

SENATE BILL 56

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

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO GOVERNMENT REORGANIZATION; CREATING THE CHILD WELFARE AUTHORITY; CREATING A BOARD OF REGENTS OF THE AUTHORITY; PROVIDING POWERS AND DUTIES; TRANSFERRING MONEY, PROPERTY, CONTRACTS AND STATUTORY REFERENCES FROM THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE CHILD WELFARE AUTHORITY; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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;

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

3 C. "authority" or "department" means the child
4 welfare authority;

5 D. "board of regents" means the governing body of
6 the authority;

7 ~~[G.]~~ E. "child" means a person who is less than
8 eighteen years old;

9 ~~[D.]~~ F. "council" means the substitute care
10 advisory council established pursuant to Section 32A-8-4 NMSA
11 1978;

12 ~~[E.]~~ G. "court", when used without further
13 qualification, means the children's court division of the
14 district court and includes the judge, special master or
15 commissioner appointed pursuant to the provisions of the
16 Children's Code or supreme court rule;

17 ~~[F.]~~ H. "court-appointed special advocate" means a
18 person appointed pursuant to the provisions of the Children's
19 Court Rules to assist the court in determining the best
20 interests of the child by investigating the case and submitting
21 a report to the court;

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

24 ~~[H. "department" means the children, youth and~~
25 ~~families department, unless otherwise specified;~~

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

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

8 ~~[K.]~~ L. "foster parent" means a person, including a
9 relative of the child, licensed or certified by the
10 ~~[department]~~ authority or a child placement agency to provide
11 care for children in the custody of the ~~[department]~~ authority
12 or agency;

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

15 ~~[M.]~~ N. "guardian ad litem" means an attorney
16 appointed by the children's court to represent and protect the
17 best interests of the child in a case; provided that no party
18 or employee or representative of a party to the case shall be
19 appointed to serve as a guardian ad litem;

20 ~~[N.]~~ O. "Indian" means, whether an adult or child,
21 a person who is:

- 22 (1) a member of an Indian tribe; or
23 (2) eligible for membership in an Indian
24 tribe;

25 ~~[O.]~~ P. "Indian child" means an Indian person, or a

1 person whom there is reason to know is an Indian person, under
2 eighteen years of age who is neither:

3 (1) married; or

4 (2) emancipated;

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

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

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

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

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

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

18 [R-] S. "Indian tribe" means an Indian nation,
19 tribe, pueblo or other band, organized group or community of
20 Indians recognized as eligible for the services provided to
21 Indians by the secretary of the United States department of the
22 interior because of their status as Indians, including an
23 Alaska native village as defined in 43 U.S.C. Section 1602(c)
24 or a regional corporation as defined in 43 U.S.C. Section 1606.
25 For the purposes of notification to and communication with a

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1 tribe as required in the Indian Family Protection Act, "Indian
2 tribe" also includes those tribal officials and staff who are
3 responsible for child welfare and social services matters;

4 [S.] T. "judge", when used without further
5 qualification, means the judge of the court;

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

20 [U.] V. "member" or "membership" means a
21 determination made by an Indian tribe that a person is a member
22 of or eligible for membership in that Indian tribe;

23 [V.] W. "parent" or "parents" means a biological or
24 adoptive parent if the biological or adoptive parent has a
25 constitutionally protected liberty interest in the care and

1 custody of the child or a person who has lawfully adopted an
2 Indian child pursuant to state law or tribal law or tribal
3 custom;

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

6 (1) reunification;

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

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

12 (4) placement in the legal custody of the
13 [department] authority with the child placed in the home of a
14 fit and willing relative; or

15 (5) placement in the legal custody of the
16 [department] authority under a planned permanent living
17 arrangement;

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

20 Y. "plan of safe care" means a written plan created
21 by a health care professional intended to ensure the immediate
22 and ongoing safety and well-being of a substance-exposed
23 newborn or to provide perinatal support to a pregnant person
24 with a substance use disorder by addressing the treatment needs
25 of the child and any of the child's parents, relatives,

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1 guardians, custodians or caretakers to the extent those
2 treatment needs are relevant to the safety of the child;

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

5 AA. "protective supervision" means the right to
6 visit the child in the home where the child is residing,
7 inspect the home, transport the child to court-ordered
8 diagnostic examinations and evaluations and obtain information
9 and records concerning the child;

10 BB. "relative" means a person related to another
11 person:

12 (1) by blood within the fifth degree of
13 consanguinity or through marriage by the fifth degree of
14 affinity; or

15 (2) with respect to an Indian child, as
16 established or defined by the Indian child's tribe's custom or
17 law;

18 CC. "reservation" means:

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

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

24 (3) any lands held by an Indian tribe or
25 individual subject to a restriction by the United States

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1 against alienation;

