

1 SENATE BILL 458

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CHILD WELFARE; CREATING THE SECRETARY OF CHILDREN,
12 YOUTH AND FAMILIES NOMINATING COMMITTEE; REQUIRING THE
13 SECRETARY OF CHILDREN, YOUTH AND FAMILIES TO BE SELECTED FROM A
14 LIST OF QUALIFIED NOMINEES CREATED BY THE NOMINATING COMMITTEE;
15 MOVING RULEMAKING AUTHORITY FOR THE PLAN OF SAFE CARE PROCESS
16 FROM THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE HEALTH
17 CARE AUTHORITY; UPDATING REQUIREMENTS FOR PLANS OF SAFE CARE;
18 REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO
19 IMPLEMENT THE MULTILEVEL RESPONSE SYSTEM STATEWIDE; ENACTING
20 THE FAMILIES FIRST ACT WITHIN THE CHILDREN'S CODE; REQUIRING
21 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO DEVELOP AND
22 IMPLEMENT A STRATEGIC PLAN FOR APPROVAL BY THE FEDERAL
23 ADMINISTRATION FOR CHILDREN AND FAMILIES; REQUIRING PROVISIONS
24 OF THE STRATEGIC PLAN TO IDENTIFY AND PROVIDE FOSTER CARE
25 PREVENTION SERVICES THAT MEET THE REQUIREMENTS OF THE FEDERAL

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1 FAMILY FIRST PREVENTION SERVICES ACT; PROVIDING FOR CHILDREN,
2 YOUTH AND FAMILIES DEPARTMENT CONSULTATION WITH THE EARLY
3 CHILDHOOD EDUCATION AND CARE DEPARTMENT, THE HEALTH CARE
4 AUTHORITY AND THE DEPARTMENT OF HEALTH; PROVIDING STRATEGIC
5 PLAN REQUIREMENTS; TRANSFERRING THE SUBSTITUTE CARE ADVISORY
6 COUNCIL FROM THE REGULATION AND LICENSING DEPARTMENT TO THE
7 ADMINISTRATIVE OFFICE OF THE COURTS; DEFINING TERMS IN THE
8 CITIZEN SUBSTITUTE CARE REVIEW ACT; PROVIDING FOR STAFFING OF
9 THE SUBSTITUTE CARE ADVISORY COUNCIL; ESTABLISHING CRITERIA FOR
10 CASE REVIEW; PROVIDING FOR RULES PERTAINING TO VOLUNTEER
11 MEMBERS; PROVIDING ACCESS TO AND REQUIREMENTS FOR
12 CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION; CHANGING
13 REPORTING REQUIREMENTS; REQUIRING THE SUBSTITUTE CARE ADVISORY
14 COUNCIL TO PROVIDE THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT
15 WITH CASE REPORTS; REQUIRING THE CHILDREN, YOUTH AND FAMILIES
16 DEPARTMENT TO RESPOND TO CASE REPORTS; REQUIRING THE SUBSTITUTE
17 CARE ADVISORY COUNCIL STAFF AND THE CHILDREN, YOUTH AND
18 FAMILIES DEPARTMENT TO MEET QUARTERLY; TRANSFERRING EMPLOYEES,
19 PROPERTY AND CONTRACTUAL OBLIGATIONS; AMENDING, REPEALING AND
20 ENACTING SECTIONS OF THE NMSA 1978.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 9-2A-3 NMSA 1978 (being Laws 1992,
24 Chapter 57, Section 3) is amended to read:

25 "9-2A-3. DEFINITIONS.--As used in the Children, Youth and

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1 Families Department Act:

2 A. "department" means the children, youth and
3 families department; [~~and~~]

4 B. "nominating committee" means the secretary of
5 children, youth and families nominating committee; and

6 [~~B.~~] C. "secretary" means the secretary of
7 children, youth and families."

8 SECTION 2. Section 9-2A-6 NMSA 1978 (being Laws 1992,
9 Chapter 57, Section 6) is amended to read:

10 "9-2A-6. SECRETARY OF CHILDREN, YOUTH AND FAMILIES--
11 APPOINTMENT.--

12 A. The chief executive and administrative officer
13 of the department is the "secretary of children, youth and
14 families". The secretary shall be appointed by the governor
15 with the consent of the senate and shall be selected from a
16 list of qualified nominees submitted to the governor by the
17 nominating committee. The secretary shall hold office at the
18 pleasure of the governor and shall serve in the executive
19 cabinet.

20 B. An appointed secretary shall serve and have all
21 the duties, responsibilities and authority of that office
22 during the period of time prior to final action by the senate
23 confirming or rejecting [~~his~~] the appointment."

24 SECTION 3. A new section of the Children, Youth and
25 Families Department Act, Section 9-2A-6.1 NMSA 1978, is enacted

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1 to read:

2 "9-2A-6.1. [NEW MATERIAL] SECRETARY OF CHILDREN, YOUTH
3 AND FAMILIES NOMINATING COMMITTEE.--

4 A. The "secretary of children, youth and families
5 nominating committee" is created and consists of nine members
6 who are:

7 (1) knowledgeable about child welfare;
8 (2) not recipients of contracts or other forms
9 of compensation from the department;

10 (3) not applicants or nominees for the
11 secretary position; and

12 (4) appointed as follows:

13 (a) six members appointed one each by
14 the speaker of the house of representatives, the majority floor
15 leader of the house of representatives, the minority floor
16 leader of the house of representatives, the president pro
17 tempore of the senate, the majority floor leader of the senate
18 and the minority floor leader of the senate;

19 (b) two members appointed by the
20 governor; and

21 (c) one member appointed by the chief
22 justice of the supreme court.

23 B. A nominating committee member shall:

24 (1) be a resident of New Mexico;

25 (2) serve a four-year term; and

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1 (3) serve without compensation, but shall be
2 reimbursed for expenses incurred in pursuit of the member's
3 duties on the nominating committee pursuant to the Per Diem and
4 Mileage Act.

5 C. The nominating committee and individual members
6 shall be subject to the Governmental Conduct Act, the
7 Inspection of Public Records Act, the Financial Disclosure Act
8 and the Open Meetings Act.

9 D. Administrative support shall be provided to the
10 nominating committee by the staff of the department.

11 E. Initial appointments to the nominating committee
12 shall be made by the appointing authorities prior to July 1,
13 2026. Subsequent appointments shall be made no later than
14 thirty days before the end of a term.

15 F. The first meeting of the appointed members of
16 the nominating committee shall be held prior to September 1,
17 2026. The nominating committee shall select one member to be
18 chair and one member to be secretary of the nominating
19 committee. Following the first meeting, the nominating
20 committee shall meet as often as necessary in order to submit a
21 list to the governor of no fewer than five qualified nominees
22 for appointment as the secretary for the terms beginning
23 January 1, 2027. The list shall be developed to provide
24 geographical diversity, and nominees on the list shall be from
25 at least three different counties of the state.

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1 G. Subsequent to January 1, 2027, the nominating
2 committee shall meet at least ninety days prior to the date on
3 which the term of the secretary ends and as often as necessary
4 thereafter in order to submit a list to the governor, at least
5 thirty days prior to the beginning of the new term, of no fewer
6 than two qualified nominees from diverse geographical areas of
7 the state for appointment as secretary.

