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HOUSE BILL 196

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DARA A. DANA

AN ACT

**RELATING TO JUVENILE JUSTICE; PROVIDING MUNICIPAL, MAGISTRATE
OR METROPOLITAN COURTS WITH CONCURRENT JURISDICTION OVER
CERTAIN MISDEMEANOR OFFENSES AND COMPULSORY SCHOOL ATTENDANCE
LAW VIOLATIONS ALLEGEDLY COMMITTED BY CHILDREN; AMENDING
SECTIONS OF THE NMSA 1978.**

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

**Section 1. Section 22-12-7 NMSA 1978 (being Laws 1967,
Chapter 16, Section 175, as amended) is amended to read:**

"22-12-7. ENFORCEMENT OF ATTENDANCE LAW - PENALTY. - -

**A. Each local school board and each governing
authority of a private school shall initiate the enforcement
of the provisions of the Compulsory School Attendance Law for
students enrolled in their respective schools.**

B. To initiate enforcement of the provisions of

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1 the Compulsory School Attendance Law, a local school board or
2 governing authority of a private school or its authorized
3 representatives shall give written notice by certified mail to
4 or by personal service on the parent, guardian or custodian of
5 a student subject to and in noncompliance with the provisions
6 of the Compulsory School Attendance Law.

7 C. If violations of the provisions of the
8 Compulsory School Attendance Law continue after written notice
9 as provided in Subsection B of this section has occurred, the
10 student shall be reported to the probation services office of
11 the judicial district where the student resides, the municipal
12 court, the magistrate court or the metropolitan court for an
13 investigation as to whether the student shall be considered to
14 be a neglected child or a child in need of supervision and
15 thus subject to the provisions of the Children's Code.

16 D. If, after review by the juvenile probation
17 office of the children's court division, [~~or by~~] the district
18 judge of the children's court division where the student
19 resides, the municipal court, the magistrate court or the
20 metropolitan court, a determination and finding is made that
21 the nonattendance by the student may have been caused by the
22 parent, guardian or one having custody of the student, then
23 the matter will be referred by the juvenile probation office,
24 [~~or by~~] the children's court division of the district court,
25 the municipal court, the magistrate court or the metropolitan

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1 court to the district attorney's office or any law enforcement
2 agency having jurisdiction for appropriate investigation and
3 filing of charges allowed under the Compulsory School
4 Attendance Law.

5 E. A parent, guardian or one having custody of the
6 student who, after receiving written notice as provided in
7 Subsection B of this section and after the matter has been
8 reviewed in accordance with Subsection D of this section,
9 knowingly allows the student to continue to violate the
10 Compulsory School [~~Attendance~~] Attendance Law shall be guilty
11 of a petty misdemeanor. Upon the first conviction, a fine of
12 not less than twenty-five dollars (\$25.00) or more than one
13 hundred dollars (\$100) may be imposed, or the parent, guardian
14 or one having custody of the student may be ordered to perform
15 community service. If violations of the Compulsory School
16 Attendance Law continue, upon the second and subsequent
17 convictions, the parent, guardian or one having custody of the
18 student who knowingly allows the student to continue to
19 violate the Compulsory School Attendance Law shall be guilty
20 of a petty misdemeanor and shall be subject to a fine of not
21 more than five hundred dollars (\$500) or incarceration for a
22 period not to exceed six months or both.

23 [~~F. The provisions of this section shall apply~~
24 ~~beginning July 1, 1987.~~]"

25 Section 2. Section 32A-1-8 NMSA 1978 (being Laws 1993,

. 121139. 1

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1 Chapter 77, Section 17, as amended) is amended to read:

2 "32A-1-8. JURISDICTION OF THE COURT--TRIBAL COURT
3 JURISDICTION. --

4 A. The court has exclusive original jurisdiction,
5 except as modified by Subsection B of this section, of all
6 proceedings under the Children's Code in which a person is
7 eighteen years of age or older and was a child at the time the
8 alleged act in question was committed or is a child alleged to
9 be:

- 10 (1) a delinquent child;
- 11 (2) a child of a family in need of services;
- 12 (3) a neglected child;
- 13 (4) an abused child;
- 14 (5) a child subject to adoption; or
- 15 (6) a child subject to placement for a
16 developmental disability or a mental disorder.

