

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 42

**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 CHILD WELFARE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO ENACT A NEW MEXICO CHILD SAFETY AND WELFARE ACT; HJC→**REQUIRING THE USE OF STATE-ISSUED ELECTRONIC DEVICES WHEN PERFORMING DEPARTMENTAL DUTIES; REQUIRING THE BACKUP AND RETENTION OF ELECTRONIC RECORDS;**←HJC ENHANCING THE STATE PROGRAM ADMINISTERED PURSUANT TO THE FEDERAL COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2016; MOVING THAT PROGRAM FROM

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THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE  
HJC→~~DEPARTMENT OF HEALTH~~←HJC HJC→**HEALTH CARE AUTHORITY**←HJC ;  
AMENDING REQUIREMENTS FOR PLANS OF SAFE CARE; REQUIRING THE  
CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO IMPLEMENT THE  
MULTILEVEL RESPONSE SYSTEM STATEWIDE; ENACTING THE FAMILIES  
FIRST ACT WITHIN THE CHILDREN'S CODE; REQUIRING THE CHILDREN,  
YOUTH AND FAMILIES DEPARTMENT TO DEVELOP AND IMPLEMENT A  
STRATEGIC PLAN FOR APPROVAL BY THE FEDERAL ADMINISTRATION FOR  
CHILDREN AND FAMILIES; REQUIRING PROVISIONS OF THE STRATEGIC  
PLAN TO IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES  
THAT MEET THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST  
PREVENTION SERVICES ACT; PROVIDING ACCESS TO AND REQUIREMENTS  
FOR CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION;  
SPECIFYING TO WHOM AND UNDER WHAT CIRCUMSTANCES INFORMATION  
THAT IS HELD BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT  
THAT PERTAINS TO CHILD ABUSE AND NEGLECT MAY BE SHARED;  
REQUIRING THAT INFORMATION BE PROVIDED ABOUT CHILD FATALITIES  
OR NEAR FATALITIES; PROTECTING PERSONAL IDENTIFIER INFORMATION  
OF DEPARTMENT CLIENTS; PROVIDING FOR RULEMAKING; REQUIRING  
REPORTS HJC→; ~~DECLARING THAT FOSTER CHILDREN ARE NOT RESIDENTS  
OF FOSTER HOMES FOR PURPOSES OF HOMEOWNERS INSURANCE~~←HJC .

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

SECTION 1. Section 9-2A-8 NMSA 1978 (being Laws 1992,  
Chapter 57, Section 8, as amended) is amended to read:

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"9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to other duties provided by law or assigned to the department by the governor, the department shall:

A. develop priorities for department services and resources based on state policy and national best-practice standards and local considerations and priorities;

B. strengthen collaboration and coordination in state and local services for children, youth and families by integrating critical functions as appropriate, including service delivery, and contracting for services across divisions and related agencies;

C. develop and maintain a statewide database, including client tracking of services for children, youth and families;

D. develop standards of service within the department that focus on prevention, monitoring and outcomes;

E. analyze policies of other departments that affect children, youth and families to encourage common contracting procedures, common service definitions and a uniform system of access;

F. [~~enact regulations~~] adopt rules to control disposition and placement of children under the Children's Code, including [~~regulations~~] rules to limit or prohibit the out-of-state placement of children, including those who have developmental disabilities or emotional, neurobiological or

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behavioral disorders, when in-state alternatives are available;

G. develop reimbursement criteria for licensed child care centers and licensed home providers establishing that accreditation by a department-approved national accrediting body is sufficient qualification for the child care center or home provider to receive the highest reimbursement rate paid by the department;

H. assume and implement responsibility for children's mental health and substance abuse services in the state, coordinating with the [~~human services department~~] health care authority and the department of health;

I. assume and implement the lead responsibility among all departments for domestic violence services;

J. implement prevention and early intervention as a departmental focus;

K. conduct biennial assessments of service gaps and needs and establish outcome measurements to address those service gaps and needs, including recommendations from the governor's children's cabinet and the children, youth and families advisory committee;

L. ensure that behavioral health services provided, including mental health and substance abuse services for children, adolescents and their families, shall be in compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA 1978 and any rules adopted pursuant to that section;

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M. develop and implement the families first strategic plan for the delivery of services and access to programs as required pursuant to the Families First Act; and

[M-] N. fingerprint and conduct nationwide criminal history record searches on all department employees, staff members and volunteers whose jobs involve direct contact with department clients, including prospective employees and employees who are promoted, transferred or hired into new positions, and the superiors of all department employees, staff members and volunteers who have direct unsupervised contact with department clients."

HJC→SECTION 2. A new section of the Children, Youth and Families Department Act is enacted to read:

"[NEW MATERIAL] ELECTRONIC RECORDS--RETENTION.--

A. Employees of the department shall only use electronic devices issued by the department to employees for communication related to the performance of duties within the scope of their employment by the department. An employee's failure to comply with the provisions of this subsection may constitute grounds for immediate termination of employment by the department.

B. Electronic devices issued by the department to employees shall only include software and applications that are compliant with federal data retention and protection laws.

C. By January 1, 2026, the department shall

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implement a system, approved by the department of information technology, that will back up on a daily basis all electronic records generated or received by employees of the department related to the performance of their duties within the scope of their employment by the department.

D. During the term of an employee's employment by the department, and for a period of at least seven years after the termination of an employee's employment by the department, the department shall retain all electronic records stored on electronic devices used by department employees and all electronic records that have been backed up from electronic devices used by department employees. The department shall back up the retained electronic records daily, monthly and annually.

E. As used in this section:

(1) "back up" means to electronically copy in a recoverable format to a searchable database maintained by the department all electronic records generated by or contained within an electronic device;

(2) "electronic device" means a telephone, tablet, computer, watch or similar device used to generate, store or transfer information; and

(3) "electronic records" means information generated by, transmitted by or stored on an electronic device, including electronic mail, voicemail, text and instant

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messages, documents and photographs, regardless of the platform being used, including interagency communications."←HJC

SECTION HJC→2.←HJC HJC→3.←HJC Section 32A-1-4 NMSA 1978 (being Laws 1993, 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;

~~HJC→C. "CARA" means the federal Comprehensive Addiction and Recovery Act of 2016 that established a comprehensive, coordinated and balanced strategy for substance-exposed newborns and those newborns' caregivers through enhanced grant programs that expand prevention and education efforts while promoting treatment and recovery;~~←HJC

[C.] HJC→D.←HJC HJC→C.←HJC "child" means a person who is less than eighteen years old;