2 DD. "reunification" means either a return of the
3 child to the parent or to the home from which the child was
4 removed or a return to the noncustodial parent;

5 ~~[EE. "secretary" means the United States secretary~~
6 ~~of the interior;]~~

7 EE. "state superintendent" means the state
8 superintendent of child welfare;

9 FF. "tribal court" means a court with jurisdiction
10 over child custody proceedings that is either a court of Indian
11 offenses, a court established and operated under the law or
12 custom of an Indian tribe or any other administrative body that
13 is vested by an Indian tribe with authority over child custody
14 proceedings;

15 GG. "tribal court order" means a document issued by
16 a tribal court that is signed by an appropriate authority,
17 including a judge, governor or tribal council member, and that
18 orders an action that is within the tribal court's
19 jurisdiction; and

20 HH. "tribunal" means any judicial forum other than
21 the court."

22 SECTION 2. A new section of the Children's Code, Section
23 32A-1A-1 NMSA 1978, is enacted to read:

24 "32A-1A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 32A,
25 Article 1A NMSA 1978 may be cited as the "Child Welfare

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1 Authority Act".

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

4 "32A-1A-2. [NEW MATERIAL] PURPOSE OF CHILD WELFARE
5 AUTHORITY.--The purpose of the authority is to:

6 A. provide an independent, accredited state agency
7 governed by a board of regents to administer the state's child
8 welfare and juvenile justice programs formerly administered by
9 the children, youth and families department and other child and
10 family programs assigned to it by law; and

11 B. cooperate and collaborate with other state
12 agencies and institutions, judicial agencies and courts, school
13 districts and local governments to establish a comprehensive,
14 coordinated and integrated child welfare system."

15 SECTION 4. A new section of the Children's Code, Section
16 32A-1A-3 NMSA 1978, is enacted to read:

17 "32A-1A-3. [NEW MATERIAL] CHILD WELFARE AUTHORITY
18 CREATED--BOARD OF REGENTS--MEMBERSHIP--DUTIES.--

19 A. The "child welfare authority" is created as an
20 adjunct agency of the executive branch of state government.
21 The authority shall be governed by the board of regents.

22 B. The "board of regents" of the authority is
23 created and consists of seven members appointed by the governor
24 with the advice and consent of the senate. No more than four
25 members shall be appointed from the same political party. The

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1 initial appointees shall draw lots for staggered terms and
2 thereafter shall serve for terms of four years.

3 C. Regents shall be appointed as follows:

4 (1) a current or retired children's court or
5 family court judge;

6 (2) a licensed foster parent;

7 (3) a licensed youth behavioral health
8 specialist;

9 (4) a juvenile justice professional who has a
10 graduate degree in juvenile justice or a similar field or who
11 has at least seven years of juvenile justice experience;

12 (5) a licensed social worker; and

13 (6) two public members who have a demonstrated
14 interest in and knowledge of child welfare or juvenile justice
15 matters.

16 D. Regents who are not otherwise reimbursable from
17 state or local government funds for travel expenses are
18 entitled to receive per diem and mileage as provided in the Per
19 Diem and Mileage Act and shall receive no other compensation,
20 perquisite or allowance.

21 E. The board of regents shall meet at least
22 quarterly and may meet at the call of the chair or at the
23 request of a majority of the regents. A majority of the
24 regents constitutes a quorum, and a majority of the regents
25 present at a meeting is needed to take action unless a specific

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1 statute requires an extraordinary vote. The chair may ask the
2 governor to replace a regent who has three or more unexcused
3 absences. Vacancies on the board of regents shall be filled by
4 appointment by the governor for the remainder of the unexpired
5 term. Members appointed to fill a vacancy are also subject to
6 senate confirmation.

7 F. A regent shall recuse on any vote in which the
8 regent or a member of the regent's family to the fourth degree
9 of consanguinity or affinity has a financial interest or would
10 otherwise benefit from the regent's vote.

11 G. The board of regents shall:

12 (1) approve the mission, goals and objectives,
13 policies and procedures of the authority;

14 (2) appoint the state superintendent with the
15 advice and consent of the senate who shall lead the authority
16 as generally directed by the board of regents;

17 (3) approve the proposed and operating budget
18 of the authority;

19 (4) approve proposed authority rules;

20 (5) select the accrediting agency to accredit
21 the authority; and

22 (6) appoint advisory committees."

23 SECTION 5. A new section of the Children's Code, Section
24 32A-1A-4 NMSA 1978, is enacted to read:

25 "32A-1A-4. [NEW MATERIAL] STATE SUPERINTENDENT--

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1 APPOINTMENT--QUALIFICATIONS--DEPUTIES.--

2 A. The "state superintendent of child welfare"
3 shall be appointed with the advice and consent of the senate
4 solely on merit and without regard to political affiliation.
5 The state superintendent shall serve at the pleasure of the
6 board of regents and shall be compensated at the same exempt
7 salary range as a cabinet secretary, depending on education and
8 experience.

