

AN ACT

RELATING TO CHILD WELFARE; AMENDING AND ENACTING SECTIONS OF
THE NMSA 1978 TO ENACT A NEW MEXICO CHILD SAFETY AND WELFARE
ACT; REQUIRING THE USE OF STATE-ISSUED ELECTRONIC DEVICES
WHEN PERFORMING DEPARTMENTAL DUTIES; REQUIRING THE BACKUP AND
RETENTION OF ELECTRONIC RECORDS; 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 HEALTH CARE
AUTHORITY; 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 SERVICES ACT; PROVIDING
ACCESS TO AND REQUIREMENTS FOR CONFIDENTIALITY OF CERTAIN
RECORDS AND INFORMATION; SPECIFYING TO WHOM AND UNDER WHAT
CIRCUMSTANCES INFORMATION THAT IS HELD BY THE CHILDREN, YOUTH
AND FAMILIES DEPARTMENT THAT PERTAINS TO CHILD ABUSE AND
NEGLECT MAY BE SHARED; REQUIRING THAT INFORMATION BE PROVIDED
ABOUT CHILD FATALITIES OR NEAR FATALITIES; PROTECTING

1 PERSONAL IDENTIFIER INFORMATION OF DEPARTMENT CLIENTS;
2 PROVIDING FOR RULEMAKING; REQUIRING REPORTS.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

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

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

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

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

1 uniform system of access;

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

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

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

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

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

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

1 families advisory committee;

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

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

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

18 SECTION 2. A new section of the Children, Youth and
19 Families Department Act is enacted to read:

20 "ELECTRONIC RECORDS--RETENTION.--

21 A. Employees of the department shall not erase
22 data from the electronic devices issued by the department to
23 employees for communication related to the performance of
24 duties within the scope of their employment by the
25 department.

1 B. Electronic devices issued by the department to
2 employees shall only include software and applications that
3 are compliant with federal data retention and protection
4 laws.

5 C. By January 1, 2026, the department shall
6 implement a system, approved by the department of information
7 technology, that will back up on a daily basis all electronic
8 records generated or received by employees of the department
9 related to the performance of their duties within the scope
10 of their employment by the department.

11 D. During the term of an employee's employment by
12 the department, and for a period of at least seven years
13 after the termination of an employee's employment by the
14 department, the department shall retain all electronic
15 records stored on electronic devices used by department
16 employees and all electronic records that have been backed up
17 from electronic devices used by department employees. The
18 department shall back up the retained electronic records
19 daily, monthly and annually.

20 E. As used in this section:

21 (1) "back up" means to electronically copy
22 in a recoverable format to a searchable database maintained
23 by the department all electronic records generated by or
24 contained within an electronic device;

25 (2) "electronic device" means a telephone,

1 tablet, computer, watch or similar device used to generate,
2 store or transfer information; and

3 (3) "electronic records" means information
4 generated by, transmitted by or stored on an electronic
5 device, including electronic mail, voicemail, text and
6 instant messages, documents and photographs, regardless of
7 the platform being used, including interagency
8 communications."

9 SECTION 3. Section 32A-1-4 NMSA 1978 (being Laws 1993,
10 Chapter 77, Section 13, as amended) is amended to read:

11 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

12 A. "active efforts" means efforts that are
13 affirmative, active, thorough and timely and that represent a
14 higher standard of conduct than reasonable efforts;

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

17 C. "child" means a person who is less than
18 eighteen years old;

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

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

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

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

8 H. "department" means the children, youth and
9 families department, unless otherwise specified;

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

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

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

21 L. "guardian" means a person appointed as a
22 guardian by a court or Indian tribal authority;

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

1 employee or representative of a party to the case shall be
2 appointed to serve as a guardian ad litem;

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

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

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

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

11 (1) married; or

12 (2) emancipated;

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

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

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

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

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

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

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

12 S. "judge", when used without further
13 qualification, means the judge of the court;

14 T. "legal custody" means a legal status created by
15 order of the court or other court of competent jurisdiction
16 or by operation of statute that vests in a person, department
17 or agency the right to determine where and with whom a child
18 shall live; the right and duty to protect, train and
19 discipline the child and to provide the child with food,
20 shelter, personal care, education and ordinary and emergency
21 medical care; the right to consent to major medical,
22 psychiatric, psychological and surgical treatment and to the
23 administration of legally prescribed psychotropic medications
24 pursuant to the Children's Mental Health and Developmental
25 Disabilities Act; and the right to consent to the child's

