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SENATE BILL 363

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

INTRODUCED BY
Michael Padilla

AN ACT

RELATING TO CHILDREN; ENACTING THE CHILD PROTECTION AUTHORITY
ACT; CREATING THE CHILD PROTECTION AUTHORITY; PRESCRIBING
DUTIES.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Child Protection
Authority Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Child Protection Authority Act:

A. "authority" means the child protection
authority; and

B. "department" means the children, youth and
families department.

SECTION 3. [NEW MATERIAL] CHILD PROTECTION AUTHORITY

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1 CREATED--DUTIES.--

2 A. The "child protection authority" is created and
3 is administratively attached to the regulation and licensing
4 department.

5 B. The authority shall be governed by nine members,
6 appointed as follows:

7 (1) five members appointed by the governor,
8 subject to confirmation by the senate, including at least one
9 child welfare professional and one representative of a child
10 advocacy organization; and

11 (2) four members appointed by the legislature,
12 one each by the speaker of the house of representatives, the
13 minority floor leader of the house of representatives, the
14 president pro tempore of the senate and the minority floor
15 leader of the senate.

16 C. Members shall serve four-year terms; provided
17 that the initial terms shall be staggered, as determined by
18 lot, with three members appointed for terms of two years, three
19 members appointed for terms of three years and the remaining
20 three members appointed for terms of four years. Thereafter,
21 members shall be appointed to terms of four years.

22 D. The authority shall:

23 (1) receive and investigate complaints
24 regarding the handling of child abuse, neglect and foster care
25 cases by the department and other child welfare agencies;

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1 (2) monitor and evaluate the department's
2 policies and practices to ensure compliance with federal and
3 state child welfare laws;

4 (3) make recommendations to the governor, the
5 legislature and the department to improve child welfare
6 practices and address systemic issues;

7 (4) issue public reports on the authority's
8 findings, including annual reports on trends in child welfare
9 complaints and recommendations for policy reforms;

10 (5) access records and data, including the
11 department's case files, court records and law enforcement
12 reports, subject to confidentiality safeguards;

13 (6) provide education and outreach to
14 families, children and mandated reporters regarding child
15 welfare rights and responsibilities; and

16 (7) operate a toll-free hotline and electronic
17 communication portal to receive complaints.

18 SECTION 4. [NEW MATERIAL] DIRECTOR AND STAFF.--

19 A. The authority shall be led by a director who
20 shall be appointed by the members of the authority and serve a
21 six-year term, subject to removal for cause by a two-thirds'
22 vote of the members of the authority or at the discretion of
23 the governor.

24 B. The director shall hire staff that include
25 investigators, attorneys and policy analysts, as necessary.

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1 C. Staff shall have expertise in child welfare,
2 juvenile law or social services.

3 SECTION 5. [NEW MATERIAL] COMPLAINT PROCESS.--

4 A. The authority shall establish a transparent
5 complaint process for individuals to report concerns regarding
6 child protective services.

7 B. Complaints may be submitted anonymously and
8 shall be investigated promptly.

9 C. Nothing in the provisions of this section grants
10 subpoena power to the authority for purposes of investigating a
11 complaint.

12 D. The authority shall maintain communication with
13 the complainant until the complaint is resolved.

14 E. Upon resolution of a complaint, the authority
15 shall report its findings to the department and to the
16 complainant to the extent allowable by law within ten days.

17 SECTION 6. [NEW MATERIAL] REPORTING AND ACCOUNTABILITY.--

18 A. The authority shall submit an annual report to
19 the department, the governor and the legislature detailing
20 findings, case trends and recommendations.

21 B. The authority shall hold quarterly public
22 meetings to discuss child welfare concerns and policy
23 proposals.

24 C. At the discretion of the governor or the
25 legislative finance committee, the state auditor shall conduct

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1 or cause to be conducted a performance and fiscal audit of the
2 department.

3 SECTION 7. [NEW MATERIAL] CONFIDENTIALITY AND LEGAL
4 PROTECTIONS.--The authority shall maintain confidentiality of
5 records and protect the identity of complainants, except when
6 necessary to conduct an investigation or disclosure is required
7 by law. Authority staff shall be granted whistleblower
8 protections and immunity from civil liability for actions taken
9 in good faith while performing their duties.