[D.] HJC→E.←HJC HJC→D.←HJC "council" means the substitute care advisory council established pursuant to Section 32A-8-4 NMSA 1978;

[E.] HJC→F.←HJC HJC→E.←HJC "court", when used without further qualification, means the children's court division of the district court and includes the judge, special

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master or commissioner appointed pursuant to the provisions of the Children's Code or supreme court rule;

[F-] HJC→G.←HJC HJC→F.←HJC "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-] HJC→H.←HJC HJC→G.←HJC "custodian" means an adult with whom the child lives who is not a parent or guardian of the child;

[H-] HJC→I.←HJC HJC→H.←HJC "department" means the children, youth and families department, unless otherwise specified;

[I-] HJC→J.←HJC HJC→I.←HJC "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-] HJC→K.←HJC HJC→J.←HJC "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-] HJC→L.←HJC HJC→K.←HJC "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

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agency;

[E-] HJC→M.←HJC HJC→L.←HJC "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

[M-] HJC→N.←HJC HJC→M.←HJC "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-] HJC→O.←HJC HJC→N.←HJC "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-] HJC→P.←HJC HJC→O.←HJC "Indian child" means an Indian person, or a person whom there is reason to know is an Indian person, under eighteen years of age, who is neither:

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

[P-] HJC→Q.←HJC HJC→P.←HJC "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

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member or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts;

[Q-] HJC→R.←HJC HJC→Q.←HJC "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-] HJC→S.←HJC HJC→R.←HJC "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 responsible for child welfare and social services matters;

[S-] HJC→T.←HJC HJC→S.←HJC "judge", when used

without further qualification, means the judge of the court;

[T-] HJC→U.←HJC HJC→T.←HJC "legal custody" means

a legal status created by order of the court or other court of

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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-] HJC→~~V.~~←HJC HJC→U.←HJC "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-] HJC→~~W.~~←HJC HJC→V.←HJC "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;

[W-] HJC→~~X.~~←HJC HJC→W.←HJC "permanency plan" means a determination by the court that the child's interest will be served best by:

- (1) reunification;

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(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.] HJC→Y.←HJC HJC→X.←HJC "person" means an individual or any other form of entity recognized by law;

[Y.] HJC→Z.←HJC HJC→Y.←HJC "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 perinatal support to a pregnant person with substance use disorder by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, [~~family members~~] custodians or [~~caregivers~~] caretakers to the extent those treatment needs are relevant to the safety of the child;

[Z.] HJC→AA.←HJC HJC→Z.←HJC "preadoptive parent" means a person with whom a child has been placed for adoption;

[AA.] HJC→BB.←HJC HJC→AA.←HJC "protective supervision" means the right to visit the child in the home

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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-~~] HJC→~~EE.~~←HJC HJC→~~BB.~~←HJC "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;

[~~EE-~~] HJC→~~DD.~~←HJC HJC→~~CC.~~←HJC "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-~~] HJC→~~EE.~~←HJC HJC→~~DD.~~←HJC "reunification" means either a return of the child to the parent or to the home from which the child was removed or a return to the noncustodial parent;

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[EE-] HJC→FF.←HJC HJC→EE.←HJC "secretary" means the United States secretary of the interior;

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

[FF-] HJC→HH.←HJC HJC→FF.←HJC "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-] HJC→II.←HJC HJC→GG.←HJC "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-] HJC→JJ.←HJC HJC→HH.←HJC "tribunal" means any judicial forum other than the court."

SECTION HJC→3.←HJC HJC→4.←HJC 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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HJC→~~A. "birthing facility" means a hospital, clinic or birthing center where a pregnant person gives birth to a baby with assistance from a health care provider;~~

~~B. "CARA navigator" means a professional employed by the department of health to provide intensive case management to a pregnant person with substance use disorder or a substance-exposed newborn and the newborn's parents, relatives, guardians, custodians or caretakers;~~

~~C. "care coordinator" means a person assigned to a substance-exposed newborn and the newborn's parents, relatives, guardians, custodians or caretakers by a managed care organization, private insurance or the health care authority;~~←HJC

[A.] HJC→~~D.~~←HJC HJC→~~A.~~←HJC "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 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

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

HJC→E. "family assessment" means a comprehensive assessment based on standards of professional practice prepared by a CARA navigator during a home visit;←HJC

[B-] HJC→F.←HJC HJC→B.←HJC "family services" means services that address specific needs of the child or family;

[G-] HJC→G.←HJC HJC→C.←HJC "guardian" means a person appointed as a guardian by a court or Indian tribal authority or a person authorized to care for a child by a parental power of attorney as permitted by law;

[D-] HJC→H.←HJC HJC→D.←HJC "guardianship assistance agreement" means a written agreement entered into by the prospective guardian and the department or Indian tribe prior to the establishment of the guardianship by a court;

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

[G-] HJC→K.←HJC HJC→G.←HJC "kinship" means the

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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;

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

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

[F.] HJC→N.←HJC HJC→J.←HJC "voluntary placement agreement" means a written agreement between the department and the parent or guardian of a child."

HJC→~~SECTION 4. 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] REQUIREMENTS--CREATION--DATA SHARING--TRAINING.--~~

~~A. By [January 1, 2020] July 1, 2026, the department of health, in consultation with [medicaid managed care organizations, private insurers] the office of superintendent of insurance, the [human services department] health care authority and the department, [of health] shall develop rules to guide [hospitals, birthing centers] birthing facilities, medical providers, medicaid managed care~~

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~~organizations and private insurers in the care of pregnant persons with substance use disorder and 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] birthing facilities, medical providers, medicaid managed care organizations and private insurers regarding:~~

~~(1) participation in the [discharge planning] plan of safe care development process, including the creation of a written plan of safe 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 child is uninsured]; and~~

~~(c) the child's parent, relative,~~

~~guardian, custodian 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~~

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~~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) data to be collected and reported by [hospitals and birthing centers] birthing facilities to the department of health when (1) a plan of safe 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] substance-exposed newborn; 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] birthing facilities and submitted to the department of health [in] for epidemiological reports and to support and monitor a~~

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~~plan of safe 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~~
- ~~(k) hospitals and medical providers; and~~

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~~(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}~~

~~(4) requirements for the health care authority to:~~

~~(a) ensure there is at least one care coordinator available at each birthing facility;~~

~~(b) ensure all substance-exposed newborns who have a plan of safe care are assigned a care coordinator; and~~

~~(c) provide training to birthing facility staff and perinatal health care providers on the screening, brief intervention and referral to treatment program;~~

