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SENATE BILL 23

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO FOSTER CARE; REQUIRING A CHILD TAKEN INTO
PROTECTIVE CUSTODY BY THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO BE PLACED WITH A RELATIVE OF THE CHILD WHEN A
RELATIVE IS AVAILABLE TO PROVIDE FOSTER CARE; REQUIRING THE
CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO MAKE REASONABLE
EFFORTS TO LOCATE A RELATIVE OF THE CHILD TO PROVIDE FOSTER
CARE; ESTABLISHING A COMPENSATION RATE FOR A RELATIVE PROVIDING
FOSTER CARE WITHOUT A LICENSE; REQUIRING RELATIVES PROVIDING
FOSTER CARE TO INITIATE LICENSING PROCEDURES WITHIN TWO
BUSINESS DAYS OF ACCEPTING CUSTODY OF A CHILD.

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

SECTION 1. Section 32A-3B-6 NMSA 1978 (being Laws 1993,
Chapter 77, Section 78) is amended to read:

"32A-3B-6. PLACE OF CUSTODY.--

.197481.2

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

underscored material = new
[bracketed material] = delete

1 A. Unless a child from a family in need of services
2 who has been placed in department custody is also alleged or
3 adjudicated delinquent, the child:

4 (1) shall not be held in a jail or other
5 facility intended or used for the incarceration of adults
6 charged with criminal offenses or for the detention of children
7 alleged to be delinquent children [~~but may be placed in the~~
8 ~~following community-based shelter-care facilities~~]; and

9 (2) shall be placed in the home of a relative
10 of the child when a relative is available to provide foster
11 care; provided that:

12 (a) the relative submits to the court a
13 sworn statement that the relative will not return the child to
14 the dangerous surroundings that prompted protective custody for
15 the child; and

16 (b) within two business days of
17 accepting custody of the child, the relative files an
18 application for a license to operate a foster home pursuant to
19 the Child Placement Agency Licensing Act.

20 B. Notwithstanding Paragraph (2) of Subsection A of
21 this section, if placement with a relative would not be in the
22 best interest of the child, the child shall not be placed with
23 the relative.

24 C. A relative providing foster care without a
25 license pursuant to this section shall receive compensation at

.197481.2

underscored material = new
[bracketed material] = delete

1 seventy-five percent of the rate of compensation paid to a
2 licensed foster home.

3 D. The department shall make reasonable efforts to
4 locate a relative of the child to provide foster care. In the
5 event that a relative of the child is not available to provide
6 temporary foster care, the child may be placed in:

7 [A.] (1) a licensed [~~foster-care~~] foster home
8 or any home authorized under the law for the provision of
9 foster care or group care or use as a protective residence;

10 [B.] (2) a facility operated by a licensed
11 child welfare services agency; or

12 [C.] (3) a facility provided for in the
13 Children's Shelter Care Act [~~or~~

14 ~~D. in a home of a relative of the child, when the~~
15 ~~relative provides the court with a sworn statement that the~~
16 ~~relative will not return the child to the dangerous~~
17 ~~surroundings that prompted protective custody for the child]."~~

18 SECTION 2. Section 32A-4-8 NMSA 1978 (being Laws 1993,
19 Chapter 77, Section 102) is amended to read:

20 "32A-4-8. PLACE OF TEMPORARY CUSTODY.--

21 A. Unless a child alleged to be neglected or abused
22 is also alleged or adjudicated delinquent, the child:

23 (1) shall not be held in a jail or other
24 facility intended or used for the incarceration of adults
25 charged with criminal offenses or for the detention of children

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underscored material = new
[bracketed material] = delete

1 alleged to be delinquent children [~~but may be placed in the~~
2 ~~following community-based shelter care facilities:~~

3 ~~A. with a relative of the child who is willing to~~
4 ~~guarantee to the court that the child will not be returned to~~
5 ~~the alleged abusive or neglectful parent, guardian or custodian~~
6 ~~without the prior approval of the court]; and~~

7 (2) shall be placed in the home of a relative
8 of the child when a relative of the child is available to
9 provide foster care; provided that:

10 (a) the relative submits to the court a
11 sworn statement that the child will not be permitted to have
12 contact with the alleged abusive or neglectful parent, guardian
13 or custodian without prior approval of the court; and

14 (b) within two business days of
15 accepting custody of the child, the relative files an
16 application for a license to operate a foster home pursuant to
17 the Child Placement Agency Licensing Act.

18 B. Notwithstanding Paragraph (2) of Subsection A of
19 this section, if placement with a relative would not be in the
20 best interest of the child, the child shall not be placed with
21 the relative.

22 C. A relative providing foster care without a
23 license pursuant to this section shall receive compensation at
24 seventy-five percent of the rate of compensation paid to a
25 licensed foster home.

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underscoring material = new
[bracketed material] = delete

1 D. The department shall make reasonable efforts to
2 locate a relative of the child to provide foster care. In the
3 event that a relative of the child is not available to provide
4 foster care, the child may be placed in:

5 [~~B-~~] (1) a licensed foster home or any home
6 authorized under the law for the provision of foster care or
7 group care or use as a protective residence;

8 [~~G-~~] (2) a facility operated by a licensed
9 child welfare services agency; or

10 [~~D-~~] (3) a facility provided for in the
11 Children's Shelter Care Act."