

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 49

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

AN ACT

RELATING TO CHILDREN; AMENDING SECTIONS OF THE CHILDREN'S CODE,
THE ABUSE AND NEGLECT ACT AND THE CITIZEN SUBSTITUTE CARE
REVIEW ACT; CREATING THE SUBSTITUTE CARE ADVISORY COUNCIL;
TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY,
CONTRACTUAL OBLIGATIONS AND REFERENCES IN LAW; AMENDING AND
REPEALING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 32A-1-4 NMSA 1978 (being Laws 1993,
Chapter 77, Section 13, as amended) is amended to read:

"32A-1-4. DEFINITIONS.--As used in the Children's Code:

A. "adult" means a person who is eighteen years of
age or older;

B. "child" means a person who is less than eighteen
years old;

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1 C. "council" means the substitute care advisory
2 council established pursuant to Section 32A-8-4 NMSA 1978;

3 [~~E.~~] D. "court", when used without further
4 qualification, means the children's court division of the
5 district court and includes the judge, special master or
6 commissioner appointed pursuant to the provisions of the
7 Children's Code or supreme court rule;

8 [~~D.~~] E. "court-appointed special advocate" [~~or~~
9 "CASA"] means a person appointed [~~as a CASA~~] pursuant to the
10 provisions of the Children's Court Rules [~~who assists~~] to
11 assist the court in determining the best interests of the child
12 by investigating the case and submitting a report to the court;

13 [~~E.~~] F. "custodian" means an adult with whom the
14 child lives who is not a parent or guardian of the child;

15 [~~F.~~] G. "department" means the children, youth and
16 families department, unless otherwise specified;

17 [~~G.~~] H. "disproportionate minority contact" means
18 the involvement of a racial or ethnic group with the criminal
19 or juvenile justice system at a proportion either higher or
20 lower than that group's proportion in the general population;

21 [~~H.~~] I. "foster parent" means a person, including a
22 relative of the child, licensed or certified by the department
23 or a child placement agency to provide care for children in the
24 custody of the department or agency;

25 [~~I.~~] J. "guardian" means a person appointed as a

1 guardian by a court or Indian tribal authority or a person
2 authorized to care for the child by a parental power of
3 attorney as permitted by law;

4 ~~[J.]~~ K. "guardian ad litem" means an attorney
5 appointed by the children's court to represent and protect the
6 best interests of the child in a ~~[court proceeding]~~ case;
7 provided that no party or employee or representative of a party
8 to the ~~[proceeding]~~ case shall be appointed to serve as a
9 guardian ad litem;

10 ~~[K.]~~ L. "Indian child" means an unmarried person
11 who is:

- 12 (1) less than eighteen years old;
- 13 (2) a member of an Indian tribe or is eligible
14 for membership in an Indian tribe; and
- 15 (3) the biological child of a member of an
16 Indian tribe;

17 ~~[L.]~~ M. "Indian child's tribe" means:
18 (1) the Indian tribe in which an Indian child
19 is a member or eligible for membership; or
20 (2) in the case of an Indian child who is a
21 member or eligible for membership in more than one tribe, the
22 Indian tribe with which the Indian child has more significant
23 contacts;

24 ~~[M.]~~ N. "Indian tribe" means a federally recognized
25 Indian tribe, community or group pursuant to 25 U.S.C. Section

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1 1903(1);

2 [N-] O. "judge", when used without further
3 qualification, means the judge of the court;

4 [O-] P. "legal custody" means a legal status
5 created by order of the court or other court of competent
6 jurisdiction or by operation of statute that vests in a person,
7 department or agency the right to determine where and with whom
8 a child shall live; the right and duty to protect, train and
9 discipline the child and to provide the child with food,
10 shelter, personal care, education and ordinary and emergency
11 medical care; the right to consent to major medical,
12 psychiatric, psychological and surgical treatment and to the
13 administration of legally prescribed psychotropic medications
14 pursuant to the Children's Mental Health and Developmental
15 Disabilities Act; and the right to consent to the child's
16 enlistment in the armed forces of the United States;

17 [P-] Q. "parent" or "parents" includes a biological
18 or adoptive parent if the biological or adoptive parent has a
19 constitutionally protected liberty interest in the care and
20 custody of the child;

21 [Q-] R. "permanency plan" means a determination by
22 the court that the child's interest will be served best by:

23 (1) reunification;

24 (2) placement for adoption after the parents'
25 rights have been relinquished or terminated or after a motion

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1 has been filed to terminate parental rights;

2 (3) placement with a person who will be the
3 child's permanent guardian;

