

1 HOUSE BILL 271

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Gail Chasey

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10 AN ACT

11 RELATING TO CHILDREN; REQUIRING THE CHILDREN, YOUTH AND
12 FAMILIES DEPARTMENT AND THE PUBLIC EDUCATION DEPARTMENT TO
13 SHARE CERTAIN INFORMATION.

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

16 SECTION 1. A new section of the Public School Code,
17 Section 22-2-23 NMSA 1978, is enacted to read:

18 "22-2-23. [NEW MATERIAL] EDUCATIONAL SUCCESS FOR CHILDREN
19 IN STATE CARE.--

20 A. Before December 31, 2015, the children, youth
21 and families department and the public education department
22 shall establish the following procedures for sharing data and
23 reporting outcomes helpful to better assessing and meeting the
24 educational challenges of students in the state's care as a
25 result of abuse or neglect:

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1 (1) at least once per month, the children,
2 youth and families department shall provide the public
3 education department with a list of students in the state's
4 care and for each student the following information:

5 (a) the student's current place of
6 residence;

7 (b) the name and contact information of
8 the student's foster parent or other responsible adult at the
9 student's place of residence;

10 (c) the name and contact information for
11 the children, youth and families department staff person
12 responsible for care oversight of the student;

13 (d) the name and contact information of
14 the individual responsible for making education decisions
15 regarding the student; and

16 (e) the student's home school; and

17 (2) at least once per month, the public
18 education department shall inform each school district of any
19 students enrolled in the school district who are in the state's
20 care and shall provide the school districts information about
21 the students that will be helpful in ensuring that students in
22 the state's care receive appropriate educational supports and
23 services. Alternatively, the public education department may
24 allow staff of the children, youth and families department
25 direct access to the public education department's data system

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1 for the purpose of accessing the education records of students
2 in the state's care.

3 B. The public education department shall issue an
4 annual report on the aggregated educational status of students
5 in the state's care, including the number of students in the
6 state's care, academic achievement, graduation rates, truancy
7 rates, special education eligibility rates by category of
8 special education eligibility, suspension and expulsion rates
9 and dropout rates.

10 C. The public education department shall establish
11 rules governing how school districts will share with staff at
12 the children, youth and families department the educational
13 records of students enrolled in a school district or formerly
14 enrolled in a school district who are in the state's care. Not
15 later than August 31, 2015, each local school board shall
16 establish policies that govern how that school district shares
17 educational records of students who are in the state's care.

18 D. As used in this section, "students in the
19 state's care" means children who have been placed in the
20 custody of the children, youth and families department by a
21 court order, and does not require physical placement of the
22 child out of the home."

23 **SECTION 2.** Section 32A-4-33 NMSA 1978 (being Laws 1993,
24 Chapter 77, Section 127, as amended) is amended to read:

25 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

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1 A. All records or information concerning a party to
2 a neglect or abuse proceeding, including social records,
3 diagnostic evaluations, psychiatric or psychological reports,
4 videotapes, transcripts and audio recordings of a child's
5 statement of abuse or medical reports incident to or obtained
6 as a result of a neglect or abuse proceeding or that were
7 produced or obtained during an investigation in anticipation of
8 or incident to a neglect or abuse proceeding shall be
9 confidential and closed to the public.

10 B. The records described in Subsection A of this
11 section shall be disclosed only to the parties and:

- 12 (1) court personnel;
- 13 (2) court-appointed special advocates;
- 14 (3) the child's guardian ad litem;
- 15 (4) the attorney representing the child in an
16 abuse or neglect action, a delinquency action or any other
17 action under the Children's Code;
- 18 (5) department personnel;
- 19 (6) any local substitute care review board or
20 any agency contracted to implement local substitute care review
21 boards;
- 22 (7) law enforcement officials, except when use
23 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
- 24 (8) district attorneys, except when use
25 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

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1 (9) any state government social services
2 agency in any state or when, in the opinion of the department,
3 it is in the best interest of the child, a governmental social
4 services agency of another country;

5 (10) those persons or entities of an Indian
6 tribe specifically authorized to inspect the records pursuant
7 to the federal Indian Child Welfare Act of 1978 or any
8 regulations promulgated thereunder;

9 (11) a foster parent, if the records are those
10 of a child currently placed with that foster parent or of a
11 child being considered for placement with that foster parent
12 and the records concern the social, medical, psychological or
13 educational needs of the child;

14 (12) school personnel and public education
15 department employees involved with the child if the records
16 concern the child's social or educational needs;

17 (13) health care or mental health
18 professionals involved in the evaluation or treatment of the
19 child or of the child's parents, guardian, custodian or other
20 family members;

21 (14) protection and advocacy representatives
22 pursuant to the federal Developmental Disabilities Assistance
23 and Bill of Rights Act and the federal Protection and Advocacy
24 for Mentally Ill Individuals Amendments Act of 1991;

25 (15) children's safehouse organizations

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1 conducting investigatory interviews of children on behalf of a
2 law enforcement agency or the department; and

3 (16) any other person or entity, by order of
4 the court, having a legitimate interest in the case or the work
5 of the court.

6 C. A parent, guardian or legal custodian whose
7 child has been the subject of an investigation of abuse or
8 neglect where no petition has been filed shall have the right
9 to inspect any medical report, psychological evaluation, law
10 enforcement reports or other investigative or diagnostic
11 evaluation; provided that any identifying information related
12 to the reporting party or any other party providing information
13 shall be deleted. The parent, guardian or legal custodian
14 shall also have the right to the results of the investigation
15 and the right to petition the court for full access to all
16 department records and information except those records and
17 information the department finds would be likely to endanger
18 the life or safety of any person providing information to the
19 department.

20 D. Whoever intentionally and unlawfully releases
21 any information or records closed to the public pursuant to the
22 Abuse and Neglect Act or releases or makes other unlawful use
23 of records in violation of that act is guilty of a petty
24 misdemeanor and shall be sentenced pursuant to the provisions
25 of Section 31-19-1 NMSA 1978.

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