1 enlistment in the armed forces of the United States;

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

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

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

13 (1) reunification;

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

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

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

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

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

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

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

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

17 BB. "relative" means a person related to another
18 person:

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

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

25 CC. "reservation" means:

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

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

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

9 DD. "reunification" means either a return of the
10 child to the parent or to the home from which the child was
11 removed or a return to the noncustodial parent;

12 EE. "secretary" means the United States secretary
13 of the interior;

14 FF. "tribal court" means a court with jurisdiction
15 over child custody proceedings that is either a court of
16 Indian offenses, a court established and operated under the
17 law or custom of an Indian tribe or any other administrative
18 body that is vested by an Indian tribe with authority over
19 child custody proceedings;

20 GG. "tribal court order" means a document issued
21 by a tribal court that is signed by an appropriate authority,
22 including a judge, governor or tribal council member, and
23 that orders an action that is within the tribal court's
24 jurisdiction; and

25 HH. "tribunal" means any judicial forum other than

1 the court."

2 SECTION 4. Section 32A-3A-2 NMSA 1978 (being Laws 1993,
3 Chapter 77, Section 64, as amended) is amended to read:

4 "32A-3A-2. DEFINITIONS.--As used in the Voluntary
5 Placement and Family Services Act:

6 A. "child or family in need of family services"
7 means a family:

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

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

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

15 (4) in which the parent, guardian or
16 custodian of a child refuses to permit the child to live with
17 the parent, guardian or custodian; or

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

20 B. "family services" means services that address
21 specific needs of the child or family;

22 C. "guardian" means a person appointed as a
23 guardian by a court or Indian tribal authority or a person
24 authorized to care for a child by a parental power of
25 attorney as permitted by law;

1 D. "guardianship assistance agreement" means a
2 written agreement entered into by the prospective guardian
3 and the department or Indian tribe prior to the establishment
4 of the guardianship by a court;

5 E. "guardianship assistance payments" means
6 payments made by the department to a kinship guardian or
7 successor guardian on behalf of a child pursuant to the terms
8 of a guardianship assistance agreement;

9 F. "guardianship assistance program" means the
10 financial subsidy program provided for in the Voluntary
11 Placement and Family Services Act;

12 G. "kinship" means the relationship that exists
13 between a child and a relative of the child, a godparent, a
14 member of the child's tribe or clan or an adult with whom the
15 child has a significant bond;

16 H. "managed care organization" means a person or
17 entity eligible to enter into risk-based capitation
18 agreements with the health care authority to provide health
19 care and related services;

20 I. "subsidized guardianship" means a guardianship
21 that meets subsidy eligibility criteria pursuant to the
22 Voluntary Placement and Family Services Act; and

23 J. "voluntary placement agreement" means a written
24 agreement between the department and the parent or guardian
25 of a child."

1 SECTION 5. Section 32A-3A-13 NMSA 1978 (being
2 Laws 2019, Chapter 190, Section 3) is amended to read:

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

5 A. By July 1, 2026, the health care authority, in
6 consultation with medicaid managed care organizations,
7 private insurers, the office of superintendent of insurance,
8 the children, youth and families department and the
9 department of health, shall develop rules to guide hospitals,
10 birthing centers, medical providers, medicaid managed care
11 organizations and private insurers in the care of newborns
12 who exhibit physical, neurological or behavioral symptoms
13 consistent with prenatal drug exposure, withdrawal symptoms
14 from prenatal drug exposure or fetal alcohol spectrum
15 disorder.

16 B. Rules shall include guidelines to hospitals,
17 birthing centers, medical providers, medicaid managed care
18 organizations and private insurers regarding:

19 (1) participation in the plan of safe care
20 development process, which may occur at a prenatal or
21 perinatal medical visit and shall occur prior to a
22 substance-exposed child's discharge from a hospital. The
23 plan of safe care development process shall allow for the
24 creation of a written plan of safe care that shall be sent
25 to:

1 (a) the child's primary care physician;
2 (b) a medicaid managed care
3 organization insurance plan care coordinator or a care
4 coordinator employed by or contracted with the health care
5 authority;