~~(5) the process for a birthing facility or other health care provider to participate in the development of a plan of safe care at a perinatal medical visit;~~

~~(6) requirements for a birthing facility to 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 department of~~

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~~health and the department;~~

~~(7) requirements for the plan of safe care to be signed by a person designated by the discharging birthing facility and at least one of the substance-exposed newborn's parents, relatives, guardians, custodians or caretakers;~~

~~(8) information that shall be in a written plan of safe care, including:~~

~~(a) a referral to an early intervention family infant toddler program or a home visiting program;~~

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

~~(c) an emergency contact for at least one of the substance-exposed newborn's parents, relatives, guardians, custodians or caretakers;~~

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

~~(e) the names of the parents, relatives, guardians, custodians or caretakers who will be living with the substance-exposed newborn; and~~

~~(f) a preliminary assessment that the substance-exposed newborn will have a safe living environment based on a screening tool developed by the department of health;~~

~~(9) information that may be included in a plan~~

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~~of safe care, including:~~

~~(a) maternal and child health agencies;~~

~~(b) mental health care providers;~~

~~(c) public and private children and~~

~~youth agencies;~~

~~(d) developmental services;~~

~~(e) managed care organizations; or~~

~~(f) hospitals and medical providers; and~~

~~(10) requirements for a CARA navigator to:~~

~~(a) conduct an in-home visit;~~

~~(b) engage a substance-exposed newborn's~~

~~parents, relatives, guardians, custodians or caretakers; and~~

~~(c) conduct a family assessment to~~

~~identify any risk within the substance-exposed newborn's~~

~~environment and the need for treatment for any substance use~~

~~disorder or other physical or behavioral health condition that~~

~~may impact the safety, early childhood development or well-~~

~~being of the substance-exposed newborn.~~

~~G. By July 1, 2026, the department of health shall~~

~~adopt rules for monitoring adherence to plans of safe care and~~

~~evaluating outcomes for substance-exposed newborns and the~~

~~families of substance-exposed newborns. The rules shall~~

~~include requirements for:~~

~~(1) CARA navigators to arrange a home visit~~

~~and complete a family assessment upon receiving a notification~~

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~~of the creation of a plan of safe care;~~

~~(2) CARA navigators to update plans of safe care with 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;~~

~~(3) CARA navigators and care coordinators to make active efforts to connect substance-exposed newborns and the families of substance-exposed newborns to services to which they have been referred;~~

~~(4) care coordinators to make active efforts to contact persons who are not adhering to a plan of safe care using multiple methods, including in person or by mail, telephone call or text message; and~~

~~(5) confidentiality related to plans of safe care.~~

~~{C.} D. Reports made pursuant to Paragraph (3) of Subsection B of this 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 safe 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.} E. The department of health shall summarize~~

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~~and report data received pursuant to Paragraph (3) of Subsection B of this section at intervals as needed to meet federal regulations.~~

~~[E.] F. 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) of Subsection B of this section to support and monitor care coordination of plans of care for children born without insurance] department of health shall provide an annual report to the legislative finance committee, the interim legislative health and human services committee and the department of finance and administration on the status of the plan of safe care system. The report shall include the following aggregate statistical information related to the creation of plans of safe care:~~

~~(1) the primary substances that infants were exposed to;~~

~~(2) the services that infants and families were referred to;~~

~~(3) the availability and uptake rate of services;~~

~~(4) whether an infant or an infant's family was subsequently reported to the children, youth and families department; and~~

~~(5) disaggregated demographic and geographic~~

data.

~~{F.} G. 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.~~

~~{G.} H. The [department shall work in consultation with the] department of health [to] shall 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] implementation of a plan of safe care;~~

~~{H. No person shall have a cause of action for any~~

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~~loss or damage caused by any act or omission resulting from the implementation of the provisions of Subsection G of this section or resulting from any training, or lack thereof, required by Subsection G of this section.~~

~~I. The training, or lack thereof, required by the provisions of Subsection G of this section shall not be construed to impose any specific duty of care]~~

~~(5) mandatory reporting requirements; and~~

~~(6) proper coding of substance exposure and neonatal abstinence syndrome.~~

~~I. Nothing in this section shall apply to the Indian Family Protection Act, information or records concerning Indian children or Indian parents, guardians or custodians or investigations or proceedings pursuant to that act."~~

~~SECTION 5. 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. The department of health shall notify the department within twenty-four hours and the department shall conduct an evaluation to assess the substance-exposed newborn's immediate needs and the family's ability to keep the substance-exposed newborn safe if the parents, relatives, guardians, custodians or caretakers of a [child released from a hospital or freestanding birthing center pursuant to a plan of~~

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~~care fail to comply with that plan, the department shall be notified and the department may 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, the department may 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 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 of the child] substance-exposed newborn:~~

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~~(1) refuse to engage in a family assessment conducted by a CARA navigator;~~

~~(2) disengage with a CARA navigator and the family assessment indicates that the parent, relative, guardian, custodian or caretaker's failure to engage with services will result in risk of imminent danger to the substance-exposed newborn; or~~

~~(3) fail to adhere to a plan of safe care and the family assessment indicates that failure of the parent, relative, guardian, custodian or caretaker to adhere to the plan of safe care will result in risk of imminent danger to the substance-exposed newborn.~~

~~B. Nothing in this section shall apply to the Indian Family Protection Act, information or records concerning Indian children or Indian parents, guardians or custodians or investigations or proceedings pursuant to that act."~~ ←HJC

HJC→SECTION 5. 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--CREATION--DATA SHARING--TRAINING.--

A. By ~~[January 1, 2020]~~ July 1, 2026, the ~~[department]~~ health care authority, in consultation with medicaid managed care organizations, private insurers, the office of superintendent of insurance, the [human services] children, youth and families department and the department of

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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]~~ plan of safe care development process, [including] which may occur at a prenatal or perinatal medical visit and shall occur prior to a substance-exposed child's discharge from a hospital.