8 H. Upon the occurrence of a vacancy of the
9 secretary position, the nominating committee shall meet within
10 thirty days of the date of the beginning of the vacancy and as
11 often as necessary thereafter in order to submit a list to the
12 governor, within sixty days of the first meeting after the
13 vacancy occurs, of no fewer than two qualified nominees from
14 diverse geographical areas of the state for appointment as
15 secretary.

16 I. If a position on the nominating committee
17 becomes vacant during a term, a successor shall be selected in
18 the same manner as the original appointment for that position
19 and shall serve for the remainder of the term of the position
20 vacated.

21 J. The nominating committee shall actively solicit,
22 accept and evaluate applications and may require an applicant
23 to submit any information the nominating committee deems
24 relevant to the consideration of the individual's application.

25 K. A majority vote of all members of the nominating

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1 committee in favor of a person is required for that person to
2 be included on the list of qualified nominees submitted to the
3 governor."

4 SECTION 4. Section 9-2A-8 NMSA 1978 (being Laws 1992,
5 Chapter 57, Section 8, as amended) is amended to read:

6 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
7 other duties provided by law or assigned to the department by
8 the governor, the department shall:

9 A. develop priorities for department services and
10 resources based on state policy and national best-practice
11 standards and local considerations and priorities;

12 B. strengthen collaboration and coordination in
13 state and local services for children, youth and families by
14 integrating critical functions as appropriate, including
15 service delivery, and contracting for services across divisions
16 and related agencies;

17 C. develop and maintain a statewide database,
18 including client tracking of services for children, youth and
19 families;

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

22 E. analyze policies of other departments that
23 affect children, youth and families to encourage common
24 contracting procedures, common service definitions and a
25 uniform system of access;

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1 F. enact [~~regulations~~] rules to control disposition
2 and placement of children under the Children's Code, including
3 [~~regulations~~] rules to limit or prohibit the out-of-state
4 placement of children, including those who have developmental
5 disabilities or emotional, neurobiological or behavioral
6 disorders, when in-state alternatives are available;

7 G. develop reimbursement criteria for licensed
8 child care centers and licensed home providers establishing
9 that accreditation by a department-approved national
10 accrediting body is sufficient qualification for the child care
11 center or home provider to receive the highest reimbursement
12 rate paid by the department;

13 H. assume and implement responsibility for
14 children's mental health and substance abuse services in the
15 state, coordinating with the [~~human services department~~] health
16 care authority and the department of health;

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

19 J. implement prevention and early intervention as a
20 departmental focus;

21 K. conduct biennial assessments of service gaps and
22 needs and establish outcome measurements to address those
23 service gaps and needs, including recommendations from the
24 governor's children's cabinet and the children, youth and
25 families advisory committee;

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1 L. ensure that behavioral health services provided,
2 including mental health and substance abuse services for
3 children, adolescents and their families, shall be in
4 compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA
5 1978 and any rules adopted pursuant to that section; [and]

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

9 [~~M.-~~] N. fingerprint and conduct nationwide criminal
10 history record searches on all department employees, staff
11 members and volunteers whose jobs involve direct contact with
12 department clients, including prospective employees and
13 employees who are promoted, transferred or hired into new
14 positions, and the superiors of all department employees, staff
15 members and volunteers who have direct unsupervised contact
16 with department clients."

17 SECTION 5. Section 32A-1-4 NMSA 1978 (being Laws 1993,
18 Chapter 77, Section 13, as amended) is amended to read:

19 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

20 A. "active efforts" means efforts that are
21 affirmative, active, thorough and timely and that represent a
22 higher standard of conduct than reasonable efforts;

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

25 C. "child" means a person who is less than eighteen

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1 years old;

2 D. "council" means the substitute care advisory
3 council established pursuant to Section 32A-8-4 NMSA 1978;

4 E. "court", when used without further
5 qualification, means the children's court division of the
6 district court and includes the judge, special master or
7 commissioner appointed pursuant to the provisions of the
8 Children's Code or supreme court rule;

9 F. "court-appointed special advocate" means a
10 person appointed pursuant to the provisions of the Children's
11 Court Rules to assist the court in determining the best
12 interests of the child by investigating the case and submitting
13 a report to the court;

14 G. "custodian" means an adult with whom the child
15 lives who is not a parent or guardian of the child;

16 H. "department" means the children, youth and
17 families department, unless otherwise specified;

18 I. "disproportionate minority contact" means the
19 involvement of a racial or ethnic group with the criminal or
20 juvenile justice system at a proportion either higher or lower
21 than that group's proportion in the general population;

22 J. "federal Indian Child Welfare Act of 1978" means
23 the federal Indian Child Welfare Act of 1978, as that act may
24 be amended or its sections renumbered;

25 K. "foster parent" means a person, including a

1 relative of the child, licensed or certified by the department
2 or a child placement agency to provide care for children in the
3 custody of the department or agency;

4 L. "guardian" means a person appointed as a
5 guardian by a court or Indian tribal authority or a person
6 authorized to care for the child by a parental power of
7 attorney as permitted by law;

8 M. "guardian ad litem" means an attorney appointed
9 by the children's court to represent and protect the best
10 interests of the child in a case; provided that no party or
11 employee or representative of a party to the case shall be
12 appointed to serve as a guardian ad litem;

13 N. "Indian" means, whether an adult or child, a
14 person who is:

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

16 (2) eligible for membership in an Indian
17 tribe;

18 O. "Indian child" means an Indian person, or a
19 person whom there is reason to know is an Indian person, under
20 eighteen years of age, who is neither:

21 (1) married; or

22 (2) emancipated;

23 P. "Indian child's tribe" means:

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

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

5 Q. "Indian custodian" means an Indian who, pursuant
6 to tribal law or custom or pursuant to state law:

7 (1) is an adult with legal custody of an
8 Indian child; or

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

11 R. "Indian tribe" means an Indian nation, tribe,
12 pueblo or other band, organized group or community of Indians
13 recognized as eligible for the services provided to Indians by
14 the secretary because of their status as Indians, including an
15 Alaska native village as defined in 43 U.S.C. Section 1602(c)
16 or a regional corporation as defined in 43 U.S.C. Section 1606.
17 For the purposes of notification to and communication with a
18 tribe as required in the Indian Family Protection Act, "Indian
19 tribe" also includes those tribal officials and staff who are
20 responsible for child welfare and social services matters;

21 S. "judge", when used without further
22 qualification, means the judge of the court;

23 T. "legal custody" means a legal status created by
24 order of the court or other court of competent jurisdiction or
25 by operation of statute that vests in a person, department or

1 agency the right to determine where and with whom a child shall
2 live; the right and duty to protect, train and discipline the
3 child and to provide the child with food, shelter, personal
4 care, education and ordinary and emergency medical care; the
5 right to consent to major medical, psychiatric, psychological
6 and surgical treatment and to the administration of legally
7 prescribed psychotropic medications pursuant to the Children's
8 Mental Health and Developmental Disabilities Act; and the right
9 to consent to the child's enlistment in the armed forces of the
10 United States;

11 U. "member" or "membership" means a determination
12 made by an Indian tribe that a person is a member of or
13 eligible for membership in that Indian tribe;

14 V. "parent" or "parents" means a biological or
15 adoptive parent if the biological or adoptive parent has a
16 constitutionally protected liberty interest in the care and
17 custody of the child or a person who has lawfully adopted an
18 Indian child pursuant to state law or tribal law or tribal
19 custom;

20 W. "permanency plan" means a determination by the
21 court that the child's interest will be served best by:

22 (1) reunification;

