

HOUSE BILL 86

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Eleanor Chávez

10 | AN ACT

11 RELATING TO CHILD WELFARE; CREATING THE CHILDREN, YOUTH AND
12 FAMILIES COMMISSION; PROVIDING FOR APPOINTMENTS; PROVIDING FOR
13 A SUPERINTENDENT OF CHILDREN, YOUTH AND FAMILIES; PROVIDING
14 POWERS AND DUTIES; AMENDING, REPEALING, ENACTING AND
15 RECOMPIILING SECTIONS OF THE NMSA 1978; PROVIDING A CONTINGENT
16 EFFECTIVE DATE.

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

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

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

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

B. "adult" means a person who is eighteen years of

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1 age or older;

2 C. "child" means a person who is less than eighteen
3 years old;

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

6 D. "commission" means the children, youth and
7 families commission;

8 E. "court", when used without further
9 qualification, means the children's court division of the
10 district court and includes the judge, special master or
11 commissioner [appointed pursuant to the provisions of the
12 Children's Code or supreme court rule];

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

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

20 H. "department" means the children, youth and
21 families department [unless otherwise specified];

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

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

4 K. "foster parent" means a person, including a
5 relative of the child, licensed or certified by the department
6 or a child placement agency to provide care for children in the
7 custody of the department or agency;

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

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

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

17 (1) a member of an Indian tribe; or
18 (2) eligible for membership in an Indian
19 tribe;

20 O. "Indian child" means an Indian person, or a
21 person whom there is reason to know is an Indian person, under
22 eighteen years of age, who is [neither] not:
23 (1) married; or
24 (2) emancipated;

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

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

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

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

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

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

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

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

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1 T. "legal custody" means a legal status created by
2 order of the court or other court of competent jurisdiction or
3 by operation of statute that vests in a person, department or
4 agency the right to determine where and with whom a child shall
5 live; the right and duty to protect, train and discipline the
6 child and to provide the child with food, shelter, personal
7 care, education and ordinary and emergency medical care; the
8 right to consent to major medical, psychiatric, psychological
9 and surgical treatment and to the administration of legally
10 prescribed psychotropic medications pursuant to the Children's
11 Mental Health and Developmental Disabilities Act; and the right
12 to consent to the child's enlistment in the armed forces of the
13 United States;

14 U. "member" or "membership" means a determination
15 made by an Indian tribe that a person is a member of or
16 eligible for membership in that Indian tribe;

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

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

25 (1) reunification;

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

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

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

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

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

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

[Z.] Y. "preadoptive parent" means a person with whom a child has been placed for adoption;

[AA.] Z. "protective supervision" means the right to visit the child in the home where the child is residing, inspect the home, transport the child to court-ordered

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1 diagnostic examinations and evaluations and obtain information
2 and records concerning the child;

3 [BB.] AA. "relative" means a person related to
4 another person:

5 (1) by blood within the fifth degree of
6 consanguinity or through marriage by the fifth degree of
7 affinity; or

8 (2) with respect to an Indian child, as
9 established or defined by the Indian child's tribe's custom or
10 law;

11 [CC.] BB. "reservation" means:

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

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

17 (3) any lands held by an Indian tribe or
18 individual subject to a restriction by the United States
19 against alienation;

20 [DD.] CC. "reunification" means either a return of
21 the child to the parent or to the home from which the child was
22 removed or a return to the noncustodial parent;

23 [EE. ~~"secretary" means the United States secretary~~
24 ~~of the interior;~~]

25 DD. "superintendent" means the superintendent of

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1 children, youth and families;

2 [FF.] EE. "tribal court" means a court with
3 jurisdiction over child custody proceedings that is either a
4 court of Indian offenses, a court established and operated
5 under the law or custom of an Indian tribe or any other
6 administrative body that is vested by an Indian tribe with
7 authority over child custody proceedings;

8 [GG.] FF. "tribal court order" means a document
9 issued by a tribal court that is signed by an appropriate
10 authority, including a judge, governor or tribal council
11 member, and that orders an action that is within the tribal
12 court's jurisdiction; and

13 [HH.] GG. "tribunal" means any judicial forum other
14 than the court."