9 B. The state superintendent shall:

10 (1) hold a master's or doctoral degree in
11 social work, psychology, human services, criminal justice or a
12 similar field with a concentration in child welfare or juvenile
13 justice or similar concentration; and

14 (2) have at least five years' experience
15 administering a large organization that required a working
16 knowledge of and experience in the child welfare or juvenile
17 justice systems.

18 C. The state superintendent may employ
19 professional, clerical and technical assistants to carry out
20 the authority's powers and duties and shall employ a "deputy
21 superintendent for child welfare", who has experience with
22 child abuse and neglect, family supports, foster care and other
23 areas of child welfare policy; and a "deputy superintendent for
24 juvenile justice", who has experience with juvenile justice
25 policy, programs and facilities."

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1 SECTION 6. A new section of the Children's Code, Section
2 32A-1A-5 NMSA 1978, is enacted to read:

3 "32A-1A-5. [NEW MATERIAL] AUTHORITY--ORGANIZATIONAL
4 UNITS.--

5 A. The authority consists of the:

6 (1) office of the state superintendent, which
7 includes the:

8 (a) chief counsel and other attorneys;

9 (b) quality assurance bureau; and

10 (c) tribal affairs bureau;

11 (2) administrative services division, which
12 includes the:

13 (a) budget bureau;

14 (b) human resources bureau;

15 (c) employee support unit; and

16 (d) information technology support
17 bureau;

18 (3) child and family welfare division, which
19 includes the:

20 (a) protective services bureau; and

21 (b) foster care bureau; and

22 (4) juvenile justice division, which includes
23 the:

24 (a) juvenile probation office; and

25 (b) corrections and rehabilitation

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1 bureau.

2 B. With the approval of the board of regents, the
3 state superintendent shall appoint "directors" of divisions.
4 Directors shall be exempt from the Personnel Act.

5 C. The state superintendent shall appoint "chiefs"
6 to be administrative heads of bureaus. The chief and all
7 subsidiary employees shall be covered by the provisions of the
8 Personnel Act.

9 D. The state superintendent may reorganize the
10 organizational units of the authority and may transfer and
11 merge functions between divisions in the interest of efficiency
12 and economy. The state superintendent shall notify the
13 legislature of any reorganization that changes the statutory
14 divisions or bureaus or their functions.

15 E. Those organizational units of the authority and
16 the officers of those units specified by law have all of the
17 powers and duties enumerated in the specific laws involved;
18 however, the carrying out of those powers and duties shall be
19 subject to the direction and supervision of the state
20 superintendent, who shall retain the authority and
21 responsibility for the administration of any such laws.

22 F. The authority shall have access to all records,
23 data and information of other state agencies that are not
24 specifically held confidential by law."

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

2 "32A-1A-6. [NEW MATERIAL] STATE SUPERINTENDENT--GENERAL
3 POWERS AND DUTIES.--

4 A. The state superintendent is responsible to the
5 board of regents for the operation of the authority. It is the
6 state superintendent's duty to manage all operations of the
7 authority under the general direction of the board of regents
8 and to administer and enforce the laws with which the state
9 superintendent or the authority is charged.

10 B. To perform the state superintendent's duties,
11 the state superintendent has every power expressly enumerated
12 in the law, whether granted to the state superintendent, the
13 authority or a division of the authority, except when a
14 division is explicitly exempted from the state superintendent's
15 power by statute. In accordance with these provisions, the
16 state superintendent shall:

17 (1) except as otherwise provided in the Child
18 Welfare Authority Act, exercise general supervisory and
19 appointing power over authority employees, subject to
20 applicable personnel laws and rules;

21 (2) delegate power to subordinates as the
22 state superintendent deems necessary and appropriate, clearly
23 delineating such delegated power and the limitations to that
24 power;

25 (3) within the limitations of available

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1 appropriations and applicable laws, employ and fix the
2 compensation of those persons necessary to discharge the state
3 superintendent's powers and duties;

4 (4) take administrative action by issuing
5 rules, orders and instructions, not inconsistent with law and
6 approved by the board of regents, to assure implementation of
7 and compliance with the provisions of law for which
8 administration or execution the state superintendent is
9 responsible and to enforce those rules, orders and instructions
10 by appropriate administrative action in the courts;

11 (5) conduct research and studies that will
12 improve the operation of the authority and the provision of
13 services to the children and families of the state;

14 (6) provide courses of instruction and
15 practical training for employees of the authority and other
16 persons involved in the administration of programs with the
17 objectives of improving the operations and efficiency of
18 administration and of promoting comprehensive, coordinated,
19 culturally sensitive services that address the whole child;