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

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

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

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

8 X. "person" means an individual or any other form
9 of entity recognized by law;

10 Y. "plan of safe care" means a plan created by a
11 health care professional intended to ensure the safety and
12 well-being of a substance-exposed newborn, or to provide
13 prenatal or perinatal support to a pregnant person dealing with
14 substance use disorder, by addressing the treatment needs of
15 the child and any of the child's parents, relatives, guardians,
16 family members or caregivers to the extent those treatment
17 needs are relevant to the safety of the child;

18 Z. "preadoptive parent" means a person with whom a
19 child has been placed for adoption;

20 AA. "protective supervision" means the right to
21 visit the child in the home where the child is residing,
22 inspect the home, transport the child to court-ordered
23 diagnostic examinations and evaluations and obtain information
24 and records concerning the child;

25 BB. "relative" means a person related to another

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1 person:

2 (1) by blood within the fifth degree of
3 consanguinity or through marriage by the fifth degree of
4 affinity; or

5 (2) with respect to an Indian child, as
6 established or defined by the Indian child's tribe's custom or
7 law;

8 CC. "reservation" means:

9 (1) "Indian country" as defined in 18 U.S.C.
10 Section 1151;

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

14 (3) any lands held by an Indian tribe or
15 individual subject to a restriction by the United States
16 against alienation;

17 DD. "reunification" means either a return of the
18 child to the parent or to the home from which the child was
19 removed or a return to the noncustodial parent;

20 EE. "secretary" means the United States secretary
21 of the interior;

22 FF. "tribal court" means a court with jurisdiction
23 over child custody proceedings that is either a court of Indian
24 offenses, a court established and operated under the law or
25 custom of an Indian tribe or any other administrative body that

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1 is vested by an Indian tribe with authority over child custody
2 proceedings;

3 GG. "tribal court order" means a document issued by
4 a tribal court that is signed by an appropriate authority,
5 including a judge, governor or tribal council member, and that
6 orders an action that is within the tribal court's
7 jurisdiction; and

8 HH. "tribunal" means any judicial forum other than
9 the court."

10 SECTION 6. Section 32A-3A-13 NMSA 1978 (being Laws 2019,
11 Chapter 190, Section 3) is amended to read:

12 "32A-3A-13. PLAN OF SAFE CARE--GUIDELINES--CREATION--DATA
13 SHARING--TRAINING.--

14 A. By [~~January 1, 2020~~] July 1, 2026, the
15 [~~department~~] health care authority, in consultation with
16 medicaid managed care organizations, private insurers, the
17 office of superintendent of insurance, the [~~human services~~]
18 children, youth and families department and the department of
19 health, shall develop rules to guide hospitals, birthing
20 centers, medical providers, medicaid managed care organizations
21 and private insurers in the care of newborns who exhibit
22 physical, neurological or behavioral symptoms consistent with
23 prenatal drug exposure, withdrawal symptoms from prenatal drug
24 exposure or fetal alcohol spectrum disorder.

25 B. Rules shall include guidelines to hospitals,

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1 birthing centers, medical providers, medicaid managed care
2 organizations and private insurers regarding:

3 (1) participation in the ~~[discharge planning]~~
4 plan of safe care development process, ~~[including]~~ which may
5 occur at a prenatal or perinatal medical visit and shall occur
6 prior to a substance-exposed child's discharge from a hospital.

7 The plan of safe care development process shall allow for the
8 creation of a written plan of safe care that shall be sent to:

- 9 (a) the child's primary care physician;
10 (b) a medicaid managed care organization
11 insurance plan care coordinator ~~[who will monitor the~~
12 ~~implementation of the plan of care after discharge, if the~~
13 ~~child is insured, or to a care coordinator in the children's~~
14 ~~medical services of the family health bureau of the public~~
15 ~~health division of the department of health who will monitor~~
16 ~~the implementation of the plan of care after discharge, if the~~
17 ~~child is uninsured]~~ or a care coordinator employed by or
18 contracted with the health care authority; and

19 (c) the child's parent, relative,
20 guardian or caretaker who is present at discharge who shall
21 receive a copy upon discharge. The plan of safe care shall be
22 signed by an appropriate representative of the discharging
23 hospital and the child's parent, relative, guardian or
24 caretaker who is present at discharge;

25 (2) definitions and evidence-based screening

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1 tools, based on standards of professional practice, to be used
2 by health care providers to identify a child born affected by
3 substance use or withdrawal symptoms resulting from prenatal
4 drug exposure or a fetal alcohol spectrum disorder. The rules
5 shall include a requirement that all hospitals, birthing
6 centers and prenatal care providers use the screening, brief
7 intervention and referral to treatment program at all prenatal
8 or perinatal medical visits and live births;

9 (3) collection and reporting of data to meet
10 federal and state reporting requirements, including the
11 following:

12 (a) by hospitals and birthing centers to
13 the department when: 1) a plan of safe care has been
14 developed; and 2) a family has been referred for a plan of safe
15 care;

16 (b) information pertaining to a child
17 born and diagnosed by a health care professional as affected by
18 substance abuse, withdrawal symptoms resulting from prenatal
19 drug exposure or a fetal alcohol spectrum disorder; and

20 (c) data collected by hospitals and
21 birthing centers for use by the children's medical services of
22 the family health bureau of the public health division of the
23 department of health in epidemiological reports and to support
24 and monitor a plan of safe care. Information reported pursuant
25 to this subparagraph shall be coordinated with communication to

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1 insurance carrier care coordinators to facilitate access to
2 services for children and parents, relatives, guardians or
3 caregivers identified in a plan of safe care;

4 (4) requirements for the health care authority
5 to:

6 (a) ensure that there is at least one
7 care coordinator available in each birthing hospital in the
8 state;

9 (b) ensure that all substance-exposed
10 children who have a plan of safe care receive care coordination
11 to implement the plan of safe care; and

12 (c) provide training to hospital staff,
13 birthing center staff and prenatal care providers on the
14 screening, brief intervention and referral to treatment
15 program;

16 ~~[(4)]~~ (5) identification of appropriate
17 agencies to be included as supports and services in the plan of
18 safe care, based on an assessment of the needs of the child and
19 the child's relatives, parents, guardians or caretakers,
20 performed by a discharge planner prior to the child's discharge
21 from the hospital or birthing center, which: ~~[may include~~

22 ~~(a) public health agencies;~~

23 ~~(b) maternal and child health agencies;~~

24 ~~(c) home visitation programs;~~

25 ~~(d) substance use disorder prevention~~

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1 ~~and treatment providers;~~

2 ~~(e) mental health providers;~~

3 ~~(f) public and private children and~~
4 ~~youth agencies;~~

5 ~~(g) early intervention and developmental~~
6 ~~services;~~

7 ~~(h) courts;~~

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

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

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

11 and]

12 (a) shall include: 1) home visitation
13 programs; and 2) substance use disorder prevention and
14 treatment providers; and

15 (b) may include: 1) public health
16 agencies; 2) maternal and child health agencies; 3) mental
17 health providers; 4) infant mental health providers; 5) public
18 and private children and youth agencies; 6) early intervention
19 and developmental services; 7) courts; 8) local education
20 agencies; 9) managed care organizations; or 10) hospitals and
21 medical providers;

22 [+5] (6) engagement of the child's relatives,
23 parents, guardians or caretakers in order to identify the need
24 for access to treatment for any substance use disorder or other
25 physical or behavioral health condition that may impact the

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1 safety, early childhood development and well-being of the
2 child; and

3 (7) implementation of plans of safe care that
4 shall include requirements for care coordinators to:

5 (a) actively work with pregnant persons
6 or a substance-exposed child's parents, relatives, guardians,
7 family members or caregivers to refer and connect the pregnant
8 person or substance-exposed child's parents, relatives,
9 guardians, family members or caregivers to necessary services.

