

HOUSE JOINT MEMORIAL 40

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

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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;

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1 delays in the schedule of interventions; permissive language;
2 and unclear lines of responsibility; and

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

7 WHEREAS, studies report that truancy may be the beginning
8 of a lifetime of problems for students who routinely skip
9 school; that habitually truant students eventually drop out of
10 school and set themselves up for a life of struggle by reducing
11 their ability to become productive citizens; and that high
12 truancy rates are linked to increased burglary, vandalism and
13 substance abuse rates; and

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

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

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

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

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

8 WHEREAS, the constitution of New Mexico requires that a
9 "uniform system of free public schools sufficient for the
10 education of, and open to, all the children of school age in
11 the state shall be established and maintained";

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

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

25 BE IT FURTHER RESOLVED that the study include a

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1 comprehensive review of the intervention and enforcement
2 provisions in both the Compulsory School Attendance Law and the
3 Children's Code and that the children, youth and families
4 department and the public education department report their
5 findings and recommendations for legislation to reconcile the
6 inconsistencies in provisions in law dealing with truancy to
7 the legislative education study committee no later than
8 November 1, 2007; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to the secretary of children, youth and families,
11 the secretary of public education, the attorney general and the
12 director of the legislative education study committee for
13 appropriate distribution.

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