

HOUSE BILL 461

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

INTRODUCED BY

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AN ACT

RELATING TO CHILDREN; ENACTING THE CHILDREN'S AND FAMILIES' RIGHTS ACT; ENACTING THE CHILD WELFARE INNOVATION CENTER ACT; MAKING AN APPROPRIATION.

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] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Children's and Families' Rights Act"."

SECTION 2. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES' RIGHTS--PURPOSE.--The purpose of the office of children's and families' rights is to provide independent and objective recommendations to the department to improve outcomes and well-

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1 being for foster children and to give a voice to children so  
2 that every child in foster care understands the child's rights  
3 and achieves the child's potential."

4 SECTION 3. A new section of the Children's Code is  
5 enacted to read:

6 "[NEW MATERIAL] DEFINITIONS.--As used in the Children's  
7 and Families' Rights Act:

8 A. "eligible adult" means an individual who meets  
9 the eligibility criteria for participation in the fostering  
10 connections program pursuant to Section 32A-26-3 NMSA 1978;

11 B. "grievance" means a complaint received by the  
12 department related to children and eligible adults in foster  
13 care and their families and resource families;

14 C. "independent" means the office has independence  
15 from the department to investigate grievances and complaints  
16 and to make findings and recommendations to the department; and

17 D. "office" means the office of children's and  
18 families' rights."

19 SECTION 4. A new section of the Children's Code is  
20 enacted to read:

21 "[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES'  
22 RIGHTS--CREATED--DUTIES.--

23 A. The "office of children's and families' rights"  
24 is created in the department.

25 B. The office shall:

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1 (1) administer the children's and families'  
2 grievance process;

3 (2) provide mediation services for disputed  
4 grievances;

5 (3) provide navigation services for children,  
6 youth and families to assist with information sharing and  
7 guidance to the department's services;

8 (4) provide civil rights consultation on cases  
9 for referral to the department; and

10 (5) recommend improvements to systemic issues  
11 adversely impacting the department.

12 C. The office shall contract with a nongovernmental  
13 legal firm to provide an independent audit of grievance trends  
14 and the grievance process. By July 1, 2024, and by July 1 of  
15 each year thereafter, the contracted nongovernmental legal firm  
16 shall provide an annual written report that includes the number  
17 and type of grievances and complaints by region, outcomes of  
18 grievances by region and recommendations for legislative and  
19 other policy reforms.

20 D. An individual who files a grievance pursuant to  
21 the Children's and Families' Rights Act shall not be precluded  
22 from pursuing other legal or equitable remedies."

23 SECTION 5. A new section of the Children's Code is  
24 enacted to read:

25 "[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES'

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1 RIGHTS--OPERATIONS.--

2 A. The office shall:

3 (1) independently investigate and respond to  
4 grievances and complaints; and

5 (2) make findings and recommendations to the  
6 department.

7 B. All salaries and other expenses of the office  
8 shall be paid by the department.

9 C. The office shall promulgate rules for the  
10 effective performance of the office's duties."

11 SECTION 6. A new section of the Children's Code is  
12 enacted to read:

13 "[NEW MATERIAL] PROVIDER ADVISORY COUNCIL--CREATED--  
14 MEMBERSHIP.--

15 A. The "provider advisory council" is created and  
16 is administratively attached to the office. The governor shall  
17 appoint the council to include representation from a cross-  
18 section of community service providers that support children  
19 and families through behavioral health services, child  
20 protective services and juvenile justice services.

21 B. The provider advisory council shall include  
22 seven members from the following service provider types:

23 (1) children's behavioral health;

24 (2) housing;

25 (3) special education;

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- 1 (4) domestic violence;
- 2 (5) family support;
- 3 (6) resource families;
- 4 (7) child advocacy centers;
- 5 (8) adult behavioral health;
- 6 (9) early intervention; and
- 7 (10) social work.

8 C. In appointing members, the governor shall ensure  
9 that the council reflects the racial, ethnic and linguistic  
10 diversity of the state and represents differing geographic  
11 regions, including tribal, rural and urban areas.

12 D. The terms of membership of the council shall be  
13 staggered, with one-half of the members serving two years and  
14 the remainder serving three years for the initial term, and  
15 after the initial term, members shall serve two-year terms.  
16 Members may serve up to two consecutive terms.