4 (4) placement in the legal custody of the
5 department with the child placed in the home of a fit and
6 willing relative; or

7 (5) placement in the legal custody of the
8 department under a planned permanent living arrangement;

9 [~~R.~~] S. "person" means an individual or any other
10 form of entity recognized by law;

11 [~~S.~~] T. "preadoptive parent" means a person with
12 whom a child has been placed for adoption;

13 [~~T.~~] U. "protective supervision" means the right to
14 visit the child in the home where the child is residing,
15 inspect the home, transport the child to court-ordered
16 diagnostic examinations and evaluations and obtain information
17 and records concerning the child;

18 V. "relative" means a person related to another
19 person by blood within the fifth degree of consanguinity or
20 through marriage by the fifth degree of affinity;

21 [~~U.~~] W. "reunification" means either a return of
22 the child to the parent or to the home from which the child was
23 removed or a return to the noncustodial parent;

24 [~~V.~~] X. "tribal court" means:

25 (1) a court established and operated pursuant

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1 to a code or custom of an Indian tribe; or

2 (2) any administrative body of an Indian tribe
3 that is vested with judicial authority;

4 [~~W.~~] Y. "tribal court order" means a document
5 issued by a tribal court that is signed by an appropriate
6 authority, including a judge, governor or tribal council
7 member, and that orders an action that is within the tribal
8 court's jurisdiction; and

9 [~~X.~~] Z. "tribunal" means any judicial forum other
10 than the court."

11 SECTION 2. Section 32A-4-25 NMSA 1978 (being Laws 1993,
12 Chapter 77, Section 119, as amended) is amended to read:

13 "32A-4-25. PERIODIC JUDICIAL REVIEW OF DISPOSITIONAL
14 JUDGMENTS.--

15 A. The initial judicial review shall be held within
16 sixty days of the disposition. At the initial judicial review,
17 the parties shall demonstrate to the court efforts made to
18 implement the treatment plan approved by the court in its
19 dispositional order. The court shall determine the extent to
20 which the treatment plan has been implemented and make
21 supplemental orders as necessary to ensure compliance with the
22 treatment plan and the safety of the child. Prior to the
23 initial judicial review, the department shall submit a copy of
24 the adjudicatory order, the dispositional order and notice of
25 the initial judicial review to the [~~local substitute care~~

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1 ~~review board for that judicial district created under the~~
2 ~~Citizen Substitute Care Review Act] council. The staff of the~~
3 ~~council, or an entity contracting with the council, shall~~
4 ~~review the case. If the staff or contracting entity determines~~
5 ~~that the case meets the criteria established in council rules,~~
6 ~~the staff or contracting entity shall designate the case for~~
7 ~~review by a substitute care review board.~~ A representative of
8 the ~~[local]~~ substitute care review board, if designated, shall
9 be permitted to attend and comment to the court.

10 B. The court shall conduct subsequent periodic
11 judicial reviews of the dispositional ~~[orders shall be held]~~
12 order within six months of the conclusion of the permanency
13 hearing or, if a motion has been filed for termination of
14 parental rights or permanent guardianship, within six months of
15 the decision on that motion and every six months thereafter.
16 Prior to ~~[the]~~ a subsequent periodic judicial review, the
17 department shall submit a progress report to the ~~[local]~~
18 ~~substitute care review board for that judicial district created~~
19 ~~under the Citizen Substitute Care Review Act] council or any~~
20 designated substitute care review board. Prior to any judicial
21 review by the court pursuant to this section, the ~~[local]~~
22 substitute care review board may review the dispositional order
23 or the continuation of the order and the department's progress
24 report and report its findings and recommendations to the
25 court. ~~[The]~~

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1 C. Judicial review pursuant to this section may be
2 carried out by either of the following:

3 (1) a judicial review hearing conducted by the
4 court; or

5 (2) a judicial review hearing conducted by a
6 special master appointed by the court; provided, however, that
7 the court approve any findings made by the special master.

8 ~~[G.]~~ D. The children's court attorney shall give
9 notice of the time, place and purpose of any judicial review
10 hearing held pursuant to Subsection A, B or C of this section
11 to:

12 (1) all parties, including:

13 (a) the child alleged to be neglected or
14 abused or in need of court-ordered services, by and through the
15 child's guardian ad litem or attorney;

16 (b) the child's ~~[CASA, a contractor~~
17 ~~administering the local substitute care review board and the~~
18 ~~child's foster parent or substitute care provider of the time,~~
19 ~~place and purpose of any judicial review hearing held pursuant~~
20 ~~to Subsection A or B of this section]~~ parent, guardian or
21 custodian, who has allegedly neglected or abused the child or
22 is in need of court-ordered services; and

23 (c) any other person made a party by the
24 court;

25 (2) the child's foster parent or substitute

1 care provider;

2 (3) the child's court-appointed special
3 advocate; and

4 (4) if designated by the council, the
5 substitute care review board.