20 (7) prepare an annual budget for the authority
21 for approval of the board of regents before submission to the
22 state budget division of the department of finance and
23 administration for final approval;

24 (8) provide cooperation at the request of
25 other state agencies to:

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1 (a) minimize or eliminate duplication of
2 services and jurisdictional conflicts;

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

5 (c) unless otherwise provided by law,
6 resolve by agreement the manner and extent to which the
7 authority provides budgeting, recordkeeping and related
8 clerical assistance to administratively attached agencies;

9 (9) develop and implement a language access
10 plan to provide meaningful access to authority programs for
11 persons of limited English proficiency; and

12 (10) conduct state and federal criminal
13 history records checks on employees and other persons who will
14 have unsupervised contact with minors who are clients or in the
15 custody of the authority, including applicants for employment,
16 internships or volunteering; prospective contractors;
17 prospective foster or adoptive parents and other adults
18 residing in the prospective foster or adoptive parent's
19 household; and fictive kin with whom the authority is
20 considering placing a child. Criminal history records checks
21 shall be conducted as provided in the New Mexico Children's and
22 Juvenile Facility and Program Criminal Records Screening Act.

23 C. The state superintendent may:

24 (1) apply for and receive, with board of
25 regents approval, in the name of the authority, public or

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1 private grants, gifts or donations available to the authority
2 to carry out its programs, duties or services; and

3 (2) create advisory committees and appoint
4 their members, which committees shall not remain in existence
5 for longer than two years or beyond the period required to
6 receive federal or private funds, whichever occurs later,
7 without board of regents approval. Advisory members who are
8 not eligible to be reimbursed for per diem and mileage from any
9 state or local governmental source are entitled to
10 reimbursement for those expenses pursuant to the Per Diem and
11 Mileage Act but shall receive no other compensation, perquisite
12 or allowance.

13 D. The authority may adopt, amend and repeal rules
14 to carry out the provisions of the Child Welfare Authority Act
15 and other laws for which the authority has responsibility;
16 provided that the board of regents shall approve rules prior to
17 promulgation. Rules shall be adopted and promulgated as
18 provided in the State Rules Act."

19 SECTION 8. A new section of the Children's Code, Section
20 32A-1A-7 NMSA 1978, is enacted to read:

21 "32A-1A-7. [NEW MATERIAL] AUTHORITY--ADDITIONAL DUTIES.--
22 In addition to other duties provided by law or assigned to the
23 authority by statute or the board of regents, the authority
24 shall:

25 A. develop priorities for authority services and

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1 resources based on state policy, national best-practice
2 standards and local considerations and priorities;

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

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

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

13 E. analyze policies of other state agencies that
14 affect children and families to encourage common contracting
15 procedures, common service definitions and a uniform system of
16 access;

17 F. adopt rules to control disposition and placement
18 of children as provided in the Children's Code or other state
19 or federal law, including rules to limit or prohibit the out-
20 of-state placement of children, including those who have
21 developmental disabilities or emotional, neurobiological or
22 behavioral disorders, when in-state alternatives are available;

23 G. assume and implement responsibility for
24 children's mental health and substance abuse services in the
25 state, coordinating with the health care authority and the

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1 department of health;

2 H. assume and implement the lead responsibility
3 among all state agencies for domestic violence services;

4 I. implement prevention and early intervention as
5 an authority focus;

6 J. conduct biennial assessments of service gaps and
7 needs and establish outcome measurements to address those
8 service gaps and needs, including recommendations from the
9 governor's children's cabinet and authority advisory
10 committees;

11 K. ensure that behavioral health services provided,
12 including mental health and substance abuse services for
13 children and their families, shall be in compliance with
14 requirements of the Behavioral Health Reform and Investment
15 Act; and

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

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] QUALITY ASSURANCE BUREAU.--

22 A. To measure the quality of services provided by
23 the authority or its agents, to facilitate satisfactory
24 outcomes for children and families that receive services and to
25 provide a continuing opportunity to improve service delivery,

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1 the quality assurance bureau shall:

2 (1) monitor the system for receiving and
3 resolving complaints and grievances;

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

7 (3) facilitate monitoring of indicators of the
8 authority's performance to determine whether the authority is:

9 (a) providing children and families with
10 individualized, needs-based service plans;

11 (b) providing services in a timely
12 manner; and

13 (c) in compliance with applicable state
14 and federal laws and regulations;

15 (4) identify any deficiencies and recommend
16 corrective action to the state superintendent;

17 (5) have access to any records maintained by
18 the authority, including confidential information; and

19 (6) promote continuous improvement of all
20 authority processes serving children and families.

