

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 343

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CHILDREN; ENHANCING THE STATE PROGRAM ADMINISTERED PURSUANT TO THE FEDERAL COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2016; MOVING THE PROGRAM FROM THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE DEPARTMENT OF HEALTH; AMENDING REQUIREMENTS FOR PLANS OF SAFE CARE; PROVIDING FOR RULEMAKING.

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

SECTION 1. Section 32A-1-4 NMSA 1978 (being Laws 1993,

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Chapter 77, Section 13, as amended) is amended to read:

"32A-1-4. DEFINITIONS.--As used in the Children's Code:

A. "active efforts" means efforts that are affirmative, active, thorough and timely and that represent a higher standard of conduct than reasonable efforts;

B. "adult" means a person who is eighteen years of age or older;

C. "child" means a person who is less than eighteen years old;

D. "council" means the substitute care advisory council established pursuant to Section 32A-8-4 NMSA 1978;

E. "court", when used without further qualification, means the children's court division of the district court and includes the judge, special master or commissioner appointed pursuant to the provisions of the Children's Code or supreme court rule;

F. "court-appointed special advocate" means a person appointed pursuant to the provisions of the Children's Court Rules to assist the court in determining the best interests of the child by investigating the case and submitting a report to the court;

G. "custodian" means an adult with whom the child lives who is not a parent or guardian of the child;

H. "department" means the children, youth and families department, unless otherwise specified;

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I. "disproportionate minority contact" means the involvement of a racial or ethnic group with the criminal or juvenile justice system at a proportion either higher or lower than that group's proportion in the general population;

J. "federal Indian Child Welfare Act of 1978" means the federal Indian Child Welfare Act of 1978, as that act may be amended or its sections renumbered;

K. "foster parent" means a person, including a relative of the child, licensed or certified by the department or a child placement agency to provide care for children in the custody of the department or agency;

L. "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

M. "guardian ad litem" means an attorney appointed by the children's court to represent and protect the best interests of the child in a case; provided that no party or employee or representative of a party to the case shall be appointed to serve as a guardian ad litem;

N. "Indian" means, whether an adult or child, a person who is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian

tribe;

O. "Indian child" means an Indian person, or a person whom there is reason to know is an Indian person, under

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eighteen years of age, who is neither:

- (1) married; or
- (2) emancipated;

P. "Indian child's tribe" means:

- (1) the Indian tribe in which an Indian child is a member or eligible for membership; or
- (2) in the case of an Indian child who is a member or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts;

Q. "Indian custodian" means an Indian who, pursuant to tribal law or custom or pursuant to state law:

- (1) is an adult with legal custody of an Indian child; or
- (2) has been transferred temporary physical care, custody and control by the parent of the Indian child;

R. "Indian tribe" means an Indian nation, tribe, pueblo or other band, organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including an Alaska native village as defined in 43 U.S.C. Section 1602(c) or a regional corporation as defined in 43 U.S.C. Section 1606. For the purposes of notification to and communication with a tribe as required in the Indian Family Protection Act, "Indian tribe" also includes those tribal officials and staff who are

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responsible for child welfare and social services matters;

S. "judge", when used without further qualification, means the judge of the court;

T. "legal custody" means a legal status created by order of the court or other court of competent jurisdiction or by operation of statute that vests in a person, department or agency the right to determine where and with whom a child shall live; the right and duty to protect, train and discipline the child and to provide the child with food, shelter, personal care, education and ordinary and emergency medical care; the right to consent to major medical, psychiatric, psychological and surgical treatment and to the administration of legally prescribed psychotropic medications pursuant to the Children's Mental Health and Developmental Disabilities Act; and the right to consent to the child's enlistment in the armed forces of the United States;

U. "member" or "membership" means a determination made by an Indian tribe that a person is a member of or eligible for membership in that Indian tribe;

V. "parent" or "parents" means a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child or a person who has lawfully adopted an Indian child pursuant to state law or tribal law or tribal custom;

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W. "permanency plan" means a determination by the court that the child's interest will be served best by:

