23 (2) the services that infants and families
24 were referred to;

25 (3) the availability and uptake rate of

1 services;

2 (4) whether an infant or an infant's family
 3 was subsequently reported to the children, youth and families
 4 department; and

5 (5) disaggregated demographic and geographic
 6 data.

7 [~~F.~~] G. Reports made pursuant to the requirements
 8 in this section shall not be construed to relieve a person of
 9 the requirement to report to the department knowledge of or a
 10 reasonable suspicion that a child is an abused or neglected
 11 child based on criteria as defined by Section 32A-4-2 NMSA
 12 1978.

13 [~~G.~~] H. The [~~department shall work in consultation~~
 14 ~~with the]~~ department of health [~~to~~] shall create and distribute
 15 training materials to support and educate discharge planners,
 16 [~~or~~] health care providers, care coordinators, CARA navigators
 17 and social workers on the following:

18 (1) how to assess whether to make a referral
 19 to the department pursuant to the Abuse and Neglect Act;

20 (2) how to assess whether to make a
 21 notification to the department pursuant to Subsection B of
 22 Section 32A-4-3 NMSA 1978 for a child who has been diagnosed as
 23 affected by substance abuse, withdrawal symptoms resulting from
 24 prenatal drug exposure or a fetal alcohol spectrum disorder;

25 (3) how to assess whether to create a plan of

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1 safe care when a referral to the department is not required;
2 [~~and~~]

3 (4) the creation and [~~deployment~~]
4 implementation of a plan of safe care;

5 [~~H. No person shall have a cause of action for any~~
6 ~~loss or damage caused by any act or omission resulting from the~~
7 ~~implementation of the provisions of Subsection G of this~~
8 ~~section or resulting from any training, or lack thereof,~~
9 ~~required by Subsection G of this section.~~

10 [~~I. The training, or lack thereof, required by the~~
11 ~~provisions of Subsection G of this section shall not be~~
12 ~~construed to impose any specific duty of care]~~

13 (5) mandatory reporting requirements; and

14 (6) proper coding of substance exposure and
15 neonatal abstinence syndrome.

16 I. Nothing in this section shall apply to the
17 Indian Family Protection Act, information or records concerning
18 Indian children or Indian parents, guardians or custodians or
19 investigations or proceedings pursuant to that act."

20 SECTION 5. Section 32A-3A-14 NMSA 1978 (being Laws 2019,
21 Chapter 190, Section 4) is amended to read:

22 "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF
23 NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

24 A. The department of health shall notify the
25 department within twenty-four hours and the department shall

1 conduct an evaluation to assess the substance-exposed newborn's
2 immediate needs and the family's ability to keep the
3 substance-exposed newborn safe if the parents, relatives,
4 guardians, custodians or caretakers of a [~~child released from a~~
5 ~~hospital or freestanding birthing center pursuant to a plan of~~
6 ~~care fail to comply with that plan, the department shall be~~
7 ~~notified and the department may conduct a family assessment.~~
8 ~~Based on the results of the family assessment, the department~~
9 ~~may offer or provide referrals for counseling, training, or~~
10 ~~other services aimed at addressing the underlying causative~~
11 ~~factors that may jeopardize the safety or well-being of the~~
12 ~~child. The child's parents, relatives, guardians or caretakers~~
13 ~~may choose to accept or decline any service or program offered~~
14 ~~subsequent to the family assessment; provided that if the~~
15 ~~child's parents, relatives, guardians or caretakers decline~~
16 ~~those services or programs, the department may proceed with an~~
17 ~~investigation.~~

18 B. ~~As used in this section, "family assessment"~~
19 ~~means a comprehensive assessment prepared by the department at~~
20 ~~the time the department receives notification of failure to~~
21 ~~comply with the plan of care to determine the needs of a child~~
22 ~~and the child's parents, relatives, guardians or caretakers,~~
23 ~~including an assessment of the likelihood of:~~

24 (1) ~~imminent danger to a child's well-being;~~

25 (2) ~~the child becoming an abused child or~~

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1 ~~neglected child; and~~

2 ~~(3) the strengths and needs of the child's~~
3 ~~family members, including parents, relatives, guardians or~~
4 ~~caretakers, with respect to providing for the health and safety~~
5 ~~of the child] substance-exposed newborn:~~

6 (1) refuse to engage in a family assessment
7 conducted by a CARA navigator;

8 (2) disengage with a CARA navigator and the
9 family assessment indicates that the parent, relative,
10 guardian, custodian or caretaker's failure to engage with
11 services will result in risk of imminent danger to the
12 substance-exposed newborn; or

13 (3) fail to adhere to a plan of safe care and
14 the family assessment indicates that failure of the parent,
15 relative, guardian, custodian or caretaker to adhere to the
16 plan of safe care will result in risk of imminent danger to the
17 substance-exposed newborn.

18 B. Nothing in this section shall apply to the
19 Indian Family Protection Act, information or records concerning
20 Indian children or Indian parents, guardians or custodians or
21 investigations or proceedings pursuant to that act."

22 SECTION 6. Section 32A-4-2 NMSA 1978 (being Laws 1993,
23 Chapter 77, Section 96, as amended) is amended to read:

24 "32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect
25 Act:

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1 A. "abandonment" includes instances when the
2 parent, without justifiable cause:

3 (1) left the child without provision for the
4 child's identification for a period of fourteen days; or

5 (2) left the child with others, including the
6 other parent or an agency, without provision for support and
7 without communication for a period of:

8 (a) three months if the child was under
9 six years of age at the commencement of the three-month period;
10 or

11 (b) six months if the child was over six
12 years of age at the commencement of the six-month period;

13 B. "abused child" means a child:

14 (1) who has suffered or who is at risk of
15 suffering serious harm because of the action or inaction of the
16 child's parent, guardian or custodian;

17 (2) who has suffered physical abuse, emotional
18 abuse or psychological abuse inflicted or caused by the child's
19 parent, guardian or custodian;

20 (3) who has suffered sexual abuse or sexual
21 exploitation inflicted by the child's parent, guardian or
22 custodian;

