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HOUSE BILL 772

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RICK MIERA

AN ACT

RELATING TO SUBSTANCE ABUSE; RENAMING THE ALCOHOLISM AND ALCOHOL ABUSE PREVENTION, SCREENING AND TREATMENT ACT; INCLUDING SUBSTANCE ABUSE IN THE ACT; PROVIDING FOR COLLABORATION WITH PUBLIC ENTITIES IN THE DEVELOPMENT OF A STATEWIDE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLAN; AMENDING, REPEALING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 43-3-8 NMSA 1978 (being Laws 1985, Chapter 185, Section 1, as amended) is amended to read:

"43-3-8. SHORT TITLE. -- Chapter 43, Article 3 NMSA 1978 may be cited as the "~~Alcoholism and Alcohol Abuse Prevention, Screening and Treatment~~ Substance Abuse Act". "

Section 2. Section 43-3-9 NMSA 1978 (being Laws 1985, Chapter 185, Section 2) is amended to read:

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1           "43-3-9. LEGISLATIVE DECLARATION. --The legislature finds  
2 that [~~alcoholism~~] substance dependence, as a disease, is New  
3 Mexico's most costly and debilitating public health problem and  
4 [~~alcohol~~] substance abuse is one of New Mexico's most dangerous  
5 behavioral problems. Therefore, [~~an~~] it is the purpose of the  
6 Substance Abuse Act to designate the department of health as the  
7 single state agency to coordinate substance abuse activities and  
8 programs in the state and to assist local communities to  
9 organize and finance community programs relating to substance  
10 abuse that will best serve the needs of the communities and at  
11 the same time make the best use of financial and human resources  
12 available to the state and communities and to ensure that  
13 effective prevention and treatment [~~and prevention program~~]  
14 systems for [~~alcoholism must be pursued~~] substance dependence  
15 and substance abuse are continually developed and maintained  
16 The legislature further finds that the prevention and treatment  
17 of [~~alcoholism~~] substance dependence and substance abuse can  
18 best be effected on a community level, coordinated through a  
19 statewide plan based on a statewide needs assessment [~~which~~]  
20 that also reflects local planning, concerns and priorities. The  
21 legislature further finds that increased emphasis on focused  
22 substance abuse prevention, a statewide systems approach to  
23 treatment services and involvement with law enforcement by the  
24 prevention system and the treatment system are required as part  
25 of a comprehensive approach to [~~alcoholism~~] substance dependence

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1 and ~~[alcohol]~~ substance abuse problems. As a means of more  
2 effectively integrating ~~[alcoholism]~~ substance dependence and  
3 substance abuse treatment and law enforcement activities, the  
4 legislature finds that screening programs are needed to  
5 determine whether offenders are physically dependent on  
6 ~~[alcohol]~~ a substance or have developed an entrenched pattern of  
7 abuse and are thus in need of treatment for ~~[alcoholism or~~  
8 ~~alcohol]~~ substance dependence or substance abuse. Driving while  
9 intoxicated (DWI) offenders, unless they have been determined to  
10 be neither ~~[alcoholic nor alcohol]~~ substance dependent nor  
11 substance abusers by a screening program, should be directed  
12 into appropriate treatment programs. For such offenders, DWI  
13 school should not be considered an appropriate alternative  
14 either to imposition of sentence or to ~~[alcoholism]~~ substance  
15 dependence or substance abuse treatment. "

16 Section 3. Section 43-3-10 NMSA 1978 (being Laws 1985,  
17 Chapter 185, Section 3, as amended) is amended to read:

18 "43-3-10. DEFINITIONS. --As used in the ~~[Alcoholism and~~  
19 ~~Alcohol Abuse Prevention, Screening and Treatment]~~ Substance  
20 Abuse Act:

21 A. "aftercare" means the monitoring and continuation  
22 of treatment and the rendering of other rehabilitative services  
23 in the community to a patient following a period of inpatient or  
24 outpatient treatment in order to help the patient maintain and  
25 continue his recovery;

