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SENATE MEMORIAL 6

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

INTRODUCED BY

Linda M. López

A MEMORIAL

REQUESTING THE DEPARTMENT OF HEALTH TO STUDY A PROPOSED
REVISION TO THE CHILDREN'S CODE TO GIVE BOTH PARENTS AND THEIR
MINOR CHILDREN THE RIGHT TO CONSENT TO MENTAL HEALTH TREATMENT.

WHEREAS, the Children's Code states that a minor child can
refuse mental health treatment if the minor child is fourteen
years of age or older; and

WHEREAS, if the minor child fourteen years of age or older
does not consent to mental health treatment, the minor child's
parents cannot make the decision for their child and cannot
take advantage of needed therapy; and

WHEREAS, a primary reason for the Children's Code
provision allowing minor children fourteen years of age and
older to consent to mental health treatment was a concern on
the part of children's advocates that parents were abusing the

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1 use of mental health treatment, especially residential
2 treatment, when minor children became difficult for parents to
3 handle; and

4 WHEREAS, mental health treatment now has a system of
5 checks and balances, coupled with medical necessity, that
6 prevents mental health treatment from being used
7 inappropriately; and

8 WHEREAS, refusal of mental health treatment can have dire
9 consequences for minor children and their families, and can
10 lead to a later need for higher levels of care such as
11 residential treatment, juvenile detention or protective
12 custody; and

13 WHEREAS, when the current law was enacted, it was also
14 intended to give children the right to seek treatment that
15 their parents were unwilling to provide; and

16 WHEREAS, it is warranted to investigate if the age of
17 consent should be reconsidered based on the developmental
18 stages of minors and the impact that refusal of treatment may
19 have on families; and

20 WHEREAS, community-based mental health therapies can keep
21 youth stable and better able to cope with adolescence, and to
22 maintain mental and behavioral health wellness; and

23 WHEREAS, parents are legally and morally responsible for
24 their minor children, but the current Children's Code prohibits
25 parents from making the decision to obtain mental health

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1 treatment for a minor child even when the parents fear for
2 their child's life or witness their child exhibiting dangerous
3 behaviors that could have life-long consequences; and

4 WHEREAS, Idaho, Kansas, Maryland, Massachusetts, Montana,
5 Nebraska, New Hampshire, New York, Pennsylvania and Texas have
6 joint consent laws;

7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
8 OF NEW MEXICO that the department of health be requested to
9 undertake a study to analyze and compare state data for New
10 Mexico youth outcomes related to mental health treatment
11 modalities to state data from the states with joint consent
12 laws, in order to determine if the data shows differences in
13 mental health outcomes between those states and New Mexico in
14 urban and rural areas for youth fourteen through seventeen
15 years of age; and

16 BE IT FURTHER RESOLVED that the study look for comparative
17 data across the states with joint consent laws to determine if
18 joint consent laws affected youth mental health indicators and
19 outcomes; and

20 BE IT FURTHER RESOLVED that the study review available
21 state data from the states with joint consent laws to New
22 Mexico state data to determine how many children by age,
23 including those in foster care, end up in residential treatment
24 or juvenile justice systems, including detention facilities or
25 on probation; and

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1 BE IT FURTHER RESOLVED that the study draw conclusions
2 from the state data sets to determine whether the current
3 Children's Code provision allowing a minor child fourteen years
4 of age or older to refuse mental health treatment contributes
5 to the risk of mental health emergencies; and

6 BE IT FURTHER RESOLVED that the department of health be
7 requested to report those findings and recommendations to the
8 legislative health and human services committee by November 1,
9 2025; and

10 BE IT FURTHER RESOLVED that copies of this memorial be
11 transmitted to the secretary of health; the chair and vice
12 chair of the legislative health and human services committee;
13 the president of the national alliance of mental illness of
14 southern New Mexico; the president of disability rights New
15 Mexico; the director of the New Mexico behavioral health
16 planning council; the chair of the New Mexico behavioral health
17 planning council children and adolescents subcommittee; and the
18 director of Families First.