6 ~~[D.]~~ E. At any subsequent judicial review hearing
7 held pursuant to Subsection B of this section, the department
8 ~~[the child's guardian ad litem or attorney]~~ and all parties
9 given notice pursuant to Subsection ~~[G]~~ D of this section shall
10 have the opportunity to present evidence and to cross-examine
11 witnesses. At the hearing, the department shall show that it
12 has made reasonable effort to implement any treatment plan
13 approved by the court in its dispositional order and shall
14 present a treatment plan consistent with the purposes of the
15 Children's Code for any period of extension of the
16 dispositional order. The respondent shall demonstrate to the
17 court that efforts to comply with the treatment plan approved
18 by the court in its dispositional order and efforts to maintain
19 contact with the child were diligent and made in good faith.
20 The court shall determine the extent of compliance with the
21 treatment plan and whether progress is being made toward
22 establishing a stable and permanent placement for the child.

23 ~~[E.]~~ F. The Rules of Evidence shall not apply to
24 hearings held pursuant to this section. The court may admit
25 testimony by any person given notice of the hearing who has

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1 information about the status of the child or the status of the
2 treatment plan.

3 ~~[F-]~~ G. At the conclusion of any hearing held
4 pursuant to this section, the court shall make findings of fact
5 and conclusions of law.

6 ~~[G-]~~ H. When the child is an Indian child, the
7 court shall determine during review of a dispositional order
8 whether the placement preferences set forth in the federal
9 Indian Child Welfare Act of 1978 or the placement preferences
10 of the child's Indian tribe were followed and whether the
11 child's treatment plan provides for maintaining the child's
12 cultural ties. When placement preferences have not been
13 followed, good cause for noncompliance shall be clearly stated
14 and supported.

15 ~~[H-]~~ I. Based on its findings at a judicial review
16 hearing held pursuant to Subsection B of this section, the
17 court shall order one of the following dispositions:

18 (1) dismiss the action and return the child to
19 the child's parent without supervision if the court finds that
20 conditions in the home that led to abuse have been corrected
21 and it is now safe for the return of the abused child;

22 (2) permit the child to remain with the
23 child's parent, guardian or custodian subject to those
24 conditions and limitations the court may prescribe, including
25 protective supervision of the child by the department;

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1 (3) return the child to the child's parent and
2 place the child under the protective supervision of the
3 department;

4 (4) transfer or continue legal custody of the
5 child to:

6 (a) the noncustodial parent, if that is
7 found to be in the child's best interests;

8 (b) a relative or other individual who,
9 after study by the department or other agency designated by the
10 court, is found by the court to be qualified to receive and
11 care for the child and is appointed as a permanent guardian of
12 the child; or

13 (c) the department, subject to the
14 provisions of Paragraph (6) of this subsection;

15 (5) continue the child in the legal custody of
16 the department with or without any required parental
17 involvement in a treatment plan. Reasonable efforts shall be
18 made to preserve and reunify the family, with the paramount
19 concern being the child's health and safety unless the court
20 finds that such efforts are not required. The court may
21 determine that reasonable efforts are not required to be made
22 when the court finds that:

23 (a) the efforts would be futile; or
24 (b) the parent, guardian or custodian
25 has subjected the child to aggravated circumstances;

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1 (6) make additional orders regarding the
2 treatment plan or placement of the child to protect the child's
3 best interests if the court determines the department has
4 failed in implementing any material provision of the treatment
5 plan or abused its discretion in the placement or proposed
6 placement of the child; or

7 (7) if during a judicial review the court
8 finds that the child's parent, guardian or custodian has not
9 complied with the court-ordered treatment plan, the court may
10 order:

11 (a) the child's parent, guardian or
12 custodian to show cause why the parent, guardian or custodian
13 should not be held in contempt of court; or

14 (b) a hearing on the merits of
15 terminating parental rights.

16 [~~F.~~] J. Dispositional orders entered pursuant to
17 this section shall remain in force for a period of six months,
18 except for orders that provide for transfer of the child to the
19 child's noncustodial parent or to a permanent guardian.

