

A JOINT MEMORIAL

REQUESTING THAT THE CHILDREN, YOUTH AND FAMILIES AND PUBLIC EDUCATION DEPARTMENTS STUDY THE SUBJECT OF TRUANCY AND DELINQUENCY NOTICES.

WHEREAS, the Children's Code and the Compulsory School Attendance Law in the Public School Code should be consistent in addressing truancy issues in the public schools and of individual students; and

WHEREAS, both school districts and the courts report difficulty in enforcing truancy rules because of inconsistencies between the provisions of these laws; and

WHEREAS, a work group formed during the 2003 interim by the legislative education study committee found that the provisions of the Children's Code are seldom applied because of certain mitigating factors, among them: limited resources; delays in the schedule of interventions; permissive language; and unclear lines of responsibility; and

WHEREAS, the Children's Code requires that the children, youth and families department, the public education department and the department of health coordinate services for families and their children; and

WHEREAS, studies report that truancy may be the beginning of a lifetime of problems for students who routinely skip school; that habitually truant students eventually drop

out of school and set themselves up for a life of struggle by reducing their ability to become productive citizens; and that high truancy rates are linked to increased burglary, vandalism and substance abuse rates; and

WHEREAS, there have been instances in which a juvenile charged with a serious crime, as cited in a delinquency petition, has been enrolled in a public school without the school personnel's knowledge of the charges against the juvenile; and

WHEREAS, in some cases these students may pose a threat to other students or to school personnel; and

WHEREAS, if school personnel were informed of the circumstances, they might be able to provide assistance to the accused student and to take additional measures to ensure that another student or staff member does not become the victim of an assault or other serious crime; and

WHEREAS, the Children's Code and the federal Family Educational Rights and Privacy Act restrict the dissemination of information about juveniles even though delinquency petitions are public records open to public inspection at the court of jurisdiction; and

WHEREAS, all persons, including juveniles, charged with serious crimes are presumed innocent until proven guilty; and

WHEREAS, the constitution of New Mexico requires that a "uniform system of free public schools sufficient for the

education of, and open to, all the children of school age in the state shall be established and maintained";

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the children, youth and families department and the public education department, in consultation with the office of the attorney general and with representatives of public school districts, private schools, district attorneys, law enforcement agencies and other appropriate entities, study truancy and the issues surrounding the timely notification of public and private schools when a student is the subject of a delinquency petition; and

BE IT FURTHER RESOLVED that the study include a review of actions that school personnel may take upon receipt of a delinquency petition to assist the student and to discourage truancy; and

BE IT FURTHER RESOLVED that the study include a comprehensive review of the intervention and enforcement provisions in both the Compulsory School Attendance Law and the Children's Code and that the children, youth and families department and the public education department report their findings and recommendations for legislation to reconcile the inconsistencies in provisions in law dealing with truancy to the legislative education study committee no later than November 1, 2007; and

BE IT FURTHER RESOLVED that copies of this memorial be

transmitted to the secretary of children, youth and families,
the secretary of public education, the attorney general and
the director of the legislative education study committee for
appropriate distribution.