10 SECTION 8. Section 32A-2-32 NMSA 1978 (being Laws 1993,
11 Chapter 77, Section 61, as amended) is amended to read:

12 "32A-2-32. CONFIDENTIALITY--RECORDS.--

13 A. [~~All~~] Records pertaining to the child, including
14 all related social records, behavioral health screenings,
15 diagnostic evaluations, psychiatric reports, medical reports,
16 social studies reports, records from local detention
17 facilities, client-identifying records from facilities for the
18 care and rehabilitation of delinquent children, pre-parole or
19 supervised release reports and supervision histories obtained
20 by the juvenile probation office, parole officers and the
21 juvenile public safety advisory board or in possession of the
22 department, are confidential and shall not be disclosed
23 directly or indirectly to the public.

24 B. The disclosure of all mental health and
25 developmental disability records shall be made pursuant to the

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1 Children's Mental Health and Developmental Disabilities Act.

2 C. The records described in Subsection A of this
3 section, other than mental health and developmental disability
4 records, shall be disclosed only to any of the following;
5 provided that the agency, person or institution receiving
6 information shall not re-release the information without proper
7 consent or as otherwise provided by law:

8 (1) court personnel;

9 (2) the child's court appointed special
10 advocates;

11 (3) the child's attorney or guardian ad litem
12 representing the child in any matter;

13 (4) department personnel;

14 (5) corrections department personnel;

15 (6) law enforcement officials when the request
16 is related to the investigation of a crime;

17 (7) district attorneys or children's court
18 attorneys;

19 (8) a state government social services agency
20 in any state;

21 (9) those persons or entities of a child's
22 Indian tribe specifically authorized to inspect such records
23 pursuant to the federal Indian Child Welfare Act of 1978 or any
24 regulations promulgated under that act;

25 (10) tribal juvenile justice system and social

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1 service representatives;

2 (11) 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 when the disclosure of the information is necessary for the
6 child's treatment or care and shall include only that
7 information necessary to provide for treatment and care of the
8 child;

9 (12) school personnel involved with the child
10 if the records concern the child's educational needs, but shall
11 only include that information necessary to provide for the
12 child's educational planning and needs;

13 (13) a health care or mental health
14 professional involved in the evaluation or treatment of the
15 child, the child's parents, guardians or custodian or other
16 family members;

17 (14) representatives of the protection and
18 advocacy system;

19 (15) the child's parent, guardian or legal
20 custodian when the disclosure of the information is necessary
21 for the child's treatment or care and shall include only that
22 information necessary to provide for the treatment or care of
23 the child;

24 (16) any other person or entity, by order of
25 the court, having a legitimate interest in the case or the work

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1 of the court who agrees not to otherwise release the records;
2 [~~and~~]

3 (17) the child, if fourteen years of age or
4 older; and

5 (18) the child protection authority and its
6 staff, pursuant to the requirements of the Abuse and Neglect
7 Act, if the records are needed for the purpose of implementing
8 the Child Protection Authority Act.

9 D. If disclosure of otherwise confidential records
10 is made to the child or any other person or entity pursuant to
11 a valid release of information signed by the child, all victim
12 or witness identifying information shall be redacted or
13 otherwise deleted.

14 E. Whoever intentionally and unlawfully releases
15 any information or records closed to the public pursuant to
16 this section or releases or makes other unlawful use of records
17 in violation of this section is guilty of a petty misdemeanor.

18 F. The department shall promulgate rules for
19 implementing disclosure of records pursuant to this section and
20 in compliance with state and federal law and the Children's
21 Court Rules."

22 SECTION 9. A new section of the Children's Code is
23 enacted to read:

24 "[NEW MATERIAL] NOTIFICATION OF CHILD PROTECTION
25 AUTHORITY.--The department shall notify all children placed in
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1 the custody of the department, receiving services under the
2 supervision of the department, referred to the department or
3 whose parents, guardians or custodians are under investigation
4 by the department and the children's parents, guardians, foster
5 parents or identified fictive kin of the existence of the child
6 protection authority, the child protection authority's purpose,
7 function, toll-free hotline and electronic communication
8 portal."