

1 HOUSE BILL 205

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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6

7  
8 FOR THE LEGISLATIVE FINANCE COMMITTEE  
9

10 AN ACT

11 RELATING TO CHILD WELFARE; CREATING THE SECRETARY OF CHILDREN,  
12 YOUTH AND FAMILIES NOMINATING COMMITTEE; REQUIRING THE  
13 SECRETARY OF CHILDREN, YOUTH AND FAMILIES TO BE SELECTED FROM A  
14 LIST OF QUALIFIED NOMINEES CREATED BY THE NOMINATING COMMITTEE;  
15 MOVING RULEMAKING AUTHORITY FOR THE PLAN OF CARE PROCESS FROM  
16 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE HEALTH CARE  
17 AUTHORITY; UPDATING REQUIREMENTS FOR PLANS OF CARE; REQUIRING  
18 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO IMPLEMENT THE  
19 MULTILEVEL RESPONSE SYSTEM STATEWIDE; ENACTING THE FAMILIES  
20 FIRST ACT WITHIN THE CHILDREN'S CODE; REQUIRING THE CHILDREN,  
21 YOUTH AND FAMILIES DEPARTMENT TO DEVELOP AND IMPLEMENT A  
22 STRATEGIC PLAN FOR APPROVAL BY THE FEDERAL ADMINISTRATION FOR  
23 CHILDREN AND FAMILIES; REQUIRING PROVISIONS OF THE STRATEGIC  
24 PLAN TO IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES  
25 THAT MEET THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST

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1 PREVENTION SERVICES ACT; PROVIDING FOR CHILDREN, YOUTH AND  
2 FAMILIES DEPARTMENT CONSULTATION WITH THE EARLY CHILDHOOD  
3 EDUCATION AND CARE DEPARTMENT, THE HEALTH CARE AUTHORITY AND  
4 THE DEPARTMENT OF HEALTH; PROVIDING STRATEGIC PLAN  
5 REQUIREMENTS; TRANSFERRING THE SUBSTITUTE CARE ADVISORY COUNCIL  
6 FROM THE REGULATION AND LICENSING DEPARTMENT TO THE  
7 ADMINISTRATIVE OFFICE OF THE COURTS; DEFINING TERMS IN THE  
8 CITIZEN SUBSTITUTE CARE REVIEW ACT; PROVIDING FOR STAFFING OF  
9 THE SUBSTITUTE CARE ADVISORY COUNCIL; ESTABLISHING CRITERIA FOR  
10 CASE REVIEW; PROVIDING FOR RULES PERTAINING TO VOLUNTEER  
11 MEMBERS; PROVIDING ACCESS TO AND REQUIREMENTS FOR  
12 CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION; CHANGING  
13 REPORTING REQUIREMENTS; REQUIRING THE SUBSTITUTE CARE ADVISORY  
14 COUNCIL TO PROVIDE THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT  
15 WITH CASE REPORTS; REQUIRING THE CHILDREN, YOUTH AND FAMILIES  
16 DEPARTMENT TO RESPOND TO CASE REPORTS; REQUIRING THE SUBSTITUTE  
17 CARE ADVISORY COUNCIL STAFF AND THE CHILDREN, YOUTH AND  
18 FAMILIES DEPARTMENT TO MEET QUARTERLY; TRANSFERRING EMPLOYEES,  
19 PROPERTY AND CONTRACTUAL OBLIGATIONS; AMENDING, REPEALING AND  
20 ENACTING SECTIONS OF THE NMSA 1978.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 9-2A-3 NMSA 1978 (being Laws 1992,  
24 Chapter 57, Section 3) is amended to read:

25 "9-2A-3. DEFINITIONS.--As used in the Children, Youth and

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1 Families Department Act:

2 A. "department" means the children, youth and  
3 families department; [~~and~~]

4 B. "nominating committee" means the secretary of  
5 children, youth and families nominating committee; and

6 [~~B.~~] C. "secretary" means the secretary of  
7 children, youth and families."

8 SECTION 2. Section 9-2A-6 NMSA 1978 (being Laws 1992,  
9 Chapter 57, Section 6) is amended to read:

10 "9-2A-6. SECRETARY OF CHILDREN, YOUTH AND FAMILIES--  
11 APPOINTMENT.--

12 A. The chief executive and administrative officer  
13 of the department is the "secretary of children, youth and  
14 families". The secretary shall be appointed by the governor  
15 with the consent of the senate and shall be selected from a  
16 list of qualified nominees submitted to the governor by the  
17 nominating committee. The secretary shall hold office at the  
18 pleasure of the governor and shall serve in the executive  
19 cabinet.

20 B. An appointed secretary shall serve and have all  
21 the duties, responsibilities and authority of that office  
22 during the period of time prior to final action by the senate  
23 confirming or rejecting [~~his~~] the appointment."

24 SECTION 3. A new section of the Children, Youth and  
25 Families Department Act, Section 9-2A-6.1 NMSA 1978, is enacted

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1 to read:

2 "9-2A-6.1. [NEW MATERIAL] SECRETARY OF CHILDREN, YOUTH  
3 AND FAMILIES NOMINATING COMMITTEE.--

4 A. The "secretary of children, youth and families  
5 nominating committee" is created and consists of nine members  
6 who are:

7 (1) knowledgeable about child welfare;  
8 (2) not recipients of contracts or other forms  
9 of compensation from the department;

10 (3) not applicants or nominees for the  
11 secretary position; and

12 (4) appointed as follows:

13 (a) six members appointed one each by  
14 the speaker of the house of representatives, the majority floor  
15 leader of the house of representatives, the minority floor  
16 leader of the house of representatives, the president pro  
17 tempore of the senate, the majority floor leader of the senate  
18 and the minority floor leader of the senate;

19 (b) two members appointed by the  
20 governor; and

21 (c) one member appointed by the chief  
22 justice of the supreme court.

23 B. A nominating committee member shall:

24 (1) be a resident of New Mexico;

25 (2) serve a four-year term; and

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1 (3) serve without compensation, but shall be  
2 reimbursed for expenses incurred in pursuit of the member's  
3 duties on the nominating committee pursuant to the Per Diem and  
4 Mileage Act.

5 C. The nominating committee and individual members  
6 shall be subject to the Governmental Conduct Act, the  
7 Inspection of Public Records Act, the Financial Disclosure Act  
8 and the Open Meetings Act.

9 D. Administrative support shall be provided to the  
10 nominating committee by the staff of the department.

11 E. Initial appointments to the nominating committee  
12 shall be made by the appointing authorities prior to July 1,  
13 2026. Subsequent appointments shall be made no later than  
14 thirty days before the end of a term.

15 F. The first meeting of the appointed members of  
16 the nominating committee shall be held prior to September 1,  
17 2026. The nominating committee shall select one member to be  
18 chair and one member to be secretary of the nominating  
19 committee. Following the first meeting, the nominating  
20 committee shall meet as often as necessary in order to submit a  
21 list to the governor of no fewer than five qualified nominees  
22 for appointment as the secretary for the terms beginning  
23 January 1, 2027. The list shall be developed to provide  
24 geographical diversity, and nominees on the list shall be from  
25 at least three different counties of the state.

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1           G. Subsequent to January 1, 2027, the nominating  
2 committee shall meet at least ninety days prior to the date on  
3 which the term of the secretary ends and as often as necessary  
4 thereafter in order to submit a list to the governor, at least  
5 thirty days prior to the beginning of the new term, of no fewer  
6 than two qualified nominees from diverse geographical areas of  
7 the state for appointment as secretary.

8           H. Upon the occurrence of a vacancy of the  
9 secretary position, the nominating committee shall meet within  
10 thirty days of the date of the beginning of the vacancy and as  
11 often as necessary thereafter in order to submit a list to the  
12 governor, within sixty days of the first meeting after the  
13 vacancy occurs, of no fewer than two qualified nominees from  
14 diverse geographical areas of the state for appointment as  
15 secretary.

16           I. If a position on the nominating committee  
17 becomes vacant during a term, a successor shall be selected in  
18 the same manner as the original appointment for that position  
19 and shall serve for the remainder of the term of the position  
20 vacated.

21           J. The nominating committee shall actively solicit,  
22 accept and evaluate applications and may require an applicant  
23 to submit any information the nominating committee deems  
24 relevant to the consideration of the individual's application.

25           K. A majority vote of all members of the nominating

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1 committee in favor of a person is required for that person to  
2 be included on the list of qualified nominees submitted to the  
3 governor."

