

HOUSE BILL 337

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT;  
PROVIDING DEFINITIONS; EXPANDING DEPARTMENT DUTIES ON  
CONDUCTING BACKGROUND CHECKS.

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

SECTION 1. Section 9-29-2 NMSA 1978 (being Laws 2019,  
Chapter 48, Section 2) is amended to read:

"9-29-2. DEFINITIONS.--As used in the Early Childhood  
Education and Care Department Act:

A. "child" means a person from birth to age five  
or, where the context otherwise provides, to age eight or  
thirteen;

B. "child care facility licensing" or "licensure"  
means the process the department follows to license the  
following types of child care programs: child care centers,

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1 group child care homes, family child care homes and out-of-  
2 school time programs;

3 C. "child care home program" means the program  
4 developed by the department to license or register homes or  
5 residences to provide child care services to children,  
6 including those defined in Section 32A-23C-2 NMSA 1978;

7 ~~[B.]~~ D. "department" means the early childhood  
8 education and care department; ~~and~~

9 E. "department-contracted providers" means  
10 individuals or entities that enter into contracts with the  
11 department to provide child care services, federal Individuals  
12 with Disabilities Education Act, Part C, early intervention  
13 services, home visiting services or pre-kindergarten services  
14 or those under contract with the department that have access to  
15 child and family personal and confidential information;

16 F. "registered home program" or "registration"  
17 means the program for an independent primary caregiver to  
18 register the independent primary caregiver's home or residence  
19 with the department to participate in the child and adult care  
20 food program or to participate in the child care assistance  
21 programs; and

22 ~~[G.]~~ G. "secretary" means the secretary of early  
23 childhood education and care."

24 **SECTION 2.** Section 9-29-8.1 NMSA 1978 (being Laws 2022,  
25 Chapter 30, Section 4) is amended to read:

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1 "9-29-8.1. CRIMINAL HISTORY INVESTIGATIONS--PROCEDURES--  
2 CONFIDENTIALITY--VIOLATION--PENALTY.--

3 A. To investigate the suitability of an applicant  
4 for licensure or registration as a child care facility or child  
5 care home programs or for employment or volunteering at a  
6 licensed child care facility or registered child care home  
7 program, including any facility or program that has primary  
8 custody of infants, toddlers and children for twenty hours or  
9 more per week, or staff members and volunteers of department-  
10 contracted providers, the department shall have access to  
11 criminal history records information furnished by the  
12 department of public safety and the federal bureau of  
13 investigation, subject to any restrictions imposed by federal  
14 law.

15 B. An applicant for a license or registration or  
16 for employment or volunteering shall undergo a state and  
17 national criminal history records check, and the applicant  
18 shall submit an electronic set of fingerprints to the  
19 department of public safety for that purpose. The department  
20 of public safety shall conduct a check of state criminal  
21 history records and forward the fingerprints to the federal  
22 bureau of investigation for a national criminal history records  
23 check to determine the existence and content of records of  
24 convictions and arrests in this state or other law enforcement  
25 jurisdictions and to generate a criminal history records check

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1 in accordance with rules of the department of public safety and  
2 regulations of the federal bureau of investigation. The  
3 department of public safety shall review the information  
4 obtained from the criminal history records check and shall  
5 compile and provide that information to the early childhood  
6 education and care department. The early childhood education  
7 and care department shall use the information to investigate  
8 and determine whether an applicant is qualified to hold a  
9 license or an employment or volunteer position. The department  
10 shall promulgate rules for the investigation and determination  
11 of qualifications.

12 C. Criminal history information obtained by the  
13 department is confidential and shall be used only for the  
14 purpose of determining the suitability for licensure,  
15 employment or volunteer service and shall not be disclosed to  
16 anyone other than public employees directly involved in the  
17 decision affecting the applicant.

18 D. A person who releases or discloses criminal  
19 history records or information contained in those records in  
20 violation of the provisions of this section is guilty of a  
21 misdemeanor and shall be sentenced in accordance with the  
22 provisions of Section 31-19-1 NMSA 1978."

23 SECTION 3. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2023.