10 Care coordinators shall use an evidence-based intensive care
11 coordination model that is listed in the federal Title IV-E
12 prevention services clearinghouse or another nationally
13 recognized evidence-based clearinghouse for child welfare; and

14 (b) attempt to make contact with persons
15 who are not following the plan of safe care using multiple
16 methods, including in person, by mail, by phone call or by text
17 message. If a pregnant person or a substance-exposed child's
18 parents, relatives, guardians, family members or caregivers are
19 not following the plan of safe care, care coordinators shall
20 make attempts to contact and provide support services to
21 persons who are not following the plan of safe care.

22 C. Reports made pursuant to Paragraph (3) of
23 Subsection B of this section shall be collected by the
24 department as distinct and separate from any child abuse report
25 as captured and held or investigated by the department, such

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

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

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

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

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

24 (3) the availability and uptake rate of
25 services;

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

4 (5) disaggregated demographic and geographic
5 data.

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

12 G. The ~~[department]~~ health care authority shall
13 ~~[work in consultation with the department of health to]~~ create
14 and distribute training materials to support and educate
15 discharge planners or social workers on the following:

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

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

23 (3) how to assess whether to create a plan of
24 safe care when a referral to the department is not required;
25 and

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1 (4) the creation and deployment of a plan of
2 safe care.

3 H. ~~[No]~~ A person shall not have a cause of action
4 for any loss or damage caused by any act or omission resulting
5 from the implementation of the provisions of Subsection G of
6 this section or resulting from any training, or lack thereof,
7 required by Subsection G of this section.

8 I. The training, or lack thereof, required by the
9 provisions of Subsection G of this section shall not be
10 construed to impose any specific duty of care."

11 SECTION 7. Section 32A-3A-14 NMSA 1978 (being Laws 2019,
12 Chapter 190, Section 4) is amended to read:

13 "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF
14 NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

15 A. If the parents, relatives, guardians or
16 caretakers of a child released from a hospital or freestanding
17 birthing center pursuant to a plan of safe care fail to comply
18 with that plan, the health care authority, a medicaid managed
19 care organization insurance plan care coordinator or a care
20 coordinator contracted with the health care authority shall
21 notify the department [~~shall be notified~~] and the department
22 [~~may~~] shall conduct a family assessment. Based on the results
23 of the family assessment, the department may offer or provide
24 referrals for counseling, training, or other services aimed at
25 addressing the underlying causative factors that may jeopardize

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1 the safety or well-being of the child. The child's parents,
2 relatives, guardians or caretakers may choose to accept or
3 decline any service or program offered subsequent to the family
4 assessment; provided that if the child's parents, relatives,
5 guardians or caretakers decline those services or programs, and
6 the department ~~[may]~~ determines that those services or programs
7 are necessary to address concerns of imminent harm to the
8 child, the department shall proceed with an investigation.

9 B. As used in this section, "family assessment"
10 means a comprehensive assessment prepared by the department at
11 the time the department receives notification of failure to
12 comply with the plan of safe care to determine the needs of a
13 child and the child's parents, relatives, guardians or
14 caretakers, including an assessment of the likelihood of:

- 15 (1) imminent danger to a child's well-being;
16 (2) the child becoming an abused child or
17 neglected child; and
18 (3) the strengths and needs of the child's
19 family members, including parents, relatives, guardians or
20 caretakers, with respect to providing for the health and safety
21 of the child."

22 SECTION 8. Section 32A-4-3 NMSA 1978 (being Laws 1993,
23 Chapter 77, Section 97, as amended) is amended to read:

24 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
25 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--

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1 NOTIFICATION OF PLAN OF SAFE CARE.--

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

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

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

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1 the child's parents, guardian or custodian, the child's age,
2 the nature and extent of the child's injuries, including any
3 evidence of previous injuries, and other information that the
4 maker of the report believes might be helpful in establishing
5 the cause of the injuries and the identity of the person
6 responsible for the injuries. The written report shall be
7 submitted upon a standardized form agreed to by the law
8 enforcement agency and the department.

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

19 D. If the child alleged to be abused or neglected
20 is in the care or control of or in a facility administratively
21 connected to the department, the report shall be investigated
22 by a local law enforcement officer trained in the investigation
23 of child abuse and neglect. The investigation shall ensure
24 that immediate steps are taken to protect the health or welfare
25 of the alleged abused or neglected child, as well as that of

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1 any other child under the same care who may be in danger of
2 abuse or neglect.

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

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

12 G. A finding that a pregnant woman is using or
13 abusing drugs made pursuant to an interview, self-report,
14 clinical observation or routine toxicology screen shall not
15 alone form a sufficient basis to report child abuse or neglect
16 to the department pursuant to Subsection A of this section. A
17 volunteer, contractor or staff of a hospital or freestanding
18 birthing center shall not make a report based solely on that
19 finding and shall make a notification pursuant to Subsection H
20 of this section. Nothing in this subsection shall be construed
21 to prevent a person from reporting to the department a
22 reasonable suspicion that a child is an abused or neglected
23 child based on other criteria as defined by Section 32A-4-2
24 NMSA 1978, or a combination of criteria that includes a finding
25 pursuant to this subsection.

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1 H. A ~~volunteer~~ contractor or staff of a hospital,
2 ~~[or]~~ freestanding birthing center or clinic that provides
3 prenatal or perinatal care shall:

4 (1) complete a written plan of safe care for a
5 substance-exposed newborn or a pregnant person who agrees to
6 creating a plan of safe care, as provided for by department
7 rule and the Children's Code; and

8 (2) provide notification to the ~~[department]~~
9 health care authority. Notification by a health care provider
10 pursuant to this paragraph shall not be construed as a report
11 of child abuse or neglect.

12 I. As used in this section, "notification" means
13 informing the ~~[department]~~ health care authority that a
14 substance-exposed newborn was born and providing a copy of the
15 plan of safe care that was created for the child; provided that
16 notification shall comply with federal guidelines and shall not
17 constitute a report of child abuse or neglect. The health care
18 authority shall be responsible for ensuring compliance with
19 federal reporting requirements related to plans of safe care.

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

22 SECTION 9. 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

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 committee that studies courts,
4 corrections and justice and the department of finance and
5 administration as part of the department's budget submission;

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

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

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

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

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

24 ~~[I.]~~ G. As used in this section, "family
25 assessment" means a comprehensive, evidence-based assessment

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

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

11 SECTION 10. A new section of the Children's Code is
12 enacted to read:

13 "[NEW MATERIAL] SHORT TITLE.--Sections 10 through 13 of
14 this act may be cited as the "Families First Act"."

15 SECTION 11. A new section of the Children's Code is
16 enacted to read:

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

19 A. "families first services" means foster care
20 prevention services categorized pursuant to the federal Title
21 IV-E prevention services clearinghouse as well-supported,
22 supported or promising that are included in the families first
23 strategic plan implemented pursuant to the Families First Act
24 and are provided by the department through the implementation
25 of that strategic plan; and

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1 B. "families first strategic plan" means the plan
2 required pursuant to the Families First Act that is developed
3 and implemented by the department in accordance with the
4 regulations and requirements set forth in the federal Family
5 First Prevention Services Act."