6 (c) the child's parent, relative,
7 guardian or caretaker who is present at discharge who shall
8 receive a copy upon discharge. The plan of safe care shall
9 be signed by an appropriate representative of the discharging
10 hospital and the child's parent, relative, guardian or
11 caretaker who is present at discharge; and

12 (d) if the child's parent, relative,
13 guardian, custodian or caretaker resides on tribal land, the
14 respective Indian tribe shall be sent a copy of the plan of
15 safe care within twenty-four hours of the child's discharge;

16 (2) definitions and evidence-based screening
17 tools, based on standards of professional practice, to be
18 used by health care providers to identify a child born
19 affected by substance use or withdrawal symptoms resulting
20 from prenatal drug exposure or a fetal alcohol spectrum
21 disorder. The rules shall include a requirement that all
22 hospitals, birthing centers and prenatal care providers use
23 the screening, brief intervention and referral to treatment
24 program at all prenatal or perinatal medical visits and live
25 births;

1 (3) collection and reporting of data to meet
2 federal and state reporting requirements, including the
3 following:

4 (a) by hospitals and birthing centers
5 to the department when: 1) a plan of safe care has been
6 developed; and 2) a family has been referred for a plan of
7 safe care;

8 (b) information pertaining to a child
9 born and diagnosed by a health care professional as affected
10 by substance abuse, withdrawal symptoms resulting from
11 prenatal drug exposure or a fetal alcohol spectrum disorder;
12 and

13 (c) data collected by hospitals and
14 birthing centers for use by the children's medical services
15 of the family health bureau of the public health division of
16 the department of health in epidemiological reports and to
17 support and monitor a plan of safe care. Information
18 reported pursuant to this subparagraph shall be coordinated
19 with communication to insurance carrier care coordinators to
20 facilitate access to services for children and parents,
21 relatives, guardians, custodians or caretakers identified in
22 a plan of safe care;

23 (4) requirements for the health care
24 authority to:

25 (a) ensure that there is at least one

1 care coordinator available in each birthing hospital in the
2 state;

3 (b) ensure that all substance-exposed
4 children who have a plan of safe care receive care
5 coordination to implement the plan of safe care;

6 (c) provide training to hospital staff,
7 birthing center staff and prenatal care providers on the
8 screening, brief intervention and referral to treatment
9 program; and

10 (d) communicate, collaborate and
11 consult with an Indian child's tribe to ensure that plans of
12 safe care are developed in a culturally responsive manner for
13 each child;

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

21 (a) shall include: 1) home visitation
22 programs or early intervention family infant toddler
23 programs; and 2) substance use disorder prevention and
24 treatment providers; and

25 (b) may include: 1) public health

1 agencies; 2) maternal and child health agencies; 3) mental
2 health providers; 4) infant mental health providers;
3 5) public and private children and youth agencies; 6) early
4 intervention and developmental services; 7) courts; 8) local
5 education agencies; 9) managed care organizations; or
6 10) hospitals and medical providers;

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

9 (a) the child's name;

10 (b) an emergency contact for at least
11 one of the child's parents, relatives, guardians, custodians
12 or caretakers;

13 (c) the address for the parent,
14 relative, guardian, custodian or caretaker who will be taking
15 the child home from the birthing facility; and

16 (d) the names of the parents,
17 relatives, guardians, custodians or caretakers who will be
18 living with the child;

19 (7) engagement of the child's relatives,
20 parents, guardians, custodians or caretakers in order to
21 identify the need for access to treatment for any substance
22 use disorder or other physical or behavioral health condition
23 that may impact the safety, early childhood development and
24 well-being of the child; and

25 (8) implementation of plans of safe care

1 that shall include requirements for care coordinators to:

2 (a) actively work with pregnant persons
3 or a substance-exposed child's parents, relatives, guardians,
4 family members or caretakers to refer and connect the
5 pregnant person or substance-exposed child's parents,
6 relatives, guardians, family members or caretakers to
7 necessary services. Care coordinators shall use an
8 evidence-based intensive care coordination model that is
9 listed in the federal Title IV-E prevention services
10 clearinghouse or another nationally recognized evidence-based
11 clearinghouse for child welfare; and

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

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

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

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

7 E. The health care authority shall provide an
8 annual report to the legislative finance committee, the
9 interim legislative health and human services committee and
10 the department of finance and administration on the status of
11 the plan of safe care system. The report shall include the
12 following aggregate statistical information related to the
13 creation of plans of safe care:

14 (1) the primary substances that infants were
15 exposed to;

16 (2) the services that infants and families
17 were referred to;

18 (3) the availability and uptake rate of
19 services;

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

23 (5) disaggregated demographic and geographic
24 data.

