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BILL

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO THE DELINQUENCY ACT; REPLACING TERMS REFERENCING PAROLE WITH THOSE REFERENCING SUPERVISED RELEASE; ALLOWING A CHILDREN'S COURT ATTORNEY TO FILE A PETITION ALLEGING THAT A CHILD HAS WILLFULLY ABSCONDED FROM SUPERVISED RELEASE; ALLOWING THE COURT TO EXTEND THE COMMITMENT OF A CHILD; ALLOWING FOR THE TOLLING OF THE SUPERVISED RELEASE PERIOD UPON THE ISSUANCE OF A WARRANT.

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

SECTION 1. Section 32A-2-25 NMSA 1978 (being Laws 1993, Chapter 77, Section 54, as amended) is amended to read:

"32A-2-25. [~~PAROLE REVOCATION~~] SUPERVISED RELEASE-- PROCEDURES.--

A. A child on [~~parole from an agency that has legal custody~~] supervised release who violates a term of [~~parole~~]

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1 supervised release may be proceeded against in a [~~parole~~  
2 ~~revocation~~] supervised release proceeding conducted by the  
3 department [~~or the supervising agency~~] or by a hearing officer  
4 contracted by the department [~~who is neutral to the child and~~  
5 ~~the agency~~] in accordance with procedures established by the  
6 department in cooperation with the juvenile [~~parole~~] public  
7 safety advisory board and any other person designated by the  
8 department. If a child willfully absconds from supervised  
9 release, the children's court attorney from the district where  
10 the child was initially committed may file a petition pursuant  
11 to Subsection E of this section.

12 B. A juvenile probation [~~and parole~~] officer may  
13 detain a child on [~~parole status~~] supervised release who is  
14 alleged to have violated a term or condition of [~~parole~~]  
15 supervised release until the completion and review of a  
16 preliminary [~~parole~~] supervised release revocation hearing. A  
17 child may waive the right to a preliminary [~~parole~~] supervised  
18 release revocation hearing after consultation with the child's  
19 attorney, parent, guardian or custodian.

20 [~~B.~~] C. If a retake warrant is issued by the  
21 department upon the completion of the preliminary [~~parole~~]  
22 supervised release revocation hearing, or if a child waived the  
23 right to a preliminary supervised release revocation hearing,  
24 the juvenile [~~institution~~] facility to which the warrant is  
25 issued shall promptly transport the child to that [~~institution~~]

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1 facility at the expense of the department. If a child absconds  
2 from [~~parole supervision~~] supervised release and is apprehended  
3 in another state after the issuance of a [~~retake~~] warrant by  
4 the [~~department~~] district court, the juvenile justice division  
5 of the department [~~shall~~] may cause the return of the child to  
6 this state at the expense of the department.

7 D. The issuance of a warrant upon an allegation  
8 that the child has absconded from supervised release shall toll  
9 the supervised release period. After a hearing upon return, if  
10 the court finds that the child absconded from supervised  
11 release, the time from the date of the violation to the date of  
12 the child's arrest shall not be counted as time served on  
13 supervised release.

14 E. The children's court attorney may file a  
15 petition alleging that a child has willfully absconded from  
16 supervised release. If the court finds that the child  
17 willfully absconded from supervised release and that it is  
18 necessary to safeguard the welfare of the child or the public's  
19 safety, the court may extend the child's commitment not to  
20 exceed six months on a short-term commitment, not to exceed one  
21 year on a long-term commitment or until the child reaches the  
22 age of twenty-one. The petition shall be filed in the district  
23 where the child was initially committed. Extension of the  
24 child's commitment under this subsection shall follow the  
25 procedures to extend a child's commitment provided in Section

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32A-2-23 NMSA 1978."

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