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- 1           B. "board" means the board of county commissioners  
2 of a county;
- 3           C. "department" means the department of health;
- 4           D. "detoxification program" means a residential or  
5 outpatient program [~~which~~] that provides physical care,  
6 education and counseling to persons who enter the program  
7 physically dependent on [~~alcohol~~] a substance, to whom the  
8 program then offers the services necessary to provide for their  
9 health and safety during the process of physical withdrawal from  
10 [~~alcohol~~] substance dependence and to motivate the [~~persons~~]  
11 person to accept further treatment for [~~alcoholism~~] substance  
12 dependence as appropriate to their cases;
- 13           E. "DWI program" means a community program  
14 specifically designed to provide treatment, aftercare or  
15 prevention of or education regarding driving while under the  
16 influence of alcohol or other drugs;
- 17           F. "incarceration and treatment facility" means a  
18 minimum security detention facility that provides a DWI program;
- 19           G. "long-term rehabilitation program" means a  
20 residential program offering individualized habilitative or  
21 rehabilitative programming to chronic [~~alcoholics~~] substance  
22 dependents, ordinarily involving a residential stay of [~~forty-~~  
23 ~~five~~] thirty days or more, the object of which is to equip the  
24 [~~alcoholic~~] substance dependent to establish a sober, productive  
25 life in the community and to assist the [~~alcoholic~~] substance

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1 dependent in establishing such a life;

2 H. "outpatient program" means a program offering  
3 counseling, education and consultative and related services to  
4 [~~alcohol~~] substance abusers, [~~alcoholics~~] substance dependents,  
5 families and other parties in the community who are not resident  
6 in [~~an alcoholism~~] a substance dependence treatment program;

7 I. "planning council" means a county DWI planning  
8 council;

9 J. "prevention program" means any program [~~which~~]  
10 that has as its objective [~~the amelioration of~~] to ameliorate  
11 conditions known to motivate excessive or abusive use of  
12 [~~alcohol and other drugs~~] substances or to increase the ability  
13 of the individual to resist pressures from other people to use  
14 or abuse [~~alcohol and other drugs~~] substances, through such  
15 [~~techniques~~] strategies as [~~affective~~] information  
16 dissemination, prevention education, [~~values clarification,~~  
17 ~~saying no to peer pressure, recreational alternatives to~~  
18 ~~substance abuse and wilderness experience~~] problem  
19 identification and referral alternative activities, community-  
20 based process and environmental approaches

21 K. "screening program" means a program that provides  
22 screening or examination by [~~alcoholism~~] substance dependence  
23 treatment professionals of persons charged with or convicted of  
24 driving while intoxicated or other offenses to determine whether  
25 the individual is:

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1 (1) physically dependent on ~~[alcohol]~~ a  
2 substance and thus suffering from the disease of ~~[alcoholism]~~  
3 substance dependence;

4 (2) ~~[an alcohol]~~ a substance abuser who has not  
5 yet developed the ~~[alcoholism]~~ substance dependence disease  
6 syndrome but has an entrenched pattern of pathological use of  
7 ~~[alcohol]~~ a substance and social or occupational impairment in  
8 function from ~~[alcohol]~~ substance abuse; or

9 (3) neither ~~[an alcoholic nor an alcohol]~~ a  
10 substance dependent or substance abuser such that ~~[alcoholism]~~  
11 substance dependence treatment is not necessary; and that  
12 provides referral or recommendation of such persons to the most  
13 appropriate treatment;

14 L. "short-term rehabilitation program" means a  
15 residential program offering an organized counseling and  
16 educational curriculum for the treatment of ~~[alcoholism]~~  
17 substance dependence, ordinarily involving a residential stay of  
18 ~~[forty-five]~~ thirty days or less and serving the needs of  
19 persons from a region of the state; ~~[and]~~

20 M. "statewide ~~[alcoholism services]~~ substance abuse  
21 prevention and treatment plan" means the comprehensive plan for  
22 a statewide services network developed by the department that  
23 documents the extent of New Mexico's ~~[alcoholism]~~ substance  
24 abuse problem and statewide needs for prevention, screening,  
25 detoxification, short-term and long-term rehabilitation,