23 (4) whose parent, guardian or custodian has
24 knowingly, intentionally or negligently placed the child in a
25 situation that may endanger the child's life or health; or

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underscoring material = new
~~[bracketed material] = delete~~

1 (5) whose parent, guardian or custodian has
2 knowingly or intentionally tortured, cruelly confined or
3 cruelly punished the child;

4 C. "aggravated circumstances" includes those
5 circumstances in which the parent, guardian or custodian has:

6 (1) attempted, conspired to cause or caused
7 great bodily harm to the child or great bodily harm or death to
8 the child's sibling;

9 (2) attempted, conspired to cause or caused
10 great bodily harm or death to another parent, guardian or
11 custodian of the child;

12 (3) attempted, conspired to subject or has
13 subjected the child to torture, chronic abuse or sexual abuse;
14 or

15 (4) had parental rights over a sibling of the
16 child terminated involuntarily;

17 D. "educational decision maker" means an individual
18 appointed by the children's court to attend school meetings and
19 to make decisions about the child's education that a parent
20 could make under law, including decisions about the child's
21 educational setting, and the development and implementation of
22 an individual education plan for the child;

23 E. "fictive kin" means a person not related by
24 birth, adoption or marriage with whom a child has an
25 emotionally significant relationship;

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1 F. "great bodily harm" means an injury to a person
2 that creates a high probability of death, that causes serious
3 disfigurement or that results in permanent or protracted loss
4 or impairment of the function of a member or organ of the body;

5 G. "neglected child" means a child:

6 (1) who has been abandoned by the child's
7 parent, guardian or custodian;

8 (2) who is without proper parental care and
9 control or subsistence, education, medical or other care or
10 control necessary for the child's well-being because of the
11 faults or habits of the child's parent, guardian or custodian
12 or the failure or refusal of the parent, guardian or custodian,
13 when able to do so, to provide them;

14 (3) who has been physically or sexually
15 abused, when the child's parent, guardian or custodian knew or
16 should have known of the abuse and failed to take reasonable
17 steps to protect the child from further harm;

18 (4) whose parent, guardian or custodian is
19 unable to discharge that person's responsibilities to and for
20 the child because of incarceration, hospitalization or physical
21 or mental disorder or incapacity; or

22 (5) who has been placed for care or adoption
23 in violation of the law; provided that nothing in the
24 Children's Code shall be construed to imply that a child who is
25 being provided with treatment by spiritual means alone through

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1 prayer, in accordance with the tenets and practices of a
2 recognized church or religious denomination, by a duly
3 accredited practitioner thereof is for that reason alone a
4 neglected child within the meaning of the Children's Code; and
5 further provided that no child shall be denied the protection
6 afforded to all children under the Children's Code;

7 H. "personal identifier information" means a
8 person's name and contact information, including home or
9 business address, email address or phone number;

10 [~~H.~~] I. "physical abuse" includes any case in which
11 the child suffers strangulation or suffocation and any case in
12 which the child exhibits evidence of skin bruising, bleeding,
13 malnutrition, failure to thrive, burns, fracture of any bone,
14 subdural hematoma, soft tissue swelling or death and:

15 (1) there is not a justifiable explanation for
16 the condition or death;

17 (2) the explanation given for the condition is
18 at variance with the degree or nature of the condition;

19 (3) the explanation given for the death is at
20 variance with the nature of the death; or

21 (4) circumstances indicate that the condition
22 or death may not be the product of an accidental occurrence;

23 [~~H.~~] J. "relative" means a person related to
24 another person by birth, adoption or marriage within the fifth
25 degree of consanguinity;

1 ~~[J.]~~ K. "sexual abuse" includes criminal sexual
2 contact, incest or criminal sexual penetration, as those acts
3 are defined by state law;

4 ~~[K.]~~ L. "sexual exploitation" includes:

5 (1) allowing, permitting or encouraging a
6 child to engage in prostitution;

7 (2) allowing, permitting, encouraging or
8 engaging a child in obscene or pornographic photographing; or

9 (3) filming or depicting a child for obscene
10 or pornographic commercial purposes, as those acts are defined
11 by state law;

12 ~~[L.]~~ M. "sibling" means a brother or sister having
13 one or both parents in common by birth or adoption;

14 ~~[M.]~~ N. "strangulation" has the same meaning as set
15 forth in Section 30-3-11 NMSA 1978;

16 ~~[N.]~~ O. "suffocation" has the same meaning as set
17 forth in Section 30-3-11 NMSA 1978; and

18 ~~[O.]~~ P. "transition plan" means an individualized
19 written plan for a child, based on the unique needs of the
20 child, that outlines all appropriate services to be provided to
21 the child to increase independent living skills. The plan
22 shall also include responsibilities of the child, and any other
23 party as appropriate, to enable the child to be self-sufficient
24 upon emancipation."

25 SECTION 7. Section 32A-4-3 NMSA 1978 (being Laws 1993,

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1 Chapter 77, Section 97, as amended) is amended to read:

2 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
3 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--
4 NOTIFICATION OF PLAN OF SAFE CARE.--

5 A. Every person, including a licensed physician; a
6 resident or an intern examining, attending or treating a child;
7 a law enforcement officer; a judge presiding during a
8 proceeding; a registered nurse; a visiting nurse; a school
9 employee; a social worker acting in an official capacity; or a
10 member of the clergy who has information that is not privileged
11 as a matter of law, who knows or has a reasonable suspicion
12 that a child is an abused or a neglected child shall report the
13 matter immediately to:

- 14 (1) a local law enforcement agency;
15 (2) the department; or
16 (3) a tribal law enforcement or social
17 services agency for any Indian child residing in Indian
18 country.

19 B. A law enforcement agency receiving the report
20 shall immediately transmit the facts of the report and the
21 name, address and phone number of the reporter by telephone to
22 the department and shall transmit the same information in
23 writing within forty-eight hours. The department shall
24 immediately transmit the facts of the report and the name,
25 address and phone number of the reporter by telephone to a

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1 local law enforcement agency and shall transmit the same
2 information in writing within forty-eight hours. The written
3 report shall contain the names and addresses of the child and
4 the child's parents, guardian or custodian, the child's age,
5 the nature and extent of the child's injuries, including any
6 evidence of previous injuries, and other information that the
7 maker of the report believes might be helpful in establishing
8 the cause of the injuries and the identity of the person
9 responsible for the injuries. The written report shall be
10 submitted upon a standardized form agreed to by the law
11 enforcement agency and the department.