6 SECTION 12. A new section of the Children's Code is
7 enacted to read:

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

10 A. In consultation with the early childhood
11 education and care department, the health care authority and
12 the department of health, the department shall develop and
13 implement the families first strategic plan. In developing the
14 families first strategic plan, the department shall:

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

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

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

23 (1) include a comprehensive description of the
24 department's responsibilities and duties for providing families
25 first services;

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1 (2) include a comprehensive and detailed list
2 of each of the families first services the department will
3 provide to eligible persons and affirm that each service to be
4 provided:

5 (a) is eligible for reimbursement
6 pursuant to the federal Family First Prevention Services Act;
7 and

8 (b) is rated as promising, supported or
9 well-supported in accordance with the Title IV-E prevention
10 services clearinghouse;

11 (3) identify all network services providers,
12 including other state agencies, that the department will use
13 for providing families first services. If services are
14 provided by another state agency, the department, together with
15 the other state agency, shall establish safety monitoring
16 protocols for direct monitoring of the services provided by
17 that agency and, for each provider used by the department, list
18 the specific families first service that the network services
19 provider will provide, including:

20 (a) mental health or substance abuse
21 prevention and treatment;

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

23 (c) kinship navigator programs; or

24 (d) any other programs or services that
25 are eligible or become eligible for reimbursement pursuant to

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1 the federal Family First Prevention Services Act;

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

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

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

10 (c) a pregnant or parenting youth in
11 foster care; and

12 (d) other eligible persons identified by
13 the department;

14 (5) identify processes and procedures to be
15 established and followed by the department to determine
16 eligibility for any families first service;

17 (6) identify processes and procedures to be
18 established and followed by the department to maximize federal
19 reimbursements, funding and resources available to the
20 department to provide families first services;

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

25 (8) establish appropriate metrics the

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1 department will use to determine and evaluate outcomes from the
2 department's provision of families first services pursuant to
3 the Families First Act, including outcomes related specifically
4 to subsequent substantiated reports of maltreatment and the
5 numbers of children entering foster care;

6 (9) establish an appropriate time line and
7 strategy for providing families first services statewide. The
8 time line shall include the following:

9 (a) no later than June 30, 2027, the
10 department shall provide families first services through a
11 pilot program that is designed for implementation considering
12 factors such as county population density and rates of child
13 maltreatment and repeat maltreatment; and

14 (b) no later than June 30, 2032, the
15 department shall provide statewide implementation of families
16 first services rolled out in a manner consistent with the best
17 practices derived from the evaluation of the observation,
18 experiences and discernible outcomes of the pilot program;

19 (10) provide a detailed description of how the
20 department will continuously monitor the families first
21 strategic plan, from development of the plan through the pilot
22 program phase and to statewide implementation. Included in
23 that description shall be how the department will monitor key
24 factors likely to best ensure fidelity to the service model
25 developed within the families first strategic plan; and

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1 (11) establish the appropriate information to
2 include in an annual report to be provided by the department to
3 the legislative finance committee, the interim legislative
4 health and human services committee and the governor. At a
5 minimum, the annual report shall include the following
6 information:

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

9 (b) data, without inclusion of personal
10 identifier information, regarding the uptake and program
11 completion among eligible individuals of families first
12 services, including the area of the state in which the services
13 were accessed;

14 (c) performance results regarding
15 identified outcome measures, to include aggregate data about
16 child participant placement status at the beginning of services
17 and one year after services and whether the child entered
18 foster care within two years after being determined a candidate
19 for foster care and receiving families first services; and

20 (d) fiscal information regarding program
21 and service expenditures and disaggregating state and federal
22 revenue sources.

23 C. For the purposes of this subsection, "approving
24 authority" means the federal administration for children and
25 families. The department shall:

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1 (1) no later than August 1, 2025, finalize the
2 provisions of the families first strategic plan, post the plan
3 to the department's website and provide a copy of the plan to
4 the legislative finance committee, the interim legislative
5 health and human services committee and the governor;

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

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

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

11 (3) if a submitted strategic plan is not
12 approved and the approving authority indicates that to secure
13 an approval, the strategic plan must be revised, as soon as
14 practicable:

15 (a) revise the families first strategic
16 plan in accordance with the revisions required by the approving
17 authority; and

18 (b) submit the revised strategic plan to
19 the approving authority; and

20 (4) include in the department's reports
21 required pursuant to the Families First Act the status of each
22 families first strategic plan submitted to the approving
23 authority for approval, including any specific revisions
24 required, the dates of submissions and the dates of approval or
25 nonapproval by the approving authority for each submitted

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1 strategic plan and any other relevant information related to
2 the status of a families first strategic plan submitted to the
3 approving authority by the department.

4 D. No later than July 1, 2026, and by each July 1
5 thereafter, the department shall post the annual report as
6 established in the families first strategic plan pursuant to
7 the Families First Act to the department's website, and the
8 department shall submit the annual report to the legislative
9 finance committee, the interim legislative health and human
10 services committee and the governor."

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

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

16 SECTION 14. Section 32A-4-21 NMSA 1978 (being Laws 1993,
17 Chapter 77, Section 115, as amended) is amended to read:

18 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
19 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

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

23 B. The predisposition study required pursuant to
24 Subsection A of this section shall contain the following
25 information:

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1 (1) a statement of the specific reasons for
2 intervention by the department or for placing the child in the
3 department's custody and a statement of the parent's ability to
4 care for the child in the parent's home without causing harm to
5 the child;

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

18 (3) the wishes of the child as to the child's
19 custodian;

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

1 determined to be qualified to care for the child;

2 (5) a description of services offered to the
3 child, the child's family and the child's foster care family,
4 which, if appropriate and available, may include families first
5 services provided pursuant to the Families First Act, as well
6 as referrals to income support or other services or programs,
7 and a summary of reasonable efforts made to prevent removal of
8 the child from the child's family or reasonable efforts made to
9 reunite the child with the child's family;

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

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

15 (8) a statement of the child's medical and
16 educational background;

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

23 (10) for children sixteen years of age and
24 older, a plan for developing the specific skills the child
25 requires for successful transition into independent living as

1 an adult, regardless of whether the child is returned to the
2 child's parent's home;

3 (11) a case plan that sets forth steps to
4 ensure that the child's educational needs are met and, for a
5 child fourteen years of age or older, a case plan that
6 specifically sets forth the child's educational and post-
7 secondary goals; and

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

15 C. A copy of the predisposition report shall be
16 provided by the department to counsel for all parties five days
17 before the dispositional hearing.

18 D. If the child is an adjudicated abused child, any
19 temporary custody orders shall remain in effect until the court
20 has received and considered the predispositional study at the
21 dispositional hearing."

22 SECTION 15. Section 32A-4-33 NMSA 1978 (being Laws 1993,
23 Chapter 77, Section 127, as amended) is amended to read:

24 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

25 A. All records or information concerning a party to

1 a neglect or abuse proceeding, including social records,
2 diagnostic evaluations, psychiatric or psychological reports,
3 videotapes, transcripts and audio recordings of a child's
4 statement of abuse or medical reports incident to or obtained
5 as a result of a neglect or abuse proceeding or that were
6 produced or obtained during an investigation in anticipation of
7 or incident to a neglect or abuse proceeding shall be
8 confidential and closed to the public.