15 **SECTION 2.** A new section of the Children's Code, Section
16 32A-1A-1 NMSA 1978, is enacted to read:

17 "32A-1A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 32A,
18 Article 1A NMSA 1978 may be cited as the "Children, Youth and
19 Families Department Act"."

20 **SECTION 3.** A new section of the Children's Code, Section
21 32A-1A-2 NMSA 1978, is enacted to read:

22 "32A-1A-2. [NEW MATERIAL] CHILDREN, YOUTH AND FAMILIES
23 COMMISSION.--

24 A. The "children, youth and families commission" is
25 created to establish operational policy in compliance with law

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1 and generally direct the operations of the department.

2 B. The commission consists of three members, one
3 each appointed by the governor, the speaker of the house of
4 representatives and the president pro tempore of the senate.
5 No more than two members shall be from the same political
6 party. The terms of members shall be for six years staggered;
7 provided that the initial term for the member appointed by the
8 governor shall be two years, for the member appointed by the
9 speaker of the house of representatives shall be four years and
10 for the member appointed by the president pro tempore of the
11 senate shall be six years. Members shall be appointed by July
12 1, 2027, and the full transition from cabinet department to
13 independent adjunct agency shall occur by January 1, 2028. A
14 vacancy on the commission shall be filled by appointment by the
15 original appointing authority.

16 C. A member may be removed for malfeasance,
17 misfeasance or neglect of duty, and the supreme court has
18 exclusive original jurisdiction for the removal of a member.

19 D. The members shall elect a chair. A majority of
20 the members shall constitute a quorum for the transaction of
21 business.

22 E. The commission shall meet monthly to conduct
23 business, including receiving reports from the superintendent,
24 approving proposed rules and hearing testimony or comments from
25 the public. Meetings may be held in Santa Fe or elsewhere in

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1 the state and shall be available to the public in person and
2 online.

3 F. Candidates for appointment shall be qualified by
4 education; at least ten years' experience in social work, child
5 psychology, behavioral health, juvenile justice, child welfare
6 law or a similar field; and experience in successfully
7 administering large social welfare agencies or provider
8 organizations. A candidate or member shall not have any direct
9 or indirect financial interest in any provider or other person
10 that contracts with the department and shall not be related to
11 the third degree of consanguinity or affinity to exempt
12 employees of the department."

13 SECTION 4. A new section of the Children's Code, Section
14 32A-1A-3 NMSA 1978, is enacted to read:

15 "32A-1A-3. [NEW MATERIAL] COMMISSION--GENERAL POWERS AND
16 DUTIES.--

17 A. The commission may:

18 (1) adopt reasonable procedural rules proposed
19 by the department or on the commission's own motion to
20 implement the laws for which the commission and the department
21 are charged;

22 (2) take administrative action by issuing
23 orders and instructions not inconsistent with law to ensure
24 implementation of and compliance with the provisions of law for
25 which the commission or department is responsible and to have

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1 the department enforce those orders and instructions by
2 appropriate administrative action in court;

3 (3) delegate authority to the superintendent
4 as the commission deems necessary and appropriate, clearly
5 delineating the delegated authority and the limitations to that
6 delegation; provided that the commission shall not delegate
7 final policy or appeal matters;

8 (4) sue and be sued;

9 (5) approve grants, gifts and donations to the
10 commission or the department; and

11 (6) take testimony from a person during
12 commission meetings and investigate or refer any issues brought
13 to the commission's attention.