12 C. The recipient of a report under Subsection A of
13 this section shall take immediate steps to ensure prompt
14 investigation of the report. The investigation shall ensure
15 that immediate steps are taken to protect the health or welfare
16 of the alleged abused or neglected child, as well as that of
17 any other child under the same care who may be in danger of
18 abuse or neglect. A local law enforcement officer trained in
19 the investigation of child abuse and neglect is responsible for
20 investigating reports of alleged child abuse or neglect at
21 schools, daycare facilities or child care facilities.

22 D. If the child alleged to be abused or neglected
23 is in the care or control of or in a facility administratively
24 connected to the department, the report shall be investigated
25 by a local law enforcement officer trained in the investigation

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1 of child abuse and neglect. The investigation shall ensure
2 that immediate steps are taken to protect the health or welfare
3 of the alleged abused or neglected child, as well as that of
4 any other child under the same care who may be in danger of
5 abuse or neglect.

6 E. A law enforcement agency or the department shall
7 have access to any of the records pertaining to a child abuse
8 or neglect case maintained by any of the persons enumerated in
9 Subsection A of this section, except as otherwise provided in
10 the Abuse and Neglect Act.

11 F. A person who violates the provisions of
12 Subsection A of this section is guilty of a misdemeanor and
13 shall be sentenced pursuant to the provisions of Section
14 31-19-1 NMSA 1978.

15 G. A finding that a pregnant woman is using or
16 abusing drugs made pursuant to an interview, self-report,
17 clinical observation or routine toxicology screen shall not
18 alone form a sufficient basis to report child abuse or neglect
19 to the department pursuant to Subsection A of this section. A
20 volunteer, contractor or staff of a hospital or freestanding
21 birthing center shall not make a report based solely on that
22 finding and shall make a notification pursuant to Subsection H
23 of this section. Nothing in this subsection shall be construed
24 to prevent a person from reporting to the department a
25 reasonable suspicion that a child is an abused or neglected

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1 child based on other criteria as defined by Section 32A-4-2
 2 NMSA 1978, or a combination of criteria that includes a finding
 3 pursuant to this subsection.

4 H. A volunteer, contractor or staff of a hospital
 5 or freestanding birthing center shall:

6 (1) complete a written plan of safe care for a
 7 substance-exposed newborn as provided for by department of of
 8 health rule and the Children's Code; and

9 (2) provide notification, in a form and manner
 10 prescribed by the department, to the department and the
 11 department of health. Notification by a health care provider
 12 pursuant to this paragraph shall not be construed as a report
 13 of child abuse or neglect.

14 I. As used in this section, "notification" means
 15 informing the department and the department of health that a
 16 substance-exposed newborn was born and providing a copy of the
 17 plan of safe care that was created for the child; provided that
 18 notification shall comply with federal guidelines and shall not
 19 constitute a report of child abuse or neglect.

20 J. As used in this section, "school employee"
 21 includes employees of a school district or a public school."

22 **SECTION 8.** Section 32A-4-4.1 NMSA 1978 (being Laws 2019,
 23 Chapter 137, Section 2) is amended to read:

24 "32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

25 A. The department shall establish a multilevel

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1 response system to evaluate and provide services to a child or
2 the family, relatives, caretakers or guardians of a child with
3 respect to whom a report alleging neglect or abuse has been
4 made. The multilevel response system may include an
5 alternative to investigation upon completion of an evaluation
6 that may be completed at intake by the department, the results
7 of which indicate that there is no immediate concern for the
8 child's safety; provided, however, that an investigation shall
9 be conducted for any report:

- 10 (1) alleging sexual abuse of a child or
11 serious or imminent harm to a child;
12 (2) indicating a child fatality;
13 (3) requiring law enforcement involvement, as
14 identified pursuant to rules promulgated by the department; or
15 (4) requiring a specialized assessment or a
16 traditional investigative approach, as determined pursuant to
17 rules promulgated by the department.

18 B. The department may remove a case from the
19 multilevel response system and conduct an investigation if
20 imminent danger of serious harm to the child becomes evident.
21 The department may reassign a case from investigation to the
22 multilevel response system at the discretion of the department.

23 C. For each family, including the child who is the
24 subject of a report to the department and that child's
25 relatives, caretakers or guardians, that receives services

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1 under the multilevel response system, the department shall
 2 conduct a family assessment. Based on the results of the
 3 family assessment, the department may offer or provide
 4 referrals for counseling, training or other services aimed at
 5 addressing the underlying causative factors jeopardizing the
 6 safety or well-being of the child who is the subject of a
 7 report to the department. A family member, relative, caretaker
 8 or guardian may choose to accept or decline any services or
 9 programs offered under the multilevel response system;
 10 provided, however, that if a family member, relative, caretaker
 11 or guardian declines services, the department may choose to
 12 proceed with an investigation.

13 D. The department shall employ licensed social
 14 workers to provide services to families, relatives, caretakers
 15 or guardians participating in the multilevel response system to
 16 the extent that licensed social workers are available for
 17 employment.

18 ~~E. The department may pilot the multilevel~~
 19 ~~response system prior to statewide implementation.~~

20 ~~F. The department may limit implementation of the~~
 21 ~~multilevel response system to areas of the state where~~
 22 ~~appropriate services are available and operate the system~~
 23 ~~within available state and federal resources.~~

24 ~~G.] E. The department shall:~~

25 (1) provide an annual report of system

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1 implementation and outcomes to the legislative finance
2 committee, the interim legislative health and human services
3 committee, the interim legislative committee that studies
4 courts, corrections and justice and the department of finance
5 and administration as part of the department's budget
6 submission;

7 (2) arrange for an independent evaluation of
8 the multilevel response system, including examining outcomes
9 for child safety and well-being and cost-effectiveness;

10 (3) incorporate the multilevel response system
11 into the department's quality assurance review process;

12 (4) develop performance measures, as provided
13 in the Accountability in Government Act, for the multilevel
14 response system; and

15 (5) implement the multilevel response system
16 statewide no later than July 1, [~~2022, if the department pilots~~
17 ~~or otherwise geographically limits the multilevel response~~
18 ~~system, submit a plan to the legislative finance committee and~~
19 ~~the department of finance and administration setting forth how~~
20 ~~the system could be expanded statewide, including a plan to~~
21 ~~address service availability, and identifying costs that would~~
22 ~~be incurred by the department] 2027.~~

23 [H.] F. The department shall promulgate rules to
24 implement the provisions of this section.