9 B. The records described in Subsection A of this
10 section shall be disclosed only to the parties and:

11 (1) court personnel and persons or entities
12 authorized by contract with the court to review, inspect or
13 otherwise have access to records or information in the court's
14 possession;

15 (2) court-appointed special advocates
16 appointed to the neglect or abuse proceeding;

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

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

21 (5) department personnel and persons or
22 entities authorized by contract with the department to review,
23 inspect or otherwise have access to records or information in
24 the department's possession;

25 (6) ~~[any local substitute care review board or~~

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1 ~~any agency contracted to implement local substitute care review~~
2 ~~boards]~~ a staff member of the substitute care advisory council,
3 if the records are requested for the purpose of carrying out
4 the provisions of the Citizen Substitute Care Review Act;

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

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

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

13 (10) a foster parent, if the records are those
14 of a child currently placed with that foster parent or of a
15 child being considered for placement with that foster parent
16 and the records concern the social, medical, psychological or
17 educational needs of the child;

18 (11) school personnel involved with the child
19 if the records concern the child's social or educational needs;

20 (12) a grandparent, parent of a sibling,
21 relative or fictive kin, if the records or information pertain
22 to a child being considered for placement with that
23 grandparent, parent of a sibling, relative or fictive kin and
24 the records or information concern the social, medical,
25 psychological or educational needs of the child;

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1 (13) health care or mental health
2 professionals involved in the evaluation or treatment of the
3 child or of the child's parents, guardian, custodian or other
4 family members;

5 (14) protection and advocacy representatives
6 pursuant to the federal Developmental Disabilities Assistance
7 and Bill of Rights Act and the federal Protection and Advocacy
8 for Mentally Ill Individuals Amendments Act of 1991;

9 (15) children's safehouse organizations
10 conducting investigatory interviews of children on behalf of a
11 law enforcement agency or the department;

12 (16) representatives of the federal government
13 or their contractors authorized by federal statute or
14 regulation to review, inspect, audit or otherwise have access
15 to records and information pertaining to neglect or abuse
16 proceedings;

17 (17) any person or entity attending a meeting
18 arranged by the department to discuss the safety, well-being
19 and permanency of a child, when the parent or child, or parent
20 or legal custodian on behalf of a child younger than fourteen
21 years of age, has consented to the disclosure; and

22 (18) any other person or entity, by order of
23 the court, having a legitimate interest in the case or the work
24 of the court.

25 C. A parent, guardian or legal custodian whose

1 child has been the subject of an investigation of abuse or
2 neglect where no petition has been filed shall have the right
3 to inspect any medical report, psychological evaluation, law
4 enforcement reports or other investigative or diagnostic
5 evaluation; provided that any identifying information related
6 to the reporting party or any other party providing information
7 shall be deleted. The parent, guardian or legal custodian
8 shall also have the right to the results of the investigation
9 and the right to petition the court for full access to all
10 department records and information except those records and
11 information the department finds would be likely to endanger
12 the life or safety of any person providing information to the
13 department.

14 D. Whoever intentionally and unlawfully releases
15 any information or records closed to the public pursuant to the
16 Abuse and Neglect Act or releases or makes other unlawful use
17 of records in violation of that act is guilty of a petty
18 misdemeanor and shall be sentenced pursuant to the provisions
19 of Section 31-19-1 NMSA 1978.

20 E. The department shall promulgate rules for
21 implementing disclosure of records pursuant to this section and
22 in compliance with state and federal law and the Children's
23 Court Rules."

24 SECTION 16. Section 32A-8-2 NMSA 1978 (being Laws 1993,
25 Chapter 77, Section 204, as amended) is amended to read:

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1 "32A-8-2. PURPOSE OF ACT.--The purpose of the Citizen
2 Substitute Care Review Act is to provide a permanent system for
3 independent and objective monitoring [~~of children placed in the~~
4 ~~custody~~] of the department by examining the policies,
5 procedures and practices of the department and, where
6 appropriate, specific cases to evaluate [~~the extent to which~~
7 ~~the department is effectively~~] its effectiveness in discharging
8 its child protection responsibilities and to meet federal
9 requirements for citizen review panels under the federal Child
10 Abuse Prevention and Treatment Act."

11 SECTION 17. A new section of the Citizen Substitute Care
12 Review Act is enacted to read:

13 "[NEW MATERIAL] DEFINITIONS.--As used in the Citizen
14 Substitute Care Review Act:

15 A. "board" means a substitute care review board of
16 volunteer members facilitated by council staff convened for the
17 purpose of reviews of designated cases or other related
18 activities deemed appropriate by the council;

19 B. "case" means an abuse or neglect case referred
20 to the department;

21 C. "council" means the substitute care advisory
22 council;

23 D. "identified adult" means an adult participating
24 in the fostering connections program or that program's
25 successor;

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1 E. "identified child" means a child who is:
2 (1) the subject of a referral of abuse and
3 neglect made to the department;
4 (2) receiving services from the department; or
5 (3) in the custody of the department due to
6 abuse and neglect proceedings;

7 F. "public member" means an individual who has been
8 appointed by the governor;

9 G. "substitute care" means custodial or residential
10 care for an identified child that is ordered or otherwise
11 sanctioned by the court and in which the child does not live
12 with either of the child's birth parents. "Substitute care"
13 includes foster care, kinship care or care within a group home,
14 residential treatment center, juvenile justice facility, semi-
15 independent living program or emergency shelter; and

16 H. "volunteer member" means an individual who has
17 met eligibility requirements to perform volunteer services for
18 the council."

19 SECTION 18. Section 32A-8-4 NMSA 1978 (being Laws 1993,
20 Chapter 77, Section 206, as amended) is amended to read:

21 "32A-8-4. SUBSTITUTE CARE ADVISORY COUNCIL--MEMBERS--
22 COMPENSATION--RESPONSIBILITIES--ADVISORY COMMITTEE.--

23 A. The "substitute care advisory council" is
24 created ~~[and, in accordance with the provisions of Section~~
25 ~~9-1-7 NMSA 1978, is administratively attached to the regulation~~

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1 and licensing department. The general purpose of the council
2 is to oversee substitute care review boards in their monitoring
3 of children placed in the custody of the children, youth and
4 families department to identify systemic policy issues
5 regarding substitute care] in the administrative office of the
6 courts. The council shall exercise its functions independently
7 and not under the control of the administrative office of the
8 courts. The council shall be composed of [nine persons] ten
9 voting members, including:

10 (1) the secretary of public education [~~or the~~
11 ~~secretary's designee~~];

12 (2) the secretary of [~~human services or the~~
13 ~~secretary's designee~~] health care authority;

14 (3) the secretary of finance and
15 administration [~~or the secretary's designee~~];

16 (4) the secretary of health; [~~or the~~
17 ~~secretary's designee~~];

18 (5) ~~two public members, appointed by the~~
19 ~~governor, who:~~

20 (a) ~~are at least eighteen and no more~~
21 ~~than thirty years of age at the time of appointment; and~~

22 (b) ~~were previously placed in substitute~~
23 ~~care;~~

24 (6) ~~two public members, appointed by the~~
25 ~~governor, who have expertise in the area of child welfare; and]~~

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1 (5) the secretary of early childhood education
2 and care;

3 ~~[(7)]~~ (6) one children's court judge,
4 appointed by the governor; and

5 (7) four public members, two of whom have
6 expertise in the area of child welfare and two of whom have had
7 experience in abuse and neglect proceedings, including former
8 foster youth, biological parents, foster parents and adoptive
9 parents. At least one of the public members shall have
10 expertise in the Indian Family Protection Act and the federal
11 Indian Child Welfare Act of 1978.