The plan of safe care development process shall allow for the creation of a written plan of safe 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 child is uninsured] or a care coordinator employed by or contracted with the health care authority; and~~

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(c) the child's parent, relative, guardian or caretaker who is present at discharge who shall receive a copy upon discharge. The plan of safe 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. The rules shall include a requirement that all hospitals, birthing centers and prenatal care providers use the screening, brief intervention and referral to treatment program at all prenatal or perinatal medical visits and live births;

(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 safe care has been developed; and 2) a family has been referred for a plan of safe 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

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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 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 communication to insurance carrier care coordinators to facilitate access to services for children and parents, relatives, guardians, custodians or [~~caregivers~~] caretakers identified in a plan of safe care;

(4) requirements for the health care authority to:

(a) ensure that there is at least one care coordinator available in each birthing hospital in the state;

(b) ensure that all substance-exposed children who have a plan of safe care receive care coordination to implement the plan of safe care; and

(c) provide training to hospital staff, birthing center staff and prenatal care providers on the screening, brief intervention and referral to treatment program;

[~~(4)~~] (5) identification of appropriate agencies to be included as supports and services in the plan of

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safe care, based on an assessment of the needs of the child and the child's relatives, parents, guardians, custodians 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~~

(k) ~~hospitals and medical providers;~~

and]

(a) shall include: 1) home visitation

programs or early intervention family infant toddler programs;

and 2) substance use disorder prevention and treatment

providers; and

(b) may include: 1) public health

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agencies; 2) maternal and child health agencies; 3) mental health providers; 4) infant mental health providers; 5) public and private children and youth agencies; 6) early intervention and developmental services; 7) courts; 8) local education agencies; 9) managed care organizations; or 10) hospitals and medical providers;

(6) information that shall be in a written plan of safe care, including:

(a) the newborn's name;

(b) an emergency contact for at least one of the newborn's parents, relatives, guardians, custodians or caretakers;

(c) the address for the parent, relative, guardian, custodian or caretaker who will be taking the substance-exposed newborn home from the birthing facility; and

(d) the names of the parents, relatives, guardians, custodians or caretakers who will be living with the substance-exposed newborn;

[(-5)] (7) engagement of the child's relatives, parents, guardians, custodians 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; and

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(8) implementation of plans of safe care that shall include requirements for care coordinators to:

(a) actively work with pregnant persons or a substance-exposed child's parents, relatives, guardians, family members or caretakers to refer and connect the pregnant person or substance-exposed child's parents, relatives, guardians, family members or caretakers to necessary services.

Care coordinators shall use an evidence-based intensive care coordination model that is listed in the federal Title IV-E prevention services clearinghouse or another nationally recognized evidence-based clearinghouse for child welfare; and

(b) attempt to make contact with persons who are not following the plan of safe care using multiple methods, including in person, by mail, by phone call or by text message. If a pregnant person or a substance-exposed child's parents, relatives, guardians, family members or caretakers are not following the plan of safe care, care coordinators shall make attempts to contact and provide support services to persons who are not following the plan of safe care.

C. Reports made pursuant to Paragraph (3) of Subsection B of this section shall be collected by the department 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 safe care shall not constitute a report of suspected child abuse and neglect and shall not

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initiate investigation by the department or a report to law enforcement.

D. The department shall summarize and report data received pursuant to Paragraph (3) of Subsection B of this section at intervals as needed to meet federal regulations.

E. ~~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) of Subsection B of this section to support and monitor care coordination of plans of care for children born without insurance]~~ health care authority shall provide an annual report to the legislative finance committee, the interim legislative health and human services committee and the department of finance and administration on the status of the plan of safe care system. The report shall include the following aggregate statistical information related to the creation of plans of safe care:

(1) the primary substances that infants were exposed to;

(2) the services that infants and families were referred to;

(3) the availability and uptake rate of services;

(4) whether an infant or an infant's family was subsequently reported to the children, youth and families

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department; and

(5) disaggregated demographic and geographic data.

F. 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.

G. The [department] health care authority shall [work in consultation with the department of health to] create and distribute training materials to support and educate discharge planners or 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.

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H. ~~[Nø]~~ 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 of this section or resulting from any training, or lack thereof, required by Subsection G of this section.

I. The training, or lack thereof, required by the provisions of Subsection G of this section shall not be construed to impose any specific duty of care."

SECTION 6. 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, custodians 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 health care authority, a medicaid managed care organization insurance plan care coordinator or a care coordinator contracted with the health care authority shall notify the department ~~[shall be notified]~~ within twenty-four hours of the failure to comply 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

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child's parents, relatives, guardians, custodians 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, custodians 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, custodians 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, custodians or caretakers, with respect to providing for the health and safety of the child."←HJC

SECTION HJC→6.←HJC HJC→7.←HJC Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect

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Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a

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situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

(4) had parental rights over a sibling of the child terminated involuntarily;

D. "educational decision maker" means an individual appointed by the children's court to attend school meetings and to make decisions about the child's education that a parent could make under law, including decisions about the child's educational setting, and the development and implementation of an individual education plan for the child;

E. "fictive kin" means a person not related by birth, adoption or marriage with whom a child has an

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emotionally significant relationship;

F. "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;

G. "neglected child" means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code shall be construed to imply that a child who is

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being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;

H. "personal identifier information" means a person's name and contact information, including home or business address, email address or phone number;

~~[H.]~~ I. "physical abuse" includes any case in which the child suffers strangulation or suffocation and any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for the death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;

~~[I.]~~ J. "relative" means a person related to another person by birth, adoption or marriage within the fifth

degree of consanguinity;

[~~J~~] K. "sexual abuse" includes criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;

[~~K~~] L. "sexual exploitation" includes:

- (1) allowing, permitting or encouraging a child to engage in prostitution;
- (2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing; or
- (3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law;

[~~L~~] M. "sibling" means a brother or sister having one or both parents in common by birth or adoption;

[~~M~~] N. "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978;

[~~N~~] O. "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

[~~O~~] P. "transition plan" means an individualized written plan for a child, based on the unique needs of the child, that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation."

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HJC→~~SECTION 7. 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 immediately transmit the facts of the report and the name,~~

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~~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 connected to the department, the report shall be investigated~~

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~~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 to prevent a person from reporting to the department a~~

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~~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 shall:~~

~~(1) complete a written plan of safe care for a substance-exposed newborn as provided for by department of health rule and the Children's Code; and~~

~~(2) provide notification, in a form and manner prescribed by the department, to the department and 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.~~

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

HJC → SECTION 8. Section 32A-4-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 97, as amended) is amended to read:

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"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 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

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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 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

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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 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

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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 rule and the Children's Code; and

(2) provide notification to the [department] health care authority. 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] health care authority 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 health care authority shall be responsible for ensuring compliance with federal reporting requirements related to plans of safe care.