- (1) reunification;
- (2) placement for adoption after the parents' rights have been relinquished or terminated or after a motion has been filed to terminate parental rights;
- (3) placement with a person who will be the child's permanent guardian;
- (4) placement in the legal custody of the department with the child placed in the home of a fit and willing relative; or
- (5) placement in the legal custody of the department under a planned permanent living arrangement;

X. "person" means an individual or any other form of entity recognized by law;

Y. "plan of safe care" means a written plan created by a health care professional intended to ensure the immediate and ongoing safety and well-being of a substance-exposed newborn, or to provide prenatal or perinatal support to a pregnant person dealing with substance use disorder, by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members or caregivers to the extent those treatment needs are relevant to the safety of the child;

Z. "preadoptive parent" means a person with whom a

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child has been placed for adoption;

AA. "protective supervision" means the right to visit the child in the home where the child is residing, inspect the home, transport the child to court-ordered diagnostic examinations and evaluations and obtain information and records concerning the child;

BB. "relative" means a person related to another person:

(1) by blood within the fifth degree of consanguinity or through marriage by the fifth degree of affinity; or

(2) with respect to an Indian child, as established or defined by the Indian child's tribe's custom or law;

CC. "reservation" means:

(1) "Indian country" as defined in 18 U.S.C. Section 1151;

(2) any lands to which the title is held by the United States in trust for the benefit of an Indian tribe or individual; or

(3) any lands held by an Indian tribe or individual subject to a restriction by the United States against alienation;

DD. "reunification" means either a return of the child to the parent or to the home from which the child was

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removed or a return to the noncustodial parent;

EE. "secretary" means the United States secretary of the interior;

FF. "substance-exposed newborn" means an infant under the age of one who has been prenatally exposed to a controlled substance, including a prescribed or non-prescribed drug, or alcohol that may affect the infant's health or development;

~~[FF.]~~ GG. "tribal court" means a court with jurisdiction over child custody proceedings that is either a court of Indian offenses, a court established and operated under the law or custom of an Indian tribe or any other administrative body that is vested by an Indian tribe with authority over child custody proceedings;

~~[GG.]~~ HH. "tribal court order" means a document issued by a tribal court that is signed by an appropriate authority, including a judge, governor or tribal council member, and that orders an action that is within the tribal court's jurisdiction; and

~~[HH.]~~ II. "tribunal" means any judicial forum other than the court."

SECTION 2. Section 32A-3A-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 64, as amended) is amended to read:

"32A-3A-2. DEFINITIONS.--As used in the Voluntary Placement and Family Services Act:

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A. "birthing facility" means a hospital, clinic, birthing center or other location where a pregnant person gives birth to a baby with assistance by a health care provider;

B. "CARA navigator" means a professional employed by the department of health to provide intensive case management linking families to resources needed to support health and safety within a family. A "CARA navigator" collaborates with families, hospitals, community providers and managed care organizations to identify and engage the best support systems for each family with a plan of safe care;

C. "care coordinator" means a person assigned to a newborn and the newborn's biological parents by a managed care organization, private insurance or the children's medical services of the family health bureau of the public health division of the department of health, to coordinate the care and services that the newborn or newborn's biological parents need;

~~[A.]~~ D. "child or family in need of family services" means a family:

- (1) whose child's behavior endangers the child's health, safety, education or well-being;
- (2) whose child is excessively absent from public school as defined in the Attendance for Success Act;
- (3) whose child is absent from the child's place of residence for twenty-four hours or more without the

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consent of the parent, guardian or custodian;

(4) in which the parent, guardian or custodian of a child refuses to permit the child to live with the parent, guardian or custodian; or

(5) in which the child refuses to live with the child's parent, guardian or custodian;

E. "family assessment" means a comprehensive assessment prepared by a CARA navigator during a home visit to determine the needs of a child and the child's parents, relatives, guardians or caretakers, including an assessment of the likelihood of:

(1) imminent danger to the child's well-being;

(2) the child becoming an abused child or a neglected child; and

(3) the strengths and needs of the child's family members, including parents, relatives, guardians or caretakers, with respect to providing for the health and safety of the child;

