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SENATE BILL 91

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Clinton D. Harden, Jr.

AN ACT

RELATING TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;
PROVIDING AUTHORITY TO OBTAIN NATIONWIDE CRIMINAL HISTORY
RECORDS AND CONDUCT BACKGROUND INVESTIGATIONS FOR EMPLOYMENT
PURPOSES.

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

Section 1. Section 9-2A-8 NMSA 1978 (being Laws 1992,
Chapter 57, Section 8, as amended) is amended to read:

"9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
other duties provided by law or assigned to the department by
the governor, the department shall:

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

B. strengthen collaboration and coordination in

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1 state and local services for children, youth and families by
2 integrating critical functions as appropriate, including
3 service delivery and contracting for services across divisions
4 and related agencies;

5 C. develop and maintain a statewide database,
6 including client tracking of services for children, youth and
7 families;

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

10 E. analyze policies of other departments that
11 affect children, youth and families to encourage common
12 contracting procedures, common service definitions and a
13 uniform system of access;

14 F. enact regulations to control disposition and
15 placement of children under the Children's Code, including
16 regulations to limit or prohibit the out-of-state placement of
17 children, including those who have developmental disabilities
18 or emotional, neurobiological or behavioral disorders, when in-
19 state alternatives are available;

20 G. develop reimbursement criteria for licensed
21 child care centers and licensed home providers establishing
22 that accreditation by a department-approved national
23 accrediting body is sufficient qualification for the child care
24 center or home provider to receive the highest reimbursement
25 rate paid by the department;

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1 H. assume and implement responsibility for
2 children's mental health and substance abuse services in the
3 state, coordinating with the human services department and the
4 department of health;

5 I. assume and implement the lead responsibility
6 among all departments for domestic violence services;

7 J. implement prevention and early intervention as a
8 departmental focus;

9 K. 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 governor's children's cabinet and the children, youth and
13 families advisory committee; ~~and~~

14 L. ensure that behavioral health services provided,
15 including mental health and substance abuse services for
16 children, adolescents and their families, shall be in
17 compliance with requirements of Section 9-7-6.4 NMSA 1978; and

18 M. fingerprint and conduct nationwide criminal
19 history record searches and background investigations on all
20 department employees whose jobs involve direct contact with
21 department clients, including prospective employees and
22 employees who are promoted, transferred or hired into new
23 positions."

24 Section 2. A new section of the Children, Youth and
25 Families Department Act is enacted to read:

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1 "[NEW MATERIAL] CRIMINAL HISTORY RECORD INVESTIGATIONS--
2 PROCEDURE--CONFIDENTIALITY--VIOLATION--PENALTY.--

3 A. The department shall submit fingerprints for
4 each individual required to be fingerprinted pursuant to the
5 Children, Youth and Families Department Act to the department
6 of public safety and the federal bureau of investigation.

7 B. The department is authorized to use criminal
8 history records obtained from the federal bureau of
9 investigation or from the department of public safety to
10 conduct background investigations on employees and prospective
11 employees of the department.

12 C. Criminal histories obtained and information
13 discovered in a background investigation conducted pursuant to
14 this section are confidential and shall be used only for the
15 purpose of determining the suitability of an employee or
16 prospective employee for employment by the department; except
17 that criminal histories or background information obtained
18 pursuant to this section may be released or disclosed to
19 another agency or person only upon court order or with the
20 written consent of the person who is the subject of the
21 criminal history record or background investigation.

22 D. A person who releases or discloses criminal
23 history records or information contained in those records or
24 information obtained pursuant to a background investigation in
25 violation of the provisions of this section is guilty of a

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1 misdemeanor and if convicted shall be sentenced pursuant to the
2 provisions of Section 31-19-1 NMSA 1978."

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