17 E. The provider advisory council shall:

- 18 (1) meet four times per year;
- 19 (2) review reports from the office;
- 20 (3) collect and communicate community service  
21 provider concerns and make recommendations regarding services  
22 provided under the direction of the department;
- 23 (4) provide recommendations to the department

24 on:

- 25 (a) ways to improve New Mexico's child

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1 welfare system;

2 (b) related policies and procedures of  
3 state agencies;

4 (c) improving provider engagement;

5 (d) identified areas of improvement for  
6 service provisions;

7 (e) improvements in cross-agency  
8 collaboration;

9 (f) workforce development issues;

10 (g) identified assets and gaps in  
11 service delivery; and

12 (h) administrative barriers to accessing  
13 provider services; and

14 (5) provide an annual report of all findings  
15 and recommendations to the secretary of children, youth and  
16 families and the office.

17 F. Members of the council shall receive per diem  
18 and mileage as provided in the Per Diem and Mileage Act."

19 SECTION 7. A new section of the Children's Code is  
20 enacted to read:

21 "[NEW MATERIAL] SHORT TITLE.--Sections 7 through 12 of  
22 this act may be cited as the "Child Welfare Innovation Center  
23 Act"."

24 SECTION 8. A new section of the Children's Code is  
25 enacted to read:

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1            "[NEW MATERIAL] CHILD WELFARE INNOVATION CENTER--  
2            CREATED--PURPOSE.--The "child welfare innovation center" is  
3            created as an independent center that seeks to strengthen the  
4            policies and practices that promote the well-being, safety and  
5            permanency of all children and youth. The center shall provide  
6            research-based, inclusive, culturally responsive, high-quality,  
7            outcome-based evaluations and solutions. The center shall use  
8            scientific approaches and evidence-based and evidence-informed  
9            practices to strengthen the capacity and sustainability of New  
10           Mexico's child welfare system at the local and state levels."

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

13            "[NEW MATERIAL] DEFINITIONS.--As used in the Child Welfare  
14            Innovation Center Act:

- 15                    A. "center" means the child welfare innovation  
16                    center;
- 17                    B. "director" means the director of the center;
- 18                    C. "office" means the office of children's and  
19                    families' rights; and
- 20                    D. "resource family" means the person named on the  
21                    license issued by the protective services division of the  
22                    department or a licensed child placement agency who is  
23                    authorized to care for children in foster care and includes  
24                    foster parents and preadoptive parents."

25            SECTION 10. A new section of the Children's Code is  
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1 enacted to read:

2 "[NEW MATERIAL] CHILD WELFARE INNOVATION CENTER--  
3 DESIGNATION--DUTIES.--

4 A. The department shall establish the center  
5 through a request for proposals process. The center shall have  
6 a primary focus on building system capacity to improve the  
7 well-being of and ensure vibrant futures for children, youth  
8 and their families and communities.

9 B. The center shall:

10 (1) advise the department to support,  
11 strengthen and enhance child welfare policies and practices;

12 (2) provide leadership for developing quality  
13 and performance improvement strategies and initiatives;

14 (3) conduct data-driven research and analysis  
15 of department programs and services and outcomes for children;

16 (4) recommend improvements to systemic issues  
17 impacting the protective services division and behavioral  
18 health divisions of the department;

19 (5) gather information from the department's  
20 current workforce to identify systemic workforce barriers and  
21 provide recommendations that will inform updates to the  
22 department's workforce plan;

23 (6) recommend improvements in legislative,  
24 administrative and fiscal state policy;

25 (7) collaborate with schools of social work to

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1 develop a pipeline of highly competent social workers  
2 specializing in public child welfare;

3 (8) appoint, compensate and hire staff and  
4 contract for services to carry out the purposes of the center;  
5 and

6 (9) advise the office on the operations,  
7 performance and strategies of the office in order to improve  
8 the rights of children, youth and their families.

9 C. By July 1, 2024, and by July 1 of each year  
10 thereafter, the center shall provide an annual written report  
11 for the prior calendar year that shall:

12 (1) include a summary of the center's findings  
13 and recommendations to improve the child welfare system at the  
14 state and local levels;

15 (2) be distributed electronically before July  
16 1 of each year to the governor, the department, the interim  
17 legislative health and human services committee and the  
18 administrative office of the courts; and

19 (3) be posted on the department's website  
20 within ten days of the report's submission to the governor.

21 D. The department shall issue a response to the  
22 center's annual report no later than ninety days after the  
23 department's receipt of the report and a follow-up report six  
24 months later."