25 [F.] G. As used in this section, "family

1 assessment" means a comprehensive, evidence-based assessment
 2 tool used by the department to determine the needs of a child
 3 and the child's family, relatives, caretakers or guardians at
 4 the time the department receives a report of child abuse and
 5 neglect, including an assessment of the likelihood of:

- 6 (1) imminent danger to a child's well-being;
- 7 (2) the child becoming an abused child or a
 8 neglected child; and
- 9 (3) the strengths and needs of the child's
 10 family members, relatives, caretakers or guardians with respect
 11 to providing for the health and safety of the child."

12 **SECTION 9.** Section 32A-4-21 NMSA 1978 (being Laws 1993,
 13 Chapter 77, Section 115, as amended) is amended to read:

14 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
 15 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

16 A. Prior to holding a dispositional hearing, the
 17 court shall direct that a predisposition study and report be
 18 submitted in writing to the court by the department.

19 B. The predisposition study required pursuant to
 20 Subsection A of this section shall contain the following
 21 information:

- 22 (1) a statement of the specific reasons for
 23 intervention by the department or for placing the child in the
 24 department's custody and a statement of the parent's ability to
 25 care for the child in the parent's home without causing harm to

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1 the child;

2 (2) a statement of how an intervention plan is
3 designed to achieve placement of the child in the least
4 restrictive setting available, consistent with the best
5 interests and special needs of the child, including a statement
6 of the likely harm the child may suffer as a result of being
7 removed from the parent's home, including emotional harm that
8 may result due to separation from the child's parents, and a
9 statement of how the intervention plan is designed to place the
10 child in close proximity to the parent's home without causing
11 harm to the child due to separation from parents, siblings or
12 any other person who may significantly affect the child's best
13 interest;

14 (3) the wishes of the child as to the child's
15 custodian;

16 (4) a statement of the efforts the department
17 has made to identify and locate all grandparents and other
18 relatives and to conduct home studies on any appropriate
19 relative expressing an interest in providing care for the
20 child, and a statement as to whether the child has a family
21 member who, subsequent to study by the department, is
22 determined to be qualified to care for the child;

23 (5) a description of services offered to the
24 child, the child's family and the child's foster care family,
25 which, if appropriate and available, may include families first

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1 services provided pursuant to the Families First Act, as well
2 as referrals to income support or other services or programs,
3 and a summary of reasonable efforts made to prevent removal of
4 the child from the child's family or reasonable efforts made to
5 reunite the child with the child's family;

6 (6) a description of the home or facility in
7 which the child is placed and the appropriateness of the
8 child's placement;

9 (7) the results of any diagnostic examination
10 or evaluation ordered at the custody hearing;

11 (8) a statement of the child's medical and
12 educational background;

13 (9) a case plan that sets forth steps to
14 ensure that the child's physical, medical, cultural,
15 psychological and educational needs are met and that sets forth
16 services to be provided to the child and the child's parents to
17 facilitate permanent placement of the child in the parent's
18 home;

19 (10) for children sixteen years of age and
20 older, a plan for developing the specific skills the child
21 requires for successful transition into independent living as
22 an adult, regardless of whether the child is returned to the
23 child's parent's home;

24 (11) a case plan that sets forth steps to
25 ensure that the child's educational needs are met and, for a

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1 child fourteen years of age or older, a case plan that
2 specifically sets forth the child's educational and post-
3 secondary goals; and

4 (12) a description of the child's foster care
5 placement and whether it is appropriate in terms of the
6 educational setting and proximity to the school the child was
7 enrolled in at the time of the placement, including plans for
8 travel for the child to remain in the school in which the child
9 was enrolled at the time of placement, if reasonable and in the
10 child's best interest.

11 C. A copy of the predisposition report shall be
12 provided by the department to counsel for all parties five days
13 before the dispositional hearing.

14 D. If the child is an adjudicated abused child, any
15 temporary custody orders shall remain in effect until the court
16 has received and considered the predispositional study at the
17 dispositional hearing."

18 SECTION 10. Section 32A-4-33 NMSA 1978 (being Laws 1993,
19 Chapter 77, Section 127, as amended) is amended to read:

20 "32A-4-33. CONFIDENTIALITY--[RECORDS] INFORMATION--
21 PENALTY.--

22 A. In investigations and proceedings alleging abuse
23 or neglect, the department shall not disclose personal
24 identifier information of the child or the child's parent,
25 guardian or custodian, except as follows:

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1 (1) in the case of the fatality or near
2 fatality of a child;

3 (2) in cases in which a child is missing or
4 abducted or the child is or may be in danger of serious injury
5 or death unless immediate action is taken or there are other
6 exigent circumstances, the department shall release to law
7 enforcement and the nationally recognized organization that
8 serves as the national clearinghouse and resource center for
9 information about missing and exploited children as much
10 personal identifier information as necessary to identify the
11 child, a possible abductor or a suspect in an abuse or neglect
12 case or to protect evidence of a crime against the child;

13 (3) when a child or child's parent or guardian
14 has been publicly identified by a person outside the
15 department, but only that personal identifier information that
16 has been publicly identified; or

17 (4) to the persons enumerated in Subsection E
18 of this section.

19 B. Department information obtained during the
20 course of an investigation into allegations of abuse or neglect
21 shall be maintained by the department as required by federal
22 law as a condition of the allocation of federal funds in New
23 Mexico. The public release of department information shall be
24 construed as openly as possible under federal and state law.