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1 outpatient programs, aftercare and DWI programs [~~The plan shall~~  
2 ~~be~~], and is based on the continuum of care concept of a  
3 comprehensive [~~alcoholism~~] substance abuse prevention and  
4 treatment system;

5 N. "substance abuse" means a maladaptive pattern of  
6 substance use leading to a clinically significant impairment or  
7 distress, as manifested by one or more of the following,  
8 occurring within a twelve-month period:

9 (1) recurrent substance use resulting in a  
10 failure to fulfill major role obligations at work, school or  
11 home;

12 (2) recurrent substance use in situations in  
13 which it is physically hazardous;

14 (3) recurrent substance-related legal problems;  
15 or

16 (4) continued substance use despite having  
17 persistent or recurrent social or interpersonal problems caused  
18 or exacerbated by the effects of the substance; and

19 0. "substance dependence" means a maladaptive  
20 pattern of substance use leading to clinically significant  
21 impairment or distress, as manifested by three or more of the  
22 following, occurring any time in the same twelve-month period:

23 (1) tolerance;

24 (2) withdrawal;

25 (3) loss of control over amount or length of

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1 ingestion:

2 (4) unsuccessful efforts to cut down or control  
3 substance use:

4 (5) a great deal of time spent in activities  
5 necessary to obtain the substance, use the substance or recover  
6 from its effects;

7 (6) forfeiture or reduction of participation in  
8 important social, occupational or recreational activities  
9 because of substance use; or

10 (7) continuation of substance use despite  
11 persistent or recurrent physical or psychological problems  
12 caused or exacerbated by the substance."

13 Section 4. Section 43-3-11 NMSA 1978 (being Laws 1985,  
14 Chapter 185, Section 4, as amended) is amended to read:

15 "43-3-11. POWERS AND DUTIES OF THE DEPARTMENT. --

16 A. The department shall adopt rules to provide for:

17 (1) minimum standards of service, including  
18 regulations to safeguard the confidential nature of client  
19 records, for prevention programs, screening programs,  
20 detoxification programs, short-term rehabilitation programs,  
21 long-term rehabilitation programs, outpatient programs,  
22 aftercare and DWI programs ~~[which]~~ that contract for funds under  
23 the provisions of the ~~[Alcoholism and Alcohol Abuse Prevention,~~  
24 ~~Screening and Treatment]~~ Substance Abuse Act; provided that such  
25 rules shall, before adoption, have been presented to all

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- 1 interested parties in a public hearing;
- 2 (2) the format and guidelines for county DWI
- 3 plans and the criteria for evaluating them;
- 4 (3) procedures and forms for applying for a
- 5 contract for funds pursuant to the ~~[Alcoholism and Alcohol Abuse~~
- 6 ~~Prevention, Screening and Treatment]~~ Substance Abuse Act;
- 7 (4) procedures for review and recommendations
- 8 of such applications by the secretary of health;
- 9 (5) procedures for ensuring compliance with
- 10 standards of service by contractors receiving funds ~~[under]~~
- 11 pursuant to the ~~[Alcoholism and Alcohol Abuse Prevention,~~
- 12 ~~Screening and Treatment]~~ Substance Abuse Act; and
- 13 (6) procedures for reporting of programmatic
- 14 and financial information necessary to evaluate the
- 15 effectiveness of programs funded through the provisions of the
- 16 ~~[Alcoholism and Alcohol Abuse Prevention, Screening and~~
- 17 ~~Treatment]~~ Substance Abuse Act. Evaluation of program
- 18 effectiveness shall include an analysis of outcome-based
- 19 measures and the impact of the programs on the incidence of
- 20 driving while under the influence of intoxicating liquor or
- 21 drugs and shall be reported to the legislature annually.
- 22 B. Rules adopted by the department shall become
- 23 effective when filed according to the State Rules Act.
- 24 C. The department shall provide technical assistance
- 25 and training to assist each county as needed in developing its

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1 DWI plan.