4 SECTION 4. Section 9-2A-8 NMSA 1978 (being Laws 1992,  
5 Chapter 57, Section 8, as amended) is amended to read:

6 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to  
7 other duties provided by law or assigned to the department by  
8 the governor, the department shall:

9 A. develop priorities for department services and  
10 resources based on state policy and national best-practice  
11 standards and local considerations and priorities;

12 B. strengthen collaboration and coordination in  
13 state and local services for children, youth and families by  
14 integrating critical functions as appropriate, including  
15 service delivery, and contracting for services across divisions  
16 and related agencies;

17 C. develop and maintain a statewide database,  
18 including client tracking of services for children, youth and  
19 families;

20 D. develop standards of service within the  
21 department that focus on prevention, monitoring and outcomes;

22 E. analyze policies of other departments that  
23 affect children, youth and families to encourage common  
24 contracting procedures, common service definitions and a  
25 uniform system of access;

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1 F. enact [~~regulations~~] rules to control disposition  
2 and placement of children under the Children's Code, including  
3 [~~regulations~~] rules to limit or prohibit the out-of-state  
4 placement of children, including those who have developmental  
5 disabilities or emotional, neurobiological or behavioral  
6 disorders, when in-state alternatives are available;

7 G. develop reimbursement criteria for licensed  
8 child care centers and licensed home providers establishing  
9 that accreditation by a department-approved national  
10 accrediting body is sufficient qualification for the child care  
11 center or home provider to receive the highest reimbursement  
12 rate paid by the department;

13 H. assume and implement responsibility for  
14 children's mental health and substance abuse services in the  
15 state, coordinating with the [~~human services department~~] health  
16 care authority and the department of health;

17 I. assume and implement the lead responsibility  
18 among all departments for domestic violence services;

19 J. implement prevention and early intervention as a  
20 departmental focus;

21 K. conduct biennial assessments of service gaps and  
22 needs and establish outcome measurements to address those  
23 service gaps and needs, including recommendations from the  
24 governor's children's cabinet and the children, youth and  
25 families advisory committee;

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1 L. ensure that behavioral health services provided,  
2 including mental health and substance abuse services for  
3 children, adolescents and their families, shall be in  
4 compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA  
5 1978 and any rules adopted pursuant to that section; [~~and~~]

6 M. develop and implement the families first  
7 strategic plan for the delivery of services and access to  
8 programs as required pursuant to the Families First Act; and

9 [~~M.-~~] N. fingerprint and conduct nationwide criminal  
10 history record searches on all department employees, staff  
11 members and volunteers whose jobs involve direct contact with  
12 department clients, including prospective employees and  
13 employees who are promoted, transferred or hired into new  
14 positions, and the superiors of all department employees, staff  
15 members and volunteers who have direct unsupervised contact  
16 with department clients."

17 SECTION 5. Section 32A-1-4 NMSA 1978 (being Laws 1993,  
18 Chapter 77, Section 13, as amended) is amended to read:

19 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

20 A. "active efforts" means efforts that are  
21 affirmative, active, thorough and timely and that represent a  
22 higher standard of conduct than reasonable efforts;

23 B. "adult" means a person who is eighteen years of  
24 age or older;

25 C. "child" means a person who is less than eighteen

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1 years old;

2 D. "council" means the substitute care advisory  
3 council established pursuant to Section 32A-8-4 NMSA 1978;

4 E. "court", when used without further  
5 qualification, means the children's court division of the  
6 district court and includes the judge, special master or  
7 commissioner appointed pursuant to the provisions of the  
8 Children's Code or supreme court rule;

9 F. "court-appointed special advocate" means a  
10 person appointed pursuant to the provisions of the Children's  
11 Court Rules to assist the court in determining the best  
12 interests of the child by investigating the case and submitting  
13 a report to the court;

14 G. "custodian" means an adult with whom the child  
15 lives who is not a parent or guardian of the child;

16 H. "department" means the children, youth and  
17 families department, unless otherwise specified;

18 I. "disproportionate minority contact" means the  
19 involvement of a racial or ethnic group with the criminal or  
20 juvenile justice system at a proportion either higher or lower  
21 than that group's proportion in the general population;

22 J. "federal Indian Child Welfare Act of 1978" means  
23 the federal Indian Child Welfare Act of 1978, as that act may  
24 be amended or its sections renumbered;

25 K. "foster parent" means a person, including a

1 relative of the child, licensed or certified by the department  
2 or a child placement agency to provide care for children in the  
3 custody of the department or agency;

4 L. "guardian" means a person appointed as a  
5 guardian by a court or Indian tribal authority or a person  
6 authorized to care for the child by a parental power of  
7 attorney as permitted by law;

8 M. "guardian ad litem" means an attorney appointed  
9 by the children's court to represent and protect the best  
10 interests of the child in a case; provided that no party or  
11 employee or representative of a party to the case shall be  
12 appointed to serve as a guardian ad litem;

13 N. "Indian" means, whether an adult or child, a  
14 person who is:

15 (1) a member of an Indian tribe; or

16 (2) eligible for membership in an Indian  
17 tribe;

18 O. "Indian child" means an Indian person, or a  
19 person whom there is reason to know is an Indian person, under  
20 eighteen years of age, who is neither:

21 (1) married; or

22 (2) emancipated;

23 P. "Indian child's tribe" means:

24 (1) the Indian tribe in which an Indian child  
25 is a member or eligible for membership; or

1 (2) in the case of an Indian child who is a  
2 member or eligible for membership in more than one tribe, the  
3 Indian tribe with which the Indian child has more significant  
4 contacts;

5 Q. "Indian custodian" means an Indian who, pursuant  
6 to tribal law or custom or pursuant to state law:

7 (1) is an adult with legal custody of an  
8 Indian child; or

9 (2) has been transferred temporary physical  
10 care, custody and control by the parent of the Indian child;

11 R. "Indian tribe" means an Indian nation, tribe,  
12 pueblo or other band, organized group or community of Indians  
13 recognized as eligible for the services provided to Indians by  
14 the secretary because of their status as Indians, including an  
15 Alaska native village as defined in 43 U.S.C. Section 1602(c)  
16 or a regional corporation as defined in 43 U.S.C. Section 1606.  
17 For the purposes of notification to and communication with a  
18 tribe as required in the Indian Family Protection Act, "Indian  
19 tribe" also includes those tribal officials and staff who are  
20 responsible for child welfare and social services matters;

21 S. "judge", when used without further  
22 qualification, means the judge of the court;

23 T. "legal custody" means a legal status created by  
24 order of the court or other court of competent jurisdiction or  
25 by operation of statute that vests in a person, department or

1 agency the right to determine where and with whom a child shall  
2 live; the right and duty to protect, train and discipline the  
3 child and to provide the child with food, shelter, personal  
4 care, education and ordinary and emergency medical care; the  
5 right to consent to major medical, psychiatric, psychological  
6 and surgical treatment and to the administration of legally  
7 prescribed psychotropic medications pursuant to the Children's  
8 Mental Health and Developmental Disabilities Act; and the right  
9 to consent to the child's enlistment in the armed forces of the  
10 United States;

11 U. "member" or "membership" means a determination  
12 made by an Indian tribe that a person is a member of or  
13 eligible for membership in that Indian tribe;

14 V. "parent" or "parents" means a biological or  
15 adoptive parent if the biological or adoptive parent has a  
16 constitutionally protected liberty interest in the care and  
17 custody of the child or a person who has lawfully adopted an  
18 Indian child pursuant to state law or tribal law or tribal  
19 custom;

20 W. "permanency plan" means a determination by the  
21 court that the child's interest will be served best by:

22 (1) reunification;

23 (2) placement for adoption after the parents'  
24 rights have been relinquished or terminated or after a motion  
25 has been filed to terminate parental rights;

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1 (3) placement with a person who will be the  
2 child's permanent guardian;

3 (4) placement in the legal custody of the  
4 department with the child placed in the home of a fit and  
5 willing relative; or

6 (5) placement in the legal custody of the  
7 department under a planned permanent living arrangement;

8 X. "person" means an individual or any other form  
9 of entity recognized by law;

10 Y. "plan of care" means a plan created by a health  
11 care professional intended to ensure the safety and well-being  
12 of a substance-exposed newborn, or to provide prenatal support  
13 to a pregnant person dealing with substance use disorder, by  
14 addressing the treatment needs of the child and any of the  
15 child's parents, relatives, guardians, family members or  
16 caregivers to the extent those treatment needs are relevant to  
17 the safety of the child;

18 Z. "preadoptive parent" means a person with whom a  
19 child has been placed for adoption;

20 AA. "protective supervision" means the right to  
21 visit the child in the home where the child is residing,  
22 inspect the home, transport the child to court-ordered  
23 diagnostic examinations and evaluations and obtain information  
24 and records concerning the child;

25 BB. "relative" means a person related to another

1 person:

2 (1) by blood within the fifth degree of  
3 consanguinity or through marriage by the fifth degree of  
4 affinity; or

5 (2) with respect to an Indian child, as  
6 established or defined by the Indian child's tribe's custom or  
7 law;

8 CC. "reservation" means:

9 (1) "Indian country" as defined in 18 U.S.C.  
10 Section 1151;

11 (2) any lands to which the title is held by  
12 the United States in trust for the benefit of an Indian tribe  
13 or individual; or