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

SECTION HJC→8. ←HJC HJC→9. ←HJC Section 32A-4-4.1 NMSA

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1978 (being Laws 2019, Chapter 137, Section 2) is amended to read:

"32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

A. The department shall establish a multilevel response system to evaluate and provide services to a child or the family, relatives, caretakers or guardians of a child with respect to whom a report alleging neglect or abuse has been made. The multilevel response system may include an alternative to investigation upon completion of an evaluation that may be completed at intake by the department, the results of which indicate that there is no immediate concern for the child's safety; provided, however, that an investigation shall be conducted for any report:

- (1) alleging sexual abuse of a child or serious or imminent harm to a child;
- (2) indicating a child fatality;
- (3) requiring law enforcement involvement, as identified pursuant to rules promulgated by the department; or
- (4) requiring a specialized assessment or a traditional investigative approach, as determined pursuant to rules promulgated by the department.

B. The department may remove a case from the multilevel response system and conduct an investigation if imminent danger of serious harm to the child becomes evident. The department may reassign a case from investigation to the

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multilevel response system at the discretion of the department.

C. For each family, including the child who is the subject of a report to the department and that child's relatives, caretakers or guardians, that receives services under the multilevel response system, the department 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 jeopardizing the safety or well-being of the child who is the subject of a report to the department. A family member, relative, caretaker or guardian may choose to accept or decline any services or programs offered under the multilevel response system; provided, however, that if a family member, relative, caretaker or guardian declines services, the department may choose to proceed with an investigation.

D. The department shall employ licensed social workers to provide services to families, relatives, caretakers or guardians participating in the multilevel response system to the extent that licensed social workers are available for employment.

~~E. The department may pilot the multilevel response system prior to statewide implementation.~~

~~F. The department may limit implementation of the multilevel response system to areas of the state where~~

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~~appropriate services are available and operate the system within available state and federal resources.~~

G.] E. The department shall:

- (1) provide an annual report of system implementation and outcomes to the legislative finance committee, the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice and the department of finance and administration as part of the department's budget submission;
- (2) arrange for an independent evaluation of the multilevel response system, including examining outcomes for child safety and well-being and cost-effectiveness;
- (3) incorporate the multilevel response system into the department's quality assurance review process;
- (4) develop performance measures, as provided in the Accountability in Government Act, for the multilevel response system; and
- (5) implement the multilevel response system statewide no later than July 1, ~~[2022, if the department pilots or otherwise geographically limits the multilevel response system, submit a plan to the legislative finance committee and the department of finance and administration setting forth how the system could be expanded statewide, including a plan to address service availability, and identifying costs that would~~

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~~be incurred by the department]~~ 2027.

[~~H.~~] F. The department shall promulgate rules to implement the provisions of this section.

[~~F.~~] G. As used in this section, "family assessment" means a comprehensive, evidence-based assessment tool used by the department to determine the needs of a child and the child's family, relatives, caretakers or guardians at the time the department receives a report of child abuse and neglect, including an assessment of the likelihood of:

- (1) imminent danger to a 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, relatives, caretakers or guardians with respect to providing for the health and safety of the child."

SECTION HJC→9.←HJC HJC→10.←HJC Section 32A-4-21 NMSA 1978 (being Laws 1993, Chapter 77, Section 115, as amended) is amended to read:

"32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES, REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

A. Prior to holding a dispositional hearing, the court shall direct that a predisposition study and report be submitted in writing to the court by the department.

B. The predisposition study required pursuant to Subsection A of this section shall contain the following

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information:

(1) a statement of the specific reasons for intervention by the department or for placing the child in the department's custody and a statement of the parent's ability to care for the child in the parent's home without causing harm to the child;

(2) a statement of how an intervention plan is designed to achieve placement of the child in the least restrictive setting available, consistent with the best interests and special needs of the child, including a statement of the likely harm the child may suffer as a result of being removed from the parent's home, including emotional harm that may result due to separation from the child's parents, and a statement of how the intervention plan is designed to place the child in close proximity to the parent's home without causing harm to the child due to separation from parents, siblings or any other person who may significantly affect the child's best interest;

(3) the wishes of the child as to the child's custodian;

(4) a statement of the efforts the department has made to identify and locate all grandparents and other relatives and to conduct home studies on any appropriate relative expressing an interest in providing care for the child, and a statement as to whether the child has a family

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member who, subsequent to study by the department, is determined to be qualified to care for the child;

(5) a description of services offered to the child, the child's family and the child's foster care family, which, if appropriate and available, may include families first services provided pursuant to the Families First Act, as well as referrals to income support or other services or programs, and a summary of reasonable efforts made to prevent removal of the child from the child's family or reasonable efforts made to reunite the child with the child's family;

(6) a description of the home or facility in which the child is placed and the appropriateness of the child's placement;

(7) the results of any diagnostic examination or evaluation ordered at the custody hearing;

(8) a statement of the child's medical and educational background;

(9) a case plan that sets forth steps to ensure that the child's physical, medical, cultural, psychological and educational needs are met and that sets forth services to be provided to the child and the child's parents to facilitate permanent placement of the child in the parent's home;

(10) for children sixteen years of age and older, a plan for developing the specific skills the child

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requires for successful transition into independent living as an adult, regardless of whether the child is returned to the child's parent's home;

(11) a case plan that sets forth steps to ensure that the child's educational needs are met and, for a child fourteen years of age or older, a case plan that specifically sets forth the child's educational and post-secondary goals; and

(12) a description of the child's foster care placement and whether it is appropriate in terms of the educational setting and proximity to the school the child was enrolled in at the time of the placement, including plans for travel for the child to remain in the school in which the child was enrolled at the time of placement, if reasonable and in the child's best interest.

C. A copy of the predisposition report shall be provided by the department to counsel for all parties five days before the dispositional hearing.

D. If the child is an adjudicated abused child, any temporary custody orders shall remain in effect until the court has received and considered the predispositional study at the dispositional hearing."

SECTION HJC→10.←HJC HJC→11.←HJC Section 32A-4-33 NMSA 1978 (being Laws 1993, Chapter 77, Section 127, as amended) is amended to read:

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"32A-4-33. CONFIDENTIALITY--~~[RECORDS]~~ INFORMATION--  
PENALTY.--

A. In investigations and proceedings alleging abuse or neglect, the department shall not disclose personal identifier information of the child or the child's parent, guardian or custodian, except as follows:

(1) in the case of the fatality or near fatality of a child;

(2) in cases in which a child is missing or abducted or the child is or may be in danger of serious injury or death unless immediate action is taken or there are other exigent circumstances, the department shall release to law enforcement and the nationally recognized organization that serves as the national clearinghouse and resource center for information about missing and exploited children as much personal identifier information as necessary to identify the child, a possible abductor or a suspect in an abuse or neglect case or to protect evidence of a crime against the child;

(3) when a child or child's parent or guardian has been publicly identified by a person outside the department, but only that personal identifier information that has been publicly identified; or

(4) to the persons enumerated in Subsection E of this section.