2 D. The department shall review the impact of the  
3 programs on the reduction of the incidence of driving while  
4 under the influence of intoxicating liquor or drugs, approve  
5 county DWI plans and incorporate these plans into the statewide  
6 ~~[alcoholism services]~~ substance abuse prevention and treatment  
7 plan in accordance with Section 43-3-13 NMSA 1978.

8 E. The department is authorized to enter into  
9 contracts to provide services and programs consistent with the  
10 priorities set forth in the statewide ~~[alcoholism services]~~  
11 substance abuse prevention and treatment plan, subject to the  
12 availability of appropriations for that purpose.

13 F. In awarding contract funds, the department shall  
14 emphasize development of statewide prevention and early  
15 intervention programming and shall work with other state  
16 agencies and local school boards and administrations to  
17 encourage the development of prevention, education and early  
18 intervention programs involving the schools.

19 G. Any screening programs funded pursuant to the  
20 ~~[Alcoholism and Alcohol Abuse Prevention, Screening and~~  
21 ~~Treatment]~~ Substance Abuse Act shall be established in  
22 collaboration with the district, magistrate, metropolitan and  
23 municipal courts to be served by the screening program.  
24 Whenever feasible, the screening program shall not be provided  
25 by ~~[an alcoholism]~~ a substance abuse treatment program serving

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1 the judicial districts involved in order to avoid conflict of  
2 interest in recommending that offenders enter treatment. "

3 Section 5. Section 43-3-12 NMSA 1978 (being Laws 1985,  
4 Chapter 185, Section 5) is amended to read:

5 "43-3-12. CONTRACT ELIGIBILITY. --The department may enter  
6 into contracts with and provide technical assistance to  
7 municipalities, counties, tribal or pueblo governments or  
8 organizations or private nonprofit corporations for the  
9 provision of services [~~which~~] that are in conformity with the  
10 minimum standards set by the department pursuant to the  
11 [~~Alcoholism and Alcohol Abuse Prevention, Screening and~~  
12 ~~Treatment~~] Substance Abuse Act. Contracts with private for-  
13 profit organizations shall be authorized only where there is a  
14 demonstrated need for services [~~which~~] that are consistent with  
15 the statewide [~~alcoholism services~~] substance abuse prevention  
16 and treatment plan and cannot be otherwise provided. "

17 Section 6. Section 43-3-13 NMSA 1978 (being Laws 1985,  
18 Chapter 185, Section 6, as amended) is amended to read:

19 "43-3-13. STATEWIDE [~~ALCOHOLISM SERVICES~~] SUBSTANCE ABUSE  
20 PREVENTION AND TREATMENT PLAN. --

21 A. The department shall develop and update annually  
22 prior to [~~August 30~~] December 31 a statewide [~~alcoholism~~  
23 ~~services~~] substance abuse prevention and treatment plan that  
24 documents the extent of New Mexico's [~~alcoholism~~] substance  
25 abuse problem. The plan shall describe the effectiveness of

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1 existing services and shall document needs based on a statewide  
2 assessment that reflects local planning, concerns and  
3 priorities. Public entities either administering or providing  
4 substance abuse prevention and treatment services shall  
5 collaborate in the development of the statewide substance abuse  
6 prevention and treatment plan by providing information to the  
7 department regarding planning, funding, assessment of needs and  
8 strategies to bridge service gaps.

9 B. The department shall annually invite comment and  
10 review of the [~~alcoholism services~~] statewide substance abuse  
11 prevention and treatment plan for a period of no less than  
12 thirty days prior to its publication.

13 C. The department shall make decisions concerning  
14 proposed [~~alcoholism and alcohol~~] substance abuse prevention and  
15 treatment programs consistent with the priorities and service  
16 system concepts contained in the current statewide [~~alcoholism~~  
17 ~~services~~] substance abuse prevention and treatment plan.

18 D. The department shall specify in the statewide  
19 substance abuse prevention and treatment plan the procedures to  
20 be followed by any eligible entity to apply for technical  
21 assistance."

