

HOUSE BILL 86

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

INTRODUCED BY

Eleanor Chávez

AN ACT

RELATING TO CHILD WELFARE; CREATING THE CHILDREN, YOUTH AND  
FAMILIES COMMISSION; PROVIDING FOR APPOINTMENTS; PROVIDING FOR  
A SUPERINTENDENT OF CHILDREN, YOUTH AND FAMILIES; PROVIDING  
POWERS AND DUTIES; AMENDING, REPEALING, ENACTING AND  
RECOMPILING SECTIONS OF THE NMSA 1978; PROVIDING A CONTINGENT  
EFFECTIVE DATE.

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

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;

.233130.1

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

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

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

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

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

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

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

.233130.1

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;

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

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

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

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

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

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

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

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

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

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

.233130.1



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

.233130.1

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

.233130.1

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,

.233130.1

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

.233130.1

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.--

.233130.1

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

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

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

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

.233130.1

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

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

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

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

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

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

25                   (a) minimize or eliminate duplication of



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

.233130.1

1 shall, in consultation with the commission:

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

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

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

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

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

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

25 G. assume and implement responsibility for

.233130.1

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

.233130.1

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

.233130.1

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,

.233130.1

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

.233130.1

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.--

.233130.1

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

.233130.1



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

.233130.1

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

.233130.1

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

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

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

10 SECTION 13. A new section of the Children's Code, Section  
11 32A-1A-12 NMSA 1978, is enacted to read:

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

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

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

25 C. A local or tribal government may apply for a

.233130.1

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

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

.233130.1

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;

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

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

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

.233130.1

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

.233130.1



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

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

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

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

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