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AN ACT

RELATING TO CHILDREN; REVISING THE CHILDREN'S CODE; EXTENDING
THE PERIOD FOR FILING A PETITION AND PROVIDING NOTICE;
RESTRICTING THE RETURN OF A CHILD IF TAKEN INTO CUSTODY MORE
THAN ONCE IN SIX MONTHS.

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

SECTION 1. Section 32A-4-4 NMSA 1978 (being Laws 1993,
Chapter 77, Section 98, as amended) is amended to read:

"32A-4-4. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY.--

A. Reports alleging neglect or abuse shall be
referred to the department, which shall conduct an
investigation to determine the best interests of the child
with regard to any action to be taken. The name and
information regarding the person making the report shall not
be disclosed absent the consent of the informant or a
court order.

B. If a report alleging neglect or abuse meets the
criteria established pursuant to Section 32A-4-4.1 NMSA 1978,
the department may assign the case to the multilevel response
system.

C. During the investigation of a report alleging
neglect or abuse, the matter may be referred to another
appropriate agency and conferences may be conducted for the
purpose of effecting adjustments or agreements that will

1 obviate the necessity for filing a petition. A
2 representative of the department shall, at the initial time
3 of contact with the party subject to the investigation,
4 advise the party of the reports or allegations made, in a
5 manner that is consistent with laws protecting the rights of
6 the informant. The parties shall be advised of their basic
7 rights and no party may be compelled to appear at any
8 conference, to produce any papers or to visit any place. The
9 investigation shall be completed within a reasonable period
10 of time from the date the report was made.

11 D. After completion of the investigation on a
12 neglect or abuse report, the department shall either
13 recommend or refuse to recommend the filing of a petition.

14 E. When a child is taken into custody, the
15 department shall file a petition within three days, unless
16 the provisions of Subsection F of Section 32A-4-7 NMSA 1978
17 apply, in which case the petition shall be filed within five
18 days.

19 F. When the department files a petition, it shall
20 simultaneously provide to the office of family representation
21 and advocacy, and if a child is an Indian child, to the
22 child's Indian nation, tribe or pueblo:

23 (1) the petition;

24 (2) the name, telephone numbers and
25 addresses of each respondent; and

1 (3) the names, dates of birth and placement
2 information for each child who is a subject of the petition,
3 including:

4 (a) the type of placement; and

5 (b) the name, telephone number and
6 address for the person or entity that holds the license for
7 each child's placement.

8 G. If a petition is not filed in a timely manner,
9 the child shall be released to the child's parent, guardian
10 or custodian."

11 SECTION 2. Section 32A-4-7 NMSA 1978 (being Laws 1993,
12 Chapter 77, Section 101, as amended) is amended to read:

13 "32A-4-7. RELEASE OR DELIVERY FROM CUSTODY.--

14 A. A person taking a child into custody shall,
15 with all reasonable speed:

16 (1) release the child to the child's parent,
17 guardian or custodian and issue verbal counsel or warning as
18 may be appropriate; or

19 (2) deliver the child to the department or,
20 in the case of a child who is believed to be suffering from a
21 serious physical or mental condition or illness that requires
22 prompt treatment or diagnosis, deliver the child to a medical
23 facility. If a law enforcement officer delivers a child to a
24 medical facility, the officer shall immediately notify the
25 department that the child has been placed in the department's

1 legal custody.

2 B. When an alleged neglected or abused child is
3 delivered to the department, a department caseworker shall
4 review the need for placing the child in custody and shall
5 release the child from custody unless custody is appropriate
6 or has been ordered by the court. When a child is delivered
7 to a medical facility, a department caseworker shall review
8 the need for retention of custody within a reasonable time
9 after delivery of the child to the facility and shall release
10 the child from custody unless custody is appropriate or has
11 been ordered by the court.

12 C. If a child is placed in the legal custody of
13 the department and is not released to the child's parent,
14 guardian or custodian, the department shall give written
15 notice thereof as soon as possible, and in no case later than
16 twenty-four hours, to the child's parent, guardian or
17 custodian together with a statement of the reason for taking
18 the child into custody.

19 D. Reasonable efforts shall be made to prevent or
20 eliminate the need for removing the child from the child's
21 home, with the paramount concern being the child's health and
22 safety. In all cases when a child is taken into custody, the
23 child shall be released to the child's parent, guardian or
24 custodian, unless the department files a petition within
25 three days from the date that the child was taken into

1 custody.

2 E. The department may release the child at any
3 time within the three-day period after the child was taken
4 into custody if it is determined by the department that
5 release is appropriate or if release has been ordered by the
6 court.

7 F. If a child that has been taken into custody and
8 released to the child's parent, guardian or custodian is taken
9 into custody again within one year of having been taken into
10 custody, the child shall not be released from custody until a
11 department review is conducted, in consultation with the
12 children's court managing attorney, to review the child's case
13 and documents and determine whether the child should be
14 released to the child's parent, guardian or custodian or if it
15 is in the best interest of the child to file a petition
16 alleging neglect or abuse. The department's review shall be
17 conducted by a person above the level of supervisor who has
18 been authorized by the secretary of children, youth and
19 families to review such cases. If the secretary has not
20 authorized anyone to review such cases, the department's
21 review shall be conducted by the director of the protective
22 services division of the department. The three-day deadline
23 for filing the petition pursuant to Subsections D and E of
24 this section is extended to five days when the child's case is
25 reviewed pursuant to this subsection."

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