22 Section 7. Section 43-3-14 NMSA 1978 (being Laws 1993,  
23 Chapter 65, Section 13) is amended to read:

24 "43-3-14. COUNTY DWI PLANNING COUNCILS AUTHORIZED--  
25 MEMBERSHIP.--

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1           A. A board may create a county DWI planning council  
2 and appoint the members for terms set by the board. The members  
3 of the planning council shall be selected to represent a broad  
4 spectrum of interests and may include county officials, DWI  
5 program and service providers, law enforcement officers,  
6 [~~alcohol~~] substance abuse counselors and therapists, school  
7 administrators and local political leaders.

8           B. The members of a planning council shall elect  
9 from among the membership of the planning council a chairman for  
10 a term designated by the board. The planning council shall meet  
11 at the call of the chairman.

12           C. Planning council members shall receive per diem  
13 and mileage reimbursement as provided in the Per Diem and  
14 Mileage Act and shall receive no other compensation, perquisite  
15 or allowance. "

16           Section 8. Section 43-3-15 NMSA 1978 (being Laws 1993,  
17 Chapter 65, Section 14) is amended to read:

18           "43-3-15. COUNTY DWI PLANS. --

19           A. With the advice of the planning council, the  
20 board or its designee shall prepare a county DWI plan. Upon  
21 approval of the DWI plan by the board and the planning council,  
22 the board shall submit the DWI plan to the department for  
23 approval and integration into the statewide [~~alcoholism~~  
24 services] substance abuse prevention and treatment plan.

25           B. Two or more boards may agree to establish a

1    multicounty DWI plan.

2                   C. Each county DWI plan shall include:

3                           (1) a county needs assessment that identifies  
4    and quantifies:

5                                   (a) the major factors that affect access  
6    to and the success or effectiveness of local DWI programs;

7                                   (b) the gaps and needs not covered in  
8    local DWI programs; and

9                                   (c) the extent to which county residents  
10   use DWI programs available in other counties;

11                           (2) an inventory of existing public and private  
12   DWI providers and programs in the county, including  
13   identification of any DWI program duplication, and existing  
14   governmental funding and other resources, including county  
15   funding, for county DWI programs; and

16                           (3) recommendations and goals for providing,  
17   improving and funding DWI programs in the county, based on the  
18   needs assessment and inventory, and including proposals to  
19   eliminate duplication of programs and services, improve access  
20   to programs and services, establish new programs or services,  
21   provide additional funding, in-kind contributions and other  
22   resources for existing programs and where feasible use DWI  
23   programs available in other counties.

24                   D. The county DWI plan shall be updated at the  
25   request of the board or the department if the plan as

1 implemented through the statewide [~~alcoholism services~~]  
2 substance abuse prevention and treatment plan is not achieving  
3 its stated goals, if the needs of the county have changed or if  
4 the department determines that the distribution of funds is not  
5 having an impact on the incidence of driving while under the  
6 influence of intoxicating liquor or drugs. "

7 Section 9. TEMPORARY PROVISION--RECOMPILATION.--Section  
8 26-2-4.1 NMSA 1978 (being Laws 1987, Chapter 265, Section 5, as  
9 amended) is recompiled as Section 43-3-16 NMSA 1978.

10 Section 10. REPEAL.--Sections 26-2-1 through 26-2-4 and  
11 26-2-5 through 26-2-14 NMSA 1978 (being Laws 1971, Chapter 244,  
12 Sections 1 through 12, Laws 1971, Chapter 296, Section 1 and  
13 Laws 1972, Chapter 10, Section 1, as amended) are repealed.

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**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

**March 6, 1997**

Mr. Speaker:

Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
whom has been referred

HOUSE BILL 772

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Respectfully submitted,

\_\_\_\_\_  
Gary King, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Heaton, Rios, Vigil, King

Absent: None

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
referred

HOUSE BILL 772

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Shannon Robinson, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against  
Yes: 5  
No: 0  
Excused: Rodarte, Smith, Ingle, Vernon  
Absent: None

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