12 B. ~~[The council may hire staff and contract for~~
13 ~~services to carry out the purposes of the Citizen Substitute~~
14 ~~Care Review Act.]~~ The secretary of children, youth and families
15 shall serve as a nonvoting member.

16 C. Except as provided pursuant to Paragraph ~~[(7)]~~
17 (6) of Subsection A and Subsection B of this section, a person
18 or a relative of a person employed by the department or a
19 district court shall not serve on the council.

20 ~~[6.]~~ D. Terms of office of public members of the
21 council shall be three years. Public members shall be eligible
22 for reappointment. In the event that a vacancy occurs among
23 the members of the council, the governor shall appoint another
24 person to serve the unexpired portion of the term.

25 E. A member of the council shall be entitled to

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1 receive per diem and mileage as provided for nonsalaried public
2 officers pursuant to the Per Diem and Mileage Act; provided
3 that, if a different provision of that act applies to a member,
4 that member shall be paid pursuant to that provision. A member
5 of the council shall receive no other compensation, perquisite
6 or allowance.

7 ~~[D.]~~ F. The council shall select a chairperson, a
8 vice chairperson and other officers as it deems necessary.

9 ~~[E.]~~ G. The council shall meet no less than [~~twice~~
10 ~~annually~~] quarterly and more frequently upon the call of the
11 chairperson.

12 H. The council shall, on or before October 1 of
13 each year, designate cases for review that involve children in
14 substitute care who:

15 (1) are under the age of five; or

16 (2) have remained in substitute care for
17 longer than six months.

18 I. The council may establish work groups and enter
19 into contracts, memoranda of understanding and joint powers
20 agreements to carry out the provisions of the Citizen
21 Substitute Care Review Act.

22 ~~[F.]~~ J. The council shall adopt reasonable rules
23 relating to the functions and procedures of [~~the substitute~~
24 ~~care review boards and~~] the council [~~in accordance with the~~
25 ~~duties of the boards as provided in the Citizen Substitute Care~~

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1 ~~Review Act~~]. These rules shall establish:

2 [~~(1) establish training requirements for~~
3 ~~substitute care review board members;~~

4 ~~(2) establish criteria for council designation~~
5 ~~of cases for substitute care review board review;~~

6 ~~(3) establish procedures for substitute care~~
7 ~~review board review of designated cases;~~

8 ~~(4) establish criteria for membership and~~
9 ~~tenure on and operating procedures for substitute care review~~
10 ~~boards;~~

11 ~~(5) specify the information needed for~~
12 ~~designated cases to be monitored by substitute care review~~
13 ~~boards; and~~

14 ~~(6) specify case information to be tracked and~~
15 ~~reported to the council.~~

16 G. ~~When adopting rules establishing criteria for~~
17 ~~designation of cases for substitute care review board review,~~
18 ~~the council shall weigh the importance of the following~~
19 ~~factors, including:~~

20 ~~(1) sibling placements;~~

21 ~~(2) the frequency and severity of neglect or~~
22 ~~abuse;~~

23 ~~(3) the behavioral health status of household~~
24 ~~members;~~

25 ~~(4) the placement of children in households~~

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1 ~~where there are no relatives of the children;~~

2 ~~(5) data related to demographics; and~~

3 ~~(6) relevant trend data]~~

4 (1) procedures to ensure compliance with the
5 Open Meetings Act;

6 (2) initial and annual training requirements
7 for council staff;

8 (3) requirements for public participation,
9 including participation on work groups and boards;

10 (4) procedures for the council's review of
11 designated cases;

12 (5) procedures to provide for public outreach
13 and public comment to assess the impact of current child
14 protection procedures and practices on children and families in
15 the community; and

16 (6) other procedures to provide for compliance
17 with the Citizen Substitute Care Review Act and the federal
18 Child Abuse Prevention and Treatment Act as it relates to
19 citizen review panels.

20 [H.] K. The council shall ~~[review and coordinate~~
21 ~~the activities of the substitute care review boards and make a~~
22 ~~report with its recommendations to the department, the courts~~
23 ~~and the appropriate legislative interim committees] provide
24 periodic reports on the work of the council, including an
25 annual written report to the governor, the appropriate~~

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1 legislative interim committee studying courts, corrections and
2 justice, the legislative finance committee, the legislative
3 health and human services committee, the department, the
4 administrative office of the courts and other persons,
5 organizations or agencies deemed appropriate. The annual
6 report shall be distributed electronically on or before
7 November 1 of each year [~~regarding statutes, rules, policies~~
8 ~~and procedures relating to substitute care~~]. This report shall
9 include [~~recommendations for any changes to substitute care~~
10 ~~review boards~~].

11 I. ~~Council members shall receive per diem and~~
12 ~~mileage as provided for nonsalaried public officers in the Per~~
13 ~~Diem and Mileage Act; provided that, if a different provision~~
14 ~~of that act applies to a specific member, that member shall be~~
15 ~~paid pursuant to that applicable provision. Members shall~~
16 ~~receive no other compensation, perquisite or allowance.~~

17 J. ~~The council shall appoint by October 1 of each~~
18 ~~year a six-member advisory committee from a list of substitute~~
19 ~~care review board members that the substitute care review~~
20 ~~boards shall nominate. The advisory council shall meet with~~
21 ~~the council at least once per year to advise the council on~~
22 ~~matters relating to substitute care review. Advisory committee~~
23 ~~members shall serve terms of one year and may be reappointed] a
24 summary of the activities of the council and recommendations to
25 improve child protective services at the state and local~~

1 levels. Other reports regarding trends or topics deemed
2 necessary by the council may be provided to the governor, the
3 legislature, the department and the administrative office of
4 the courts."

5 SECTION 19. A new section of the Citizen Substitute Care
6 Review Act is enacted to read:

7 "[NEW MATERIAL] COUNCIL ADMINISTRATION--STAFFING.--

8 A. The council shall hire a director who:

9 (1) shall oversee, manage and direct
10 processing of cases filed or reviewed pursuant to the Citizen
11 Substitute Care Review Act, provide administrative support to
12 the council and conduct any other activities as deemed
13 necessary by the council to support its functions;

14 (2) shall act impartially in a nonpartisan
15 manner;

16 (3) shall promote public awareness of the
17 purpose and services of the council and the methods for
18 submitting requests for case review;

19 (4) shall employ staff for the council and fix
20 compensation of the staff;

21 (5) shall prepare a budgetary request to be
22 submitted through the administrative office of the courts; and

23 (6) may apply for and accept grants, gifts and
24 bequests from other states, federal and interstate agencies,
25 independent authorities, private firms, individuals and

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1 foundations for the purpose of carrying out the
2 responsibilities of the council.

3 B. The director shall possess the following
4 qualifications:

5 (1) a master's degree in social work and
6 possession of a license issued pursuant to the Social Work
7 Practice Act; or

8 (2) an active license to practice law issued
9 pursuant to rules promulgated by the supreme court; and

10 (3) at least five years' experience in child
11 welfare, with an emphasis on child abuse and neglect prevention
12 or abatement.

