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AN ACT

RELATING TO CHILDREN; RAISING THE AGE LIMIT AT WHICH A CHILD
MAY BE HELD IN CUSTODY TO TWELVE YEARS OF AGE OR OLDER.

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

SECTION 1. Section 32A-2-10 NMSA 1978 (being Laws 1993,
Chapter 77, Section 39, as amended) is amended to read:

"32A-2-10. RELEASE OR DELIVERY FROM CUSTODY.--

A. A person taking a child into custody shall,
with all reasonable speed:

(1) release the child to the child's parent,
guardian or custodian or an adult authorized by the child's
parent, guardian or custodian and issue verbal counsel or
warning as may be appropriate;

(2) release the child to the child's parent,
guardian or custodian or an adult authorized to sign on
behalf of the child's parent, guardian or custodian upon
written promise to bring the child before the court when
requested by the court. If the parent, guardian or custodian
or an adult authorized to sign on behalf of the child's
parent, guardian or custodian fails, when requested, to bring
the child before the court as promised, the court may order
the child taken into custody and brought before the court;

(3) deliver the child to a place of
detention as provided in Section 32A-2-12 NMSA 1978;

1 (4) deliver the child to a medical facility,
2 if available, if the child is believed to be suffering from a
3 serious illness that requires prompt treatment or prompt
4 diagnosis;

5 (5) deliver the child to an evaluation
6 facility, if available, if the person taking the child into
7 custody has reasonable grounds to believe the child presents
8 a likelihood of serious harm to the child's self or others or
9 is suffering from some other serious mental condition or
10 illness that requires prompt treatment or prompt diagnosis;
11 or

12 (6) deliver the child to a center or
13 organization that the court or the department recognizes as
14 an alternative to secure detention.

15 B. When an alleged delinquent child is delivered
16 to a place of detention or a center or organization
17 recognized as an alternative to secure detention as provided
18 in Section 32A-2-12 NMSA 1978, only a department employee or
19 a trained county detention professional designated by the
20 department may place the child in detention or with a center
21 or organization recognized as an alternative to secure
22 detention in accordance with the criteria for detention set
23 forth in Section 32A-2-11 NMSA 1978. If the criteria for
24 detention of an alleged delinquent child are not met, the
25 child shall be released from custody.

1 C. A child under the age of twelve shall not be
2 held in detention. If a child under the age of twelve poses
3 a substantial risk of harm to the child's self or others, a
4 peace officer may detain and transport that child for
5 emergency mental health evaluation and care in accordance
6 with Section 32A-6A-19 NMSA 1978.

7 D. If a child is taken into custody and is not
8 released to the child's parent, guardian or custodian or an
9 adult authorized by the child's parent, guardian or
10 custodian, the person taking the child into custody shall
11 give written notice thereof as soon as possible, and in no
12 case later than twenty-four hours, to the child's parent,
13 guardian or custodian or an adult authorized by the child's
14 parent, guardian or custodian and to the court, together with
15 a statement of the reason for taking the child into custody.

16 E. In all cases when a child is taken into
17 custody, the child shall be released to the child's parent,
18 guardian or custodian or an adult authorized by the child's
19 parent, guardian or custodian in accordance with the
20 conditions and time limits set forth in the Children's Court
21 Rules."
