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SENATE BILL 28

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO FOSTER CARE; REQUIRING A CHILD TAKEN INTO
PROTECTIVE CUSTODY BY THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO BE PLACED WITH A RELATIVE OF THE CHILD WHEN A
RELATIVE IS AVAILABLE TO PROVIDE FOSTER CARE; REQUIRING THE
CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO MAKE REASONABLE
EFFORTS TO LOCATE A RELATIVE OF THE CHILD TO PROVIDE FOSTER
CARE; REQUIRING RELATIVES PROVIDING FOSTER CARE TO INITIATE
LICENSING PROCEDURES WITHIN THREE DAYS OF ACCEPTING CUSTODY OF
A CHILD.

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

SECTION 1. Section 32A-3B-6 NMSA 1978 (being Laws 1993,
Chapter 77, Section 78) is amended to read:

"32A-3B-6. PLACE OF CUSTODY.--

A. Unless a child from a family in need of services

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underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 who has been placed in department custody is also alleged or
2 adjudicated delinquent:

3 (1) the child shall not be held in a jail or
4 other facility intended or used for the incarceration of adults
5 charged with criminal offenses or for the detention of children
6 alleged to be delinquent children [~~but may be placed in the~~
7 ~~following community-based shelter-care facilities~~]; and

8 (2) there shall be a preference that the child
9 be placed in the home of a relative of the child when a
10 relative is available to provide foster care; provided that:

11 (a) placement with a relative is in the
12 best interest of the child;

13 (b) the relative signs a sworn statement
14 that the relative will not return the child to or allow
15 unsupervised visits with the parent, guardian or custodian who
16 is alleged to have committed the abuse or neglect until
17 otherwise directed by the department or the court; and

18 (c) within three days of accepting
19 custody of the child, the relative completes an application
20 form for licensure to operate a foster home pursuant to the
21 Children's Code.

22 B. The department shall make reasonable efforts to
23 locate a relative of the child to provide foster care. If a
24 relative is not available to provide foster care, the child may
25 be placed in:

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underscored material = new
[bracketed material] = delete

1 ~~[A.]~~ (1) a licensed ~~[foster-care]~~ foster home
2 or any home authorized under the law for the provision of
3 foster care or group care or use as a protective residence;

4 ~~[B.]~~ (2) a facility operated by a licensed
5 child welfare services agency; or

6 ~~[C.]~~ (3) a facility provided for in the
7 Children's Shelter Care Act ~~[or~~

8 ~~D. in a home of a relative of the child, when the~~
9 ~~relative provides the court with a sworn statement that the~~
10 ~~relative will not return the child to the dangerous~~
11 ~~surroundings that prompted protective custody for the child]."~~

12 SECTION 2. Section 32A-4-8 NMSA 1978 (being Laws 1993,
13 Chapter 77, Section 102) is amended to read:

14 "32A-4-8. PLACE OF TEMPORARY CUSTODY.--

15 A. Unless a child alleged to be neglected or abused
16 is also alleged or adjudicated delinquent:

17 (1) the child shall not be held in a jail or
18 other facility intended or used for the incarceration of adults
19 charged with criminal offenses or for the detention of children
20 alleged to be delinquent children ~~[but may be placed in the~~
21 ~~following community-based shelter-care facilities:~~

22 ~~A. with a relative of the child who is willing to~~
23 ~~guarantee to the court that the child will not be returned to~~
24 ~~the alleged abusive or neglectful parent, guardian or custodian~~
25 ~~without the prior approval of the court]; and~~

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underscored material = new
[bracketed material] = delete

1 (2) there shall be a preference that the child
2 be placed in the home of a relative of the child when a
3 relative is available to provide foster care; provided that:

4 (a) placement with a relative is in the
5 best interest of the child;

6 (b) the relative signs a sworn statement
7 that the relative will not return the child to or allow
8 unsupervised visits with the parent, guardian or custodian who
9 is alleged to have committed the abuse or neglect, unless
10 otherwise directed by the department or the court; and

11 (c) within three days of accepting
12 custody of the child, the relative completes an application
13 form for licensure to operate a foster home pursuant to the
14 Children's Code.

15 B. The department shall make reasonable efforts to
16 locate a relative of the child to provide foster care. If a
17 relative is not available to provide foster care, the child may
18 be placed in:

19 ~~[B-]~~ (1) a licensed foster home or any home
20 authorized under the law for the provision of foster care or
21 group care or use as a protective residence;

22 ~~[G-]~~ (2) a facility operated by a licensed
23 child welfare services agency; or

24 ~~[D-]~~ (3) a facility provided for in the
25 Children's Shelter Care Act."

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