17 B. The municipal, magistrate or metropolitan court
18 shall have concurrent jurisdiction over the following petty
19 misdemeanor and misdemeanor offenses, when the person alleged
20 to have committed the offense is a child:

- 21 (1) assault, as provided in Section 30-3-1 NMSA
22 1978;
- 23 (2) battery, as provided in Section 30-3-4 NMSA
24 1978;
- 25 (3) criminal trespass, as provided in Section

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1 30-14-1 NMSA 1978;

2 (4) graffiti, as provided in Subsection B of
3 Section 30-15-1.1 NMSA 1978;

4 (5) shoplifting, as provided in Paragraph (1)
5 or (2) of Subsection B of Section 30-16-20 NMSA 1978;

6 (6) possession of one ounce or less of
7 marijuana, as provided in Paragraph (1) of Subsection B of
8 Section 30-31-23 NMSA 1978; and

9 (7) possession of alcohol by a minor, as
10 provided in Section 60-7B-1 NMSA 1978.

11 C. A municipal, magistrate or metropolitan court
12 shall not incarcerate a child who has been adjudicated for an
13 offense set forth in Subsection B of this section without
14 first securing the approval of the children's court.

15 D. If the children's court acquires jurisdiction
16 over a child pursuant to the alleged commission of a
17 delinquent act not set forth in Subsection B of this section,
18 it shall have jurisdiction over all offenses alleged to have
19 been committed by the child arising out of the same
20 occurrence.

21 ~~[B.]~~ E. The court has exclusive original
22 jurisdiction to emancipate a minor.

23 ~~[C.]~~ F. During abuse or neglect proceedings in which
24 New Mexico is the home state, pursuant to the provisions of
25 the Child Custody Jurisdiction Act, the court shall have

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1 jurisdiction over both parents to determine the best interest
2 of the child and to decide all matters incident to the court
3 proceedings.

4 ~~[D.]~~ G. Nothing in this section shall be construed
5 to ~~[in any way]~~ abridge the rights of ~~[any]~~ an Indian tribe to
6 exercise jurisdiction over child custody matters as defined by
7 and in accordance with the federal Indian Child Welfare Act of
8 1978.

9 ~~[E.]~~ H. A tribal court order pertaining to an Indian
10 child in an action under the Children's Code shall be
11 recognized and enforced by the district court for the judicial
12 district in which the tribal court is located. A tribal court
13 order pertaining to an Indian child that is not subject to the
14 provisions of the Children's Mental Health and Developmental
15 Disabilities Act and that accesses state resources shall be
16 recognized and enforced pursuant to the provisions of
17 intergovernmental agreements entered into by the Indian
18 child's tribe and the department or another state agency. "

19 Section 3. Section 35-14-2 NMSA 1978 (being Laws 1961,
20 Chapter 208, Section 2, as amended) is amended to read:

21 "35-14-2. JURISDICTION. --

22 A. Each municipal court has jurisdiction over all
23 offenses and complaints under ordinances of the municipality
24 and over the petty misdemeanor and misdemeanor offenses set
25 forth in Subsection B of Section 32A-1-8 NMSA 1978 and over

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1 violations of the Compulsory School Attendance Law and may
2 issue subpoenas and warrants and punish for contempt.

3 B. Upon written agreement between the board of
4 regents of a state educational institution designated in
5 Article 12, Section 11 of the constitution of New Mexico and
6 the governing body of a municipality contiguous to land under
7 control of the board of regents or within which any portion of
8 such land is located, the municipal court has jurisdiction
9 over violations of campus traffic regulations adopted under
10 Section 29-5-1 NMSA 1978 as to areas under control of the
11 board of regents. Fines and forfeitures collected by the
12 municipal court under campus traffic regulations may be
13 credited to the state educational institution on whose campus
14 the violation occurred.

15 C. Each municipal court's personal jurisdiction
16 extends to any defendant who has been properly served with
17 criminal process of the court anywhere in the state if that
18 criminal process arises out of a charge of violation of a
19 municipal ordinance prohibiting driving while under the
20 influence of intoxicating liquor or drugs. "

21 Section 4. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 1998.