~~[B.]~~ F. "family services" means services that address specific needs of the child or family;

~~[G.]~~ G. "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

~~[D.]~~ H. "guardianship assistance agreement" means a written agreement entered into by the prospective guardian and the department or Indian tribe prior to the establishment of

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the guardianship by a court;

[E-] I. "guardianship assistance payments" means payments made by the department to a kinship guardian or successor guardian on behalf of a child pursuant to the terms of a guardianship assistance agreement;

[F-] J. "guardianship assistance program" means the financial subsidy program provided for in the Voluntary Placement and Family Services Act;

[G-] K. "kinship" means the relationship that exists between a child and a relative of the child, a godparent, a member of the child's tribe or clan or an adult with whom the child has a significant bond;

L. "managed care organization" means a person or entity eligible to enter into risk-based prepaid capitation agreements with the health care authority to provide health care and related services;

[H-] M. "subsidized guardianship" means a guardianship that meets subsidy eligibility criteria pursuant to the Voluntary Placement and Family Services Act; and

[I-] N. "voluntary placement agreement" means a written agreement between the department and the parent or guardian of a child."

SECTION 3. Section 32A-3A-13 NMSA 1978 (being Laws 2019, Chapter 190, Section 3) is amended to read:

"32A-3A-13. PLAN OF SAFE CARE--~~[GUIDELINES]~~

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REQUIREMENTS--CREATION--DATA SHARING--TRAINING.--

~~[A. By January 1, 2020, the department, in consultation with medicaid managed care organizations, private insurers, the office of superintendent of insurance, the human services department and the department of health, shall develop rules to guide hospitals, birthing centers, medical providers, medicaid managed care organizations and private insurers in the care of newborns who exhibit physical, neurological or behavioral symptoms consistent with prenatal drug exposure, withdrawal symptoms from prenatal drug exposure or fetal alcohol spectrum disorder.~~

~~B. Rules shall include guidelines to hospitals, birthing centers, medical providers, medicaid managed care organizations and private insurers regarding:~~

~~(1) participation in the discharge planning process, including the creation of a written plan of care that shall be sent to:~~

~~(a) the child's primary care physician;~~

~~(b) a medicaid managed care organization~~

~~insurance plan care coordinator who will monitor the implementation of the plan of care after discharge, if the child is insured, or to a care coordinator in the children's medical services of the family health bureau of the public health division of the department of health who will monitor the implementation of the plan of care after discharge, if the~~

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~~child is uninsured; and~~

~~(c) the child's parent, relative, guardian or caretaker who is present at discharge who shall receive a copy upon discharge. The plan of care shall be signed by an appropriate representative of the discharging hospital and the child's parent, relative, guardian or caretaker who is present at discharge;~~

~~(2) definitions and evidence-based screening tools, based on standards of professional practice, to be used by health care providers to identify a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder;~~

~~(3) collection and reporting of data to meet federal and state reporting requirements, including the following:~~

~~(a) by hospitals and birthing centers to the department when: 1) a plan of care has been developed; and 2) a family has been referred for a plan of care;~~

~~(b) information pertaining to a child born and diagnosed by a health care professional as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder; and~~

~~(c) data collected by hospitals and birthing centers for use by the children's medical services of the family health bureau of the public health division of the~~

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~~department of health in epidemiological reports and to support and monitor a plan of care. Information reported pursuant to this subparagraph shall be coordinated with communication to insurance carrier care coordinators to facilitate access to services for children and parents, relatives, guardians or caregivers identified in a plan of care;~~

~~(4) identification of appropriate agencies to be included as supports and services in the plan of care, based on an assessment of the needs of the child and the child's relatives, parents, guardians or caretakers, performed by a discharge planner prior to the child's discharge from the hospital or birthing center, which may include:~~