14 B. The commission shall:

15 (1) exercise general supervisory authority
16 over the department;

17 (2) appoint the superintendent of the
18 department and approve the appointment of exempt employees of
19 the department;

20 (3) approve organizational changes that will
21 enable the department to function more efficiently,
22 economically and effectively, subject to provisions of law
23 requiring or establishing specific organizational units;

24 (4) approve the department's budgets and fix
25 the compensation of department employees by adoption of a

1 personnel classification and compensation plan; provided that
2 the commission shall approve the classification and
3 compensation of exempt employees;

4 (5) approve contracts over a monetary limit
5 established by the commission;

6 (6) meet monthly to receive reports from the
7 superintendent, take final action on rules and hear from the
8 public; and

9 (7) do such other things as necessary and
10 allowable under the law to carry out the purposes of the
11 Children's Code."

12 **SECTION 5.** A new section of the Children's Code, Section
13 32A-1A-4 NMSA 1978, is enacted to read:

14 "32A-1A-4. [NEW MATERIAL] DEPARTMENT CREATED--
15 ORGANIZATION.--

16 A. The "children, youth and families department" is
17 created as an adjunct agency of the executive branch.

18 B. The department consists of:

19 (1) the office of the superintendent,
20 including:

21 (a) the chief counsel and other
22 department attorneys;

23 (b) the quality assurance bureau; and

24 (c) the tribal affairs bureau;

25 (2) the administrative services division,

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1 including:

2 (a) the budget bureau;
3 (b) the employee support bureau;
4 (c) the human resources bureau;
5 (d) the information technology bureau;

6 and

7 (e) procurement and contracts

8 management;

9 (3) the child and family welfare division,

10 including:

11 (a) the foster care bureau; and
12 (b) the protective services bureau; and
13 (4) the juvenile justice division, including:
14 (a) the corrections and rehabilitation
15 bureau; and
16 (b) the juvenile probation bureau.

17 C. The superintendent may appoint, with the
18 approval of the commission, "directors" of such divisions as
19 are established within the department. A director is exempt
20 from the Personnel Act.

21 D. The superintendent may establish within each
22 division such "bureaus" as the superintendent deems necessary
23 to carry out the provisions of the Children's Code or other
24 laws for which the department is responsible. The
25 superintendent shall employ a "chief" to be the administrative

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1 head of a bureau. The chief and all subsidiary employees of
2 the department shall be covered by the provisions of the
3 Personnel Act.

4 E. The superintendent, with the approval of the
5 commission, may organize the department and the divisions
6 specified in Subsection B of this section and may transfer or
7 merge functions between divisions in the interest of
8 efficiency, economy and effectiveness. Any reorganization that
9 changes the subdivisions of the department shall be reported to
10 the legislature through the legislative council service.

11 F. The organizational units of the department and
12 the officers of those units specified by law shall have all of
13 the powers and duties enumerated in the specific laws involved.
14 However, the carrying out of those powers and duties shall be
15 subject to the direction and supervision of the superintendent,
16 who shall retain the final decision-making authority and
17 responsibility for the administration of such powers and
18 duties.

19 G. The department shall have access to all records,
20 data and information of other state departments that are not
21 specifically held confidential by law."

22 SECTION 6. A new section of the Children's Code, Section
23 32A-1A-5 NMSA 1978, is enacted to read:

24 "32A-1A-5. [NEW MATERIAL] SUPERINTENDENT--
25 QUALIFICATIONS--APPOINTMENT--POWERS AND DUTIES.--

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A. The "superintendent of children, youth and families" is the head of the department and is responsible to the commission for the operation of the department. It is the duty of the superintendent to manage all operations of the department under the general supervision of the commission and to administer and enforce the laws with which the department or the superintendent is charged.

B. The superintendent shall be appointed without reference or regard to party affiliation and solely on the ground of fitness to perform the duties of the office. Candidates shall be qualified by education and at least seven years' experience in a child welfare or juvenile justice field, including administration of child welfare or juvenile justice programs. The superintendent serves at the pleasure of the commission.