14 (3) any lands held by an Indian tribe or  
15 individual subject to a restriction by the United States  
16 against alienation;

17 DD. "reunification" means either a return of the  
18 child to the parent or to the home from which the child was  
19 removed or a return to the noncustodial parent;

20 EE. "secretary" means the United States secretary  
21 of the interior;

22 FF. "tribal court" means a court with jurisdiction  
23 over child custody proceedings that is either a court of Indian  
24 offenses, a court established and operated under the law or  
25 custom of an Indian tribe or any other administrative body that

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1 is vested by an Indian tribe with authority over child custody  
2 proceedings;

3 GG. "tribal court order" means a document issued by  
4 a tribal court that is signed by an appropriate authority,  
5 including a judge, governor or tribal council member, and that  
6 orders an action that is within the tribal court's  
7 jurisdiction; and

8 HH. "tribunal" means any judicial forum other than  
9 the court."

10 SECTION 6. Section 32A-3A-13 NMSA 1978 (being Laws 2019,  
11 Chapter 190, Section 3) is amended to read:

12 "32A-3A-13. PLAN OF CARE--GUIDELINES--CREATION--DATA  
13 SHARING--TRAINING.--

14 A. By January 1, 2020, the [~~department~~] health care  
15 authority, in consultation with medicaid managed care  
16 organizations, private insurers, the office of superintendent  
17 of insurance, the [~~human services~~] children, youth and families  
18 department and the department of health, shall develop rules to  
19 guide hospitals, birthing centers, medical providers, medicaid  
20 managed care organizations and private insurers in the care of  
21 newborns who exhibit physical, neurological or behavioral  
22 symptoms consistent with prenatal drug exposure, withdrawal  
23 symptoms from prenatal drug exposure or fetal alcohol spectrum  
24 disorder.

25 B. Rules shall include guidelines to hospitals,

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1 birthing centers, medical providers, medicaid managed care  
2 organizations and private insurers regarding:

3 (1) participation in the ~~[discharge planning]~~  
4 plan of care development process, ~~[including]~~ which may occur  
5 at a prenatal medical visit and shall occur prior to a  
6 substance-exposed child's discharge from a hospital. The plan  
7 of care development process shall allow for the creation of a  
8 written plan of care that shall be sent to:

9 (a) the child's primary care physician;  
10 (b) a medicaid managed care organization  
11 insurance plan care coordinator who will monitor the  
12 implementation of the plan of care after ~~[discharge]~~ the plan  
13 of care is created, if the child is insured, or to a care  
14 coordinator ~~[in the children's medical services of the family~~  
15 ~~health bureau of the public health division of the department~~  
16 ~~of health]~~ that the authority has contracted with who will  
17 monitor the implementation of the plan of care after  
18 ~~[discharge]~~ the plan of care is created, if the child is  
19 uninsured. The health care authority shall ensure that there  
20 is at least one care coordinator available in each birthing  
21 hospital in the state at all times and shall contract with care  
22 coordinators to ensure that uninsured substance-exposed  
23 children receive care coordination; and

24 (c) the child's parent, relative,  
25 guardian or caretaker who is present at discharge who shall

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1 receive a copy upon discharge. The plan of care shall be  
2 signed by an appropriate representative of the discharging  
3 hospital and the child's parent, relative, guardian or  
4 caretaker who is present at discharge;

5 (2) definitions and evidence-based screening  
6 tools, based on standards of professional practice, to be used  
7 by health care providers to identify a child born affected by  
8 substance use or withdrawal symptoms resulting from prenatal  
9 drug exposure or a fetal alcohol spectrum disorder. The rules  
10 shall include a requirement that all hospitals, birthing  
11 centers and prenatal care providers use the screening, brief  
12 intervention and referral to treatment program at all prenatal  
13 medical visits and live births;

14 (3) collection and reporting of data to meet  
15 federal and state reporting requirements, including the  
16 following:

17 (a) by hospitals and birthing centers to  
18 the department when: 1) a plan of care has been developed; and  
19 2) a family has been referred for a plan of care;

20 (b) information pertaining to a child  
21 born and diagnosed by a health care professional as affected by  
22 substance abuse, withdrawal symptoms resulting from prenatal  
23 drug exposure or a fetal alcohol spectrum disorder; and

24 (c) data collected by hospitals and  
25 birthing centers for use by the children's medical services of

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1 the family health bureau of the public health division of the  
2 department of health in epidemiological reports and to support  
3 and monitor a plan of care. Information reported pursuant to  
4 this subparagraph shall be coordinated with communication to  
5 insurance carrier care coordinators to facilitate access to  
6 services for children and parents, relatives, guardians or  
7 caregivers identified in a plan of care;

8 (4) identification of appropriate agencies to  
9 be included as supports and services in the plan of care, based  
10 on an assessment of the needs of the child and the child's  
11 relatives, parents, guardians or caretakers, performed by a  
12 discharge planner prior to the child's discharge from the  
13 hospital or birthing center, which: ~~[may include~~

- 14 ~~(a) public health agencies;~~
- 15 ~~(b) maternal and child health agencies;~~
- 16 ~~(c) home visitation programs;~~
- 17 ~~(d) substance use disorder prevention~~  
18 ~~and treatment providers;~~
- 19 ~~(e) mental health providers;~~
- 20 ~~(f) public and private children and~~  
21 ~~youth agencies;~~
- 22 ~~(g) early intervention and developmental~~  
23 ~~services;~~
- 24 ~~(h) courts;~~
- 25 ~~(i) local education agencies;~~

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1 substance-exposed child's parents, relatives, guardians, family  
2 members or caregivers to necessary services. Care coordinators  
3 shall use an evidence-based intensive care coordination model  
4 that is listed in the federal Title IV-E prevention services  
5 clearinghouse or another nationally recognized evidence-based  
6 clearinghouse for child welfare; and

7 (b) if a pregnant person or a substance-  
8 exposed child's parents, relatives, guardians, family members  
9 or caregivers are not following the plan of care, requirements  
10 that care coordinators make attempts to contact and provide  
11 support services to persons who are not following the plan of  
12 care. Care coordinators shall attempt to make contact with  
13 persons who are not following the plan of care in person, by  
14 mail, by phone call and by text message.

15 C. Reports made pursuant to Paragraph (3) of  
16 Subsection B of this section shall be collected by the  
17 department as distinct and separate from any child abuse report  
18 as captured and held or investigated by the department, such  
19 that the reporting of a plan of care shall not constitute a  
20 report of suspected child abuse and neglect and shall not  
21 initiate investigation by the department or a report to law  
22 enforcement.

23 D. The department shall summarize and report data  
24 received pursuant to Paragraph (3) of Subsection B of this  
25 section at intervals as needed to meet federal regulations.

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1           E. ~~The [children's medical services of the family~~  
2 ~~health bureau of the public health division of the department~~  
3 ~~of health shall collect and record data reported pursuant to~~  
4 ~~Subparagraph (c) of Paragraph (3) of Subsection B of this~~  
5 ~~section to support and monitor care coordination of plans of~~  
6 ~~care for children born without insurance]~~ health care authority  
7 shall provide an annual report to the legislative finance  
8 committee, the interim legislative health and human services  
9 committee and the department of finance and administration on  
10 the status of the plan of care system. The report shall  
11 include the following aggregate statistical information related  
12 to the creation of plans of care:

13                     (1) the primary substances that infants were  
14 exposed to;

15                     (2) the services that infants and families  
16 were referred to;

17                     (3) the uptake rate of services;

18                     (4) whether an infant or an infant's family  
19 was subsequently reported to the children, youth and families  
20 department; and

21                     (5) demographic and geographic data.

22           F. Reports made pursuant to the requirements in  
23 this section shall not be construed to relieve a person of the  
24 requirement to report to the department knowledge of or a  
25 reasonable suspicion that a child is an abused or neglected

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1 child based on criteria as defined by Section 32A-4-2 NMSA  
2 1978.

3 G. The department and the health care authority  
4 shall work in consultation with the department of health to  
5 create and distribute training materials to support and educate  
6 discharge planners or social workers on the following:

7 (1) how to assess whether to make a referral  
8 to the department pursuant to the Abuse and Neglect Act;

9 (2) how to assess whether to make a  
10 notification to the department pursuant to Subsection B of  
11 Section 32A-4-3 NMSA 1978 for a child who has been diagnosed as  
12 affected by substance abuse, withdrawal symptoms resulting from  
13 prenatal drug exposure or a fetal alcohol spectrum disorder;

14 (3) how to assess whether to create a plan of  
15 care when a referral to the department is not required; and

16 (4) the creation and deployment of a plan of  
17 care.

18 H. ~~[Nø]~~ A person shall not have a cause of action  
19 for any loss or damage caused by any act or omission resulting  
20 from the implementation of the provisions of Subsection G of  
21 this section or resulting from any training, or lack thereof,  
22 required by Subsection G of this section.

23 I. The training, or lack thereof, required by the  
24 provisions of Subsection G of this section shall not be  
25 construed to impose any specific duty of care."

