

Existing Statute	Proposed changes/additions	Rationale
<p><b>32A-8-1. Short title.</b></p> <p>Chapter 32 [32A], Article 8 NMSA 1978 may be cited as the "Citizen Substitute Care Review Act".</p>	<p><b>32A-8-1. Short title.</b></p> <p>Chapter 32 [32A], Article 8 NMSA 1978 may be cited as the "Citizen Substitute Care Review Act".</p>	<p>The title of the current legislation is adequate and reasonable states the content of the legislation.</p>
<p><b>32A-8-2. Purpose of act.</b></p> <p>The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of children placed in the custody of the department.</p>	<p><b>32A-8-2. Purpose of act.</b></p> <p>The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of children placed in the custody of the state through the substitute care system.</p>	<p>The purpose of the act does not change. Clarification provided in changing "children in the custody of the department" to "children in the custody of the state through the substitute care system".</p>
<p><b>32A-8-3. Implementation of act.</b></p> <p>The department of finance and administration shall maintain and fund a contract with a nonprofit organization having a demonstrated knowledge of the problem of children in substitute care and the issues in permanency planning to operate a statewide system of local substitute care review boards.</p>	<p><b>32A-8-3. Implementation of act.</b></p> <p>The department of finance and administration shall serve as the confirming body for the state advisory committee, and provide oversight and maintain and fund a contract with a nonprofit organization having a demonstrated knowledge of child development, child maltreatment, children in substitute care and the well-being, permanency and safety of children to operate a statewide system of local substitute care review boards and to collaborate with and administratively support the state advisory committee.</p>	<ol style="list-style-type: none"> <li>1. In the current statute there is no confirming body to the State Advisory Committee. This change identifies the confirming body for members.</li> <li>2. This change clarifies the expertise expectations of the contractor and encompasses reasons children are in substitute care as well as what occurs after children are returned to the home.</li> <li>3. Added contractor expectation to collaborate with and support SAC.</li> </ol>

