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AN ACT

RELATING TO STATE GOVERNMENT; AMENDING THE CHILDREN, YOUTH
AND FAMILIES DEPARTMENT ACT; REQUIRING THE USE OF STATE-
ISSUED ELECTRONIC DEVICES WHEN PERFORMING DEPARTMENTAL
DUTIES; REQUIRING THE BACKUP AND RETENTION OF ELECTRONIC
RECORDS.

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

SECTION 1. A new section of the Children, Youth and
Families Department Act is enacted to read:

"ELECTRONIC RECORDS--RETENTION.--

A. Employees of the department shall not erase
data from the 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.

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

C. By January 1, 2026, the department shall
implement a system, approved by the department of information
technology, that will back up on an hourly basis all
electronic records generated or received by employees of the
department related to the performance of their duties within

1 the scope of their employment by the department.

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

11 E. As used in this section:

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

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

19 (3) "electronic records" means information
20 generated by, transmitted by or stored on an electronic
21 device, including electronic mail, voicemail, text and instant
22 messages, documents and photographs, regardless of the
23 platform being used, including interagency communications."

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