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1           SECTION 7. Section 32A-3A-14 NMSA 1978 (being Laws 2019,  
2 Chapter 190, Section 4) is amended to read:

3           "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF  
4 NONCOMPLIANCE WITH A PLAN OF CARE.--

5           A. If the parents, relatives, guardians or  
6 caretakers of a child released from a hospital or freestanding  
7 birthing center pursuant to a plan of care fail to comply with  
8 that plan, the health care authority, a medicaid managed care  
9 organization insurance plan care coordinator or a care  
10 coordinator contracted with the health care authority shall  
11 notify the department [~~shall be notified~~] and the department  
12 [~~may~~] shall conduct a family assessment. Based on the results  
13 of the family assessment, the department may offer or provide  
14 referrals for counseling, training, or other services aimed at  
15 addressing the underlying causative factors that may jeopardize  
16 the safety or well-being of the child. The child's parents,  
17 relatives, guardians or caretakers may choose to accept or  
18 decline any service or program offered subsequent to the family  
19 assessment; provided that if the child's parents, relatives,  
20 guardians or caretakers decline those services or programs, and  
21 the department [~~may~~] determines that those services or programs  
22 are necessary to address the concerns of potential imminent  
23 harm to the child, the department shall proceed with an  
24 investigation.

25           B. As used in this section, "family assessment"

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1 means a comprehensive assessment prepared by the department at  
2 the time the department receives notification of failure to  
3 comply with the plan of care to determine the needs of a child  
4 and the child's parents, relatives, guardians or caretakers,  
5 including an assessment of the likelihood of:

- 6 (1) imminent danger to a child's well-being;  
7 (2) the child becoming an abused child or  
8 neglected child; and  
9 (3) the strengths and needs of the child's  
10 family members, including parents, relatives, guardians or  
11 caretakers, with respect to providing for the health and safety  
12 of the child."

13 SECTION 8. Section 32A-4-3 NMSA 1978 (being Laws 1993,  
14 Chapter 77, Section 97, as amended) is amended to read:

15 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--  
16 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--  
17 NOTIFICATION OF PLAN OF CARE.--

18 A. Every person, including a licensed physician; a  
19 resident or an intern examining, attending or treating a child;  
20 a law enforcement officer; a judge presiding during a  
21 proceeding; a registered nurse; a visiting nurse; a school  
22 employee; a social worker acting in an official capacity; or a  
23 member of the clergy who has information that is not privileged  
24 as a matter of law, who knows or has a reasonable suspicion  
25 that a child is an abused or a neglected child shall report the

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1 matter immediately to:

- 2 (1) a local law enforcement agency;
- 3 (2) the department; or
- 4 (3) a tribal law enforcement or social
- 5 services agency for any Indian child residing in Indian
- 6 country.

7 B. A law enforcement agency receiving the report

8 shall immediately transmit the facts of the report and the

9 name, address and phone number of the reporter by telephone to

10 the department and shall transmit the same information in

11 writing within forty-eight hours. The department shall

12 immediately transmit the facts of the report and the name,

13 address and phone number of the reporter by telephone to a

14 local law enforcement agency and shall transmit the same

15 information in writing within forty-eight hours. The written

16 report shall contain the names and addresses of the child and

17 the child's parents, guardian or custodian, the child's age,

18 the nature and extent of the child's injuries, including any

19 evidence of previous injuries, and other information that the

20 maker of the report believes might be helpful in establishing

21 the cause of the injuries and the identity of the person

22 responsible for the injuries. The written report shall be

23 submitted upon a standardized form agreed to by the law

24 enforcement agency and the department.

25 C. The recipient of a report under Subsection A of

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1 this section shall take immediate steps to ensure prompt  
2 investigation of the report. The investigation shall ensure  
3 that immediate steps are taken to protect the health or welfare  
4 of the alleged abused or neglected child, as well as that of  
5 any other child under the same care who may be in danger of  
6 abuse or neglect. A local law enforcement officer trained in  
7 the investigation of child abuse and neglect is responsible for  
8 investigating reports of alleged child abuse or neglect at  
9 schools, daycare facilities or child care facilities.

10 D. If the child alleged to be abused or neglected  
11 is in the care or control of or in a facility administratively  
12 connected to the department, the report shall be investigated  
13 by a local law enforcement officer trained in the investigation  
14 of child abuse and neglect. The investigation shall ensure  
15 that immediate steps are taken to protect the health or welfare  
16 of the alleged abused or neglected child, as well as that of  
17 any other child under the same care who may be in danger of  
18 abuse or neglect.

19 E. A law enforcement agency or the department shall  
20 have access to any of the records pertaining to a child abuse  
21 or neglect case maintained by any of the persons enumerated in  
22 Subsection A of this section, except as otherwise provided in  
23 the Abuse and Neglect Act.

24 F. A person who violates the provisions of  
25 Subsection A of this section is guilty of a misdemeanor and

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1 shall be sentenced pursuant to the provisions of Section  
2 31-19-1 NMSA 1978.

3 G. A finding that a pregnant woman is using or  
4 abusing drugs made pursuant to an interview, self-report,  
5 clinical observation or routine toxicology screen shall not  
6 alone form a sufficient basis to report child abuse or neglect  
7 to the department pursuant to Subsection A of this section. A  
8 volunteer, contractor or staff of a hospital or freestanding  
9 birthing center shall not make a report based solely on that  
10 finding and shall make a notification pursuant to Subsection H  
11 of this section. Nothing in this subsection shall be construed  
12 to prevent a person from reporting to the department a  
13 reasonable suspicion that a child is an abused or neglected  
14 child based on other criteria as defined by Section 32A-4-2  
15 NMSA 1978, or a combination of criteria that includes a finding  
16 pursuant to this subsection.

17 H. A volunteer, contractor or staff of a hospital,  
18 [~~or~~] freestanding birthing center or clinic that provides  
19 prenatal care shall:

20 (1) complete a written plan of care for a  
21 substance-exposed newborn or a pregnant person who agrees to  
22 creating a plan of care, as provided for by department rule and  
23 the Children's Code; and

24 (2) provide notification to the department and  
25 the health care authority. Notification by a health care

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1 provider pursuant to this paragraph shall not be construed as a  
2 report of child abuse or neglect.

3 I. As used in this section, "notification" means  
4 informing the department and the health care authority that a  
5 substance-exposed newborn was born and providing a copy of the  
6 plan of care that was created for the child; provided that  
7 notification shall comply with federal guidelines and shall not  
8 constitute a report of child abuse or neglect.

9 J. As used in this section, "school employee"  
10 includes employees of a school district or a public school."

11 SECTION 9. Section 32A-4-4.1 NMSA 1978 (being Laws 2019,  
12 Chapter 137, Section 2) is amended to read:

13 "32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

14 A. The department shall establish a multilevel  
15 response system to evaluate and provide services to a child or  
16 the family, relatives, caretakers or guardians of a child with  
17 respect to whom a report alleging neglect or abuse has been  
18 made. The multilevel response system may include an  
19 alternative to investigation upon completion of an evaluation  
20 that may be completed at intake by the department, the results  
21 of which indicate that there is no immediate concern for the  
22 child's safety; provided, however, that an investigation shall  
23 be conducted for any report:

24 (1) alleging sexual abuse of a child or  
25 serious or imminent harm to a child;

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- 1                   (2) indicating a child fatality;
- 2                   (3) requiring law enforcement involvement, as
- 3 identified pursuant to rules promulgated by the department; or
- 4                   (4) requiring a specialized assessment or a
- 5 traditional investigative approach, as determined pursuant to
- 6 rules promulgated by the department.

7                   B. The department may remove a case from the

8 multilevel response system and conduct an investigation if

9 imminent danger of serious harm to the child becomes evident.

10 The department may reassign a case from investigation to the

11 multilevel response system at the discretion of the department.

12                   C. For each family, including the child who is the

13 subject of a report to the department and that child's

14 relatives, caretakers or guardians, that receives services

15 under the multilevel response system, the department shall

16 conduct a family assessment. Based on the results of the

17 family assessment, the department may offer or provide

18 referrals for counseling, training or other services aimed at

19 addressing the underlying causative factors jeopardizing the

20 safety or well-being of the child who is the subject of a

21 report to the department. A family member, relative, caretaker

22 or guardian may choose to accept or decline any services or

23 programs offered under the multilevel response system;

24 provided, however, that if a family member, relative, caretaker

25 or guardian declines services, the department may choose to

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1 proceed with an investigation.

2 D. The department shall employ licensed social  
3 workers to provide services to families, relatives, caretakers  
4 or guardians participating in the multilevel response system to  
5 the extent that licensed social workers are available for  
6 employment.