21 B. The quality assurance bureau shall contribute to
22 and facilitate the publication of public reports assessing the
23 performance of the authority. The reports shall not disclose
24 the identity of natural persons mentioned in the report,
25 including children or families that receive or are eligible for

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1 services or any authority employee."

2 SECTION 10. A new section of the Children's Code, Section
3 32A-1A-9 NMSA 1978, is enacted to read:

4 "32A-1A-9. [NEW MATERIAL] CHILD WELFARE ADVISORY
5 COMMITTEE CREATED--MEMBERS--PURPOSE.--

6 A. The "child welfare advisory committee" is
7 created. The committee is composed of eleven members appointed
8 by the board of regents. The board of regents shall appoint
9 persons with demonstrated interest and involvement in child
10 welfare, particularly those services and programs administered
11 or funded by the authority. Members shall be appointed so as
12 to provide adequate representation of ethnic groups and
13 geographic areas of the state. At least two members shall be
14 parents who are recipients of services provided by the
15 authority; at least two members shall be youths between the
16 ages of sixteen and twenty-one; and at least one member shall
17 be a member of the youth alliance.

18 B. The members of the committee who are not
19 eligible to be reimbursed for per diem and mileage from any
20 state, local or federal governmental source are entitled to
21 reimbursement for those expenses as provided in the Per Diem
22 and Mileage Act and shall receive no other compensation,
23 perquisite or allowance.

24 C. The committee shall assist in the development of
25 policies and procedures for the authority."

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1 SECTION 11. A new section of the Children's Code, Section
2 32A-1A-10 NMSA 1978, is enacted to read:

3 "32A-1A-10. [NEW MATERIAL] CORRECTIONAL OFFICERS--
4 QUALIFICATIONS--ACTING AS PEACE OFFICERS.--

5 A. Correctional officers of the authority shall:

- 6 (1) be citizens of the United States;
7 (2) be eighteen years of age or older;
8 (3) possess a high school education or its
9 equivalent;
10 (4) not have been convicted of a felony
11 offense by a court of this state, any other state, the District
12 of Columbia or a territory of the United States or the United
13 States; and
14 (5) successfully pass a physical examination
15 and an aptitude examination administered by the authority.

16 B. Correctional officers of the authority who have
17 completed an appropriate American correction association
18 training course and who have at the particular time the
19 principal duty to hold in custody or supervise any child
20 accused or convicted of a delinquent act or criminal offense
21 shall have the power of a peace officer with respect to arrests
22 and enforcement of laws when:

- 23 (1) on the premises of a facility of the
24 authority or while transporting a child committed to or under
25 the supervision of the authority;

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1 (2) supervising a child committed to or under
2 the supervision of the authority anywhere within the state; or

3 (3) engaged in any effort to pursue or
4 apprehend a child pursuant to Paragraph (1) or (2) of this
5 subsection.

6 C. A correctional officer of the authority shall
7 not be convicted or held liable for any act performed pursuant
8 to this section if a peace officer could lawfully have
9 performed the same act in the same circumstances.

10 D. Crimes against a correctional officer of the
11 authority while in the lawful discharge of duties that confer
12 peace officer status pursuant to this section shall be deemed
13 the same crimes and shall bear the same penalties as crimes
14 against a peace officer."

15 SECTION 12. A new section of the Children's Code, Section
16 32A-1A-11 NMSA 1978, is enacted to read:

17 "32A-1A-11. [NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR
18 PERSONS WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR
19 NEGLECT--PROHIBITION ON CERTAIN CONVICTED FELONS--DISCIPLINARY
20 ACTION--CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

21 A. An applicant, an officer, an employee, an intern
22 or a volunteer of the authority having direct unsupervised
23 contact with authority clients shall not have been the subject
24 of a substantiated allegation of child abuse or neglect.

25 B. An officer, an employee, an intern or a

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1 volunteer of the authority who has direct unsupervised contact
2 with authority clients shall not have been convicted of a
3 felony offense that is directly related to the job duties of
4 the officer, employee, intern or volunteer by a court of this
5 state; any other state, the District of Columbia or a territory
6 of the United States; or the United States.

7 C. An employee subject to the Personnel Act who has
8 been the subject of a substantiated allegation of abuse or
9 neglect, as investigated and determined by the authority, may
10 be subject to increased supervision or disciplinary action
11 under the Personnel Act. Upon appeal of a disciplinary action
12 to the personnel board pursuant to this section, the personnel
13 board shall defer to the record of the administrative hearing
14 affirming a substantiated allegation of abuse or neglect, if
15 one exists, in determining whether the action taken by the
16 authority was with just cause.

17 D. An employee of the authority subject to
18 dismissal pursuant to this section shall have no right to
19 progressive discipline as a condition precedent to discipline
20 under this section.