C. To perform the duties of office, the superintendent shall have every power expressly enumerated in the law, whether granted to the superintendent, the department or any subdivision of the department, except when the subdivision is explicitly exempted from the power of the superintendent by statute. In accordance with these provisions, the superintendent shall:

(1) delegate power to subordinates as deemed necessary and appropriate, clearly delineating the delegated power and the limitations to that power;

(2) within the limitations of appropriations, employ and fix the compensation of professional, technical, clerical and stenographic assistants as provided in the Personnel Act; provided that a candidate for an exempt position shall be approved by the commission; and provided further that personnel classification and compensation shall be pursuant to the adopted plan of the commission;

(3) propose to the commission any organizational changes as necessary to enable the department to function more efficiently, economically and effectively;

(4) conduct research and studies that will improve the operation of the department and the provision of services to the children, youth and families of New Mexico;

(5) provide professional development and practical training for employees and other persons involved in the provision of services to the department or the department's clients, foster families, guardians, custodians and any other persons that the department deems appropriate;

(6) prepare a proposed budget and an annual budget for the department for approval by the commission;

(7) provide cooperation and assistance at the request of agencies administratively attached to the department, other departments of the executive branch, the legislature and the judiciary to:

(a) minimize or eliminate duplication of

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1 services and jurisdictional conflicts;

2 (b) coordinate activities and resolve
3 problems of mutual concern; and

4 (c) resolve by agreement the manner and
5 extent to which the department shall provide budgeting,
6 recordkeeping and related clerical assistance to
7 administratively attached agencies;

8 (8) apply for and receive, with the
9 commission's approval, any public or private funds, including
10 federal funds, private grants, gifts and donations, available
11 to the department to carry out the department's duties,
12 programs and services;

13 (9) draft proposed rules to implement state or
14 federal law for commission approval; and

15 (10) provide a monthly procurement and
16 contract report to the commission, including contracts, small
17 purchases and purchase orders as determined by the commission;
18 provided that procurements and contracts over the amount
19 specified in the Procurement Code as small purchases or
20 purchase orders shall be approved by the commission."

21 SECTION 7. A new section of the Children's Code, Section
22 32A-1A-6 NMSA 1978, is enacted to read:

23 "32A-1A-6. [NEW MATERIAL] DEPARTMENT--ADDITIONAL
24 DUTIES.--In addition to other duties provided by law or
25 assigned to the department by the commission, the department

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shall, in consultation with the commission:

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

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

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

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

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

F. propose rules for commission adoption to control disposition and placement of children under the Children's Code, including rules to limit or prohibit the out-of-state placement of children, including those who have developmental disabilities or emotional, neurobiological or behavioral disorders, when in-state alternatives are available;

G. assume and implement responsibility for

1 children's mental health and substance abuse services in the
2 state, coordinating with the health care authority, the early
3 childhood education and care department and the department of
4 health;

5 H. assume and implement the lead responsibility
6 among all departments for domestic violence services;

7 I. implement prevention and early intervention as a
8 departmental focus;

9 J. conduct biennial assessments of service gaps and
10 needs and establish outcome measurements to address those
11 service gaps and needs, including recommendations from the
12 children's cabinet;

13 K. ensure that behavioral health services provided,
14 including mental health and substance abuse services for
15 children, adolescents and their families, shall be in
16 compliance with statutory requirements;

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

20 M. fingerprint and conduct statewide and nationwide
21 criminal history record searches on all department employees
22 and volunteers whose jobs involve unsupervised contact with
23 department clients, including prospective employees and
24 volunteers and employees who are promoted, transferred or hired
25 into new positions that involve unsupervised contact with

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1 department clients."

2 **SECTION 8.** Section 32A-19-1 NMSA 1978 (being Laws 1993,
3 Chapter 77, Section 228, as amended) is recompiled as Section
4 32A-1A-7 NMSA 1978 and is amended to read:

5 **"32A-1A-7. QUALITY ASSURANCE [OFFICE] BUREAU--**

6 A. The department shall maintain a quality
7 assurance ~~[office under]~~ bureau in the office of the
8 ~~[secretary]~~ superintendent.