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	<p><b>32A-8-3a. Implementation of act administrative fees.</b></p> <p>The department of finance and administration may collect up to 2 percent of appropriated monies for administrative expenses.</p>	<p>This is a reasonable amount to provide for administrative costs including travel to attend meetings, materials, and some salary.</p>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>A state advisory committee shall be composed of three persons with expertise in the area of substitute care, appointed by the secretary of finance and administration, and also one representative of each local substitute care review board. Each local board shall select its representative to the state advisory committee in accordance with procedures established by that committee. No person employed by the department or a district court may serve on the state advisory committee.</p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>A. A state advisory committee shall be composed of one representative with experience in substitute care from: a) active local board member from each judicial district; b) 3 public members with child welfare expertise appointed by the department of finance and administration, c) secretary of children youth and families department or designee; d) chief justice of the supreme court or designee from the administrative office of the courts; e) the secretary of the department of human services or designee and f) the secretary of the public education department or designee. Members from local boards and public appointees shall be voting members and eligible to hold office. Remaining members will be non-voting members and are not eligible to hold office. Each local board in the judicial districts shall nominate an individual or individuals for confirmation as their representative to the state advisory committee in accordance with policies and procedures established by the state advisory committee in collaboration with the state advisory committee and the contractor.</p>	<p>The current statute allows a totally self-governing and self-generating body. There is no oversight on selection of state advisory committee members. This change would permit the establishment of a smaller committee composed of approximately 20 individuals; involves the departments concerned in the recommendations promulgated. This would give more ownership to the state of New Mexico through the legislature and would allow for additional members if judicial districts would be increased.</p>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>B. Terms of office of local substitute care review board members of the state advisory committee shall be coterminous with their terms as members of the local boards. Terms of office of members who are appointed by the secretary of finance and administration shall be for three years; provided, however, that appointment of the first state advisory committee members shall be to staggered terms so that one member shall serve for a term of three years, one member shall serve for a term of two years and one member shall serve for a term of one year. The term of each member shall expire on June 30 of the appropriate year. In the event that a vacancy occurs among the members of the state advisory committee appointed by the secretary of finance and administration, the secretary shall appoint another person to serve the unexpired portion of the term.</p>	<p>B. Terms of office for the state advisory committee shall be three years from July 1 following the date of appointment. The terms will be staggered with approximately 1/3 of the terms ending each year on June 30 of the appropriate year. Members may be renominated by their board to serve consecutive terms.</p> <p>The members of the state advisory committee shall be confirmed on a nonpartisan basis for staggered terms of three years as provided by law. Vacant positions will be filled to complete the unexpired portion of the term.</p> <p>Current SAC members shall be grandfathered in for 1-3 year terms.</p>	<ol style="list-style-type: none"> <li>1. This establishes term limits for members of the state advisory committee.</li> <li>2. The staggered terms permit consistency and continuity in the state advisory committee.</li> <li>3. The state advisory committee would continue with the current membership to ensure continuity and consistency while the judicial district structure is implemented.</li> </ol>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>C. The state advisory committee shall select a chairperson, a vice chairperson, an executive committee and other officers as it deems necessary.</p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>C. The state advisory committee shall select a chairperson, a vice chairperson and other officers as it deems necessary. The state advisory committee shall establish policies and procedures related to its functioning.</p>	<ol style="list-style-type: none"> <li>1. This change removes the executive committee.</li> <li>2. This addition specifies the expectation that SAC establish policies and procedures related to its functioning, i.e., attendance, protocol, responsibilities, etc.</li> </ol>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>D. The state advisory committee shall meet no less than twice annually and more frequently upon the call of the chairperson or as the executive committee may determine. The state advisory committee is authorized to adopt reasonable rules relating to the functions and procedures of the local substitute care review boards and the state advisory committee in accordance with the duties of the boards as provided in the Citizen Substitute Care Review Act [this article]. These rules shall include guidelines for the determination of the appropriate type of review and the information needed for all cases to be monitored by the local substitute care review boards. The state advisory committee shall review and coordinate the activities of the local substitute care review boards and make recommendations to the department, the courts and the legislature, on or before January 1 of each year, regarding statutes, policies and procedures relating to substitute care.</p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>D. The state advisory committee shall meet no less than twice annually and more frequently upon the call of the chairperson or vice-chair in collaboration with the department of finance and administration and contractor.</p>	<p>Changes:</p> <ol style="list-style-type: none"> <li>1. Eliminates the executive committee determining the meetings of SAC.</li> <li>2. Adds the vice-chair authority to call meetings.</li> <li>3. Adds in collaboration with DFA and contractor to call additional meetings.</li> <li>4. Separates out the meetings expectations with the responsibility expectations (added in E and E moved to F).</li> </ol>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>D. The state advisory committee is authorized to adopt reasonable rules relating to the functions and procedures of the local substitute care review boards and the state advisory committee in accordance with the duties of the boards as provided in the Citizen Substitute Care Review Act [this article]. These rules shall include guidelines for the determination of the appropriate type of review and the information needed for all cases to be monitored by the local substitute care review boards. The state advisory committee shall review and coordinate the activities of the local substitute care review boards and make recommendations to the department, the courts and the legislature, on or before January 1 of each year, regarding statutes, policies and procedures relating to substitute care.</p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>E. The state advisory committee serves as advisor to the contractor in establishing best practice for local board operation; identifying focus areas and making recommendations to the state legislature on or before January 1 of each year to improve statutes, policies and procedures related to system support and response to child welfare.</p>	<ol style="list-style-type: none"> <li>1. This separates the responsibilities previously in "D" to its own section. Moves compensation from "E" to "F".</li> <li>2. This change clarifies the role of SAC as an advisor to the contractor.</li> </ol>

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<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>E. State advisory committee members shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance.</p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>F. State advisory committee members who travel more than 35 miles to attend meetings shall receive mileage; members who must stay overnight shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance.</p>	<ol style="list-style-type: none"> <li>1. Adds "F".</li> <li>2. Clarifies the use of per diem and mileage. Mileage is applicable if travel over 35 miles and per diem is applicable if the individual stays overnight for the meeting.</li> </ol>
<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p>	<p><b>32A-8-4. State advisory committee; members; compensation; responsibilities.</b></p> <p>G. The state advisory committee shall be subject to the Open Meetings Act.</p>	<ol style="list-style-type: none"> <li>1. Adds "G".</li> <li>2. This addition clarifies being subject to the Open Meetings Act.</li> </ol>