21 E. In an appeal by an employee to the personnel
22 board as provided by the Personnel Act, records that are
23 otherwise confidential pursuant to the Abuse and Neglect Act
24 shall be discoverable by the parties and admissible as to any
25 relevant fact; provided that any identifying information

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1 related to the reporting party, any other party providing
2 information and information the authority finds would be likely
3 to endanger the life or safety of any person providing
4 information to the authority may be redacted."

5 SECTION 13. A new section of the Children's Code, Section
6 32A-1A-12 NMSA 1978, is enacted to read:

7 "32A-1A-12. [NEW MATERIAL] JUVENILE JUSTICE ADVISORY
8 COMMITTEE--DUTIES--FEDERAL ACT REQUIREMENTS.--

9 A. Pursuant to the federal Juvenile Justice and
10 Delinquency Prevention Act of 1974, the "juvenile justice
11 advisory committee" is created to advise the authority and to
12 serve as the "supervisory board" pursuant to that act and any
13 applicable federal regulations. The committee has explicit
14 power to continue to fulfill its duties in administering the
15 federal funds made available to the state, if such funding is
16 to continue.

17 B. The committee has policymaking, planning and
18 review powers over only the following functions pursuant to the
19 federal Juvenile Justice and Delinquency Prevention Act of
20 1974:

21 (1) in conjunction with the authority,
22 approval of a comprehensive state plan and modifications
23 reflecting statewide goals, objectives and priorities for the
24 expenditure of federal funds received under that act;

25 (2) approval or disapproval of applications or

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1 amendments submitted by eligible entities pursuant to that act;

2 (3) in conjunction with the authority,
3 assurance that fund accounting, auditing and evaluation of
4 programs and projects funded pursuant to that act comply with
5 federal requirements and state law;

6 (4) in conjunction with the authority, receive
7 and review annual reports from adult jails and lockups
8 regarding compliance with federal requirements that apply when
9 a juvenile is temporarily held in an adult jail or lockup. The
10 committee and the authority shall determine the format of the
11 annual reports;

12 (5) assistance to the governor, the
13 legislature and entities created or funded pursuant to that act
14 in developing new or improved approaches, policies or
15 legislation designed to improve juvenile justice in New Mexico;
16 and

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

19 C. All budgetary, evaluation, monitoring and grants
20 administration functions required pursuant to the federal
21 Juvenile Justice and Delinquency Prevention Act of 1974 shall
22 be carried out by the authority."

23 SECTION 14. Section 30-22-11.1 NMSA 1978 (being Laws
24 1993, Chapter 121, Section 1, as amended) is amended to read:

25 "30-22-11.1. ESCAPE FROM THE CUSTODY OF THE [CHILDREN,
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1 ~~YOUTH AND FAMILIES DEPARTMENT]~~ CHILD WELFARE AUTHORITY--ESCAPE
2 FROM JUVENILE DETENTION.--Escape from the custody of the
3 ~~[children, youth and families department]~~ child welfare
4 authority consists of any person who has been adjudicated as a
5 delinquent child and has been committed lawfully to the custody
6 of ~~[a department]~~ an authority juvenile justice facility or who
7 is alleged to be a delinquent child and has been lawfully
8 detained in a juvenile detention facility:

9 A. escaping or attempting to escape from custody
10 within the confines of ~~[a children, youth and families~~
11 ~~department]~~ an authority juvenile justice facility; or

12 B. escaping or attempting to escape from another
13 lawful place of custody or confinement that is not within the
14 confines of ~~[a children, youth and families department]~~ an
15 authority juvenile justice facility.

16 Any person who commits escape from the custody of a
17 ~~[children, youth and families department]~~ child welfare
18 authority juvenile justice facility is guilty of a
19 misdemeanor."

20 SECTION 15. Section 30-22-11.2 NMSA 1978 (being Laws
21 1994, Chapter 18, Section 1, as amended) is amended to read:

22 "30-22-11.2. AGGRAVATED ESCAPE FROM THE CUSTODY OF THE
23 ~~[CHILDREN, YOUTH AND FAMILIES DEPARTMENT]~~ CHILD WELFARE
24 AUTHORITY.--Aggravated escape from the custody of the
25 ~~[children, youth and families department]~~ child welfare

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1 authority consists of any person who has been adjudicated as a
2 delinquent child and has been committed lawfully to the custody
3 of ~~[a department]~~ an authority juvenile justice facility or who
4 is alleged to be a delinquent child and has been lawfully
5 detained in a juvenile detention facility:

6 A. escaping or attempting to escape from custody
7 within the confines of ~~[a children, youth and families~~
8 ~~department]~~ an authority juvenile justice facility and
9 committing assault or battery on another person in the course
10 of escaping or attempting to escape; or

11 B. escaping or attempting to escape from a lawful
12 place of custody or confinement that is not within the confines
13 of ~~[a children, youth and families department]~~ an authority
14 juvenile justice facility and committing assault or battery on
15 another person in the course of escaping or attempting to
16 escape.