9 B. The purpose of the quality assurance ~~[office~~
10 ~~shall be]~~ bureau is to facilitate department efforts to
11 efficiently implement the purposes of the Children's Code.

12 C. In order to measure the quality of services
13 provided, to facilitate satisfactory outcomes for children and
14 families that receive services and to provide a continuing
15 opportunity to improve service delivery, the quality assurance
16 ~~[office]~~ bureau shall:

17 (1) monitor the system for receiving and
18 resolving complaints and grievances;

19 (2) perform periodic investigations and
20 evaluations to assure compliance with the Children's Code and
21 other applicable state and federal laws, rules and regulations;

22 (3) facilitate monitoring of indicators of the
23 department's performance to determine whether the department
24 is:

25 (a) providing children and families with

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1 individualized, needs-based service plans;

2 (b) providing services in a timely

3 manner; and

4 (c) in compliance with applicable state

5 and federal laws, rules and regulations;

6 (4) identify any deficiencies and recommend

7 corrective action to the ~~secretary of the department~~

8 superintendent;

9 (5) have access to any records maintained by

10 the department, including confidential information; and

11 (6) promote continuous improvement of all

12 department processes serving children and families.

13 D. The quality assurance ~~office~~ bureau shall

14 contribute to and facilitate the publication of public reports

15 assessing the performance of the department. The reports shall

16 not disclose the identity of any ~~individual~~ person mentioned

17 in the report, including children or families that receive or

18 are eligible for services or any department employee."

19 SECTION 9. A new section of the Children's Code, Section

20 32A-1A-8 NMSA 1978, is enacted to read:

21 "32A-1A-8. [NEW MATERIAL] STAFF PROFESSIONAL OR

22 OCCUPATIONAL LICENSURE.--The department shall ensure that

23 employees of the department whose job titles or job

24 descriptions require state or national licensure maintain those

25 licenses in good standing. The superintendent may dismiss,

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1 suspend or reassign an employee who fails to maintain a
2 required license in good standing. The employee may appeal a
3 dismissal, suspension or reassignment pursuant to this section
4 to the commission."

5 **SECTION 10.** A new section of the Children's Code, Section
6 32A-1A-9 NMSA 1978, is enacted to read:

7 "32A-1A-9. [NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR
8 PERSONS WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR
9 NEGLECT--PROHIBITION ON CONVICTED FELONS--DISCIPLINARY ACTION--
10 CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

11 A. An employee or volunteer of the department,
12 including a prospective employee, having direct unsupervised
13 contact with department clients or the superiors of any such
14 employee or volunteer shall not have been the subject of a
15 substantiated allegation of child abuse or neglect unless the
16 court, prior to or at a permanency review hearing, dismissed
17 the case and returned custody to the employee or volunteer.

18 B. An employee or volunteer of the department who
19 has direct unsupervised contact with department clients, or the
20 superiors of the employee or volunteer, shall not have been
21 convicted of a felony offense that is directly related to the
22 job duties of the employee or volunteer by a court of this
23 state, any other state or the United States.

24 C. An employee subject to the Personnel Act who has
25 been the subject of a substantiated allegation of abuse or

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1 neglect as investigated and determined by the department may be
2 subject to increased supervision or disciplinary action
3 pursuant to the Personnel Act. Upon appeal of a disciplinary
4 action to the personnel board pursuant to this section, the
5 personnel board shall defer to the record of the administrative
6 hearing affirming a substantiated allegation of abuse or
7 neglect, if one exists, in determining whether the action taken
8 by the agency was with just cause.

9 D. An employee of the department subject to
10 dismissal under this section shall have no right to progressive
11 discipline as a condition precedent to discipline under this
12 section.