25 F. Reports made pursuant to the requirements in

1 this section shall not be construed to relieve a person of
2 the requirement to report to the department knowledge of or a
3 reasonable suspicion that a child is an abused or neglected
4 child based on criteria as defined by Section 32A-4-2
5 NMSA 1978.

6 G. The health care authority shall create and
7 distribute training materials to support and educate
8 discharge planners or social workers on the following:

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

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

17 (3) how to assess whether to create a plan
18 of safe care when a referral to the department is not
19 required; and

20 (4) the creation and deployment of a plan of
21 safe care.

22 H. A person shall not have a cause of action for
23 any loss or damage caused by any act or omission resulting
24 from the implementation of the provisions of Subsection G of
25 this section or resulting from any training, or lack thereof,

1 required by Subsection G of this section.

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

5 SECTION 6. Section 32A-3A-14 NMSA 1978 (being
6 Laws 2019, Chapter 190, Section 4) is amended to read:

7 "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF
8 NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

9 A. If the parents, relatives, guardians,
10 custodians or caretakers of a child released from a hospital
11 or freestanding birthing center pursuant to a plan of safe
12 care fail to comply with that plan, the health care
13 authority, a medicaid managed care organization insurance
14 plan care coordinator or a care coordinator contracted with
15 the health care authority shall notify the department within
16 twenty-four hours of the failure to comply and the department
17 shall conduct a family assessment. Based on the results of
18 the family assessment, the department may offer or provide
19 referrals for counseling, training, or other services aimed
20 at addressing the underlying causative factors that may
21 jeopardize the safety or well-being of the child. The
22 child's parents, relatives, guardians, custodians or
23 caretakers may choose to accept or decline any service or
24 program offered subsequent to the family assessment; provided
25 that if the child's parents, relatives, guardians, custodians

1 or caretakers decline those services or programs, and the
2 department determines that those services or programs are
3 necessary to address concerns of imminent harm to the child,
4 the department shall proceed with an investigation.

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

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

13 (2) the child becoming an abused child or
14 neglected child; and

15 (3) the strengths and needs of the child's
16 family members, including parents, relatives, guardians,
17 custodians or caretakers, with respect to providing for the
18 health and safety of the child."

19 SECTION 7. Section 32A-4-2 NMSA 1978 (being Laws 1993,
20 Chapter 77, Section 96, as amended) is amended to read:

21 "32A-4-2. DEFINITIONS.--As used in the Abuse and
22 Neglect Act:

23 A. "abandonment" includes instances when the
24 parent, without justifiable cause:

25 (1) left the child without provision for the

1 child's identification for a period of fourteen days; or

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

5 (a) three months if the child was under
6 six years of age at the commencement of the three-month
7 period; or

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

10 B. "abused child" means a child:

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

14 (2) who has suffered physical abuse,
15 emotional abuse or psychological abuse inflicted or caused by
16 the child's parent, guardian or custodian;

17 (3) who has suffered sexual abuse or sexual
18 exploitation inflicted by the child's parent, guardian or
19 custodian;

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

23 (5) whose parent, guardian or custodian has
24 knowingly or intentionally tortured, cruelly confined or
25 cruelly punished the child;

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

3 (1) attempted, conspired to cause or caused
4 great bodily harm to the child or great bodily harm or death
5 to the child's sibling;

6 (2) attempted, conspired to cause or caused
7 great bodily harm or death to another parent, guardian or
8 custodian of the child;

9 (3) attempted, conspired to subject or has
10 subjected the child to torture, chronic abuse or sexual
11 abuse; or

12 (4) had parental rights over a sibling of
13 the child terminated involuntarily;

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

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

23 F. "great bodily harm" means an injury to a person
24 that creates a high probability of death, that causes serious
25 disfigurement or that results in permanent or protracted loss

1 or impairment of the function of a member or organ of the
2 body;

