

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 574

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;
PROHIBITING EMPLOYEES, STAFF MEMBERS AND VOLUNTEERS AT THE
CHILDREN, YOUTH AND FAMILIES DEPARTMENT, INCLUDING PROSPECTIVE
EMPLOYEES, WHO HAVE DIRECT UNSUPERVISED CONTACT WITH DEPARTMENT
CLIENTS AND THEIR SUPERIORS FROM CONTINUED EMPLOYMENT UPON
SUBSTANTIATION OF AN ABUSE OR NEGLECT ALLEGATION; PROHIBITING
ALL PERSONS WHO HAVE DIRECT UNSUPERVISED CONTACT WITH CHILDREN,
YOUTH AND FAMILIES DEPARTMENT CLIENTS AND THOSE PERSONS'
SUPERIORS FROM BEING EMPLOYEES, STAFF MEMBERS OR VOLUNTEERS AT
THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT IF CONVICTED OF A
FELONY OFFENSE; ESTABLISHING JUST CAUSE FOR DISCIPLINE;
PROVIDING THAT FINDINGS OF ABUSE OR NEGLECT BY THE CHILDREN,
YOUTH AND FAMILIES DEPARTMENT ARE BINDING AND NON-APPEALABLE TO
THE PERSONNEL BOARD; PROVIDING FOR THE DISCOVERY OF
CONFIDENTIAL RECORDS IN HEARINGS BEFORE THE PERSONNEL BOARD OR

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underscored material = new
~~[bracketed material]~~ = delete

1 ITS DESIGNATED HEARING OFFICER.

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

4 SECTION 1. A new section of the Children, Youth and
5 Families Department Act is enacted to read:

6 "[NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR INDIVIDUALS
7 WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR
8 NEGLECT--PROHIBITION ON CONVICTED FELONS--DISCIPLINARY ACTION--
9 CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

10 A. No employee, staff member or volunteer at the
11 department, including prospective employees, having direct
12 unsupervised contact with department clients, nor the superiors
13 of any such employee, staff member or volunteer, shall have
14 been the subject of a substantiated allegation of child abuse
15 or neglect.

16 B. No employee, staff member or volunteer at the
17 department who has direct unsupervised contact with department
18 clients, or the superiors of an employee, staff member or
19 volunteer at the department who has direct unsupervised contact
20 with department clients, shall have been convicted of a felony
21 offense by a court of this state, any other state or the United
22 States.

23 C. Any employee or staff member subject to the
24 Personnel Act who has been the subject of a substantiated
25 allegation of abuse or neglect as investigated and determined

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1 by the department may be subject to dismissal under the
2 Personnel Act, in which case a substantiated allegation of
3 abuse or neglect as determined by the department shall
4 constitute just cause and shall be binding on the personnel
5 board, and the personnel board's designated hearing officer
6 shall not have appellate jurisdiction over the department's
7 findings or conclusions.

8 D. An employee or a staff member of the department
9 subject to dismissal under this section shall have no right to
10 progressive discipline as a condition precedent to discipline
11 under this section.

12 E. In any appeal of an employee or staff member to
13 the personnel board as provided by the Personnel Act, records
14 that are otherwise confidential pursuant to the Abuse and
15 Neglect Act shall be discoverable by the parties and admissible
16 as to any relevant fact; provided that any identifying
17 information related to the reporting party, any other party
18 providing information and information the department finds
19 would be likely to endanger the life or safety of any person
20 providing information to the department may be redacted."

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

23 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
24 other duties provided by law or assigned to the department by
25 the governor, the department shall:

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

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

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

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

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

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

24 G. develop reimbursement criteria for licensed
25 child care centers and licensed home providers establishing

1 that accreditation by a department-approved national
2 accrediting body is sufficient qualification for the child care
3 center or home provider to receive the highest reimbursement
4 rate paid by the department;

5 H. assume and implement responsibility for
6 children's mental health and substance abuse services in the
7 state, coordinating with the human services department and the
8 department of health;

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

11 J. implement prevention and early intervention as a
12 departmental focus;

13 K. conduct biennial assessments of service gaps and
14 needs and establish outcome measurements to address those
15 service gaps and needs, including recommendations from the
16 governor's children's cabinet and the children, youth and
17 families advisory committee;

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

22 M. fingerprint and conduct nationwide criminal
23 history record searches on all department employees, staff
24 members and volunteers whose jobs involve direct contact with
25 department clients, including prospective employees and

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1 employees who are promoted, transferred or hired into new
2 positions, and the superiors of all department employees, staff
3 members and volunteers who have direct unsupervised contact
4 with department clients."

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