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SENATE BILL 41

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO EMERGENCY PLACEMENT OF CHILDREN; ALLOWING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO CONDUCT FEDERAL CRIMINAL HISTORY RECORD CHECKS OF ADULTS RESIDING IN THE HOME; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] EMERGENCY PLACEMENT--CRIMINAL HISTORY RECORD CHECK.--

A. In an emergency placement situation, when a child must be placed in a home due to the absence of parents or custodians, the department shall request that a criminal justice agency perform a federal name-based criminal history record check of each adult residing in the home. The results

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1 of the name-based check shall be provided to the department,
2 and, within fifteen days from the date that the name-based
3 check was conducted, the department shall provide a complete
4 set of each adult resident's fingerprints to the department of
5 public safety for immediate submission to the federal bureau of
6 investigation. The department of public safety shall
7 positively identify the fingerprint subject, if possible, and
8 forward the fingerprints to the federal bureau of investigation
9 within fifteen calendar days from the date that the name-based
10 search was conducted. The child shall be removed from the home
11 immediately if any adult resident fails to provide fingerprints
12 or written permission to perform a federal criminal history
13 record check when requested to do so.

14 B. When placement of a child in a home is denied as
15 a result of a name-based criminal history record check of a
16 resident and the resident contests that denial, the resident
17 shall, within five business days, submit to the department a
18 complete set of the resident's fingerprints with written
19 permission allowing the department to forward the fingerprints
20 to the department of public safety for submission to the
21 federal bureau of investigation.

22 C. The department of public safety may charge a
23 reasonable fee for processing a fingerprint-based criminal
24 history record check.

25 D. As used in this section, "emergency placement"

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1 refers to those limited instances when the department is
2 placing a child in the home of private individuals, including
3 neighbors, friends or relatives, as a result of sudden
4 unavailability of the child's primary caretaker."

5 SECTION 2. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.

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