25 C. Information released by the department that has

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1 not otherwise been publicly released shall be redacted as
2 needed to safeguard personal identifier information of the
3 child and the child's family. In a case in which a child or
4 the child's family has been publicly identified through news
5 reports, a lawsuit or other means, the department may respond
6 publicly with factual and complete information about the
7 actions the department has taken in the case.

8 ~~[A. All records or]~~ D. Other than in the case of a
9 fatality, redacted information concerning a party to a neglect
10 or abuse proceeding, including social records, diagnostic
11 evaluations, psychiatric or psychological reports, videotapes,
12 transcripts and audio recordings of a child's statement of
13 abuse or medical reports incident to or obtained as a result of
14 a neglect or abuse proceeding or that were produced or obtained
15 during an investigation in anticipation of or incident to a
16 neglect or abuse proceeding, ~~[shall be confidential and closed~~
17 ~~to the public]~~ may be released by the department to a person
18 who is conducting bona fide research or investigations, the
19 results of which should provide the department information on
20 child abuse and neglect that would be useful to the department
21 in developing policy and practice.

22 ~~[B.]~~ E. The ~~[records]~~ information described in
23 Subsection ~~[A]~~ D of this section shall be disclosed ~~[only]~~
24 without redaction to the parties and:

- 25 (1) court personnel and persons or entities

1 authorized by contract with the court to review, inspect or
2 otherwise have access to [~~records or~~] information in the
3 court's possession;

4 (2) court-appointed special advocates
5 appointed to the neglect or abuse proceeding;

6 (3) the child's guardian ad litem;

7 (4) the attorney representing the child in an
8 abuse or neglect action, a delinquency action or any other
9 action under the Children's Code;

10 (5) department personnel and persons or
11 entities authorized by contract with the department to review,
12 inspect or otherwise have access to [~~records or~~] information in
13 the department's possession;

14 (6) any local substitute care review board or
15 any agency contracted to implement local substitute care review
16 boards;

17 (7) law enforcement officials, except when use
18 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

19 (8) district attorneys, except when use
20 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

21 (9) any state government or tribal government
22 social services agency in any state or when, in the opinion of
23 the department, it is in the best interest of the child, a
24 governmental social services agency of another country;

25 (10) a foster parent, if the [~~records are~~

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1 ~~those~~ information is that of a child currently placed with
2 that foster parent or of a child being considered for placement
3 with that foster parent and the ~~[records concern]~~ information
4 concerns the social, medical, psychological or educational
5 needs of the child;

6 (11) school personnel involved with the child
7 but only if the ~~[records concern]~~ information concerns the
8 child's social, medical or educational needs;

9 (12) a grandparent, parent of a sibling,
10 relative or fictive kin, if the ~~[records or]~~ information
11 ~~[pertain]~~ pertains to a child being considered for placement
12 with that grandparent, parent of a sibling, relative or fictive
13 kin and the ~~[records or]~~ information ~~[concern]~~ concerns the
14 social, medical, psychological or educational needs of the
15 child;

16 (13) health care or mental health
17 professionals involved in the evaluation or treatment of the
18 child or of the child's parents, guardian, custodian or other
19 family members;

20 (14) protection and advocacy representatives
21 pursuant to the federal Developmental Disabilities Assistance
22 and Bill of Rights Act and the federal Protection and Advocacy
23 for Mentally Ill Individuals Amendments Act of 1991;

24 (15) children's safehouse organizations
25 conducting ~~[investigatory]~~ interviews of children on behalf of

1 a law enforcement agency or the department;

2 (16) representatives of the federal government
3 or their contractors authorized by federal statute or
4 regulation to review, inspect, audit or otherwise have access
5 to ~~[records and]~~ information pertaining to neglect or abuse
6 proceedings;

7 (17) ~~[any]~~ a person ~~[or entity]~~ attending a
8 meeting arranged by the department to discuss the safety, well-
9 being and permanency of a child, when the parent or child, or
10 parent or ~~[legal]~~ custodian on behalf of a child younger than
11 fourteen years of age, has consented to the disclosure; ~~[and]~~

12 (18) the office of the state medical
13 investigator; and

14 ~~[(18)]~~ (19) any other person ~~[or entity]~~, by
15 order of the court, having a legitimate interest in the case or
16 the work of the court.

17 F. A party to a court proceeding relating to a
18 department investigation into allegations of abuse and neglect
19 may comment publicly as long as the party does not disclose
20 personal identifier information that is still confidential
21 regarding the child or the child's parent or guardian.

22 ~~[G.]~~ G. A parent, guardian or ~~[legal]~~ custodian
23 whose child has been the subject of an investigation of abuse
24 or neglect where no petition has been filed shall have the
25 right to inspect any medical report, psychological evaluation,

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1 law enforcement reports or other investigative or diagnostic
2 evaluation; provided that any [~~identifying~~] personal identifier
3 information related to the reporting party or any other party
4 providing information shall be deleted or redacted. The
5 parent, guardian or [~~legal~~] custodian shall also have the right
6 to the results of the investigation and the right to petition
7 the court for full access to all department records and
8 information except [~~those records and~~] that information the
9 department finds would be likely to endanger the life or safety
10 of [~~any~~] a person providing information to the department.

11 H. The department is not required by this section
12 to disclose department information if the district attorney
13 successfully petitions the children's court that disclosure
14 would cause specific, material harm to a criminal investigation
15 or prosecution.

16 I. The department shall provide pertinent
17 department information upon request to a prospective adoptive
18 parent, foster parent or guardian if the information concerns a
19 child for whom the prospective adoptive parent, foster parent
20 or guardian seeks to adopt or provide care.

21 J. A person may authorize the release of department
22 information about the person's self but shall not waive the
23 confidentiality of department information concerning any other
24 person.

25 K. The department shall provide a summary of the

1 outcome of a department investigation to the person who
 2 reported the suspected child abuse or neglect in a timely
 3 manner no later than twenty days after the deadline for closure
 4 of the investigation.