7 ~~[E. The department may pilot the multilevel~~  
8 ~~response system prior to statewide implementation.]~~

9 ~~F. The department may limit implementation of the~~  
10 ~~multilevel response system to areas of the state where~~  
11 ~~appropriate services are available and operate the system~~  
12 ~~within available state and federal resources.]~~

13 G.] E. The department shall:

14 (1) provide an annual report of system  
15 implementation and outcomes to the legislative finance  
16 committee, the interim legislative health and human services  
17 committee, the interim committee that studies courts,  
18 corrections and justice and the department of finance and  
19 administration as part of the department's budget submission;

20 (2) arrange for an independent evaluation of  
21 the multilevel response system, including examining outcomes  
22 for child safety and well-being and cost-effectiveness;

23 (3) incorporate the multilevel response system  
24 into the department's quality assurance review process;

25 (4) develop performance measures, as provided

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1 in the Accountability in Government Act, for the multilevel  
2 response system; and

3 (5) implement the multilevel response system  
4 statewide no later than July 1, ~~[2022, if the department pilots~~  
5 ~~or otherwise geographically limits the multilevel response~~  
6 ~~system, submit a plan to the legislative finance committee and~~  
7 ~~the department of finance and administration setting forth how~~  
8 ~~the system could be expanded statewide, including a plan to~~  
9 ~~address service availability, and identifying costs that would~~  
10 ~~be incurred by the department]~~ 2027.

11 ~~[H.]~~ F. The department shall promulgate rules to  
12 implement the provisions of this section.

13 ~~[F.]~~ G. As used in this section, "family  
14 assessment" means a comprehensive, evidence-based assessment  
15 tool used by the department to determine the needs of a child  
16 and the child's family, relatives, caretakers or guardians at  
17 the time the department receives a report of child abuse and  
18 neglect, including an assessment of the likelihood of:

19 (1) imminent danger to a child's well-being;

20 (2) the child becoming an abused child or a  
21 neglected child; and

22 (3) the strengths and needs of the child's  
23 family members, relatives, caretakers or guardians with respect  
24 to providing for the health and safety of the child."

25 SECTION 10. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] SHORT TITLE.--Sections 10 through 13 of  
3 this act may be cited as the "Families First Act"."

4 SECTION 11. A new section of the Children's Code is  
5 enacted to read:

6 "[NEW MATERIAL] DEFINITIONS.--As used in the Families  
7 First Act:

8 A. "families first services" means foster care  
9 prevention services categorized pursuant to the federal Title  
10 IV-E prevention services clearinghouse as well-supported,  
11 supported or promising that are included in the families first  
12 strategic plan implemented pursuant to the Families First Act  
13 and are provided by the department through the implementation  
14 of that strategic plan; and

15 B. "families first strategic plan" means the plan  
16 required pursuant to the Families First Act that is developed  
17 and implemented by the department in accordance with the  
18 regulations and requirements set forth in the federal Family  
19 First Prevention Services Act."

20 SECTION 12. A new section of the Children's Code is  
21 enacted to read:

22 "[NEW MATERIAL] FAMILIES FIRST STRATEGIC PLAN--DEPARTMENT  
23 DUTIES--FAMILIES FIRST SERVICES--TIME LINE--IMPLEMENTATION.--

24 A. In consultation with the early childhood  
25 education and care department, the health care authority and

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1 the department of health, the department shall develop and  
2 implement the families first strategic plan. In developing the  
3 families first strategic plan, the department shall:

4 (1) ensure that provisions of the families  
5 first strategic plan align with and meet the requirements set  
6 forth in the federal Family First Prevention Services Act; and

7 (2) maximize resources from the federal  
8 government under Title IV-E that are available to the  
9 department to provide families first services.

10 B. The families first strategic plan required  
11 pursuant to Subsection A of this section shall:

12 (1) include a comprehensive description of the  
13 department's responsibilities and duties for providing families  
14 first services;

15 (2) include a comprehensive and detailed list  
16 of each of the families first services the department will  
17 provide to eligible persons and affirm that each service to be  
18 provided:

19 (a) is eligible for reimbursement  
20 pursuant to the federal Family First Prevention Services Act;  
21 and

22 (b) is rated as promising, supported or  
23 well-supported in accordance with the Title IV-E prevention  
24 services clearinghouse;

25 (3) identify all network services providers,

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1 including other state agencies, that the department will use  
2 for providing families first services. If services are  
3 provided by another state agency, the department, together with  
4 the other state agency, shall establish safety monitoring  
5 protocols for direct monitoring of the services provided by  
6 that agency and, for each provider used by the department, list  
7 the specific families first service that the network services  
8 provider will provide, including:

- 9 (a) mental health or substance abuse  
10 prevention and treatment;
- 11 (b) in-home parent skill-based programs;
- 12 (c) kinship navigator programs; or
- 13 (d) any other programs or services that  
14 are eligible or become eligible for reimbursement pursuant to  
15 the federal Family First Prevention Services Act;

16 (4) identify and define the population of  
17 eligible persons who may receive families first services and  
18 include, at a minimum:

- 19 (a) a child who is a candidate for  
20 foster care but who can remain safely at home with the  
21 provision of evidence-based services;
- 22 (b) a parent, guardian or caregiver of a  
23 child at risk of entering foster care;
- 24 (c) a pregnant or parenting youth in  
25 foster care; and

1 (d) other eligible persons identified by  
2 the department;

3 (5) identify processes and procedures to be  
4 established and followed by the department to determine  
5 eligibility for any families first service;

6 (6) identify processes and procedures to be  
7 established and followed by the department to maximize federal  
8 reimbursements, funding and resources available to the  
9 department to provide families first services;

10 (7) identify the process that the department  
11 will use to monitor and oversee the safety of children who  
12 receive families first services and programs, as required by  
13 the federal Family First Prevention Services Act;

14 (8) establish appropriate metrics the  
15 department will use to determine and evaluate outcomes from the  
16 department's providing of families first services pursuant to  
17 the Families First Act, including outcomes related specifically  
18 to subsequent substantiated reports of maltreatment and the  
19 numbers of children entering foster care;

20 (9) establish an appropriate time line and  
21 strategy for providing families first services statewide. The  
22 time line shall include the following:

23 (a) no later than June 30, 2027, the  
24 department shall provide families first services through a  
25 pilot program that is designed for implementation considering

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1 factors such as county population density and rates of child  
2 maltreatment and repeat maltreatment; and

3 (b) no later than June 30, 2032, the  
4 department shall provide statewide implementation of families  
5 first services rolled out in a manner consistent with the best  
6 practices derived from the evaluation of the observation,  
7 experiences and discernible outcomes of the pilot program;

8 (10) provide a detailed description of how the  
9 department will continuously monitor the families first  
10 strategic plan, from development of the plan through the pilot  
11 program phase and to statewide implementation. Included in  
12 that description shall be how the department will monitor key  
13 factors likely to best ensure fidelity to the service model  
14 developed within the families first strategic plan; and

15 (11) establish the appropriate information to  
16 include in an annual report to be provided by the department to  
17 the legislative finance committee, the interim legislative  
18 health and human services committee and the governor. At a  
19 minimum, the annual report shall include the following  
20 information:

21 (a) an up-to-date inventory of all  
22 families first services available;

23 (b) data, without inclusion of personal  
24 identifier information, regarding the uptake and program  
25 completion among eligible individuals of families first

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1 services, including the area of the state in which the services  
2 were accessed;

3 (c) performance results regarding  
4 identified outcome measures, to include aggregate data about  
5 child participant placement status at the beginning of services  
6 and one year after services and whether the child entered  
7 foster care within two years after being determined a candidate  
8 for foster care and receiving families first services; and

9 (d) fiscal information regarding program  
10 and service expenditures and disaggregating state and federal  
11 revenue sources.

12 C. For the purposes of this subsection, "approving  
13 authority" means the federal administration for children and  
14 families. The department shall:

15 (1) no later than August 1, 2025, finalize the  
16 provisions of the families first strategic plan, post the plan  
17 to the department's website and provide a copy of the plan to  
18 the legislative finance committee, the interim legislative  
19 health and human services committee and the governor;

20 (2) no later than September 1, 2025:

21 (a) submit the families first strategic  
22 plan to the approving authority for approval; and

23 (b) begin providing families first  
24 services pursuant to the provisions of the Families First Act;

25 (3) if a submitted strategic plan is not

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1 approved and the approving authority indicates that to secure  
2 an approval, the strategic plan must be revised, as soon as  
3 practicable:

4 (a) revise the families first strategic  
5 plan in accordance with the revisions required by the approving  
6 authority; and

7 (b) submit the revised strategic plan to  
8 the approving authority; and

9 (4) include in the department's reports  
10 required pursuant to the Families First Act the status of each  
11 families first strategic plan submitted to the approving  
12 authority for approval, including any specific revisions  
13 required, the dates of submissions and the dates of approval or  
14 nonapproval by the approving authority for each submitted  
15 strategic plan and any other relevant information related to  
16 the status of a families first strategic plan submitted to the  
17 approving authority by the department.