3 G. "neglected child" means a child:

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

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

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

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

20 (5) who has been placed for care or adoption
21 in violation of the law; provided that nothing in the
22 Children's Code shall be construed to imply that a child who
23 is being provided with treatment by spiritual means alone
24 through prayer, in accordance with the tenets and practices
25 of a recognized church or religious denomination, by a duly

1 accredited practitioner thereof is for that reason alone a
2 neglected child within the meaning of the Children's Code;
3 and further provided that no child shall be denied the
4 protection afforded to all children under the Children's
5 Code;

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

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

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

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

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

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

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

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

4 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
11 defined by state law;

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

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

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

18 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
21 to the child to increase independent living skills. The plan
22 shall also include responsibilities of the child, and any
23 other party as appropriate, to enable the child to be
24 self-sufficient upon emancipation."

25 SECTION 8. Section 32A-4-3 NMSA 1978 (being Laws 1993,

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

2 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD
3 NEGLECT--RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR
4 NEGLECT--PENALTY--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
7 child; 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
10 a member of the clergy who has information that is not
11 privileged as a matter of law, who knows or has a reasonable
12 suspicion that a child is an abused or a neglected child
13 shall report the 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
22 to 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

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
16 welfare of the alleged abused or neglected child, as well as
17 that of any other child under the same care who may be in
18 danger of abuse or neglect. A local law enforcement officer
19 trained in the investigation of child abuse and neglect is
20 responsible for investigating reports of alleged child abuse
21 or neglect at schools, daycare facilities or child care
22 facilities.

23 D. If the child alleged to be abused or neglected
24 is in the care or control of or in a facility
25 administratively connected to the department, the report

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

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

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

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

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

5 H. A contractor or staff of a hospital,
6 freestanding birthing center or clinic that provides prenatal
7 or perinatal care shall:

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

12 (2) provide notification to the health care
13 authority. Notification by a health care provider pursuant
14 to this paragraph shall not be construed as a report of child
15 abuse or neglect.

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

25 J. As used in this section, "school employee"

1 includes employees of a school district or a public school."

2 SECTION 9. Section 32A-4-4.1 NMSA 1978 (being
3 Laws 2019, Chapter 137, Section 2) is amended to read:

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

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

15 (1) alleging sexual abuse of a child or
16 serious or imminent harm to a child;

17 (2) indicating a child fatality;

18 (3) requiring law enforcement involvement,
19 as identified pursuant to rules promulgated by the
20 department; or

21 (4) requiring a specialized assessment or a
22 traditional investigative approach, as determined pursuant to
23 rules promulgated by the department.

24 B. The department may remove a case from the
25 multilevel response system and conduct an investigation if

1 imminent danger of serious harm to the child becomes evident.
2 The department may reassign a case from investigation to the
3 multilevel response system at the discretion of the
4 department.

5 C. For each family, including the child who is the
6 subject of a report to the department and that child's
7 relatives, caretakers or guardians, that receives services
8 under the multilevel response system, the department shall
9 conduct a family assessment. Based on the results of the
10 family assessment, the department may offer or provide
11 referrals for counseling, training or other services aimed at
12 addressing the underlying causative factors jeopardizing the
13 safety or well-being of the child who is the subject of a
14 report to the department. A family member, relative,
15 caretaker or guardian may choose to accept or decline any
16 services or programs offered under the multilevel response
17 system; provided, however, that if a family member, relative,
18 caretaker or guardian declines services, the department may
19 choose to proceed with an investigation.

20 D. The department shall employ licensed social
21 workers to provide services to families, relatives,
22 caretakers or guardians participating in the multilevel
23 response system to the extent that licensed social workers
24 are available for employment.

25 E. The department shall:

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

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

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

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

17 (5) implement the multilevel response system
18 statewide no later than July 1, 2027.

19 F. The department shall promulgate rules to
20 implement the provisions of this section.

21 G. As used in this section, "family assessment"
22 means a comprehensive, evidence-based assessment tool used by
23 the department to determine the needs of a child and the
24 child's family, relatives, caretakers or guardians at the
25 time the department receives a report of child abuse and

1 neglect, including an assessment of the likelihood of:

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

3 (2) the child becoming an abused child or a
4 neglected child; and

5 (3) the strengths and needs of the child's
6 family members, relatives, caretakers or guardians with
7 respect to providing for the health and safety of the child."