5 ~~[D.]~~ L. Whoever intentionally and unlawfully
 6 releases any information ~~[or records]~~ closed to the public
 7 pursuant to the Abuse and Neglect Act or releases or makes
 8 other unlawful use of ~~[records]~~ information in violation of
 9 that act is guilty of a petty misdemeanor and shall be
 10 sentenced pursuant to the provisions of Section 31-19-1 NMSA
 11 1978.

12 ~~[E.]~~ M. The department ~~[shall]~~ may promulgate rules
 13 for implementing disclosure of records pursuant to this section
 14 and in compliance with state and federal law and the Children's
 15 Court Rules.

16 N. Nothing in this section or Section 32A-4-33.1
 17 NMSA 1978 limits the right of a person to seek documents or
 18 information through other provisions of law.

19 O. Nothing in this section applies to the Indian
 20 Family Protection Act, information concerning Indian children
 21 or Indian parents, guardians or custodians, as those terms are
 22 defined in that act, or investigations or proceedings pursuant
 23 to that act."

24 SECTION 11. Section 32A-4-33.1 NMSA 1978 (being Laws
 25 2009, Chapter 239, Section 52) is amended to read:

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1 "32A-4-33.1. FATALITIES--NEAR FATALITIES--RECORDS RELEASE
2 [~~WHEN A CHILD DIES~~].--

3 A. As used in this section:

4 (1) "near fatality" means an act that, as
5 certified by a physician, including the child's treating
6 physician, placed a child in a serious or critical medical
7 condition; and

8 (2) "personal identifier information" means:

9 (a) a person's name;

10 (b) all but the last four digits of a
11 person's: 1) taxpayer identification number; 2) financial
12 account number; 3) credit or debit card number; or 4) driver's
13 license number;

14 (c) all but the year of a person's date
15 of birth;

16 (d) a person's social security number;

17 and

18 (e) a person's street address, but not
19 the city, state or zip code.

20 ~~[A.]~~ B. After learning that a child fatality or
21 near fatality has occurred and that there is reasonable
22 suspicion that the fatality or near fatality was caused by
23 abandonment, abuse or neglect, the department shall upon
24 written request [~~to the secretary of the department~~] release
25 the following information, if in the department's possession,

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1 within five business days:

2 ~~[(1) the age and gender of the child;~~

3 ~~(2) the date of death;~~

4 ~~(3) whether the child was in foster care or in~~
5 ~~the home of the child's parent or guardian at the time of~~
6 ~~death; and~~

7 ~~(4) whether an investigation is being~~
8 ~~conducted by the department.~~

9 B. ~~If an investigation is being conducted by the~~
10 ~~department, then a request for further information beyond that~~
11 ~~listed in Subsection A of this section shall be answered with a~~
12 ~~statement that a report is under investigation]~~

13 (1) for a fatality:

14 (a) the name, age and gender of the
15 child;

16 (b) the date and location of the
17 fatality; and

18 (c) the cause of death, if known;

19 (2) for a near fatality:

20 (a) the age and gender of the child; and

21 (b) the type and extent of injuries;

22 (3) for either a fatality or near fatality:

23 (a) whether the child is currently or
24 has been in the custody of the department within the last five
25 years or the child's family is currently or has been served or

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1 under investigation by the department within the last five
2 years;

3 (b) whether the child lived with a
4 parent, guardian or custodian; was in foster care; was in a
5 residential facility or detention facility; was a runaway; or
6 had some other living arrangement;

7 (c) whether an investigation is being
8 conducted by the department or by a law enforcement agency, if
9 known;

10 (d) a detailed synopsis of prior reports
11 of abuse or neglect involving the child, siblings or other
12 children in the home, if applicable; and

13 (e) actions taken by the department to
14 ensure the safety of siblings, if applicable; and

15 (4) any other information that is publicly
16 known.

17 C. Upon completion of a child abandonment, abuse or
18 neglect investigation into a [~~child's death~~] fatality or near
19 fatality, if it is determined that abandonment, abuse or
20 neglect caused the [~~child's death~~] fatality or near fatality,
21 the following documents shall be released upon written request:

22 (1) a summary of the department's
23 investigation;

24 (2) a law enforcement investigation report, if
25 in the department's possession; [~~and~~]

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1 (3) ~~[a medical examiner's]~~ the medical
2 investigator's report, if in the department's possession; and

3 (4) in the case of a fatality, the
4 department's file on the child who died.

5 D. Prior to releasing ~~[any document pursuant to]~~
6 documents specified in Subsection C of this section, the
7 department shall consult with the district attorney and shall
8 redact:

9 (1) information that, ~~[would]~~ in the opinion
10 of the district attorney, ~~[jeopardize]~~ would cause specific
11 material harm to a criminal investigation or ~~[proceeding]~~
12 prosecution;

13 (2) ~~[identifying]~~ personal identifier
14 information related to a reporting party or any other party
15 providing information and any other child living in the home;

16 (3) information that is privileged,
17 confidential or not subject to disclosure pursuant to ~~[any]~~
18 Section 32A-4-33 NMSA 1978 or other state or federal law; and

19 (4) in the case of a near fatality, personal
20 identifier information for the child, parent, guardian,
21 resource parent and any other child living in the home.

22 E. ~~[Once]~~ If documents pursuant to this section
23 have been released by the department, the department may
24 comment on the case ~~[within the scope of the release].~~

25 F. Information released by the department

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1 consistent with the requirements of this section does not
2 require prior notice to any other [~~individual~~] person.

3 G. Nothing in this section shall be construed as
4 requiring the department to obtain documents not in the abuse
5 and neglect case file.

6 H. A person disclosing abandonment, abuse [~~and~~] or
7 neglect case file information as required by this section shall
8 not be subject to suit in civil or criminal proceedings for
9 complying with the requirements of this section.

10 I. The department shall continue to provide timely
11 allowable information to the public on the investigation into a
12 case of fatality or near fatality of a child, including a
13 summary report that shall include:

14 (1) actions taken by the department in
15 response to the case, including changes in policies, practices,
16 procedures and processes that have been made to address issues
17 raised in the investigation of the case and any recommendations
18 for further changes in policies, practices, procedures,
19 processes and other rules or laws to address the issues; and

20 (2) the information described in Subsection J
21 or K of this section.