18 D. No later than July 1, 2026, and by each July 1  
19 thereafter, the department shall post the annual report as  
20 established in the families first strategic plan pursuant to  
21 the Families First Act to the department's website, and the  
22 department shall submit the annual report to the legislative  
23 finance committee, the interim legislative health and human  
24 services committee and the governor."

25 SECTION 13. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] RULES.--By August 1, 2027, the department  
3 shall promulgate and adopt rules as necessary to carry out the  
4 provisions of the Families First Act."

5 SECTION 14. Section 32A-4-21 NMSA 1978 (being Laws 1993,  
6 Chapter 77, Section 115, as amended) is amended to read:

7 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,  
8 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

9 A. Prior to holding a dispositional hearing, the  
10 court shall direct that a predisposition study and report be  
11 submitted in writing to the court by the department.

12 B. The predisposition study required pursuant to  
13 Subsection A of this section shall contain the following  
14 information:

15 (1) a statement of the specific reasons for  
16 intervention by the department or for placing the child in the  
17 department's custody and a statement of the parent's ability to  
18 care for the child in the parent's home without causing harm to  
19 the child;

20 (2) a statement of how an intervention plan is  
21 designed to achieve placement of the child in the least  
22 restrictive setting available, consistent with the best  
23 interests and special needs of the child, including a statement  
24 of the likely harm the child may suffer as a result of being  
25 removed from the parent's home, including emotional harm that

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1 may result due to separation from the child's parents, and a  
2 statement of how the intervention plan is designed to place the  
3 child in close proximity to the parent's home without causing  
4 harm to the child due to separation from parents, siblings or  
5 any other person who may significantly affect the child's best  
6 interest;

7 (3) the wishes of the child as to the child's  
8 custodian;

9 (4) a statement of the efforts the department  
10 has made to identify and locate all grandparents and other  
11 relatives and to conduct home studies on any appropriate  
12 relative expressing an interest in providing care for the  
13 child, and a statement as to whether the child has a family  
14 member who, subsequent to study by the department, is  
15 determined to be qualified to care for the child;

16 (5) a description of services offered to the  
17 child, the child's family and the child's foster care family,  
18 which, if appropriate and available, may include families first  
19 services provided pursuant to the Families First Act, as well  
20 as referrals to income support or other services or programs,  
21 and a summary of reasonable efforts made to prevent removal of  
22 the child from the child's family or reasonable efforts made to  
23 reunite the child with the child's family;

24 (6) a description of the home or facility in  
25 which the child is placed and the appropriateness of the

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1 child's placement;

2 (7) the results of any diagnostic examination  
3 or evaluation ordered at the custody hearing;

4 (8) a statement of the child's medical and  
5 educational background;

6 (9) a case plan that sets forth steps to  
7 ensure that the child's physical, medical, cultural,  
8 psychological and educational needs are met and that sets forth  
9 services to be provided to the child and the child's parents to  
10 facilitate permanent placement of the child in the parent's  
11 home;

12 (10) for children sixteen years of age and  
13 older, a plan for developing the specific skills the child  
14 requires for successful transition into independent living as  
15 an adult, regardless of whether the child is returned to the  
16 child's parent's home;

17 (11) a case plan that sets forth steps to  
18 ensure that the child's educational needs are met and, for a  
19 child fourteen years of age or older, a case plan that  
20 specifically sets forth the child's educational and post-  
21 secondary goals; and

22 (12) a description of the child's foster care  
23 placement and whether it is appropriate in terms of the  
24 educational setting and proximity to the school the child was  
25 enrolled in at the time of the placement, including plans for

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1 travel for the child to remain in the school in which the child  
2 was enrolled at the time of placement, if reasonable and in the  
3 child's best interest.

4 C. A copy of the predisposition report shall be  
5 provided by the department to counsel for all parties five days  
6 before the dispositional hearing.

7 D. If the child is an adjudicated abused child, any  
8 temporary custody orders shall remain in effect until the court  
9 has received and considered the predispositional study at the  
10 dispositional hearing."

11 SECTION 15. Section 32A-4-33 NMSA 1978 (being Laws 1993,  
12 Chapter 77, Section 127, as amended) is amended to read:

13 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

14 A. All records or information concerning a party to  
15 a neglect or abuse proceeding, including social records,  
16 diagnostic evaluations, psychiatric or psychological reports,  
17 videotapes, transcripts and audio recordings of a child's  
18 statement of abuse or medical reports incident to or obtained  
19 as a result of a neglect or abuse proceeding or that were  
20 produced or obtained during an investigation in anticipation of  
21 or incident to a neglect or abuse proceeding shall be  
22 confidential and closed to the public.

23 B. The records described in Subsection A of this  
24 section shall be disclosed only to the parties and:

25 (1) court personnel and persons or entities

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1 authorized by contract with the court to review, inspect or  
2 otherwise have access to records or information in the court's  
3 possession;

4 (2) court-appointed special advocates  
5 appointed to the neglect or abuse proceeding;

6 (3) the child's guardian ad litem;

7 (4) the attorney representing the child in an  
8 abuse or neglect action, a delinquency action or any other  
9 action under the Children's Code;

10 (5) department personnel and persons or  
11 entities authorized by contract with the department to review,  
12 inspect or otherwise have access to records or information in  
13 the department's possession;

14 (6) ~~[any local substitute care review board or~~  
15 ~~any agency contracted to implement local substitute care review~~  
16 ~~boards]~~ a staff member of the substitute care advisory council,  
17 if the records are requested for the purpose of carrying out  
18 the provisions of the Citizen Substitute Care Review Act;

19 (7) law enforcement officials, except when use  
20 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

21 (8) district attorneys, except when use  
22 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

23 (9) any state government or tribal government  
24 social services agency in any state or when, in the opinion of  
25 the department, it is in the best interest of the child, a

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1 governmental social services agency of another country;

2 (10) a foster parent, if the records are those  
3 of a child currently placed with that foster parent or of a  
4 child being considered for placement with that foster parent  
5 and the records concern the social, medical, psychological or  
6 educational needs of the child;

7 (11) school personnel involved with the child  
8 if the records concern the child's social or educational needs;

9 (12) a grandparent, parent of a sibling,  
10 relative or fictive kin, if the records or information pertain  
11 to a child being considered for placement with that  
12 grandparent, parent of a sibling, relative or fictive kin and  
13 the records or information concern the social, medical,  
14 psychological or educational needs of the child;

15 (13) health care or mental health  
16 professionals involved in the evaluation or treatment of the  
17 child or of the child's parents, guardian, custodian or other  
18 family members;

19 (14) protection and advocacy representatives  
20 pursuant to the federal Developmental Disabilities Assistance  
21 and Bill of Rights Act and the federal Protection and Advocacy  
22 for Mentally Ill Individuals Amendments Act of 1991;

23 (15) children's safehouse organizations  
24 conducting investigatory interviews of children on behalf of a  
25 law enforcement agency or the department;

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1 (16) representatives of the federal government  
2 or their contractors authorized by federal statute or  
3 regulation to review, inspect, audit or otherwise have access  
4 to records and information pertaining to neglect or abuse  
5 proceedings;

6 (17) any person or entity attending a meeting  
7 arranged by the department to discuss the safety, well-being  
8 and permanency of a child, when the parent or child, or parent  
9 or legal custodian on behalf of a child younger than fourteen  
10 years of age, has consented to the disclosure; and

11 (18) any other person or entity, by order of  
12 the court, having a legitimate interest in the case or the work  
13 of the court.

14 C. A parent, guardian or legal custodian whose  
15 child has been the subject of an investigation of abuse or  
16 neglect where no petition has been filed shall have the right  
17 to inspect any medical report, psychological evaluation, law  
18 enforcement reports or other investigative or diagnostic  
19 evaluation; provided that any identifying information related  
20 to the reporting party or any other party providing information  
21 shall be deleted. The parent, guardian or legal custodian  
22 shall also have the right to the results of the investigation  
23 and the right to petition the court for full access to all  
24 department records and information except those records and  
25 information the department finds would be likely to endanger

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1 the life or safety of any person providing information to the  
2 department.

3 D. Whoever intentionally and unlawfully releases  
4 any information or records closed to the public pursuant to the  
5 Abuse and Neglect Act or releases or makes other unlawful use  
6 of records in violation of that act is guilty of a petty  
7 misdemeanor and shall be sentenced pursuant to the provisions  
8 of Section 31-19-1 NMSA 1978.

9 E. The department shall promulgate rules for  
10 implementing disclosure of records pursuant to this section and  
11 in compliance with state and federal law and the Children's  
12 Court Rules."

13 SECTION 16. Section 32A-8-2 NMSA 1978 (being Laws 1993,  
14 Chapter 77, Section 204, as amended) is amended to read:

15 "32A-8-2. PURPOSE OF ACT.--The purpose of the Citizen  
16 Substitute Care Review Act is to provide a permanent system for  
17 independent and objective monitoring [~~of children placed in the~~  
18 ~~custody~~] of the department by examining the policies,  
19 procedures and practices of the department and, where  
20 appropriate, specific cases to evaluate [~~the extent to which~~  
21 ~~the department is effectively~~] its effectiveness in discharging  
22 its child protection responsibilities and to meet federal  
23 requirements for citizen review panels under the federal Child  
24 Abuse Prevention and Treatment Act."