17 Any person who commits aggravated escape from the custody
18 of the ~~[children, youth and families department]~~ child welfare
19 authority is guilty of a fourth degree felony."

20 SECTION 16. Section 32A-22-2 NMSA 1978 (being Laws 2005,
21 Chapter 64, Section 2, as amended) is amended to read:

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

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

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1 B. The children's cabinet consists of:

2 (1) the governor;

3 (2) the lieutenant governor;

4 (3) the ~~[secretary of children, youth and~~
5 ~~families]~~ state superintendent of child welfare;

6 (4) the secretary of early childhood education
7 and care;

8 (5) the secretary of corrections;

9 (6) the secretary of ~~[human services]~~ health
10 care authority;

11 (7) the secretary of workforce solutions;

12 (8) the secretary of health;

13 (9) the secretary of finance and
14 administration;

15 (10) the secretary of economic development;

16 (11) the secretary of public safety;

17 (12) the secretary of aging and long-term
18 services;

19 (13) the secretary of Indian affairs; and

20 (14) the secretary of public education.

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

23 SECTION 17. Section 32A-26-11 NMSA 1978 (being Laws 2020,
24 Chapter 52, Section 13) is amended to read:

25 "32A-26-11. ADMINISTRATIVE APPEALS.--A young adult may

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1 appeal an adverse eligibility determination in accordance with
2 rules promulgated by the ~~[department]~~ authority. The
3 ~~[department]~~ authority shall provide the young adult, in the
4 young adult's primary language, with clear and developmentally
5 appropriate verbal and written information concerning the
6 administrative appeal process."

7 SECTION 18. Section 40-7A-3 NMSA 1978 (being Laws 1981,
8 Chapter 171, Section 3, as amended) is amended to read:

9 "40-7A-3. DEFINITIONS.--As used in the Child Placement
10 Agency Licensing Act:

11 A. "child" means ~~[an individual]~~ a person under the
12 age of eighteen years;

13 B. "child placement agency" means ~~[any individual,~~
14 ~~partnership, unincorporated association or corporation]~~ a
15 person undertaking to place a child in a home in this or any
16 other state for the purpose of foster care or adoption of the
17 child;

18 C. "department" or "authority" means the ~~[children,~~
19 ~~youth and families department]~~ child welfare authority;

20 D. "division" means the ~~[protective services]~~ child
21 and family welfare division of the department;

22 E. "foster home" means a home maintained by an
23 individual having the care and control, for periods exceeding
24 twenty-four hours, of a child who is not placed for adoption;

25 F. "person" means ~~[any]~~ an individual or a

1 partnership, an unincorporated association or a corporation;
2 and

3 G. "state superintendent" or "secretary" means the
4 ~~[secretary of children, youth and families]~~ state
5 superintendent of child welfare."

6 SECTION 19. Section 40-10B-3 NMSA 1978 (being Laws 2001,
7 Chapter 167, Section 3, as amended) is amended to read:

8 "40-10B-3. DEFINITIONS.--As used in the Kinship
9 Guardianship Act:

10 A. "authority" or "department" means the child
11 welfare authority;

12 ~~[A.]~~ B. "caregiver" means an adult, who is not a
13 parent of a child, with whom a child resides and who provides
14 that child with the care, maintenance and supervision
15 consistent with the duties and responsibilities of a parent of
16 the child;

17 ~~[B.]~~ C. "child" means an individual who is a minor;

18 ~~[C. "department" means the children, youth and~~
19 ~~families department;]~~

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

22 ~~[E. "Indian" means, whether an adult or child, a~~
23 ~~person who is:~~

24 ~~(1) a member of an Indian tribe; or~~

25 ~~(2) eligible for membership in an Indian~~

1 ~~tribe;~~

2 ~~F. "Indian child" means an Indian person, or a~~
3 ~~person whom there is reason to know is an Indian person, under~~
4 ~~eighteen years of age, who is neither:~~

5 ~~(1) married; or~~

6 ~~(2) emancipated;~~

7 ~~G. "Indian child's tribe" means:~~

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

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

14 ~~H. "Indian custodian" means an Indian who, pursuant~~
15 ~~to tribal law or custom or pursuant to state law:~~

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

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

20 ~~I. "Indian tribe" means an Indian nation, tribe,~~
21 ~~pueblo or other band, organized group or community of Indians~~
22 ~~recognized as eligible for the services provided to Indians by~~
23 ~~the secretary of the interior because of their status as~~
24 ~~Indians, including an Alaska native village as defined in 43~~
25 ~~U.S.C. Section 1602(c) or a regional corporation as defined in~~