B. Department information obtained during the

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course of an investigation into allegations of abuse or neglect shall be maintained by the department as required by federal law as a condition of the allocation of federal funds in New Mexico. The public release of department information shall be construed as openly as possible under federal and state law.

C. Information released by the department that has not otherwise been publicly released shall be redacted as needed to safeguard personal identifier information of the child and the child's family. In a case in which a child or the child's family has been publicly identified through news reports, a lawsuit or other means, the department may respond publicly with factual and complete information about the actions the department has taken in the case.

~~[A. All records or]~~ D. Other than in the case of a fatality, redacted information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding, [shall be confidential and closed to the public] may be released by the department to a person who is conducting bona fide research or investigations, the results of which should provide the department information on

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child abuse and neglect that would be useful to the department in developing policy and practice.

[B-] E. The [~~records~~] information described in Subsection [A] D of this section shall be disclosed [~~only~~] without redaction to the parties and:

(1) court personnel and persons or entities authorized by contract with the court to review, inspect or otherwise have access to [~~records or~~] information in the court's possession;

(2) court-appointed special advocates appointed to the neglect or abuse proceeding;

(3) the child's guardian ad litem;

(4) the attorney representing the child in an abuse or neglect action, a delinquency action or any other action under the Children's Code;

(5) department personnel and persons or entities authorized by contract with the department to review, inspect or otherwise have access to [~~records or~~] information in the department's possession;

(6) any local substitute care review board or any agency contracted to implement local substitute care review boards;

(7) law enforcement officials, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(8) district attorneys, except when use

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immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(9) any state government or tribal government social services agency in any state or when, in the opinion of the department, it is in the best interest of the child, a governmental social services agency of another country;

(10) a foster parent, if the ~~[records are those]~~ information is that of a child currently placed with that foster parent or of a child being considered for placement with that foster parent and the ~~[records concern]~~ information concerns the social, medical, psychological or educational needs of the child;

(11) school personnel involved with the child but only if the ~~[records concern]~~ information concerns the child's social, medical or educational needs;

(12) a grandparent, parent of a sibling, relative or fictive kin, if the ~~[records or]~~ information ~~[pertain]~~ pertains to a child being considered for placement with that grandparent, parent of a sibling, relative or fictive kin and the ~~[records or]~~ information ~~[concern]~~ concerns the social, medical, psychological or educational needs of the child;

(13) health care or mental health professionals involved in the evaluation or treatment of the child or of the child's parents, guardian, custodian or other family members;

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(14) protection and advocacy representatives pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991;

(15) children's safehouse organizations conducting [~~investigatory~~] interviews of children on behalf of a law enforcement agency or the department;

(16) representatives of the federal government or their contractors authorized by federal statute or regulation to review, inspect, audit or otherwise have access to [~~records and~~] information pertaining to neglect or abuse proceedings;

(17) [~~any~~] a person [~~or entity~~] attending a meeting arranged by the department to discuss the safety, well-being and permanency of a child, when the parent or child, or parent or [~~legal~~] custodian on behalf of a child younger than fourteen years of age, has consented to the disclosure; [~~and~~]

(18) the office of the state medical investigator; and

[~~(18)~~] (19) any other person [~~or entity~~], by order of the court, having a legitimate interest in the case or the work of the court.

F. A party to a court proceeding relating to a department investigation into allegations of abuse and neglect may comment publicly as long as the party does not disclose

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personal identifier information that is still confidential regarding the child or the child's parent or guardian.

[G.] G. A parent, guardian or [~~legal~~] custodian whose child has been the subject of an investigation of abuse or neglect where no petition has been filed shall have the right to inspect any medical report, psychological evaluation, law enforcement reports or other investigative or diagnostic evaluation; provided that any [~~identifying~~] personal identifier information related to the reporting party or any other party providing information shall be deleted or redacted. The parent, guardian or [~~legal~~] custodian shall also have the right to the results of the investigation and the right to petition the court for full access to all department records and information except [~~those records and~~] that information the department finds would be likely to endanger the life or safety of [~~any~~] a person providing information to the department.

H. The department is not required by this section to disclose department information if the district attorney successfully petitions the children's court that disclosure would cause specific, material harm to a criminal investigation or prosecution.

I. The department shall provide pertinent department information upon request to a prospective adoptive parent, foster parent or guardian if the information concerns a child for whom the prospective adoptive parent, foster parent

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or guardian seeks to adopt or provide care.

J. A person may authorize the release of department information about the person's self but shall not waive the confidentiality of department information concerning any other person.

K. The department shall provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect in a timely manner no later than twenty days after the deadline for closure of the investigation.

~~[D.]~~ L. Whoever intentionally and unlawfully releases any information ~~[or records]~~ closed to the public pursuant to the Abuse and Neglect Act or releases or makes other unlawful use of ~~[records]~~ information in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

~~[E.]~~ M. The department ~~[shall]~~ may promulgate rules for implementing disclosure of records pursuant to this section and in compliance with state and federal law and the Children's Court Rules.

N. Nothing in this section or Section 32A-4-33.1 NMSA 1978 limits the right of a person to seek documents or information through other provisions of law.

O. Nothing in this section applies to the Indian

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Family Protection Act, information concerning Indian children or Indian parents, guardians or custodians, as those terms are defined in that act, or investigations or proceedings pursuant to that act."

SECTION HJC→11.←HJC HJC→12.←HJC Section 32A-4-33.1 NMSA 1978 (being Laws 2009, Chapter 239, Section 52) is amended to read:

"32A-4-33.1. FATALITIES--NEAR FATALITIES--RECORDS RELEASE [WHEN A CHILD DIES].--

A. As used in this section:

(1) "near fatality" means an act that, as certified by a physician, including the child's treating physician, placed a child in a serious or critical medical condition; and

(2) "personal identifier information" means:

(a) a person's name;

(b) all but the last four digits of a person's: 1) taxpayer identification number; 2) financial account number; 3) credit or debit card number; or 4) driver's license number;

(c) all but the year of a person's date of birth;

(d) a person's social security number;

and

(e) a person's street address, but not

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the city, state or zip code.

