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HOUSE BILL 102

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO COURTS; PROVIDING THE STATE WITH THE RIGHT TO
APPEAL AN ORDER OF THE CHILDREN'S COURT THAT SUPPRESSES
EVIDENCE; AMENDING A SECTION OF THE CHILDREN'S CODE.

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

Section 1. Section 32A-1-17 NMSA 1978 (being Laws 1993,
Chapter 77, Section 26, as amended by Laws 1995, Chapter 22,
Section 1 and also by Laws 1995, Chapter 206, Section 8) is
amended to read:

"32A-1-17. APPEALS. --

A. Any party may appeal from a judgment of the
court to the court of appeals in the manner provided by law.
The appeal shall be heard by the court of appeals upon the
files, records and transcript of the evidence of the court.
The name of the child shall not appear in the record on

underscored material = new
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1 appeal.

2 B. The appeal to the court of appeals does not
3 stay the judgment appealed from, but the court of appeals may
4 order a stay upon application and hearing consistent with the
5 provisions of the Children's Code if suitable provision is
6 made for the care and custody of the child. If the order
7 appealed from grants the legal custody of the child to or
8 withholds it from one or more of the parties to the appeal,
9 the appeal shall be heard at the earliest practicable time.

10 C. If the court of appeals does not dismiss the
11 petition and order the child released, it shall affirm the
12 court's judgment or it shall modify the court's judgment and
13 remand the child to the jurisdiction of the court for
14 disposition consistent with the appellate court's decision on
15 the appeal. Any party may appeal to the supreme court in the
16 manner provided by law.

17 D. A child who has filed notice of appeal shall be
18 furnished a transcript of the proceedings, or as much of it as
19 is requested, without cost upon the filing of an affidavit
20 that the child or the person who is legally responsible for
21 the care and support of the child is financially unable to
22 purchase the transcript.

23 E. The state may appeal from an order of the
24 children's court to the court of appeals within ten days of
25 the issuance of an order by the children's court that

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1 suppresses evidence. The district attorney shall certify to
2 the children's court that the appeal is not taken for the
3 purpose of delay and that the evidence is a substantial proof
4 of a material fact in the proceeding.

5 [E-] F. Appeals from the court to the court of
6 appeals shall proceed in accordance with time limits to be
7 established by the supreme court.

8 [F-] G. Appeals from a tribal court order shall
9 proceed pursuant to tribal law to an appropriate tribal
10 court. "

11 Section 2. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5
6 January 27, 1999

7
8 Mr. Speaker:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 102

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

- 16
17 1. On page 1, line 11, after "STATE" insert "OR CHILD".
18 2. On page 2, line 23, after "state" insert "or child".
19 3. On page 3, line 1, after "attorney" insert "or
20 child's
21

22 attorney",

23 and thence referred to the APPROPRIATIONS & FINANCE
24 COMMITTEE.
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3HB 102

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Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: None

Absent: None

J:\99BillsWP\H0102

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 February 16, 1999

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6
7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 102, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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20 _____
21 Max Coll, Chair man
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 7

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Abeyta, Coll, Heaton, Larrañaga, Marquardt, Watchman,

Absent: None

J: \99BillsWP\H0102

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