13 E. In an appeal of an employee to the personnel
14 board pursuant to the Personnel Act, records that are otherwise
15 confidential pursuant to the Abuse and Neglect Act shall be
16 discoverable by the parties and admissible as to any relevant
17 fact; provided that any identifying information related to the
18 reporting party or any other party providing information and
19 information that the department finds would be likely to
20 endanger the life or safety of any person providing information
21 to the department may be redacted."

22 SECTION 11. A new section of the Children's Code, Section
23 32A-1A-10 NMSA 1978, is enacted to read:

24 "32A-1A-10. [NEW MATERIAL] JUVENILE JUSTICE--CORRECTIONAL
25 OFFICERS--QUALIFICATIONS--ACTING AS PEACE OFFICERS.--

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1 A. Department correctional officers shall:

2 (1) be citizens of the United States;

3 (2) be eighteen years of age or older;

4 (3) possess a high school education or its

5 equivalent;

6 (4) not have been convicted of a felony
7 offense by a court of this state, any other state or the United
8 States; and

9 (5) successfully pass a physical examination
10 and an aptitude examination administered by the department.

11 B. The department's correctional officers who have
12 completed an appropriate American correction association
13 training course and who have at the particular time the
14 principal duty to hold in custody or supervise any person
15 accused or convicted of a delinquent act or criminal offense
16 shall have the power of a peace officer with respect to arrests
17 and enforcement of laws when:

18 (1) on the premises of a department facility
19 or while transporting a person committed to or under the
20 supervision of the department;

21 (2) supervising a child or youth committed to
22 or under the supervision of the department anywhere within the
23 state; or

24 (3) engaged in any effort to pursue or
25 apprehend a child or youth committed to or under the

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1 supervision of the department anywhere in the state.

2 C. A department correctional officer shall not be
3 convicted or held liable for any act performed pursuant to this
4 section if a law enforcement officer could lawfully have
5 performed the same act in the same circumstances.

6 D. Crimes against a department correctional officer
7 while in the lawful discharge of the officer's duties that
8 confer peace officer status pursuant to this section shall be
9 deemed the same crimes and shall bear the same penalties as
10 crimes against a law enforcement officer."

11 SECTION 12. A new section of the Children's Code, Section
12 32A-1A-11 NMSA 1978, is enacted to read:

13 "32A-1A-11. [NEW MATERIAL] JUVENILE JUSTICE PROGRAMS--
14 LEGISLATIVE FINDINGS--FEDERAL GRANTS--ADVISORY COMMITTEE
15 PURSUANT TO FEDERAL ACT--SUPERVISORY FUNCTION.--

16 A. The legislature finds that pursuant to the
17 federal Juvenile Justice and Delinquency Prevention Act of
18 1974, federal regulations and state law, the juvenile justice
19 advisory committee is required to be given explicit power to
20 continue to fulfill its duties in administering the federal
21 funds made available to the state if that funding is to
22 continue.

23 B. The juvenile justice advisory committee
24 appointed pursuant to the federal Juvenile Justice and
25 Delinquency Prevention Act of 1974 shall be advisory to the

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1 department, except the committee shall serve as the
2 "supervisory board" under that act and any applicable federal
3 regulations.

4 C. The juvenile justice advisory committee shall
5 have policymaking, planning and review powers over only the
6 following functions pursuant to the federal Juvenile Justice
7 and Delinquency Prevention Act of 1974:

8 (1) in conjunction with the commission,
9 approval of a comprehensive state plan and modifications
10 reflecting statewide goals, objectives and priorities for the
11 expenditure of federal funds received under that act;

12 (2) approval or disapproval of applications or
13 amendments submitted by eligible entities pursuant to that act;

14 (3) in conjunction with the department,
15 assurance that fund accounting, auditing and evaluation of
16 programs and projects funded pursuant to that act comply with
17 federal requirements and state law;

18 (4) in conjunction with the department,
19 receipt and review of annual reports from adult jails and
20 lockups regarding compliance with federal requirements that
21 apply when a juvenile is temporarily held in an adult jail or
22 lockup. The juvenile justice advisory committee and the
23 department shall determine the format of the annual reports;

24 (5) assistance to the governor, the
25 legislature and entities created or funded pursuant to that act

in developing new or improved approaches, policies or legislation designed to improve juvenile justice in New Mexico; and

(6) provision of technical assistance by the department to eligible entities pursuant to that act.