~~[A-]~~ B. After learning that a child fatality or near fatality has occurred and that there is reasonable suspicion that the fatality or near fatality was caused by abandonment, abuse or neglect, the department shall upon written request ~~[to the secretary of the department]~~ release the following information, if in the department's possession, within five business days:

~~[(1) the age and gender of the child;~~

~~(2) the date of death;~~

~~(3) whether the child was in foster care or in the home of the child's parent or guardian at the time of death; and~~

~~(4) whether an investigation is being conducted by the department.~~

~~B. If an investigation is being conducted by the department, then a request for further information beyond that listed in Subsection A of this section shall be answered with a statement that a report is under investigation]~~

(1) for a fatality:

(a) the name, age and gender of the child;

(b) the date and location of the fatality; and

(c) the cause of death, if known;

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(2) for a near fatality:

(a) the age and gender of the child; and

(b) the type and extent of injuries;

(3) for either a fatality or near fatality:

(a) whether the child is currently or has been in the custody of the department within the last five years or the child's family is currently or has been served or under investigation by the department within the last five years;

(b) whether the child lived with a parent, guardian or custodian; was in foster care; was in a residential facility or detention facility; was a runaway; or had some other living arrangement;

(c) whether an investigation is being conducted by the department or by a law enforcement agency, if known;

(d) a detailed synopsis of prior reports of abuse or neglect involving the child, siblings or other children in the home, if applicable; and

(e) actions taken by the department to ensure the safety of siblings, if applicable; and

(4) any other information that is publicly known.

C. Upon completion of a child abandonment, abuse or neglect investigation into a [~~child's death~~] fatality or near

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fatality, if it is determined that abandonment, abuse or neglect caused the ~~[child's death]~~ fatality or near fatality, the following documents shall be released upon written request:

- (1) a summary of the department's investigation;
- (2) a law enforcement investigation report, if in the department's possession; ~~[and]~~
- (3) ~~[a medical examiner's]~~ the medical investigator's report, if in the department's possession; and
- (4) in the case of a fatality, the department's file on the child who died.

D. Prior to releasing ~~[any document pursuant to]~~ documents specified in Subsection C of this section, the department shall consult with the district attorney and shall redact:

- (1) information that, ~~[would]~~ in the opinion of the district attorney, ~~[jeopardize]~~ would cause specific material harm to a criminal investigation or ~~[proceeding]~~ prosecution;
- (2) ~~[identifying]~~ personal identifier information related to a reporting party or any other party providing information and any other child living in the home;
- (3) information that is privileged, confidential or not subject to disclosure pursuant to ~~[any]~~ Section 32A-4-33 NMSA 1978 or other state or federal law; and

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(4) in the case of a near fatality, personal identifier information for the child, parent, guardian, resource parent and any other child living in the home.

E. ~~[Onee]~~ If documents pursuant to this section have been released by the department, the department may comment on the case ~~[within the scope of the release]~~.

F. Information released by the department consistent with the requirements of this section does not require prior notice to any other ~~[individual]~~ person.

G. Nothing in this section shall be construed as requiring the department to obtain documents not in the abuse and neglect case file.

H. A person disclosing abandonment, abuse ~~[and]~~ or neglect case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

I. The department shall continue to provide timely allowable information to the public on the investigation into a case of fatality or near fatality of a child, including a summary report that shall include:

(1) actions taken by the department in response to the case, including changes in policies, practices, procedures and processes that have been made to address issues raised in the investigation of the case and any recommendations for further changes in policies, practices, procedures,

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processes and other rules or laws to address the issues; and

(2) the information described in Subsection J or K of this section.

J. If the summary report involves a child who was residing in the child's home, the report shall contain a summary of all of the following:

(1) whether services pursuant to the Abuse and Neglect Act were being provided to the child, a member of the child's household or a person who had been arrested for abandonment, abuse or neglect of the child prior to the time of the fatality or near fatality and the date of the last contact between the person providing the services and the person receiving the services prior to or at the time of the fatality or near fatality;

(2) whether the child, a member of the child's household or the person who had been arrested for abandonment, abuse or neglect of the child prior to the fatality or near fatality was the subject of a current or previous department report;

(3) all involvement of the child's parents or the person who had been arrested for abuse or neglect of the child prior to the fatality or near fatality in a situation for which a department report was made or services provided pursuant to the Abuse and Neglect Act in the five years preceding the incident that culminated in the fatality or near

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fatality; and

(4) any investigation pursuant to a department report concerning the child, a member of the child's household or the person who had been suspected of or arrested for the abandonment, abuse or neglect of the child or services provided to the child or the child's household since the date of the incident involving a fatality or a near fatality.

K. If the summary report involves a child who was in out-of-home placement, the summary report shall include:

(1) the name of the agency the licensee was licensed by; and

(2) the licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed and a summary of all violations by the licensee and any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety and welfare of a child.

L. Nothing in this section shall apply to the Indian Family Protection Act, information or records concerning Indian children or Indian parents, guardians or custodians or investigations or proceedings pursuant to that act."

SECTION HJC→12.←HJC HJC→13.←HJC A new section of the Abuse and Neglect Act is enacted to read:

"[NEW MATERIAL] CREATION AND MAINTENANCE OF DASHBOARD ON

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DEPARTMENT WEBSITE--ANNUAL REPORT.--

A. The department shall create and maintain a public, easily accessible and searchable dashboard on the department's website. The confidentiality of personal identifier information shall be safeguarded consistent with federal and state law. The dashboard shall be updated at least quarterly and shall include the data to be reported to the governor and the legislature.

B. By February 1 of each year, the department shall submit a report to the governor and the legislature that includes the following data for the prior twelve months ending on December 31:

(1) the number of fatalities and near fatalities of children in the custody of the department or as a result of abandonment, abuse or neglect when in the custody of a parent, guardian, custodian or other person;

(2) the number of children in department custody and the average length of time in custody, including the number of in-state and out-of-state placements in which children are placed;

(3) the number of children in foster care and the length of time in foster care or living with relatives or fictive kin;

(4) the number of complaints received alleging abandonment, abuse or neglect;

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(5) the number of investigations that resulted from the complaints, the number of complaints accepted for investigation and not accepted for investigation and the identified reasons in the aggregate for not investigating a complaint;

(6) the number of children removed from the custody of a parent, guardian, custodian or other person and the reasons for removals;

(7) the number of children returned to a household from which they were removed;

(8) the number of children placed in the custody of the department who have run away while in custody;

(9) the number of cases in which families subject to court-ordered treatment plans or voluntary placement agreements have absconded with children placed in the custody of the department;

(10) the number of adoptions and the number of adoptions for which funding was terminated prior to the child reaching the age of eighteen;

(11) the number of children and cases transferred to the jurisdiction of Indian nations, tribes and pueblos pursuant to the Indian Family Protection Act; and

(12) any other information the department considers of interest to the public.

C. Data shall be disaggregated by age, race,

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ethnicity, gender, disability status and geographic location.