22 J. If the summary report involves a child who was
23 residing in the child's home, the report shall contain a
24 summary of all of the following:

25 (1) whether services pursuant to the Abuse and

1 Neglect Act were being provided to the child, a member of the
2 child's household or a person who had been arrested for
3 abandonment, abuse or neglect of the child prior to the time of
4 the fatality or near fatality and the date of the last contact
5 between the person providing the services and the person
6 receiving the services prior to or at the time of the fatality
7 or near fatality;

8 (2) whether the child, a member of the child's
9 household or the person who had been arrested for abandonment,
10 abuse or neglect of the child prior to the fatality or near
11 fatality was the subject of a current or previous department
12 report;

13 (3) all involvement of the child's parents or
14 the person who had been arrested for abuse or neglect of the
15 child prior to the fatality or near fatality in a situation for
16 which a department report was made or services provided
17 pursuant to the Abuse and Neglect Act in the five years
18 preceding the incident that culminated in the fatality or near
19 fatality; and

20 (4) any investigation pursuant to a department
21 report concerning the child, a member of the child's household
22 or the person who had been suspected of or arrested for the
23 abandonment, abuse or neglect of the child or services provided
24 to the child or the child's household since the date of the
25 incident involving a fatality or a near fatality.

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1 K. If the summary report involves a child who was
2 in out-of-home placement, the summary report shall include:

3 (1) the name of the agency the licensee was
4 licensed by; and

5 (2) the licensing history of the out-of-home
6 placement, including the type of license held by the operator
7 of the placement, the period for which the placement has been
8 licensed and a summary of all violations by the licensee and
9 any other actions by the licensee or an employee of the
10 licensee that constitute a substantial failure to protect and
11 promote the health, safety and welfare of a child.

12 L. Nothing in this section shall apply to the
13 Indian Family Protection Act, information or records concerning
14 Indian children or Indian parents, guardians or custodians or
15 investigations or proceedings pursuant to that act."

16 SECTION 12. A new section of the Abuse and Neglect Act
17 is enacted to read:

18 "[NEW MATERIAL] CREATION AND MAINTENANCE OF DASHBOARD ON
19 DEPARTMENT WEBSITE--ANNUAL REPORT.--

20 A. The department shall create and maintain a
21 public, easily accessible and searchable dashboard on the
22 department's website. The confidentiality of personal
23 identifier information shall be safeguarded consistent with
24 federal and state law. The dashboard shall be updated at least
25 quarterly and shall include the data to be reported to the

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1 governor and the legislature.

2 B. By February 1 of each year, the department shall
3 submit a report to the governor and the legislature that
4 includes the following data for the prior twelve months ending
5 on December 31:

6 (1) the number of fatalities and near
7 fatalities of children in the custody of the department or as a
8 result of abandonment, abuse or neglect when in the custody of
9 a parent, guardian, custodian or other person;

10 (2) the number of children in department
11 custody and the average length of time in custody, including
12 the number of in-state and out-of-state placements in which
13 children are placed;

14 (3) the number of children in foster care and
15 the length of time in foster care or living with relatives or
16 fictive kin;

17 (4) the number of complaints received alleging
18 abandonment, abuse or neglect;

19 (5) the number of investigations that resulted
20 from the complaints, the number of complaints accepted for
21 investigation and not accepted for investigation and the
22 identified reasons in the aggregate for not investigating a
23 complaint;

24 (6) the number of children removed from the
25 custody of a parent, guardian, custodian or other person and

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1 the reasons for removals;

2 (7) the number of children returned to a
3 household from which they were removed;

4 (8) the number of children placed in the
5 custody of the department who have run away while in custody;

6 (9) the number of cases in which families
7 subject to court-ordered treatment plans or voluntary placement
8 agreements have absconded with children placed in the custody
9 of the department;

10 (10) the number of adoptions and the number of
11 adoptions for which funding was terminated prior to the child
12 reaching the age of eighteen;

13 (11) the number of children and cases
14 transferred to the jurisdiction of Indian nations, tribes and
15 pueblos pursuant to the Indian Family Protection Act; and

16 (12) any other information the department
17 considers of interest to the public.

18 C. Data shall be disaggregated by age, race,
19 ethnicity, gender, disability status and geographic location.

20 D. The report shall be published on the
21 department's website."

22 SECTION 13. A new section of the Children's Code is
23 enacted to read:

24 "[NEW MATERIAL] SHORT TITLE.--Sections 13 through 16 of
25 this act may be cited as the "Families First Act"."

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1 SECTION 14. A new section of the Children's Code is
2 enacted to read:

3 "[NEW MATERIAL] DEFINITIONS.--As used in the Families
4 First Act:

5 A. "families first services" means foster care
6 prevention services categorized pursuant to the federal Title
7 IV-E prevention services clearinghouse as well-supported,
8 supported or promising that are included in the families first
9 strategic plan implemented pursuant to the Families First Act
10 and are provided by the department through the implementation
11 of that strategic plan; and

12 B. "families first strategic plan" means the plan
13 required pursuant to the Families First Act that is developed
14 and implemented by the department in accordance with the
15 regulations and requirements set forth in the federal Family
16 First Prevention Services Act."

17 SECTION 15. A new section of the Children's Code is
18 enacted to read:

19 "[NEW MATERIAL] FAMILIES FIRST STRATEGIC PLAN--DEPARTMENT
20 DUTIES--FAMILIES FIRST SERVICES--TIME LINE--IMPLEMENTATION.--

21 A. In consultation with the early childhood
22 education and care department, the health care authority and
23 the department of health, the department shall develop and
24 implement the families first strategic plan. In developing the
25 families first strategic plan, the department shall:

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1 (1) ensure that provisions of the families
2 first strategic plan align with and meet the requirements set
3 forth in the federal Family First Prevention Services Act; and

4 (2) maximize resources from the federal
5 government under Title IV-E that are available to the
6 department to provide families first services.