8 SECTION 10. Section 32A-4-21 NMSA 1978 (being
9 Laws 1993, Chapter 77, Section 115, as amended) is amended to
10 read:

11 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
12 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

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

16 B. The predisposition study required pursuant to
17 Subsection A of this section shall contain the following
18 information:

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

24 (2) a statement of how an intervention plan
25 is designed to achieve placement of the child in the least

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

11 (3) the wishes of the child as to the
12 child's custodian;

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

20 (5) a description of services offered to the
21 child, the child's family and the child's foster care family,
22 which, if appropriate and available, may include families
23 first services provided pursuant to the Families First Act,
24 as well as referrals to income support or other services or
25 programs, and a summary of reasonable efforts made to prevent

1 removal of the child from the child's family or reasonable
2 efforts made to reunite the child with the child's family;

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

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

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

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

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

21 (11) a case plan that sets forth steps to
22 ensure that the child's educational needs are met and, for a
23 child fourteen years of age or older, a case plan that
24 specifically sets forth the child's educational and
25 post-secondary goals; and

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

8 C. A copy of the predisposition report shall be
9 provided by the department to counsel for all parties five
10 days before the dispositional hearing.

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

15 SECTION 11. Section 32A-4-33 NMSA 1978 (being
16 Laws 1993, Chapter 77, Section 127, as amended) is amended to
17 read:

18 "32A-4-33. CONFIDENTIALITY--INFORMATION--PENALTY.--

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

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

25 (2) in cases in which a child is missing or

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

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

15 (4) to the persons enumerated in
16 Subsection G of this section.

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

24 C. Information released by the department that has
25 not otherwise been publicly released shall be redacted as

1 needed to safeguard personal identifier information of the
2 child and the child's family. In a case in which a child or
3 the child's family has been publicly identified through news
4 reports, a lawsuit or other means, the department may respond
5 publicly with factual and complete information about the
6 actions the department has taken in the case.

7 D. Except as provided in Subsections E, F and G of
8 this section, information concerning a party to a neglect or
9 abuse proceeding, including social records, diagnostic
10 evaluations, psychiatric or psychological reports,
11 videotapes, transcripts and audio recordings of a child's
12 statement of abuse or medical reports incident to or obtained
13 as a result of a neglect or abuse proceeding or that were
14 produced or obtained during an investigation in anticipation
15 of or incident to a neglect or abuse proceeding, shall be
16 confidential and closed to the public.

17 E. The department may release redacted information
18 described in Subsection D of this section to a person who is
19 conducting bona fide research or investigations, the results
20 of which shall provide the department information on child
21 abuse and neglect that would be useful to the department in
22 developing policy and practice.

23 F. In the case of a fatality, the department shall
24 release all information described in Subsection D of this
25 section to a person who is conducting bona fide research or

1 investigations, the results of which shall provide the
2 department information on child abuse and neglect that would
3 be useful to the department in developing policy and
4 practice.

5 G. The information described in Subsection D of
6 this section shall be disclosed without redaction to the
7 parties and:

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

12 (2) court-appointed special advocates
13 appointed to the neglect or abuse proceeding;

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

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

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

22 (6) any local substitute care review board
23 or any agency contracted to implement local substitute care
24 review boards;

25 (7) law enforcement officials, except when

1 use immunity is granted pursuant to Section 32A-4-11
2 NMSA 1978;

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

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

10 (10) a foster parent, if the information is
11 that of a child currently placed with that foster parent or
12 of a child being considered for placement with that foster
13 parent and the information concerns the social, medical,
14 psychological or educational needs of the child;

15 (11) school personnel involved with the
16 child but only if the information concerns the child's
17 social, medical or educational needs;

18 (12) a grandparent, parent of a sibling,
19 relative or fictive kin, if the information pertains to a
20 child being considered for placement with that grandparent,
21 parent of a sibling, relative or fictive kin and the
22 information concerns the social, medical, psychological or
23 educational needs of the child;

24 (13) health care or mental health
25 professionals involved in the evaluation or treatment of the

1 child or of the child's parents, guardian, custodian or other
2 family members;

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

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

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

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

20 (18) the office of the state medical
21 investigator; and

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

25 H. A party to a court proceeding relating to a

1 department investigation into allegations of abuse and
2 neglect may comment publicly as long as the party does not
3 disclose personal identifier information that is still
4 confidential regarding the child or the child's parent or
5 guardian.