- ~~(a) public health agencies;~~
- ~~(b) maternal and child health agencies;~~
- ~~(c) home visitation programs;~~
- ~~(d) substance use disorder prevention and treatment providers;~~
- ~~(e) mental health providers;~~
- ~~(f) public and private children and youth agencies;~~
- ~~(g) early intervention and developmental services;~~
- ~~(h) courts;~~
- ~~(i) local education agencies;~~
- ~~(j) managed care organizations; or~~

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~~(k) hospitals and medical providers; and
(5) engagement of the child's relatives,
parents, guardians or caretakers in order to identify the need
for access to treatment for any substance use disorder or other
physical or behavioral health condition that may impact the
safety, early childhood development and well-being of the
child.]~~

A. A birthing facility shall participate in the
discharge planning process, including the creation of a written
plan of safe care that shall be created prior to a substance-
exposed newborn's discharge from a birthing facility and sent
immediately to the child's primary care physician, the
department of health and the department. The:

(1) substance-exposed newborn's parent,
relative, guardian or caretaker who is present at discharge
shall receive a copy of the plan of safe care upon discharge.
The plan of safe care shall be signed by an appropriate
representative of the discharging birthing facility and the
substance-exposed newborn's parent, relative, guardian or
caretaker who is present at discharge; and

(2) health care providers employed at a
birthing facility shall use definitions and evidence-based
screening tools based on standards of professional practice to
identify a substance-exposed newborn affected by substance use
or withdrawal symptoms resulting from prenatal drug exposure or

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a fetal alcohol spectrum disorder.

B. The plan of safe care:

(1) shall include a referral to an early intervention family infant toddler program HGEIC→or a home visiting program←HGEIC ;

(2) may include referrals to:

- (a) public health agencies;
- (b) maternal and child health agencies;
- (c) mental health care providers;
- (d) infant mental health care providers;
- (e) public and private children and youth agencies;
- (f) developmental services;
- (g) courts;
- (h) local education agencies;
- (i) managed care organizations;

HGEIC→or←HGEIC

(j) hospitals and medical providers;

HGEIC→or←HGEIC HGEIC→and←HGEIC

HGEIC→~~(k) home visiting programs;~~

~~and~~←HGEIC

(3) shall, at a minimum, include the following:

(a) the substance-exposed newborn's name, date of birth and date of discharge;

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(b) an emergency contact for a family member of the substance-exposed newborn;

(c) the address for the caregiver who will be taking the substance-exposed newborn home from the birthing facility;

(d) the substances to which the substance-exposed newborn was exposed;

(e) a consideration of whether: 1) the substance-exposed newborn's exposure occurred as a result of medication-assisted treatment or medication prescribed for the pregnant parent by a health care provider; and 2) the parent who gave birth to the substance-exposed newborn is, or will be, actively engaged in ongoing substance use disorder treatment following discharge that would mitigate the future risk of harm to the substance-exposed newborn;

(f) the family members that will be living with the substance-exposed newborn who have substance use disorders; and

(g) a determination that the substance-exposed newborn will have a safe sleep environment.

C. After a plan of safe care is received, the CARA navigator shall conduct an in-home visit with the substance-exposed newborn's family and shall engage the substance-exposed newborn's relatives, parents, guardians or caretakers and conduct a family assessment in order to identify the need for

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access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development and well-being of the substance-exposed newborn.

D. By January 1, 2026, the department of health, in consultation with medicaid managed care organizations, private insurers, the office of superintendent of insurance, the health care authority and the department, shall develop rules to guide hospitals, birthing facilities, medical providers, medicaid managed care organizations and private insurers in the care of substance-exposed newborns who exhibit physical, neurological or behavioral symptoms consistent with prenatal drug exposure, withdrawal symptoms from prenatal drug exposure or fetal alcohol spectrum disorder. Rules shall include requirements for hospitals, birthing facilities, medical providers, medicaid managed care organizations, state agencies and private insurers regarding procedures for monitoring compliance with plans of safe care and evaluating outcomes for substance-exposed newborns and the families of substance-exposed newborns. The HGEIC→procedures←HGEIC HGEIC→rules←HGEIC shall include requirements for:

HGEIC→(1) providing training to hospital staff, birthing center staff and prenatal care providers on the screening, brief intervention and referral to treatment program;←HGEIC