7 B. The families first strategic plan required
8 pursuant to Subsection A of this section shall:

9 (1) include a comprehensive description of the
10 department's responsibilities and duties for providing families
11 first services;

12 (2) include a comprehensive and detailed list
13 of each of the families first services the department will
14 provide to eligible persons and affirm that each service to be
15 provided:

16 (a) is eligible for reimbursement
17 pursuant to the federal Family First Prevention Services Act;
18 and

19 (b) is rated as promising, supported or
20 well-supported in accordance with the Title IV-E prevention
21 services clearinghouse;

22 (3) identify all network services providers,
23 including other state agencies, that the department will use
24 for providing families first services. If services are
25 provided by another state agency, the department, together with

1 the other state agency, shall establish safety monitoring
2 protocols for direct monitoring of the services provided by
3 that agency and, for each provider used by the department, list
4 the specific families first service that the network services
5 provider will provide, including:

6 (a) mental health or substance abuse
7 prevention and treatment;

8 (b) in-home parent skill-based programs;

9 (c) kinship navigator programs; or

10 (d) any other programs or services that
11 are eligible or become eligible for reimbursement pursuant to
12 the federal Family First Prevention Services Act;

13 (4) identify and define the population of
14 eligible persons who may receive families first services and
15 include, at a minimum:

16 (a) a child who is a candidate for
17 foster care but who can remain safely at home with the
18 provision of evidence-based services;

19 (b) a parent, guardian or caregiver of a
20 child at risk of entering foster care;

21 (c) a pregnant or parenting youth in
22 foster care; and

23 (d) other eligible persons identified by
24 the department;

25 (5) identify processes and procedures to be

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1 established and followed by the department to determine
2 eligibility for any families first service;

3 (6) identify processes and procedures to be
4 established and followed by the department to maximize federal
5 reimbursements, funding and resources available to the
6 department to provide families first services;

7 (7) identify the process that the department
8 will use to monitor and oversee the safety of children who
9 receive families first services and programs, as required by
10 the federal Family First Prevention Services Act;

11 (8) establish appropriate metrics the
12 department will use to determine and evaluate outcomes from the
13 department's provision of families first services pursuant to
14 the Families First Act, including outcomes related specifically
15 to repeated substantiated reports of maltreatment of a child
16 and the numbers of children entering foster care;

17 (9) establish an appropriate time line and
18 strategy for providing families first services statewide. The
19 time line shall include the following:

20 (a) no later than June 30, 2027, the
21 department shall provide families first services through a
22 pilot program that is designed for implementation considering
23 factors such as county population density and rates of child
24 maltreatment and repeat maltreatment; and

25 (b) no later than June 30, 2032, the

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1 department shall provide statewide implementation of families
2 first services rolled out in a manner consistent with the best
3 practices derived from the evaluation of the pilot program;

4 (10) provide a detailed description of how the
5 department will continuously monitor the families first
6 strategic plan, from development of the plan through the pilot
7 program phase and to statewide implementation. Included in
8 that description shall be how the department will monitor key
9 factors likely to best ensure fidelity to the service model
10 developed within the families first strategic plan; and

11 (11) identify the appropriate information to
12 include in an annual report to be provided by the department to
13 the legislative finance committee, the interim legislative
14 health and human services committee, the interim legislative
15 committee that studies courts, corrections and justice and the
16 governor. At a minimum, the annual report shall include the
17 following information:

18 (a) an up-to-date inventory of all
19 families first services available;

20 (b) data, without inclusion of personal
21 identifier information, regarding the uptake and program
22 completion among eligible individuals of families first
23 services, including the area of the state in which the services
24 were accessed;

25 (c) performance results regarding

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1 identified outcome measures, to include aggregate data about
2 child participant placement status at the beginning of services
3 and one year after services and whether the child entered
4 foster care within two years after being determined a candidate
5 for foster care and receiving families first services; and

6 (d) fiscal information regarding program
7 and service expenditures and disaggregating state and federal
8 revenue sources.

9 C. For the purposes of this subsection, "approving
10 authority" means the federal administration for children and
11 families. The department shall:

12 (1) no later than August 1, 2025, finalize the
13 provisions of the families first strategic plan, post the plan
14 to the department's website and provide a copy of the plan to
15 the legislative finance committee, the interim legislative
16 health and human services committee, the interim legislative
17 committee that studies courts, corrections and justice and the
18 governor;

19 (2) no later than September 1, 2025:

20 (a) submit the families first strategic
21 plan to the approving authority for approval; and

22 (b) begin providing families first
23 services pursuant to the provisions of the Families First Act;

24 (3) if a submitted strategic plan is not
25 approved and the approving authority indicates that to secure

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1 an approval, the strategic plan must be revised, as soon as
2 practicable:

3 (a) revise the families first strategic
4 plan in accordance with the revisions required by the approving
5 authority; and

6 (b) submit the revised strategic plan to
7 the approving authority; and

8 (4) include in the department's reports
9 required pursuant to the Families First Act the status of each
10 families first strategic plan submitted to the approving
11 authority for approval, including any specific revisions
12 required, the dates of submissions and the dates of approval or
13 nonapproval by the approving authority for each submitted
14 strategic plan and any other relevant information related to
15 the status of a families first strategic plan submitted to the
16 approving authority by the department.

17 D. No later than July 1, 2026, and by each July 1
18 thereafter, the department shall post the annual report as
19 established in the families first strategic plan pursuant to
20 the Families First Act to the department's website, and the
21 department shall submit the annual report to the legislative
22 finance committee, the interim legislative health and human
23 services committee, the interim legislative committee that
24 studies courts, corrections and justice and the governor."

25 SECTION 16. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] RULES.--By August 1, 2027, the department
3 shall promulgate and adopt rules as necessary to carry out the
4 provisions of the Families First Act."

5 SECTION 17. A new section of the New Mexico Insurance
6 Code is enacted to read:

7 "[NEW MATERIAL] FOSTER CHILDREN ARE NOT RESIDENTS OF
8 FOSTER HOMES FOR PURPOSES OF HOMEOWNERS INSURANCE.--A minor
9 child placed in substitute care or foster care by the children,
10 youth and families department or by a licensed child placement
11 agency is not disqualified from coverage under any premises
12 liability insurance policy as a result of the child's placement
13 status."