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1 ~~43 U.S.C. Section 1606. For the purposes of notification to~~
2 ~~and communication with a tribe as required in the Indian Family~~
3 ~~Protection Act, "Indian tribe" also includes those tribal~~
4 ~~officials and staff who are responsible for child welfare and~~
5 ~~social services matters;~~

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

10 [K.] F. "parent" means a biological or adoptive
11 parent of a child whose parental rights have not been
12 terminated and includes an individual identified as a parent
13 under the New Mexico Uniform Parentage Act; and

14 [L.] G. "relative" means ~~[an individual]~~ a person
15 related to a child as a spouse, parent, stepparent, brother,
16 sister, stepbrother, stepsister, half-brother, half-sister,
17 uncle, aunt, niece, nephew, first cousin or any person denoted
18 by the prefix "grand" or "great", or the spouse or former
19 spouse of the persons specified."

20 SECTION 20. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
21 STATE TREASURY FUNDS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS
22 AND STATUTORY REFERENCES--RULES OF DEPARTMENT ARE RULES OF THE
23 AUTHORITY UNTIL AMENDED OR REPEALED.--

24 A. On January 1, 2027, all functions,
25 appropriations, money, records, furniture, equipment, supplies

1 and other property of the children, youth and families
2 department shall be transferred to the child welfare authority.

3 B. On January 1, 2027, all agreements and
4 contractual obligations of the children, youth and families
5 department, including tribal-state agreements, shall be
6 obligations of the child welfare authority.

7 C. On January 1, 2027, all statutory references to
8 the children, youth and families department, including tribal-
9 state agreements, shall be deemed to be references to the child
10 welfare authority.

11 D. The rules of the children, youth and families
12 department shall be deemed to be rules of the child welfare
13 authority until the authority amends or repeals the rules.

14 E. The governor's office, the department of finance
15 and administration, the state personnel office and the
16 children, youth and families department shall assist in a
17 smooth transition from the children, youth and families
18 department to the child welfare authority.

19 SECTION 21. TEMPORARY PROVISION--APPOINTMENT OF BOARD OF
20 REGENTS--APPOINTMENT OF STATE SUPERINTENDENT OF CHILD
21 WELFARE.--The governor shall appoint the board of regents of
22 the child welfare authority by August 15, 2026, and the board
23 shall familiarize itself with applicable statutory provisions,
24 rules promulgated by the children, youth and families
25 department, court cases, consent decrees, contracts and other

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1 matters pertaining to the department and assist in the
2 transition from the children, youth and families department to
3 the child welfare authority. The children, youth and families
4 department shall assist the board and shall provide any
5 information held by the department, including confidential
6 information. The board shall maintain confidentiality. The
7 board of regents may advertise for and interview candidates for
8 the state superintendent of child welfare position for
9 employment beginning January 1, 2027.

10 **SECTION 22. TEMPORARY PROVISION--RECOMPILATION--**
11 **COMPILATION INSTRUCTION.--**

12 A. Sections 9-2A-21 and 9-2A-22 NMSA 1978 (being
13 Laws 2003, Chapter 324, Sections 3 and 4, as amended) are
14 recompiled as Sections 32A-1A-15 and 32A-1A-16 NMSA 1978.

15 B. Sections 9-2A-24 and 9-2A-25 NMSA 1978 (being
16 Laws 2010, Chapter 86, Section 1 and Laws 2025, Chapter 156,
17 Section 2) are recompiled as Sections 32A-1A-17 and 32A-1A-18
18 NMSA 1978.

19 C. The compilation shall reflect that Chapter 32A,
20 Article 27 NMSA 1978 is an article of the Children's Code.

21 **SECTION 23. REPEAL.--**

22 A. Sections 9-2A-1 through 9-2A-20 and 9-2A-23 NMSA
23 1978 (being Laws 1992, Chapter 57, Sections 1 through 4 and 6
24 through 8, Laws 2005, Chapter 271, Section 2, Laws 2011,
25 Chapter 163, Section 1, Laws 1992, Chapter 57, Sections 9

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1 through 12 and 14, Laws 2007, Chapter 351, Section 1, Laws
2 1992, Chapter 57, Sections 15 and 16, Laws 1993, Chapter 120,
3 Section 1, Laws 1997, Chapter 110, Section 1, Laws 2003,
4 Chapter 324, Sections 1 and 2 and Laws 2007, Chapter 65,
5 Section 2, as amended) are repealed.

6 B. Section 32A-19-1 NMSA 1978 (being Laws 1993,
7 Chapter 77, Section 228, as amended) is repealed.

8 SECTION 24. EFFECTIVE DATE.--

9 A. The effective date of the provisions of Section
10 21 of this act is July 1, 2026.

11 B. The effective date of the provisions of Sections
12 1 through 20, 22 and 23 of this act is January 1, 2027.

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