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HOUSE BILL 680

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

INTRODUCED BY

Rhonda King

AN ACT

RELATING TO JUVENILE JUSTICE; REQUIRING JUVENILES TO SERVE
COMMUNITY SERVICE HOURS WHEN ADJUDICATED FOR DWI OFFENSES.

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

Section 1. Section 32A-2-19 NMSA 1978 (being Laws 1993, Chapter 77, Section 48,
as amended) is amended to read:

"32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT OFFENDER.--

A. At the conclusion of the dispositional hearing, the court may make and
include in the dispositional judgment its findings on the following:

(1) the interaction and interrelationship of the child with the child's
parents, siblings and any other person who may significantly affect the child's best interests;

(2) the child's adjustment to his home, school and community;

(3) the mental and physical health of all individuals involved;

(4) the wishes of the child as to his custodian;

(5) the wishes of the child's parents as to the child's custody;

(6) whether there exists a relative of the child or other individual who,

1 after study by the department, is found to be qualified to receive and care for the child;
2 (7) the availability of services recommended in the predisposition
3 report; and

4 (8) the ability of the parents to care for the child in the home.

5 B. If a child is found to be delinquent, the court may impose a fine not to
6 exceed the fine that could be imposed if the child were an adult and may enter its judgment
7 making any of the following dispositions for the supervision, care and rehabilitation of the child:

8 (1) any disposition that is authorized for the disposition of a neglected
9 or abused child, in accordance with the Abuse and Neglect Act;

10 (2) transfer legal custody to the department, an agency responsible for
11 the care and rehabilitation of delinquent children, which shall receive the child at a facility
12 designated by the secretary of the department as a juvenile reception facility. The department
13 shall thereafter determine the appropriate placement, supervision and rehabilitation program for
14 the child. The judge may include recommendations for placement of the child. Commitments
15 are subject to limitations and modifications set forth in Section 32A-2-23 NMSA 1978. The
16 types of commitments include:

17 (a) a short-term commitment of one year;

18 (b) a long-term commitment for no more than two years in a
19 long-term facility for the care and rehabilitation of adjudicated delinquent children;

20 (c) if the child is a delinquent offender who committed one of
21 the criminal offenses set forth in Subsection I of Section 32A-2-3 NMSA 1978, a commitment
22 to age twenty-one, unless sooner discharged; or

23 (d) if the child is a youthful offender, a commitment to age
24 twenty-one, unless sooner discharged;

25 (3) place the child on probation under those conditions and limitations
as the court may prescribe;

1 (4) place the child in a local detention facility that has been certified in
2 accordance with the provisions of Section 32A-2-4 NMSA 1978 for a period not to exceed
3 fifteen days within a three hundred sixty-five day time period;

4 (5) if a child is found to be delinquent solely on the basis of Paragraph
5 (3) of Subsection A of Section 32A-2-3 NMSA 1978, the court shall only enter a judgment
6 placing the child on probation or ordering restitution or imposing a fine not to exceed the fine
7 that could be imposed if the child were an adult or any combination of these dispositions; or

8 (6) if a child is found to be delinquent solely on the basis of Paragraph
9 (2), (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978, the court may make any
10 disposition provided by this section and may enter its judgment placing the child on probation
11 and, as a condition of probation, transfer custody of the child to the department for a period not
12 to exceed six months without further order of the court; provided that this transfer shall not be
13 made unless the court first determines that the department is able to provide or contract for
14 adequate and appropriate treatment for the child and that the treatment is likely to be beneficial.

15 C. When the child is an Indian child, the Indian child's cultural needs shall be
16 considered in the dispositional judgment and reasonable access to cultural practices and
17 traditional treatment shall be provided.

18 D. No child found to be delinquent shall be committed or transferred to a penal
19 institution or other facility used for the execution of sentences of persons convicted of crimes.

20 E. Whenever the court vests legal custody in an agency, institution or
21 department, it shall transmit with the dispositional judgment copies of the clinical reports,
22 predisposition study and report and other information it has pertinent to the care and treatment
23 of the child.

24 F. Prior to any child being placed in the custody of the department, the
25 department shall be provided with reasonable oral or written notification and an opportunity to
be heard.

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1 G. In addition to any other disposition pursuant to this section or any other
2 penalty provided by law, if a child fifteen years of age or older is adjudicated delinquent on the
3 basis of Paragraph (2), (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978, the child's
4 driving privileges may be denied or the child's driver's license may be revoked for a period of
5 ninety days. For a second or a subsequent adjudication, the child's driving privileges may be
6 denied or the child's driver's license revoked for a period of one year. Within twenty-four hours
7 of the dispositional judgment, the court may send to the motor vehicle division of the taxation
8 and revenue department the order adjudicating delinquency. Upon receipt of an order from the
9 court adjudicating delinquency, the director of the motor vehicle division of the taxation and
10 revenue department may revoke or deny the delinquent's driver's license or driving privileges.
11 Nothing in this section may prohibit the delinquent from applying for a limited driving privilege
12 pursuant to Section 66-5-35 NMSA 1978, and nothing in this section precludes the delinquent's
13 participation in an appropriate educational, counseling or rehabilitation program.

14 H. In addition to any other disposition pursuant to this section or any other
15 penalty provided by law, when a child is adjudicated delinquent on the basis of Paragraph (7) of
16 Subsection A of Section 32A-2-3 NMSA 1978, the child shall perform the mandatory
17 community service set forth in Section
18 30-15-1.1 NMSA 1978. When a child fails to completely perform the mandatory community
19 service, the name and address of the child's parent or legal guardian shall be published in a
20 newspaper of general circulation, accompanied by a notice that he is the parent or legal
21 guardian of a child adjudicated delinquent for committing graffiti.

22 I. In addition to any other disposition pursuant to this section or any other
23 penalty provided by law, when a child is adjudicated delinquent on the basis of Subparagraph
24 (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978, the court shall require
25 the child to perform a mandatory sixty hours of community service related to reducing the
incidence of driving while under the influence of intoxicating liquors or drugs within a

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1 continuous four-month period immediately following his adjudication.

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 5, 1999
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9 Mr. Speaker:

10 Your **JUDICIARY COMMITTEE**, to whom has been referred
11

12 **HOUSE BILL 680**
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14 has had it under consideration and reports same with recommendation that it **DO PASS**,
15 amended as follows:
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17 1. On page 6, line 24, strike "shall", insert in lieu thereof "may", strike "a
18 mandatory" and insert in lieu thereof "up to".
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21 Respectfully submitted,
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24 _____
25 **R. David Pederson, Chairman**

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HJC/HB 680

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6 Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 10 For 0 Against

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Yes: 10

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Excused: Luna, Sanchez

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Absent: None

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