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HOUSE BILL 769

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO JUVENILE JUSTICE; ESTABLISHING MINIMUM PAROLE PERIODS; AUTHORIZING CERTAIN INDIVIDUALS TO REVIEW AND COPY LAW ENFORCEMENT RECORDS PERTAINING TO A CHILD; AMENDING SECTIONS OF THE CHILDREN'S CODE.

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

Section 1. Section 32A-2-23 NMSA 1978 (being Laws 1993, Chapter 77, Section 52, as amended) is amended to read:

"32A-2-23. LIMITATIONS ON DISPOSITIONAL JUDGMENTS-- MODIFICATION-- TERMINATION OR EXTENSION OF COURT ORDERS. --

A. A judgment transferring legal custody of an adjudicated delinquent child to an agency responsible for the care and rehabilitation of delinquent children divests the court of jurisdiction at the time of transfer of custody, unless the transfer of legal custody is for a commitment not

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1 exceeding fifteen days pursuant to the provisions of Section
2 32A-2-19 NMSA 1978, in which case the court retains
3 jurisdiction, and:

4 (1) the juvenile parole board pursuant to the
5 Juvenile Parole Board Act has the exclusive power to parole or
6 release the child;

7 (2) the supervision of a child after release
8 under Paragraph (1) of this subsection may be conducted by the
9 juvenile parole board in conjunction with the department or
10 any other suitable state agency or under any contractual
11 arrangements the juvenile parole board deems appropriate; and

12 (3) the period of time a child absconds from
13 parole or probation supervision shall toll all time limits for
14 the requirement of filing a petition to revoke probation or
15 parole and shall toll the computation of the period of
16 probation or parole supervision pursuant to the provisions of
17 the Delinquency Act.

18 B. A judgment of probation or protective
19 supervision shall remain in force for an indeterminate period
20 not to exceed the term of commitment from the date entered.

21 C. A child shall be released by an agency and
22 probation or supervision shall be terminated by juvenile
23 probation and parole services or the agency providing
24 supervision when it appears that the purpose of the order has
25 been achieved before the expiration of the period of the

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1 judgment. A release or termination and the reasons therefor
2 shall be reported promptly to the court in writing by the
3 releasing authority.

4 D. Prior to the expiration of a short- or long-
5 term commitment, as provided in Section 32A-2-19 NMSA 1978, a
6 child shall be released on parole for a minimum period of
7 ninety days to advance the child's reintegration into the
8 community.

9 ~~[D.]~~ E. Prior to the expiration of a short-
10 or long-term commitment, as provided for in Section 32A-2-19
11 NMSA 1978, the court may extend the judgment for additional
12 periods of one year until the child reaches the age of twenty-
13 one if the court finds that the extension is necessary to
14 safeguard the welfare of the child or the public interest.

15 ~~[E.]~~ F. Prior to the expiration of a judgment of
16 probation, the court may extend the judgment for an additional
17 period of one year until the child reaches the age of twenty-
18 one if the court finds that the extension is necessary to
19 protect the community or to safeguard the welfare of the
20 child.

21 ~~[F.]~~ G. The court may dismiss a motion if it finds
22 after preliminary investigation that the motion is without
23 substance. If the court is of the opinion that the matter
24 should be reviewed, it may, upon notice to all necessary
25 parties, proceed to a hearing in the manner provided for

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1 hearings on petitions alleging delinquency. The court may
2 terminate a judgment if it finds that the child is no longer
3 in need of care, supervision or rehabilitation, or it may
4 enter a judgment extending or modifying the original judgment
5 if it finds that action necessary to safeguard the child or
6 the public interest.

7 ~~[G.]~~ H. A child may make a motion to modify a
8 children's court or adult disposition within thirty days of
9 the judge's decision. If the court is of the opinion that the
10 matter should be reviewed, it may, upon notice to all
11 necessary parties, proceed to a hearing in the manner provided
12 for hearings on petitions alleging delinquency. "

13 Section 2. Section 32A-2-32 NMSA 1978 (being Laws 1993,
14 Chapter 77, Section 61) is amended to read:

15 "32A-2-32. CONFIDENTIALITY--RECORDS. --

16 A. All social records, including diagnostic
17 evaluation, psychiatric reports, medical reports, social
18 studies reports, pre-parole reports and supervision histories
19 obtained by the juvenile probation office, parole officers and
20 parole board or in possession of the department, are
21 privileged and shall not be disclosed directly or indirectly
22 to the public.

23 B. The records described in Subsection A of this
24 section shall be open to inspection only by:

25 (1) court personnel;

- 1 (2) court appointed special advocates;
- 2 (3) the child's guardian ad litem;
- 3 (4) department personnel;
- 4 (5) any local substitute care review board or
- 5 any agency contracted to implement local substitute care
- 6 review boards;
- 7 (6) corrections department personnel;
- 8 (7) law enforcement officials;
- 9 (8) district attorneys;
- 10 (9) any state government social services
- 11 agency in any state;
- 12 (10) those persons or entities of a child's
- 13 Indian tribe specifically authorized to inspect such records
- 14 pursuant to the federal Indian Child Welfare Act of 1978 or
- 15 any regulations promulgated thereunder;
- 16 (11) tribal juvenile justice system and
- 17 social service representatives;
- 18 (12) a foster parent, if the records are
- 19 those of a child currently placed with that foster parent or
- 20 of a child being considered for placement with that foster
- 21 parent when the records concern the social, medical,
- 22 psychological or educational needs of the child;
- 23 (13) school personnel involved with the child
- 24 if the records concern the child's social or educational
- 25 needs;

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1 (14) health care or mental health
2 professionals involved in the evaluation or treatment of the
3 child, the child's parents, guardians or custodian or other
4 family members;

5 (15) representatives of the protection and
6 advocacy system, pursuant to the provisions of the federal
7 Developmental Disabilities Assistance and Bill of Rights Act
8 and the federal Protection and Advocacy for Mentally Ill
9 Individuals Amendments Act of 1991; and

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

13 C. Upon satisfactory verification of his identity,
14 a parent, guardian or custodian of a child shall, in person,
15 through counsel or through an authorized agent, be entitled to
16 review and obtain a copy of all law enforcement records
17 pertaining to the child.

18 [~~C.~~] D. Whoever intentionally and unlawfully
19 releases any information or records closed to the public
20 pursuant to this section or releases or makes other unlawful
21 use of records in violation of this section is guilty of a
22 petty misdemeanor. "