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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 home program" means the program  
developed by the department to license or register homes or  
residences to provide child care services to children,  
including those defined in Section 32A-23C-2 NMSA 1978. A  
home may be registered or licensed pursuant to the Early  
Childhood Education and Care Act and through department  
rules;

C. "department" means the early childhood  
education and care department;

D. "department-contracted providers" means  
individuals or entities that enter into contracts with the  
department to provide child care services, federal

1 Individuals with Disabilities Education Act, Part C, early  
2 intervention services, home visiting services or pre-  
3 kindergarten services or those under contract with the  
4 department that have access to child and family personal and  
5 confidential information;

6 E. "licensed child care center" means a  
7 nonresidential facility that meets the applicable state and  
8 local building and safety codes and provides care and  
9 services to and supervision of children for less than twenty-  
10 four hours of any day;

11 F. "licensed child care facility" means a licensed  
12 child care center, licensed group child care home, licensed  
13 family child care home or licensed out-of-school time  
14 program;

15 G. "licensed family child care home" means a  
16 private dwelling in which the licensee resides and is the  
17 primary educator that provides care and services to and  
18 supervision of children as part of the child care home  
19 program for a period of less than twenty-four hours of any  
20 day for no more than six children;

21 H. "licensed group child care home" means a home  
22 in which the licensee resides and is the primary educator  
23 that provides care and services to and supervision of  
24 children as part of the child care home program for at least  
25 seven but no more than twelve children;

1 I. "licensed out-of-school time program" means a  
2 school-age person program at a specific site, usually a  
3 school or community center, offering on a consistent basis a  
4 variety of developmentally appropriate activities that are  
5 both educational and recreational;

6 J. "registered child care home" or "registration"  
7 means an independent primary caregiver who has registered the  
8 independent primary caregiver's home or residence with the  
9 department to provide care and services to and supervision of  
10 children as part of the child care home program for a period  
11 of less than twenty-four hours of any day for no more than  
12 four children. A registered child care home may participate  
13 in the child and adult care food program or participate in  
14 the child care assistance program; and

15 K. "secretary" means the secretary of early  
16 childhood education and care."

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

19 "9-29-8.1. CRIMINAL HISTORY INVESTIGATIONS--  
20 PROCEDURES--CONFIDENTIALITY--VIOLATION--PENALTY.--

21 A. To investigate the suitability of an applicant  
22 for licensure as a licensed child care facility, registration  
23 as a child care home program or for employment or  
24 volunteering at a licensed child care facility or registered  
25 child care home, including any facility or program that has

1 primary custody of infants, toddlers and children for twenty  
2 hours or more per week, or for employees and volunteers of  
3 department-contracted providers, the department shall have  
4 access to criminal history records information furnished by  
5 the department of public safety and the federal bureau of  
6 investigation, subject to any restrictions imposed by federal  
7 law.

8 B. An applicant for a child care facility license  
9 or registration or for employment or volunteering at a  
10 licensed child care facility or registered child care home or  
11 employees and volunteers of department-contracted providers  
12 shall undergo a state and national criminal history records  
13 check, and the applicant shall submit an electronic set of  
14 fingerprints to the department of public safety for that  
15 purpose. The department of public safety shall conduct a  
16 check of state criminal history records and forward the  
17 fingerprints to the federal bureau of investigation for a  
18 national criminal history records check to determine the  
19 existence and content of records of convictions and arrests  
20 in this state or other law enforcement jurisdictions and to  
21 generate a criminal history records check in accordance with  
22 rules of the department of public safety and regulations of  
23 the federal bureau of investigation. The department of  
24 public safety shall review the information obtained from the  
25 criminal history records check and shall compile and provide

1 that information to the early childhood education and care  
2 department. The early childhood education and care  
3 department shall use the information to investigate and  
4 determine whether an applicant is qualified to hold a license  
5 or an employment or volunteer position. The department shall  
6 promulgate rules for the investigation and determination of  
7 qualifications.

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

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

19 SECTION 3. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2023. \_\_\_\_\_

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