13 C. The director shall hire staff to carry out the
14 purposes of the Citizen Substitute Care Review Act, including
15 review of cases. Council staff providing professional services
16 shall possess:

17 (1) a bachelor's degree in social work,
18 psychology, guidance and counseling, education, sociology,
19 criminal justice, criminology or family studies and at least
20 two years of experience in child welfare administration with an
21 emphasis on child abuse and neglect prevention or abatement; or

22 (2) at least four years of experience combined
23 from:

24 (a) study at an accredited college or
25 university in a field related to child welfare; or

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1 (b) professional experience working in
2 the field of child welfare.

3 D. Council staff shall be required to complete
4 annual training directly relating to enhancing staff
5 proficiency, meeting job requirements and conducting case
6 reviews required pursuant to the Citizen Substitute Care Review
7 Act."

8 SECTION 20. A new section of the Citizen Substitute Care
9 Review Act is enacted to read:

10 "[NEW MATERIAL] ATTORNEY GENERAL REPRESENTATION AND
11 CONSULTATION.--The attorney general shall advise and consult
12 with the council, acting pursuant to the Citizen Substitute
13 Care Review Act, and render legal services upon request of the
14 council."

15 SECTION 21. A new section of the Citizen Substitute Care
16 Review Act is enacted to read:

17 "[NEW MATERIAL] VOLUNTEER MEMBER PARTICIPATION--RULES.--

18 A. The council shall promulgate rules relating to
19 volunteer member participation, which shall include provisions
20 for:

21 (1) efforts to recruit and retain volunteer
22 members who are broadly representative of the communities in
23 which they serve and to include volunteer members with
24 expertise in the prevention and treatment of child abuse and
25 neglect and adult former victims of child abuse or neglect;

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- 1 (2) a membership process that includes
- 2 background checks and orientation training;
- 3 (3) ongoing training requirements;
- 4 (4) procedures to address actual, perceived or
- 5 possible conflicts of interest;
- 6 (5) a code of conduct; and
- 7 (6) procedures to maintain confidentiality of
- 8 information required to be kept confidential as required by
- 9 law.

10 B. Each volunteer member who meets the requirements
11 established by council rules shall participate at least once
12 quarterly in case reviews and other activities deemed
13 appropriate by council staff.

14 C. Volunteer members may receive per diem and
15 mileage as provided for nonsalaried public officers in the Per
16 Diem and Mileage Act; provided that if a different provision of
17 that act applies to a specific member, that member shall be
18 paid pursuant to that applicable provision. Members shall
19 receive no other compensation, perquisite or allowance."

20 SECTION 22. A new section of the Citizen Substitute Care
21 Review Act is enacted to read:

22 "[NEW MATERIAL] SUBSTITUTE CARE REVIEW BOARD
23 ESTABLISHMENT--CASE REVIEW.--

24 A. The council shall establish boards composed
25 entirely of volunteer members to review cases designated in

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1 accordance with council rules.

2 B. When a case has been designated for review
3 pursuant to Subsection H of Section 32A-8-4 NMSA 1978, the
4 staff of the council shall convene a board to review the case.

5 C. If a case reviewed by a board is a children's
6 court case, the staff of the council shall give the parties to
7 the case notice of the review and afford the parties to the
8 case an opportunity to provide input relevant to the review.
9 If the case involves an Indian child, notice shall additionally
10 be provided to persons afforded notice pursuant to the Indian
11 Family Protection Act.

12 D. After a board's review of a children's court
13 case, council staff shall submit a report of the board's
14 findings and recommendations to the children's court, the
15 department and the parties to the case. If the case involves
16 an Indian child, the report shall additionally be provided to
17 persons afforded notice pursuant to the Indian Family
18 Protection Act.

19 E. The department shall:

20 (1) acknowledge receipt of the report within
21 ten business days; and

22 (2) within thirty days of receipt, provide a
23 response to the board's findings and recommendations, including
24 plans for adopting the recommendations or taking alternative
25 action.

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1 F. Council staff and the department shall meet
2 quarterly, or as needed to work toward mutually agreed-upon
3 outcomes."

4 **SECTION 23.** A new section of the Citizen Substitute Care
5 Review Act is enacted to read:

6 "[NEW MATERIAL] ACCESS TO RECORDS.--

7 A. Subject to state or federal law to the contrary,
8 council staff shall have access to, including the right to
9 inspect and copy, any records necessary to carry out council
10 responsibilities, including access to the following:

11 (1) social records, diagnostic evaluations,
12 psychiatric or psychological reports, video footage,
13 transcripts and audio records of a child's statement of abuse
14 or medical reports incident to an abuse or neglect proceeding;

15 (2) a record of an agency, a hospital, an
16 organization, a school, a person or an office, including the
17 clerk of the court, the department, a court-appointed special
18 advocate program, a public or private health care facility, a
19 medical or mental health care professional, a law enforcement
20 agency or other agency that provides services to children and
21 families;

22 (3) a record of an administrative hearing
23 conducted by the department and any findings or conclusions
24 resulting from such hearing; and

25 (4) a record of a private meeting with a child

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1 in protective custody or with an individual with knowledge of
2 the case or grievance.

3 B. The department shall establish procedures to
4 provide the requested records in a timely manner.

5 C. The department shall:

6 (1) establish procedures to provide the
7 requested records in a timely manner and to ensure staff
8 availability to provide input for case reviews; and

9 (2) ensure that its agents and contractors
10 provide requested records in a timely manner and ensure staff
11 availability to provide input for case reviews.

12 D. The department or its agent or contractor shall
13 not discharge, discriminate against in any manner or retaliate
14 against an employee, a volunteer or a contractor who, in good
15 faith, communicates with the council about a case review or
16 provision of records pursuant to this section."

17 SECTION 24. A new section of the Citizen Substitute Care
18 Review Act is enacted to read:

19 "[NEW MATERIAL] CONFIDENTIALITY OF INFORMATION.--

20 A. Information obtained or generated by a member of
21 the council, a staff member of the council or a member of a
22 board for the purpose of performing duties in compliance with
23 the Citizen Substitute Care Review Act is not subject to the
24 provisions of the Inspection of Public Records Act.

25 B. The name, address or other personally

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1 identifiable information of a person whose records are released
2 to council staff are confidential.

3 C. A member of the council, a staff member of the
4 council or a member of a board with knowledge of a case that
5 was obtained pursuant to the Citizen Substitute Care Review Act
6 shall maintain that information as confidential unless:

7 (1) the identified child or identified adult
8 who is the subject of the case consents in writing to
9 disclosure of that information to another person;

10 (2) the identified child or identified adult
11 who is the subject of the case provides oral consent for
12 disclosure to another person that is immediately documented in
13 writing by council staff; or

14 (3) disclosure is ordered by a court."

15 SECTION 25. TEMPORARY PROVISION.--On July 1, 2025:

16 A. the functions, employees, money, appropriations,
17 records, equipment and other property of the regulation and
18 licensing department pertaining to the substitute advisory care
19 council shall be transferred from the regulation and licensing
20 department to the administrative office of the courts;

21 B. all contractual obligations pertaining to the
22 substitute advisory care council shall be deemed to be
23 contractual obligations of the administrative office of the
24 courts; and

25 C. statutory references to the substitute advisory

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1 care council or other functions transferred from the
2 registration and licensing department to the administrative
3 office of the courts shall be deemed to be references to the
4 administrative office of the courts.

5 SECTION 26. REPEAL.--Sections 32A-8-5 and 32A-8-6 NMSA
6 1978 (being Laws 1993, Chapter 77, Sections 207 and 208, as
7 amended) are repealed.

8 SECTION 27. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2025.