6 I. A parent, guardian or custodian whose child has
7 been the subject of an investigation of abuse or neglect
8 where no petition has been filed shall have the right to
9 inspect any medical report, psychological evaluation, law
10 enforcement reports or other investigative or diagnostic
11 evaluation; provided that any personal identifier information
12 related to the reporting party or any other party providing
13 information shall be deleted or redacted. The parent,
14 guardian or custodian shall also have the right to the
15 results of the investigation and the right to petition the
16 court for full access to all department records and
17 information except that information the department finds
18 would be likely to endanger the life or safety of a person
19 providing information to the department.

20 J. The department is not required by this section
21 to disclose department information if the district attorney
22 successfully petitions the children's court that disclosure
23 would cause specific, material harm to a criminal
24 investigation or prosecution.

25 K. The department shall provide pertinent

1 department information upon request to a prospective adoptive
2 parent, foster parent or guardian if the information concerns
3 a child for whom the prospective adoptive parent, foster
4 parent or guardian seeks to adopt or provide care.

5 L. A person may authorize the release of
6 department information about the person's self but shall not
7 waive the confidentiality of department information
8 concerning any other person.

9 M. The department shall provide a summary of the
10 outcome of a department investigation to the person who
11 reported the suspected child abuse or neglect in a timely
12 manner no later than twenty days after the deadline for
13 closure of the investigation.

14 N. Whoever intentionally and unlawfully releases
15 any information closed to the public pursuant to the Abuse
16 and Neglect Act or releases or makes other unlawful use of
17 information 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 O. The department may promulgate rules for
21 implementing disclosure of records pursuant to this section
22 and in compliance with state and federal law and the
23 Children's Court Rules.

24 P. Nothing in this section or Section 32A-4-33.1
25 NMSA 1978 limits the right of a person to seek documents or

1 information through other provisions of law.

2 Q. Nothing in this section applies to the Indian
3 Family Protection Act, information concerning Indian children
4 or Indian parents, guardians or custodians, as those terms
5 are defined in that act, or investigations or proceedings
6 pursuant to that act."

7 SECTION 12. Section 32A-4-33.1 NMSA 1978 (being
8 Laws 2009, Chapter 239, Section 52) is amended to read:

9 "32A-4-33.1. FATALITIES--NEAR FATALITIES--RECORDS
10 RELEASE.--

11 A. As used in this section:

12 (1) "near fatality" means an act that, as
13 certified by a physician, including the child's treating
14 physician, placed a child in a serious or critical medical
15 condition; and

16 (2) "personal identifier information" means:

17 (a) a person's name;

18 (b) all but the last four digits of a
19 person's: 1) taxpayer identification number; 2) financial
20 account number; 3) credit or debit card number; or
21 4) driver's license number;

22 (c) all but the year of a person's date
23 of birth;

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

25 and

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

3 B. After learning that a child fatality or near
4 fatality has occurred and that there is reasonable suspicion
5 that the fatality or near fatality was caused by abandonment,
6 abuse or neglect, the department shall upon written request
7 release the following information, if in the department's
8 possession, within five business days:

9 (1) for a fatality:

10 (a) the name, age and gender of the
11 child;

12 (b) the date and location of the
13 fatality; and

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

15 (2) for a near fatality:

16 (a) the age and gender of the child;
17 and

18 (b) the type and extent of injuries;

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

20 (a) whether the child is currently or
21 has been in the custody of the department within the last five
22 years or the child's family is currently or has been served or
23 under investigation by the department within the last five
24 years;

25 (b) whether the child lived with a

1 parent, guardian or custodian; was in foster care; was in a
2 residential facility or detention facility; was a runaway; or
3 had some other living arrangement;

4 (c) whether an investigation is being
5 conducted by the department or by a law enforcement agency, if
6 known;

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

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

12 (4) any other information that is publicly
13 known.

14 C. Upon completion of a child abandonment, abuse
15 or neglect investigation into a fatality or near fatality, if
16 it is determined that abandonment, abuse or neglect caused the
17 fatality or near fatality, the following documents shall be
18 released upon written request:

19 (1) a summary of the department's
20 investigation;

21 (2) a law enforcement investigation report,
22 if in the department's possession;

23 (3) the medical investigator's report, if in
24 the department's possession; and

25 (4) in the case of a fatality, the

1 department's file on the child who died.