Existing Statute	Proposed changes/additions	Rationale
<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>A. The contractor, selected by the department of finance and administration pursuant to the provisions of Section 32-8-3 [32A-8-3] NMSA 1978, shall establish and maintain local substitute care review boards to review, as provided in the Citizen Substitute Care Review Act [this article], the disposition of children in the custody of the department prior to judicial review. Each board shall, to the maximum extent feasible, represent the various socioeconomic, racial and ethnic groups of the community that they serve.</p>	<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>A. The contractor, selected by the department of finance and administration pursuant to the provisions of Section 32-8-3 [32A-8-3] NMSA 1978, shall establish and maintain a <b>minimum of one local substitute care review board within the separate judicial districts</b> to review, as provided in the Citizen Substitute Care Review Act [this article], <b>case information for</b> children in the custody of the department prior to <b>selected</b> judicial reviews.</p>	<ol style="list-style-type: none"> <li>1. Change to note the local boards are set up on judicial district boundaries.</li> <li>2. Moved the diversity expectation for the boards to "B".</li> <li>3. Added "selected" to judicial reviews.</li> </ol>

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<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>B. Criteria for membership and tenure on local substitute care review boards shall be determined by the state advisory committee, after consultation with the department of finance and administration and the contractor. No person employed by the department of finance and administration, the department or a district court may serve on a local substitute care review board.</p>	<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>B. The contractor shall appoint members to local boards following criteria established by the state advisory committee in collaboration with the department of finance and administration and the contractor. Each board shall, to the maximum extent feasible, represent the various socioeconomic, racial and ethnic groups of the community that they serve. No person employed by the department of finance and administration, the children youth and families department, the administrative office of the courts, or a district court or their successors may serve on a local substitute care review board.</p>	<ol style="list-style-type: none"> <li>1. This change clarifies the responsibilities of the contractor.</li> <li>2. This change clarifies “the department”, adds administrative office of the courts and “or their successors”.</li> <li>3. Moves the diversity expectation from “A” to the section describing board composition.</li> </ol>
<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>C. Each local substitute care review board shall elect a chairperson, a vice chairperson and other officers as it deems necessary.</p>	<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>C. Each local substitute care review board shall elect a chairperson and a vice chairperson in accordance with procedures established by the state advisory committee in collaboration with the department of finance and administration and the contractor.</p>	<p>As currently reads does not provide standard operating procedures. No other officers would be deemed necessary.</p>

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<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>D. Local substitute care review board members may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance.</p>	<p><b>32A-8-5. Local boards; appointments; exclusion; terms; training; compensation; meetings.</b></p> <p>D. Local board members who travel more than 35 miles to attend meetings shall receive mileage; members who must stay overnight shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 NMSA 1978] and shall receive no other compensation, perquisite or allowance.</p>	<ol style="list-style-type: none"> <li>1. This change from “may” to “shall” will ensure that members are compensated for travel expenses to attend meetings and trainings.</li> <li>2. Clarifies the use of per diem and mileage. Mileage is applicable if travel over 35 miles and per diem is applicable if the individual stays overnight for the meeting.</li> </ol>

