

1 SENATE BILL 322

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Linda M. López and Harold Pope and Antoinette Sedillo Lopez and
5 Shannon D. Pinto and Patricia Roybal Caballero
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10 AN ACT

11 RELATING TO CHILDREN; LIMITING WHEN A STRIP OR CAVITY SEARCH
12 MAY BE PERFORMED IN A DETENTION FACILITY; PROHIBITING CAMERAS
13 OR FILMING IN CERTAIN AREAS OF A DETENTION FACILITY.
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 32A-2-4 NMSA 1978 (being Laws 1993,
17 Chapter 77, Section 33, as amended) is amended to read:

18 "32A-2-4. DETENTION FACILITIES--STANDARDS--REPORTS--
19 APPEALS--LIMIT OF A STRIP OR CAVITY SEARCH--PROHIBITING CAMERAS
20 OR FILMING IN CERTAIN AREAS.--

21 A. The department shall promulgate updated
22 standards for all detention facilities, including standards for
23 site, design, construction, equipment, care, program, personnel
24 and clinical services. The department shall certify as
25 approved all detention facilities in the state meeting the

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1 standards promulgated. The department may establish by rule
2 appropriate procedures for provisional certification and the
3 waiving of any of its standards for facilities in existence at
4 the time of the adoption of the standards, except that it shall
5 not allow waiver of any standard pertaining to adequate health
6 and safety protection of the residents and staff of the
7 facility. No child shall be detained in a detention facility
8 unless it is certified as approved by the department, except as
9 otherwise provided in Chapter 32A, Article 2 NMSA 1978.

10 B. The department shall inspect all detention
11 facilities in the state at least once each twelve months and
12 shall require those reports it deems necessary from detention
13 facilities in a form and containing the information determined
14 by the department. If as the result of an inspection a
15 certified detention facility is determined as failing to meet
16 the required standards, its certification is subject to
17 revocation or refusal for renewal by the department.

18 C. The department shall promulgate rules
19 establishing procedures that provide for prior notice and
20 public hearings on detention facilities' standards adoption and
21 changes. The department shall also promulgate rules
22 establishing procedures for facility certification, renewal of
23 certification, refusal to renew certification and revocation of
24 certification. The procedures adopted on these matters shall
25 provide for adequate prior notice of intended action by the

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1 department, opportunity for the aggrieved person to have an
2 administrative hearing and written notification of the
3 administrative decision. Rules promulgated under this
4 subsection shall not be effective unless filed in accordance
5 with the State Rules Act.

6 D. Any person aggrieved by an administrative
7 decision of the department rendered under the provisions of
8 this section may petition for the review of the administrative
9 decision by appealing to the district court pursuant to the
10 provisions of Section 39-3-1.1 NMSA 1978.

11 E. After January 1, 1994, no state or county
12 detention facility shall hold juveniles sentenced by a federal
13 court, unless the facility meets state standards promulgated by
14 the department.

15 F. A juvenile detention facility certified by the
16 department shall comply with the daily reporting requirement
17 for children in detention, including reports on the length of
18 stay for each child. This information shall be reported as
19 required by the department.

20 G. A strip or body cavity search may be performed
21 with only:

22 (1) probable cause that there is dangerous
23 contraband that could not otherwise be discovered; and

24 (2) authorization from the detention facility
25 superintendent or the superintendent's designee.

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1 H. A strip or body cavity search shall involve the
2 least invasive means necessary on the articulated and
3 documented safety and concern. An incident report shall be
4 completed following any strip or body cavity search. The
5 incident report shall include:

- 6 (1) the full name of the child;
- 7 (2) documentation of the probable cause;
- 8 (3) the steps taken to retrieve the suspected
9 contraband in a noninvasive manner;
- 10 (4) the date, time and location of the search;
- 11 (5) the names, current position, gender and
12 signatures of the personnel conducting the search; and
- 13 (6) the results of the search, including
14 disposition of contraband if recovered.

15 I. Copies of an incident report documenting the
16 strip or body cavity search shall be submitted to the detention
17 facility superintendent or the superintendent's designee by the
18 next business day following the occurrence.

19 J. No cameras or visual filming devices shall be
20 placed in the shower or toilet areas of a detention facility."