

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 183

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

AN ACT

RELATING TO THE ABUSE AND NEGLECT ACT; PROVIDING A RIGHT OF  
IMMEDIATE APPEAL FROM THE CHILDREN'S COURT FOR CERTAIN ORDERS.

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

SECTION 1. Section 32A-4-20 NMSA 1978 (being Laws 1993,  
Chapter 77, Section 114, as amended) is amended to read:

"32A-4-20. CONDUCT OF HEARINGS--FINDINGS--DISMISSAL--  
DISPOSITIONAL MATTERS--PENALTY.--

A. The proceedings shall be recorded by  
stenographic notes or by electronic, mechanical or other  
appropriate means.

B. All abuse and neglect hearings shall be closed  
to the general public.

C. Only the parties, their counsel, witnesses and  
other persons approved by the court may be present at a closed

.196561.2

1 hearing. The foster parent, preadoptive parent or relative  
2 providing care for the child shall be given notice and an  
3 opportunity to be heard at the dispositional phase. Those  
4 other persons the court finds to have a proper interest in the  
5 case or in the work of the court may be admitted by the court  
6 to closed hearings on the condition that they refrain from  
7 divulging any information that would identify the child or  
8 family involved in the proceedings.

9 D. Accredited representatives of the news media  
10 shall be allowed to be present at closed hearings, subject to  
11 the condition that they refrain from divulging information that  
12 would identify any child involved in the proceedings or the  
13 parent, guardian or custodian of that child and subject to  
14 enabling regulations as the court finds necessary for the  
15 maintenance of order and decorum and for the furtherance of the  
16 purposes of the Children's Code. A child who is the subject of  
17 an abuse and neglect proceeding and is present at a hearing may  
18 object to the presence of the media. The court may exclude the  
19 media if it finds that the presence of the media is contrary to  
20 the best interests of the child.

21 E. If the court finds that it is in the best  
22 interest of a child under fourteen years of age, the child may  
23 be excluded from a hearing under the Abuse and Neglect Act. A  
24 child fourteen years of age or older may be excluded from a  
25 hearing only if the court makes a finding that there is a

.196561.2

1 compelling reason to exclude the child and states the factual  
2 basis for the finding.

3 F. Those persons or parties granted admission to a  
4 closed hearing who intentionally divulge information in  
5 violation of this section are guilty of a petty misdemeanor.

6 G. The court shall determine if the allegations of  
7 the petition are admitted or denied. If the allegations are  
8 denied, the court shall proceed to hear evidence on the  
9 petition. The court, after hearing all of the evidence bearing  
10 on the allegations of neglect or abuse, shall make and record  
11 its findings on whether the child is a neglected child, an  
12 abused child or both. If the petition alleges that the parent,  
13 guardian or custodian has subjected the child to aggravated  
14 circumstances, then the court shall also make and record its  
15 findings on whether the aggravated circumstances have been  
16 proven.

17 H. If the court finds on the basis of a valid  
18 admission of the allegations of the petition or on the basis of  
19 clear and convincing evidence, competent, material and relevant  
20 in nature, that the child is neglected or abused, the court  
21 shall enter an order finding that the child is neglected or  
22 abused and may proceed immediately or at a postponed hearing to  
23 make disposition of the case. If the court does not find that  
24 the child is neglected or abused, the court shall dismiss the  
25 petition and may refer the family to the department for

.196561.2

1 appropriate services.

2 I. A party aggrieved by an order entered pursuant  
3 to Subsection H of this section may file an immediate appeal to  
4 the court of appeals.

5 [~~F.~~] J. In that part of the hearings held under the  
6 Children's Code on dispositional issues, all relevant and  
7 material evidence helpful in determining the questions  
8 presented, including oral and written reports, may be received  
9 by the court and may be relied upon to the extent of its  
10 probative value even though not competent had it been offered  
11 during the part of the hearings on adjudicatory issues.

12 [~~J.~~] K. On the court's motion or that of a party,  
13 the court may continue the hearing on the petition for a period  
14 not to exceed thirty days to receive reports and other evidence  
15 in connection with disposition. The court shall continue the  
16 hearing pending the receipt of the predisposition study and  
17 report if that document has not been prepared and received.  
18 During any continuances under this subsection, the court shall  
19 make an appropriate order for legal custody."

20 **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
21 provisions of this act is July 1, 2014.