25 SECTION 17. A new section of the Citizen Substitute Care

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1 Review Act is enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Citizen  
3 Substitute Care Review Act:

4 A. "board" means a substitute care review board of  
5 volunteer members facilitated by council staff convened for the  
6 purpose of reviews of designated cases or other related  
7 activities deemed appropriate by the council;

8 B. "case" means an abuse or neglect case referred  
9 to the department;

10 C. "council" means the substitute care advisory  
11 council;

12 D. "identified adult" means an adult participating  
13 in the fostering connections program or that program's  
14 successor;

15 E. "identified child" means a child who is:

16 (1) the subject of a referral of abuse and  
17 neglect made to the department;

18 (2) receiving services from the department; or

19 (3) in the custody of the department due to  
20 abuse and neglect proceedings;

21 F. "public member" means an individual who has been  
22 appointed by the governor;

23 G. "substitute care" means custodial or residential  
24 care for an identified child that is ordered or otherwise  
25 sanctioned by the court and in which the child does not live

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1 with either of the child's birth parents. "Substitute care"  
2 includes foster care, kinship care or care within a group home,  
3 residential treatment center, juvenile justice facility, semi-  
4 independent living program or emergency shelter; and

5 H. "volunteer member" means an individual who has  
6 met eligibility requirements to perform volunteer services for  
7 the council."

8 SECTION 18. Section 32A-8-4 NMSA 1978 (being Laws 1993,  
9 Chapter 77, Section 206, as amended) is amended to read:

10 "32A-8-4. SUBSTITUTE CARE ADVISORY COUNCIL--MEMBERS--  
11 COMPENSATION--RESPONSIBILITIES--ADVISORY COMMITTEE.--

12 A. The "substitute care advisory council" is  
13 created [~~and, in accordance with the provisions of Section~~  
14 ~~9-1-7 NMSA 1978, is administratively attached to the regulation~~  
15 ~~and licensing department. The general purpose of the council~~  
16 ~~is to oversee substitute care review boards in their monitoring~~  
17 ~~of children placed in the custody of the children, youth and~~  
18 ~~families department to identify systemic policy issues~~  
19 ~~regarding substitute care]~~ in the administrative office of the  
20 courts. The council shall exercise its functions independently  
21 and not under the control of the administrative office of the  
22 courts. The council shall be composed of [~~nine persons~~] ten  
23 voting members, including:

24 (1) the secretary of public education or the  
25 secretary's designee;

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1 (2) the secretary of [~~human services~~] health  
2 care authority or the secretary's designee;

3 (3) the secretary of finance and  
4 administration or the secretary's designee;

5 (4) the secretary of health or the secretary's  
6 designee;

7 [~~(5) two public members, appointed by the~~  
8 ~~governor, who:~~

9 (a) ~~are at least eighteen and no more~~  
10 ~~than thirty years of age at the time of appointment; and~~

11 (b) ~~were previously placed in substitute~~  
12 ~~care;~~

13 (6) ~~two public members, appointed by the~~  
14 ~~governor, who have expertise in the area of child welfare; and]~~

15 (5) the secretary of early childhood education  
16 and care or the secretary's designee;

17 [~~(7)] (6) one children's court judge,~~

18 appointed by the governor; and

19 (7) four public members, two of whom have  
20 expertise in the area of child welfare and two of whom have had  
21 experience in abuse and neglect proceedings, including former  
22 foster youth, biological parents, foster parents and adoptive  
23 parents.

24 B. [~~The council may hire staff and contract for~~  
25 ~~services to carry out the purposes of the Citizen Substitute~~

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1 ~~Care Review Act.]~~ The secretary of children, youth and families  
2 or the secretary's designee shall serve as a nonvoting member.

3 C. Except as provided pursuant to Paragraph [~~(7)~~]  
4 (6) of Subsection A and Subsection B of this section, a person  
5 or a relative of a person employed by the department or a  
6 district court shall not serve on the council.

7 [~~D.~~] D. Terms of office of public members of the  
8 council shall be three years. Public members shall be eligible  
9 for reappointment. In the event that a vacancy occurs among  
10 the members of the council, the governor shall appoint another  
11 person to serve the unexpired portion of the term.

12 E. A member of the council shall be entitled to  
13 receive per diem and mileage as provided for nonsalaried public  
14 officers pursuant to the Per Diem and Mileage Act; provided  
15 that, if a different provision of that act applies to a member,  
16 that member shall be paid pursuant to that provision. A member  
17 of the council shall receive no other compensation, perquisite  
18 or allowance.

19 [~~D.~~] F. The council shall select a chairperson, a  
20 vice chairperson and other officers as it deems necessary.

21 [~~E.~~] G. The council shall meet no less than [~~twice~~  
22 ~~annually~~] quarterly and more frequently upon the call of the  
23 chairperson.

24 H. The council shall, on or before October 1 of  
25 each year, designate cases for review that involve children in

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1 substitute care who:

2 (1) are under the age of five; or

3 (2) have remained in substitute care for  
4 longer than six months.

5 I. The council may establish work groups and enter  
6 into contracts, memoranda of understanding and joint powers  
7 agreements to carry out the provisions of the Citizen  
8 Substitute Care Review Act.

9 ~~[F.]~~ J. The council shall adopt reasonable rules  
10 relating to the functions and procedures of ~~[the substitute~~  
11 ~~care review boards and]~~ the council ~~[in accordance with the~~  
12 ~~duties of the boards as provided in the Citizen Substitute Care~~  
13 ~~Review Act]~~. These rules shall establish:

14 ~~(1) establish training requirements for~~  
15 ~~substitute care review board members;~~

16 ~~(2) establish criteria for council designation~~  
17 ~~of cases for substitute care review board review;~~

18 ~~(3) establish procedures for substitute care~~  
19 ~~review board review of designated cases;~~

20 ~~(4) establish criteria for membership and~~  
21 ~~tenure on and operating procedures for substitute care review~~  
22 ~~boards;~~

23 ~~(5) specify the information needed for~~  
24 ~~designated cases to be monitored by substitute care review~~  
25 ~~boards; and~~

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1                   ~~(6) specify case information to be tracked and~~  
2 ~~reported to the council.~~

3                   ~~G. When adopting rules establishing criteria for~~  
4 ~~designation of cases for substitute care review board review,~~  
5 ~~the council shall weigh the importance of the following~~  
6 ~~factors, including:~~

7                   ~~(1) sibling placements;~~

8                   ~~(2) the frequency and severity of neglect or~~  
9 ~~abuse;~~

10                  ~~(3) the behavioral health status of household~~  
11 ~~members;~~

12                  ~~(4) the placement of children in households~~  
13 ~~where there are no relatives of the children;~~

14                  ~~(5) data related to demographics; and~~

15                  ~~(6) relevant trend data]~~

16                  (1) procedures to ensure compliance with the  
17 Open Meetings Act;

18                  (2) initial and annual training requirements  
19 for council staff;

20                  (3) requirements for public participation,  
21 including participation on work groups and boards;

22                  (4) procedures for the council's review of  
23 designated cases;

24                  (5) procedures to provide for public outreach  
25 and public comment to assess the impact of current child

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1 protection procedures and practices on children and families in  
2 the community; and

3 (6) other procedures to provide for compliance  
4 with the Citizen Substitute Care Review Act and the federal  
5 Child Abuse Prevention and Treatment Act as it relates to  
6 citizen review panels.

7 ~~[H.] K. The council shall [review and coordinate~~  
8 ~~the activities of the substitute care review boards and make a~~  
9 ~~report with its recommendations to the department, the courts~~  
10 ~~and the appropriate legislative interim committees] provide~~  
11 periodic reports on the work of the council, including an  
12 annual written report to the governor, the appropriate  
13 legislative interim committee studying courts, corrections and  
14 justice, the legislative finance committee, the legislative  
15 health and human services committee, the department, the  
16 administrative office of the courts and other persons,  
17 organizations or agencies deemed appropriate. The annual  
18 report shall be distributed electronically on or before  
19 November 1 of each year [regarding statutes, rules, policies  
20 and procedures relating to substitute care]. This report shall  
21 include [recommendations for any changes to substitute care  
22 review boards.