D. All budgetary, evaluation, monitoring and grants administration functions required pursuant to the federal Juvenile Justice and Delinquency Prevention Act of 1974 shall be carried out by the department."

SECTION 13. A new section of the Children's Code, Section 32A-1A-12 NMSA 1978, is enacted to read:

"32A-1A-12. [NEW MATERIAL] JUVENILE CONTINUUM GRANT
FUND--CREATED--PURPOSE--ADMINISTRATION--GRANT APPLICATIONS--

A. The "juvenile continuum grant fund" is created as a nonreverting fund in the state treasury. The fund shall be administered by the department and shall consist of appropriations, gifts, grants, donations and bequests made to the fund.

B. Money in the juvenile continuum grant fund is subject to appropriation by the legislature to the department for awarding grants to juvenile justice continuums for the provision of cost-effective services and temporary, nonsecure alternatives to detention for juveniles arrested or referred to juvenile probation and parole or at a risk of such referral.

C. A local or tribal government may apply for a

1 grant from the juvenile continuum grant fund for a juvenile
2 justice continuum within the local or tribal government's
3 jurisdiction. The amount of the grant application shall not
4 exceed sixty percent of the annual cost of the continuum. A
5 local match of forty percent may consist of money, land,
6 equipment or in-kind services.

7 D. The commission shall adopt rules on
8 qualifications for grants and specify the format, procedure and
9 deadlines for grant applications. The juvenile justice
10 advisory committee shall review all grant applications and
11 submit those applications recommended for final approval to the
12 department.

13 E. Disbursements from the juvenile continuum grant
14 fund shall be made upon vouchers issued and signed by the
15 superintendent or the superintendent's authorized
16 representative upon warrants drawn by the secretary of finance
17 and administration.

18 F. As used in this section, a "juvenile justice
19 continuum" is a system of services and sanctions for juveniles
20 arrested or referred to juvenile probation and parole or at
21 risk of such referral and consists of a formal partnership
22 among one or more units of local or tribal government, the
23 children's court, the district attorney, the public defender,
24 local law enforcement agencies, the public schools and other
25 entities such as private nonprofit organizations, the business

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1 community and religious organizations. A juvenile justice
2 continuum shall be established through a memorandum of
3 understanding and a continuum board."

4 SECTION 14. A new section of the Children's Code, Section
5 32A-1A-13 NMSA 1978, is enacted to read:

6 "32A-1A-13. [NEW MATERIAL] ELECTRONIC RECORDS--
7 RETENTION.--

8 A. Employees of the department shall not erase data
9 from the electronic devices issued by the department to
10 employees for communication related to the performance of
11 duties within the scope of their employment by the department.

12 B. Electronic devices issued by the department to
13 employees shall only include software and applications that are
14 compliant with federal data retention and protection laws.

15 C. The department shall implement a system,
16 approved by the department of information technology, that will
17 back up on a daily basis all electronic records generated or
18 received by employees of the department related to the
19 performance of the employees' duties within the scope of the
20 employees' employment by the department.

21 D. During the term of an employee's employment by
22 the department, and for a period of at least seven years after
23 the termination of an employee's employment by the department,
24 the department shall retain all electronic records stored on
25 electronic devices used by department employees and all

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1 electronic records that have been backed up from electronic
2 devices used by department employees. The department shall
3 back up the retained electronic records daily, monthly and
4 annually.