25 SECTION 11. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] DIRECTOR--QUALIFICATIONS--DUTIES--HIRING--  
3 CENTER STAFF.--

4 A. There shall be a director of the center who  
5 shall be the administrative head of the center and shall be  
6 devoted full-time to the duties of the center. The director  
7 shall be appointed by the entity that is chosen through the  
8 request for proposals process to establish the center.

9 B. The director shall have the following  
10 qualifications:

11 (1) a master's degree in social work and a  
12 current license pursuant to the Social Work Practice Act; or

13 (2) an active license to practice law issued  
14 pursuant to rules promulgated by the supreme court; or

15 (3) a master's degree in public policy, public  
16 health or the equivalent thereof; and

17 (4) at least eight years of child welfare  
18 experience with an emphasis on child abuse and neglect and its  
19 prevention.

20 C. The director shall hire staff to carry out the  
21 duties of the center, including the review of cases for the  
22 purpose of improving practice and procedure."

23 SECTION 12. A new section of the Children's Code is  
24 enacted to read:

25 "[NEW MATERIAL] CHILD AND FAMILY ADVOCACY BOARDS--

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1 PURPOSE--CREATED--MEMBERSHIP--DUTIES.--

2 A. The federal Child Abuse Prevention and Treatment  
3 Act requires each state to create citizen review boards to meet  
4 quarterly and report annually on efforts to ensure that the  
5 state is following child protection requirements. There are  
6 created "child and family advocacy boards", the purpose of  
7 which is to examine specific cases to evaluate the extent to  
8 which the department is effectively discharging its child  
9 protection responsibilities.

10 B. Child and family advocacy boards are  
11 administratively attached to the center. The center shall  
12 provide appropriate staff and funding to support the child and  
13 family advocacy boards.

14 C. By July 1, 2024, and by July 1 of each year  
15 thereafter, child and family advocacy boards shall provide an  
16 annual report of all findings and recommendations to the  
17 secretary of children, youth and families and the director.  
18 The annual reports shall not contain confidential information.

19 D. Three child and family advocacy boards shall be  
20 established with five members per board appointed by the  
21 director. There shall be one board that shall review the  
22 department's compliance with the Indian Family Protection Act.  
23 A second board shall review critical incidents. The boards may  
24 review cases based on criteria established by the director.

25 E. Members shall serve three-year terms. The

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1 composition of each child and family advocacy board shall be  
2 broadly representative of the state and include members with  
3 expertise in the prevention and treatment of child abuse and  
4 neglect, such as parents, custodians, guardians or former  
5 foster youth.

6 F. A person or a relative of a person employed by  
7 the department or a district court shall not be a member of a  
8 child and family advocacy board.

9 G. Each child and family advocacy board shall meet  
10 at least once per quarter to review cases designated in  
11 accordance with policies established by the director.

12 H. Child and family advocacy boards shall:

13 (1) conduct case reviews in accordance with  
14 the provisions of the Children's Code, the Abuse and Neglect  
15 Act and rules promulgated by the department; and

16 (2) give the parties in a children's court  
17 case under review notice of a child and family advocacy board  
18 meeting related to that case and afford the parties an  
19 opportunity to participate fully in the child and family  
20 advocacy board meeting.

21 I. Members of child and family advocacy boards  
22 shall receive per diem and mileage as provided in the Per Diem  
23 and Mileage Act.

24 J. As used in this section, "critical incident"  
25 means:

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1 (1) a fatality, near fatality or serious  
2 bodily or emotional injury of a child who is in the custody of  
3 or receiving services from an executive agency or a constituent  
4 agency; or

5 (2) circumstances that result in a reasonable  
6 belief that an executive agency or a constituent agency failed  
7 in its duty to protect a child and, as a result, the child was  
8 at imminent risk of, or suffered, serious bodily or emotional  
9 injury or death."

10 SECTION 13. APPROPRIATION.--One million six hundred  
11 eleven thousand two hundred fifty-two dollars (\$1,611,252) is  
12 appropriated from the general fund to the children, youth and  
13 families department for expenditure in fiscal year 2024 to  
14 implement the provisions of the Children's and Families' Rights  
15 Act and the Child Welfare Innovation Center Act. Any  
16 unexpended or unencumbered balance remaining at the end of  
17 fiscal year 2024 shall revert to the general fund.

18 SECTION 14. REPEAL.--Sections 32A-8-1 through 32A-8-7  
19 NMSA 1978 (being Laws 1993, Chapter 77, Sections 203, 204 and  
20 206 through 209, as amended) are repealed.

21 SECTION 15. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2023.

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