2 D. Prior to releasing documents specified in
3 Subsection C of this section, the department shall consult
4 with the district attorney and shall redact:

5 (1) information that, in the opinion of the
6 district attorney, would cause specific material harm to a
7 criminal investigation or prosecution;

8 (2) personal identifier information related
9 to a reporting party or any other party providing information
10 and any other child living in the home;

11 (3) information that is privileged,
12 confidential or not subject to disclosure pursuant to Section
13 32A-4-33 NMSA 1978 or other state or federal law; and

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

17 E. If documents pursuant to this section have been
18 released by the department, the department may comment on the
19 case.

20 F. Information released by the department
21 consistent with the requirements of this section does not
22 require prior notice to any other person.

23 G. Nothing in this section shall be construed as
24 requiring the department to obtain documents not in the abuse
25 and neglect case file.

1 H. A person disclosing abandonment, abuse or
2 neglect case file information as required by this section
3 shall not be subject to suit in civil or criminal proceedings
4 for complying with the requirements of this section.

5 I. The department shall continue to provide timely
6 allowable information to the public on the investigation into
7 a case of fatality or near fatality of a child, including a
8 summary report that shall include:

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

16 (2) the information described in
17 Subsection J or K of this section.

18 J. If the summary report involves a child who was
19 residing in the child's home, the report shall contain a
20 summary of all of the following:

21 (1) whether services pursuant to the Abuse
22 and Neglect Act were being provided to the child, a member of
23 the child's household or a person who had been arrested for
24 abandonment, abuse or neglect of the child prior to the time
25 of the fatality or near fatality and the date of the last

1 contact between the person providing the services and the
2 person receiving the services prior to or at the time of the
3 fatality or near fatality;

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

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

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

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

25 (1) the name of the agency the licensee was

1 licensed by; and

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

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

15 SECTION 13. A new section of the Abuse and Neglect Act
16 is enacted to read:

17 "CREATION AND MAINTENANCE OF DASHBOARD ON DEPARTMENT
18 WEBSITE--ANNUAL REPORT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 "SHORT TITLE.--Sections 14 through 17 of this act may be
24 cited as the "Families First Act"."

25 SECTION 15. A new section of the Children's Code is

1 enacted to read:

2 "DEFINITIONS.--As used in the Families First Act:

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

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

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

17 "FAMILIES FIRST STRATEGIC PLAN--DEPARTMENT DUTIES--
18 FAMILIES FIRST SERVICES--TIME LINE--IMPLEMENTATION.--

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

24 (1) ensure that provisions of the families
25 first strategic plan align with and meet the requirements set

1 forth in the federal Family First Prevention Services Act; and

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

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

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

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

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

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

20 (3) identify all network services providers,
21 including other state agencies, that the department will use
22 for providing families first services. If services are
23 provided by another state agency, the department, together
24 with the other state agency, shall establish safety monitoring
25 protocols for direct monitoring of the services provided by

1 that agency and, for each provider used by the department,
2 list the specific families first service that the network
3 services provider will provide, including:

4 (a) mental health or substance abuse
5 prevention and treatment;

6 (b) in-home parent skill-based
7 programs;

8 (c) kinship navigator programs; or

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

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

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

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

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

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

24 (5) identify processes and procedures to be
25 established and followed by the department to determine

1 eligibility for any families first service;

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

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

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

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

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

24 (b) no later than June 30, 2032, the
25 department shall provide statewide implementation of families

1 first services rolled out in a manner consistent with the best
2 practices derived from the evaluation of the pilot program;

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

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

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

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

24 (c) performance results regarding
25 identified outcome measures, to include aggregate data about

1 child participant placement status at the beginning of
2 services and one year after services and whether the child
3 entered foster care within two years after being determined a
4 candidate for foster care and receiving families first
5 services; and

6 (d) fiscal information regarding
7 program and service expenditures and disaggregating state and
8 federal 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
13 the provisions of the families first strategic plan, post the
14 plan to the department's website and provide a copy of the
15 plan to the legislative finance committee, the interim
16 legislative health and human services committee, the interim
17 legislative committee that studies courts, corrections and
18 justice and the 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

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
5 approving authority; and

6 (b) submit the revised strategic plan
7 to 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
13 or 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 17. A new section of the Children's Code is

1 enacted to read:

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

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