D. The report shall be published on the department's website."

SECTION HJC→13.←HJC HJC→14.←HJC A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections HJC→13 through 16←HJC HJC→14 through 17←HJC of this act may be cited as the "Families First Act"."

SECTION HJC→14.←HJC HJC→15.←HJC A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Families First Act:

A. "families first services" means foster care prevention services categorized pursuant to the federal Title IV-E prevention services clearinghouse as well-supported, supported or promising that are included in the families first strategic plan implemented pursuant to the Families First Act and are provided by the department through the implementation of that strategic plan; and

B. "families first strategic plan" means the plan required pursuant to the Families First Act that is developed and implemented by the department in accordance with the regulations and requirements set forth in the federal Family First Prevention Services Act."

SECTION HJC→15.←HJC HJC→16.←HJC A new section of the

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Children's Code is enacted to read:

"~~[NEW MATERIAL]~~ FAMILIES FIRST STRATEGIC PLAN--DEPARTMENT DUTIES--FAMILIES FIRST SERVICES--TIME LINE--IMPLEMENTATION.--

A. In consultation with the early childhood education and care department, the health care authority and the department of health, the department shall develop and implement the families first strategic plan. In developing the families first strategic plan, the department shall:

(1) ensure that provisions of the families first strategic plan align with and meet the requirements set forth in the federal Family First Prevention Services Act; and

(2) maximize resources from the federal government under Title IV-E that are available to the department to provide families first services.

B. The families first strategic plan required pursuant to Subsection A of this section shall:

(1) include a comprehensive description of the department's responsibilities and duties for providing families first services;

(2) include a comprehensive and detailed list of each of the families first services the department will provide to eligible persons and affirm that each service to be provided:

(a) is eligible for reimbursement pursuant to the federal Family First Prevention Services Act;

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and

(b) is rated as promising, supported or well-supported in accordance with the Title IV-E prevention services clearinghouse;

(3) identify all network services providers, including other state agencies, that the department will use for providing families first services. If services are provided by another state agency, the department, together with the other state agency, shall establish safety monitoring protocols for direct monitoring of the services provided by that agency and, for each provider used by the department, list the specific families first service that the network services provider will provide, including:

- (a) mental health or substance abuse prevention and treatment;
- (b) in-home parent skill-based programs;
- (c) kinship navigator programs; or
- (d) any other programs or services that are eligible or become eligible for reimbursement pursuant to the federal Family First Prevention Services Act;

(4) identify and define the population of eligible persons who may receive families first services and include, at a minimum:

- (a) a child who is a candidate for foster care but who can remain safely at home with the

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provision of evidence-based services;

(b) a parent, guardian or caregiver of a child at risk of entering foster care;

(c) a pregnant or parenting youth in foster care; and

(d) other eligible persons identified by the department;

(5) identify processes and procedures to be established and followed by the department to determine eligibility for any families first service;

(6) identify processes and procedures to be established and followed by the department to maximize federal reimbursements, funding and resources available to the department to provide families first services;

(7) identify the process that the department will use to monitor and oversee the safety of children who receive families first services and programs, as required by the federal Family First Prevention Services Act;

(8) establish appropriate metrics the department will use to determine and evaluate outcomes from the department's provision of families first services pursuant to the Families First Act, including outcomes related specifically to repeated substantiated reports of maltreatment of a child and the numbers of children entering foster care;

(9) establish an appropriate time line and

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strategy for providing families first services statewide. The time line shall include the following:

(a) no later than June 30, 2027, the department shall provide families first services through a pilot program that is designed for implementation considering factors such as county population density and rates of child maltreatment and repeat maltreatment; and

(b) no later than June 30, 2032, the department shall provide statewide implementation of families first services rolled out in a manner consistent with the best practices derived from the evaluation of the pilot program;

(10) provide a detailed description of how the department will continuously monitor the families first strategic plan, from development of the plan through the pilot program phase and to statewide implementation. Included in that description shall be how the department will monitor key factors likely to best ensure fidelity to the service model developed within the families first strategic plan; and

(11) identify the appropriate information to include in an annual report to be provided by the department to the legislative finance committee, the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice and the governor. At a minimum, the annual report shall include the following information:

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(a) an up-to-date inventory of all families first services available;

(b) data, without inclusion of personal identifier information, regarding the uptake and program completion among eligible individuals of families first services, including the area of the state in which the services were accessed;

(c) performance results regarding identified outcome measures, to include aggregate data about child participant placement status at the beginning of services and one year after services and whether the child entered foster care within two years after being determined a candidate for foster care and receiving families first services; and

(d) fiscal information regarding program and service expenditures and disaggregating state and federal revenue sources.

C. For the purposes of this subsection, "approving authority" means the federal administration for children and families. The department shall:

(1) no later than August 1, 2025, finalize the provisions of the families first strategic plan, post the plan to the department's website and provide a copy of the plan to the legislative finance committee, the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice and the

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governor;

(2) no later than September 1, 2025:

(a) submit the families first strategic plan to the approving authority for approval; and

(b) begin providing families first services pursuant to the provisions of the Families First Act;

(3) if a submitted strategic plan is not approved and the approving authority indicates that to secure an approval, the strategic plan must be revised, as soon as practicable:

(a) revise the families first strategic plan in accordance with the revisions required by the approving authority; and

(b) submit the revised strategic plan to the approving authority; and

(4) include in the department's reports required pursuant to the Families First Act the status of each families first strategic plan submitted to the approving authority for approval, including any specific revisions required, the dates of submissions and the dates of approval or nonapproval by the approving authority for each submitted strategic plan and any other relevant information related to the status of a families first strategic plan submitted to the approving authority by the department.

D. No later than July 1, 2026, and by each July 1

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thereafter, the department shall post the annual report as established in the families first strategic plan pursuant to the Families First Act to the department's website, and the department shall submit the annual report to the legislative finance committee, the interim legislative health and human services committee, the interim legislative committee that studies courts, corrections and justice and the governor."

SECTION HJC→16.←HJC HJC→17.←HJC A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] RULES.--By August 1, 2027, the department shall promulgate and adopt rules as necessary to carry out the provisions of the Families First Act."

HJC→SECTION 17.←A new section of the New Mexico Insurance Code is enacted to read:

"[NEW MATERIAL] FOSTER CHILDREN ARE NOT RESIDENTS OF FOSTER HOMES FOR PURPOSES OF HOMEOWNERS INSURANCE.--A minor child placed in substitute care or foster care by the children, youth and families department or by a licensed child placement agency is not disqualified from coverage under any premises liability insurance policy as a result of the child's placement status."←HJC

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