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HGEIC→(1)←HGEIC HGEIC→(2)←HGEIC CARA

navigators to immediately triage a case after receiving notification of the creation of a plan of safe care by identifying any known risks to a substance-exposed newborn and thereafter arranging a home visit and completing a family assessment;

HGEIC→(2)←HGEIC HGEIC→(3)←HGEIC CARA

navigators to make active efforts to connect substance-exposed newborns and the families of substance-exposed newborns to services to which they have been referred;

HGEIC→(3)←HGEIC HGEIC→(4)←HGEIC care

coordinators and CARA navigators to work in partnership to ensure that plans of safe care are followed;

HGEIC→(4)←HGEIC HGEIC→(5)←HGEIC updates to

plans of safe care made by CARA navigators to offer or provide referrals for counseling, training or other services aimed at addressing the underlying causative factors that may jeopardize the safety or well-being of a substance-exposed newborn;

HGEIC→(5)←HGEIC HGEIC→(6)←HGEIC the

collection and reporting of data to meet federal and state reporting requirements, including the following:

(a) the collection and reporting of data by hospitals and birthing facilities to the department and the department of health when a plan of safe care has been developed;

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(b) information pertaining to a substance-exposed newborn diagnosed by a health care professional as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder;

(c) data collected by hospitals and birthing facilities for use by the children's medical services of the family health bureau of the public health division of the department of health in epidemiological reports and to support and monitor a plan of safe care. Information reported pursuant to this subparagraph shall be coordinated with care coordinators to facilitate access to services for children and parents, relatives, guardians or caregivers identified in a plan of safe care; and

(d) the department of health's collection of disaggregated data on substance-exposed newborns that includes the: 1) number of substance-exposed newborns identified each year; 2) total number of services provided to substance-exposed newborns; and 3) outcomes achieved. Information collected pursuant to this subparagraph shall be reported to the legislature annually; and

HGEIC→(6)←HGEIC HGEIC→(7)←HGEIC

confidentiality related to plans of safe care.

[G.] E. Reports made pursuant to Paragraph [←3→]

HGEIC→(5)←HGEIC HGEIC→(6)←HGEIC of Subsection [B] D of this

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section shall be collected by the department and the department of health as distinct and separate from any child abuse report as captured and held or investigated by the department, such that the reporting of a plan of care shall not constitute a report of suspected child abuse and neglect and shall not initiate investigation by the department or a report to law enforcement.

[D.] F. The department of health shall summarize and report data received pursuant to Paragraph [~~3~~] HGEIC→(5)←HGEIC HGEIC→(6)←HGEIC of Subsection [B] D of this section at intervals as needed to meet federal regulations.

[E.] G. The children's medical services of the family health bureau of the public health division of the department of health shall collect and record data reported pursuant to Subparagraph (c) of Paragraph [~~3~~] HGEIC→(5)←HGEIC HGEIC→(6)←HGEIC of Subsection [B] D of this section to support and monitor care coordination of plans of safe care for [~~children born~~] substance-exposed newborns without insurance.

[F.] H. Reports made pursuant to the requirements in this section shall not be construed to relieve a person of the requirement to report to the department knowledge of or a reasonable suspicion that a child is an abused or neglected child based on criteria as defined by Section 32A-4-2 NMSA 1978.

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~~[G.]~~ I. The department shall work in consultation with the department of health to create and distribute training materials to support and educate discharge planners, ~~[or]~~ health care providers, care coordinators, CARA navigators and social workers on the following:

(1) how to assess whether to make a referral to the department pursuant to the Abuse and Neglect Act;

(2) how to assess whether to make a notification to the department pursuant to Subsection B of Section 32A-4-3 NMSA 1978 for a child who has been diagnosed as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder;

(3) how to assess whether to create a plan of safe care when a referral to the department is not required; ~~[and]~~

(4) the creation and deployment of a plan of safe care;

(5) avoiding stigma and bias;

(6) mandatory reporting requirements; and

(7) proper coding of substance exposure and neonatal abstinence syndrome.