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<p><b>32A-8-6. Citizen review board reviews of dispositional judgments.</b></p> <p>A. Prior to any judicial review by the court pursuant to Section 32-4-23 [32A-4-25] NMSA 1978, the local substitute care review board shall review any dispositional order or the continuation of the order and the department's progress report on the child and submit a report to the court. The parties in the children's court proceedings shall be given prior notice of the review board meeting and be afforded the opportunity to participate fully in the meeting.</p>	<p><b>32A-8-6. Citizen review board reviews of dispositional judgments.</b></p> <p>Prior to <b>selected</b> judicial reviews by the court pursuant to Section 32-4-23 [32A-4-25] NMSA 1978, the local substitute care review board <b>may review case information, including but not limited to, affidavit, dispositional orders, case plans, progress reports and all diagnostic report summaries and make recommendations to the contractor. The contractor shall submit a report to the court for each case reviewed. The report, to the maximum extent possible, shall represent the conclusions of the local board review.</b> The parties in the children's court proceedings shall be given prior notice of the review board meeting and be afforded the opportunity to <b>participate in the review.</b></p>	<ol style="list-style-type: none"> <li>1. Clarified language as to what is subject to review.</li> <li>2. Changed "shall" to "may" to allow flexibility in what is reviewed.</li> <li>3. Clarified the contractor submits the report that represents the conclusions of the local board.</li> <li>4. Changed "fully participate" to "participate". This eliminates the focus on definition of "fully" which may have differing interpretations.</li> </ol>
<p><b>32A-8-6. Citizen review board reviews of dispositional judgments.</b></p> <p>B. The report of the local substitute care review board submitted to the court pursuant to this section shall become a part of the child's permanent court record.</p>	<p><b>32A-8-6. Citizen review board reviews of dispositional judgments.</b></p>	<p>No change needed.</p>

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<p><b>32A-8-7. Temporary provisions; transfer; funds; contracts.</b></p> <p>A. On the effective date of the Children's Code [32A-1-1 NMSA 1978], all records, personnel, money, property, equipment and supplies of the department relating to the Citizen Substitute Care Review Act shall be transferred to the department of finance and administration.</p>	<p><b>32A-8-7. Temporary provisions; transfer; funds; contracts.</b></p> <p>Eliminate.</p>	<p>This language was relevant when the statute was established and transfer of funds and files to DFA were needed. DFA already has this so this section would not be needed.</p>
<p><b>32A-8-7. Temporary provisions; transfer; funds; contracts.</b></p> <p>B. On the effective date of the Children's Code, all appropriations, contract funds and funds for contract administration and staff, the cost of advisory committee per diem and travel, training and all other costs relating to the Citizen Substitute Care Review Act shall be transferred from the department to the department of finance and administration.</p> <p>C. On the effective date of the Children's Code all existing rules and regulations, contracts and agreements in effect with the department for providing a statewide system of local substitute care review boards shall be binding and effective on the department of finance and administration.</p>	<p><b>32A-8-7. Temporary provisions; transfer; funds; contracts.</b></p> <p>Eliminate.</p>	<p>This language was relevant when the statute was established and transfer of funds and files to DFA were needed. DFA already has this so this section would not be needed.</p>

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	<p><b>32A-8-7. Legal representation.</b></p> <p>Local board members and members of the state advisory committee shall be represented by the New Mexico Attorney General's office when acting within the scope of their duties as members of the local board or state advisory board.</p>	<p>New section clarifies legal representation when acting within the scope of duties for the local board or state advisory committee.</p>

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	<p><b>32A-8-8. Children, youth and families department, or its successor requirements.</b></p> <p>Children, youth and families department or its successor shall transmit to the contractor:</p> <ul style="list-style-type: none"> <li>a) no later than July 15, 2015, identifying information of each child in the custody of the state through the substitute care system as of July 1, 2015. Information shall include, but is not limited to name, gender, date of birth, date of custody, affidavit, any dispositional orders, case plans and the advanced calendar for expected court hearings.</li> <li>b) the identifying information of a child in the custody of the state through the substitute care system within 10 working days following the 10 day hearing. The identifying information shall include, but is not limited to: name, gender, date of birth, date of custody, affidavit, any dispositional orders, case plans and the advanced calendar for expected court hearings.</li> <li>c) notices of future hearings within 5 working days of court hearing held.</li> <li>d) any requested case information within 10 working days of request.</li> </ul>	<p>Effective local board reviews are contingent on timely receipt of accurate information from CYFD. This addition establishes timelines for submission of information.</p>

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	The children, youth and families department or its successor, shall provide written notice to parents, substitute caregivers and contract providers of their right to request a local board review of a case of a child in the custody of the state through the substitute care system.	Adding the requirement for CYFD to notify others of their right to request a case be selected for local board review.

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