5 E. As used in this section:

6 (1) "back up" means to electronically copy in
7 a recoverable format to a searchable database maintained by the
8 department all electronic records generated by or contained
9 within an electronic device;

10 (2) "electronic device" means a telephone,
11 tablet, computer, watch or similar device used to generate,
12 store or transfer information; and

13 (3) "electronic records" means information
14 generated by, transmitted by or stored on an electronic device,
15 including electronic mail, voicemail, text and instant
16 messages, documents and photographs, regardless of the platform
17 being used, including interagency communications."

18 SECTION 15. Section 32A-22-2 NMSA 1978 (being Laws 2005,
19 Chapter 64, Section 2, as amended) is amended to read:

20 "32A-22-2. CHILDREN'S CABINET CREATED.--

21 A. The "children's cabinet" is created and is
22 administratively attached to the office of the governor. The
23 children's cabinet shall meet at least six times each year.

24 B. The children's cabinet consists of:

25 (1) the governor;

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- (2) the lieutenant governor;
- (3) the [secretary] superintendent of children, youth and families;
- (4) the secretary of early childhood education and care;
- (5) the secretary of corrections;
- (6) the secretary of [human services] health care authority;
- (7) the secretary of workforce solutions;
- (8) the secretary of health;
- (9) the secretary of finance and administration;
- (10) the secretary of economic development;
- (11) the secretary of public safety;
- (12) the secretary of aging and long-term services;
- (13) the secretary of Indian affairs; and
- (14) the secretary of public education.

C. Each year, the governor shall select a person to serve as chair of the cabinet."

SECTION 16. TEMPORARY PROVISION--TRANSITION AND
IMPLEMENTATION.--The children, youth and families commission
shall take office on July 1, 2027 and shall assist in the
transition of the children, youth and families department from
cabinet department to adjunct agency. During the transition,

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1 the commission may advertise for and interview superintendent
2 of children, youth and families candidates preparatory to
3 appointment and qualification on or after January 1, 2028.

4 **SECTION 17. RECOMPILATION.**--Sections 9-2A-21, 9-2A-22 and
5 9-2A-24 NMSA 1978 (being Laws 2003, Chapter 324, Sections 3 and
6 4 and Laws 2010, Chapter 86, Section 1, as amended) are
7 recompiled as Sections 32A-1A-14 through 32A-1A-16 NMSA 1978.

8 **SECTION 18. REPEAL.**--Sections 9-2A-1 through 9-2A-20,
9 9-2A-23 and 9-2A-25 NMSA 1978 (being Laws 1992, Chapter 57,
10 Sections 1 through 4 and 6 through 8; Laws 2005, Chapter 271,
11 Section 2; Laws 2011, Chapter 163, Section 1; Laws 1992,
12 Chapter 57, Sections 9 through 12 and 14; Laws 2007, Chapter
13 351, Section 1; Laws 1992, Chapter 57, Sections 15 and 16; Laws
14 1993, Chapter 120, Section 1; Laws 1997, Chapter 110, Section
15 1; Laws 2003, Chapter 324, Sections 1 and 2; Laws 2007, Chapter
16 65, Section 2; and Laws 2025, Chapter 156, Section 2, as
17 amended) are repealed.

18 **SECTION 19. CONTINGENT EFFECTIVE DATE.**--If the secretary
19 of state certifies that the constitution of New Mexico has been
20 amended as proposed by a joint resolution of the second session
21 of the fifty-seventh legislature entitled "PROPOSING AN
22 AMENDMENT TO THE CONSTITUTION OF NEW MEXICO BY ADDING A NEW
23 SECTION TO ARTICLE 5 TO PROVIDE FOR THE CREATION OF THE
24 CHILDREN, YOUTH AND FAMILIES COMMISSION TO MAKE POLICY FOR AND
25 DIRECT THE OPERATIONS OF A STATE AGENCY OF THE EXECUTIVE BRANCH

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RESPONSIBLE FOR CHILD WELFARE AS PROVIDED BY LAW.", the effective date of the provisions of:

A. Sections 1 through 15, 17 and 18 of this act is January 1, 2028; and

B. Section 16 of this act is July 1, 2027.

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