~~[H.—No]~~ J. A person shall not have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of Subsection ~~[G]~~ I of this section or resulting from any

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training, or lack thereof, required by Subsection [G] I of this section.

[F-] K. The training, or lack thereof, required by the provisions of Subsection [G] I of this section shall not be construed to impose any specific duty of care. HGEIC→"←HGEIC

HGEIC→~~L. Any individual, entity or agency fulfilling the obligations imposed by this section or conducting activities pursuant to this section, including implementation or monitoring of compliance with a plan of safe care, shall be immune from civil or criminal liability arising from such actions. This immunity shall extend to actions taken to report, coordinate or provide services under this section; provided that the actions are not grossly negligent or conducted with willful misconduct.~~"←HGEIC

SECTION 4. Section 32A-3A-14 NMSA 1978 (being Laws 2019, Chapter 190, Section 4) is amended to read:

"32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

A. If the parents, relatives, guardians or caretakers of a child released from a hospital or freestanding birthing center pursuant to a plan of safe care fail to comply with that plan, the department of health HGEIC→~~, a medicaid managed care organization insurance plan care coordinator or a care coordinator contracted with the department of health~~←HGEIC shall notify the department [~~shall be notified~~] within twenty-

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four hours and the department [~~may~~] shall conduct a family assessment. Based on the results of the family assessment, the department may offer or provide referrals for counseling, training, or other services aimed at addressing the underlying causative factors that may jeopardize the safety or well-being of the child. The child's parents, relatives, guardians or caretakers may choose to accept or decline any service or program offered subsequent to the family assessment; provided that if the child's parents, relatives, guardians or caretakers decline those services or programs, and the department [~~may~~] determines that those services or programs are necessary to address concerns of imminent harm to the child, the department shall proceed with an investigation.

B. As used in this section, "family assessment" means a comprehensive assessment prepared by the department at the time the department receives notification of failure to comply with the plan of safe care to determine the needs of a child and the child's parents, relatives, guardians or caretakers, including an assessment of the likelihood of:

- (1) imminent danger to a child's well-being;
- (2) the child becoming an abused child or neglected child; and
- (3) the strengths and needs of the child's family members, including parents, relatives, guardians or caretakers, with respect to providing for the health and safety

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of the child."

SECTION 5. Section 32A-4-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT-- RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY-- NOTIFICATION OF PLAN OF SAFE CARE.--

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a school employee; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- (1) a local law enforcement agency;
- (2) the department; or
- (3) a tribal law enforcement or social

services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall

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immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively

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connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

G. A finding that a pregnant woman is using or abusing drugs made pursuant to an interview, self-report, clinical observation or routine toxicology screen shall not alone form a sufficient basis to report child abuse or neglect to the department pursuant to Subsection A of this section. A volunteer, contractor or staff of a hospital or freestanding birthing center shall not make a report based solely on that finding and shall make a notification pursuant to Subsection H of this section. Nothing in this subsection shall be construed

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to prevent a person from reporting to the department a reasonable suspicion that a child is an abused or neglected child based on other criteria as defined by Section 32A-4-2 NMSA 1978, or a combination of criteria that includes a finding pursuant to this subsection.

H. A volunteer contractor or staff of a hospital, ~~[or]~~ freestanding birthing center or clinic that provides prenatal or perinatal care shall:

(1) complete a written plan of safe care for a substance-exposed newborn or a pregnant person who agrees to creating a plan of safe care, as provided for by department of health rule and the Children's Code; and

(2) provide notification to the department of health. Notification by a health care provider pursuant to this paragraph shall not be construed as a report of child abuse or neglect.

I. As used in this section, "notification" means informing the department and the department of health that a substance-exposed newborn was born and providing a copy of the plan of safe care that was created for the child; provided that notification shall comply with federal guidelines and shall not constitute a report of child abuse or neglect. The department HGEIC ~~→of health←~~ HGEIC shall be responsible for ensuring compliance with federal reporting requirements related to plans of safe care.

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J. As used in this section, "school employee" includes employees of a school district or a public school."

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

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