23 ~~I. Council members shall receive per diem and~~  
24 ~~mileage as provided for nonsalaried public officers in the Per~~  
25 ~~Diem and Mileage Act; provided that, if a different provision~~

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1 ~~of that act applies to a specific member, that member shall be~~  
2 ~~paid pursuant to that applicable provision. Members shall~~  
3 ~~receive no other compensation, perquisite or allowance.~~

4 ~~J. The council shall appoint by October 1 of each~~  
5 ~~year a six-member advisory committee from a list of substitute~~  
6 ~~care review board members that the substitute care review~~  
7 ~~boards shall nominate. The advisory council shall meet with~~  
8 ~~the council at least once per year to advise the council on~~  
9 ~~matters relating to substitute care review. Advisory committee~~  
10 ~~members shall serve terms of one year and may be reappointed] a~~  
11 summary of the activities of the council and recommendations to  
12 improve child protective services at the state and local  
13 levels. Other reports regarding trends or topics deemed  
14 necessary by the council may be provided to the governor, the  
15 legislature, the department and the administrative office of  
16 the courts."

17 SECTION 19. A new section of the Citizen Substitute Care  
18 Review Act is enacted to read:

19 "[NEW MATERIAL] COUNCIL ADMINISTRATION--STAFFING.--

20 A. The council shall hire a director who:

21 (1) shall oversee, manage and direct  
22 processing of cases filed or reviewed pursuant to the Citizen  
23 Substitute Care Review Act, provide administrative support to  
24 the council and conduct any other activities as deemed  
25 necessary by the council to support its functions;

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1 (2) shall act impartially in a nonpartisan  
2 manner;

3 (3) shall promote public awareness of the  
4 purpose and services of the council and the methods for  
5 submitting requests for case review;

6 (4) shall employ staff for the council and fix  
7 compensation of the staff;

8 (5) shall prepare a budgetary request to be  
9 submitted through the administrative office of the courts; and

10 (6) may apply for and accept grants, gifts and  
11 bequests from other states, federal and interstate agencies,  
12 independent authorities, private firms, individuals and  
13 foundations for the purpose of carrying out the  
14 responsibilities of the council.

15 B. The director shall possess the following  
16 qualifications:

17 (1) a master's degree in social work and  
18 possession of a license issued pursuant to the Social Work  
19 Practice Act; or

20 (2) an active license to practice law issued  
21 pursuant to rules promulgated by the supreme court; and

22 (3) at least five years' experience in child  
23 welfare, with an emphasis on child abuse and neglect prevention  
24 or abatement.

25 C. The director shall hire staff to carry out the



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1 purposes of the Citizen Substitute Care Review Act, including  
2 review of cases. Council staff providing professional services  
3 shall possess:

4 (1) a bachelor's degree in social work,  
5 psychology, guidance and counseling, education, sociology,  
6 criminal justice, criminology or family studies and at least  
7 two years of experience in child welfare administration with an  
8 emphasis on child abuse and neglect prevention or abatement; or

9 (2) at least four years of experience combined  
10 from:

11 (a) study at an accredited college or  
12 university in a field related to child welfare; or

13 (b) professional experience working in  
14 the field of child welfare.

15 D. Council staff shall be required to complete  
16 annual training directly relating to enhancing staff  
17 proficiency, meeting job requirements and conducting case  
18 reviews required pursuant to the Citizen Substitute Care Review  
19 Act."

20 SECTION 20. A new section of the Citizen Substitute Care  
21 Review Act is enacted to read:

22 "[NEW MATERIAL] ATTORNEY GENERAL REPRESENTATION AND  
23 CONSULTATION.--The attorney general shall advise and consult  
24 with the council, acting pursuant to the Citizen Substitute  
25 Care Review Act, and render legal services upon request of the

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1 council."

2 SECTION 21. A new section of the Citizen Substitute Care  
3 Review Act is enacted to read:

4 "[NEW MATERIAL] VOLUNTEER MEMBER PARTICIPATION--RULES.--

5 A. The council shall promulgate rules relating to  
6 volunteer member participation, which shall include provisions  
7 for:

8 (1) efforts to recruit and retain volunteer  
9 members who are broadly representative of the communities in  
10 which they serve and to include volunteer members with  
11 expertise in the prevention and treatment of child abuse and  
12 neglect and adult former victims of child abuse or neglect;

13 (2) a membership process that includes  
14 background checks and orientation training;

15 (3) ongoing training requirements;

16 (4) procedures to address actual, perceived or  
17 possible conflicts of interest;

18 (5) a code of conduct; and

19 (6) procedures to maintain confidentiality of  
20 information required to be kept confidential as required by  
21 law.

22 B. Each volunteer member who meets the requirements  
23 established by council rules shall participate at least once  
24 quarterly in case reviews and other activities deemed  
25 appropriate by council staff.

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1 C. Volunteer members may receive per diem and  
2 mileage as provided for nonsalaried public officers in the Per  
3 Diem and Mileage Act; provided that if a different provision of  
4 that act applies to a specific member, that member shall be  
5 paid pursuant to that applicable provision. Members shall  
6 receive no other compensation, perquisite or allowance."

7 SECTION 22. A new section of the Citizen Substitute Care  
8 Review Act is enacted to read:

9 "[NEW MATERIAL] SUBSTITUTE CARE REVIEW BOARD  
10 ESTABLISHMENT--CASE REVIEW.--

11 A. The council shall establish boards composed  
12 entirely of volunteer members to review cases designated in  
13 accordance with council rules.

14 B. When a case has been designated for review  
15 pursuant to Subsection H of Section 32A-8-4 NMSA 1978, the  
16 staff of the council shall convene a board to review the case.

17 C. If a case reviewed by a board is a children's  
18 court case, the staff of the council shall give the parties to  
19 the case notice of the review and afford the parties to the  
20 case an opportunity to provide input relevant to the review.  
21 If the case involves an Indian child, notice shall additionally  
22 be provided to persons afforded notice pursuant to the Indian  
23 Family Protection Act.

24 D. After a board's review of a children's court  
25 case, council staff shall submit a report of the board's

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1 findings and recommendations to the children's court, the  
2 department and the parties to the case. If the case involves  
3 an Indian child, the report shall additionally be provided to  
4 persons afforded notice pursuant to the Indian Family  
5 Protection Act.

6 E. The department shall:

7 (1) acknowledge receipt of the report within  
8 ten business days; and

9 (2) within thirty days of receipt, provide a  
10 response to the board's findings and recommendations, including  
11 plans for adopting the recommendations or taking alternative  
12 action.

13 F. Council staff and the department shall meet  
14 quarterly, or as needed to work toward mutually agreed-upon  
15 outcomes."

16 SECTION 23. A new section of the Citizen Substitute Care  
17 Review Act is enacted to read:

18 "[NEW MATERIAL] ACCESS TO RECORDS.--

19 A. Subject to state or federal law to the contrary,  
20 council staff shall have access to, including the right to  
21 inspect and copy, any records necessary to carry out council  
22 responsibilities, including access to the following:

23 (1) social records, diagnostic evaluations,  
24 psychiatric or psychological reports, video footage,  
25 transcripts and audio records of a child's statement of abuse

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1 or medical reports incident to an abuse or neglect proceeding;

2 (2) a record of an agency, hospital,  
3 organization, school, person or office, including the clerk of  
4 the court, the department, a court-appointed special advocate  
5 program, a public or private health care facility, a medical or  
6 mental health care professional, a law enforcement agency or  
7 other agency that provides services to children and families;

8 (3) a record of an administrative hearing  
9 conducted by the department and any findings or conclusions  
10 resulting from such hearing; and

11 (4) a record of a private meeting with a child  
12 in protective custody or with an individual with knowledge of  
13 the case or grievance.

14 B. The department shall establish procedures to  
15 provide the requested records in a timely manner.

16 C. The department shall:

17 (1) establish procedures to provide the  
18 requested records in a timely manner and to ensure staff  
19 availability to provide input for case reviews; and

20 (2) ensure that its agents and contractors  
21 provide requested records in a timely manner and ensure staff  
22 availability to provide input for case reviews.

23 D. The department or its agent or contractor shall  
24 not discharge, discriminate against in any manner or retaliate  
25 against an employee, volunteer or contractor who, in good

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1 faith, communicates with the council about a case review or  
2 provision of records pursuant to this section."

3 SECTION 24. A new section of the Citizen Substitute Care  
4 Review Act is enacted to read:

5 "[NEW MATERIAL] CONFIDENTIALITY OF INFORMATION.--

6 A. Information obtained or generated by a member of  
7 the council, a staff member of the council or a member of a  
8 board for the purpose of performing duties in compliance with  
9 the Citizen Substitute Care Review Act is not subject to the  
10 provisions of the Inspection of Public Records Act.

11 B. The name, address or other personally  
12 identifiable information of a person whose records are released  
13 to council staff are confidential.

14 C. A member of the council, a staff member of the  
15 council or a member of a board with knowledge of a case that  
16 was obtained pursuant to the Citizen Substitute Care Review Act  
17 shall maintain that information as confidential unless:

18 (1) the identified child or identified adult  
19 who is the subject of the case consents in writing to  
20 disclosure of that information to another person;

21 (2) the identified child or identified adult  
22 who is the subject of the case provides oral consent for  
23 disclosure to another person that is immediately documented in  
24 writing by council staff; or

25 (3) disclosure is ordered by a court."

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