20 [~~J. The report of the local substitute care review
21 board submitted to the court pursuant to Subsection B of this
22 section shall become a part of the child's permanent court
23 record.]~~

24 K. When the court determines, pursuant to Paragraph
25 (5) of Subsection [H] I of this section, that no reasonable

1 efforts at reunification are required, the court shall conduct,
 2 within thirty days, a permanency hearing as described in
 3 Section 32A-4-25.1 NMSA 1978. The department shall make
 4 reasonable efforts [~~shall be made~~] to place the child in a
 5 timely manner in accordance with the permanency plan and to
 6 complete whatever steps are necessary to finalize the permanent
 7 placement of the child."

8 SECTION 3. Section 32A-4-25.1 NMSA 1978 (being Laws 1997,
 9 Chapter 34, Section 8, as amended) is amended to read:

10 "32A-4-25.1. PERMANENCY HEARINGS--PERMANENCY REVIEW
 11 HEARINGS.--

12 A. A permanency hearing shall be commenced within
 13 six months of the initial judicial review of a child's
 14 dispositional order or within twelve months of a child entering
 15 foster care pursuant to Subsection D of this section, whichever
 16 occurs first. Prior to the initial permanency hearing [~~all~~
 17 ~~parties to the hearing shall attend a mandatory meeting and~~
 18 ~~attempt to settle issues attendant to the permanency hearing~~
 19 ~~and develop a proposed treatment plan that serves the child's~~
 20 ~~best interest. Prior to the initial permanency hearing, the~~
 21 ~~department shall submit a progress report regarding the child~~
 22 ~~to the local substitute care review board for that judicial~~
 23 ~~district. The local substitute care review board may review~~
 24 ~~the child's dispositional order, any continuation of that~~
 25 ~~order]:~~

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1 (1) the department shall submit a copy of any
2 continuation of the dispositional order and notice of hearing
3 to the council or any substitute care review board designated
4 pursuant to Section 32A-8-5 NMSA 1978;

5 (2) the department shall submit a progress
6 report to any designated substitute care review board;

7 (3) all parties to the hearing shall attend a
8 mandatory meeting and attempt to settle issues attendant to the
9 permanency hearing and develop a proposed treatment plan that
10 serves the child's best interest; and

11 (4) any designated substitute care review
12 board may review the child's case and the department's progress
13 report and report its findings and recommendations to the
14 court.

15 B. At the permanency hearing, all parties shall
16 have the opportunity to present evidence and to cross-examine
17 witnesses. At the conclusion of the permanency hearing, the
18 court shall order one of the following permanency plans for the
19 child:

20 (1) reunification;

21 (2) placement for adoption after the parents'
22 rights have been relinquished or terminated or after a motion
23 has been filed to terminate parental rights;

24 (3) placement with a person who will be the
25 child's permanent guardian;

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1 (4) placement in the legal custody of the
2 department with the child placed in the home of a fit and
3 willing relative; or

4 (5) placement in the legal custody of the
5 department under a planned permanent living arrangement,
6 provided that there is substantial evidence that none of the
7 above plans is appropriate for the child.

8 C. If the court adopts a permanency plan of
9 reunification, the court shall adopt a plan for transitioning
10 the child home and schedule a permanency review hearing within
11 three months. If the child is reunified, the subsequent
12 hearing may be vacated.

13 D. If the court adopts a permanency plan other than
14 reunification, the court shall determine whether the department
15 has made reasonable efforts to identify and locate all
16 grandparents and other relatives. The court shall also
17 determine whether the department has made reasonable efforts to
18 conduct home studies on any appropriate relative expressing an
19 interest in providing permanency for the child. The court must
20 ensure ~~[the]~~ that consideration has been given to the child's
21 familial identity and connections. If the court finds that
22 reasonable efforts have not been made to identify or locate
23 grandparents and other relatives or to conduct home studies on
24 appropriate and willing relatives, the court shall schedule a
25 permanency review within sixty days to determine whether an

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1 appropriate relative placement has been made. If a relative
2 placement is made, the subsequent hearing may be vacated.

3 E. At the permanency review hearing, all parties
4 and the child's guardian ad litem or attorney shall have the
5 opportunity to present evidence and cross-examine witnesses.

6 Based on the evidence, the court shall:

7 (1) change the plan from reunification to one
8 of the alternative plans provided in Subsection B of this
9 section;

10 (2) dismiss the case and return custody of the
11 child to the child's parent, guardian or custodian; or

12 (3) return the child to the custody of the
13 child's parent, guardian or custodian, subject to any
14 conditions or limitations as the court may prescribe, including
15 protective supervision of the child by the department and
16 continuation of the treatment plan for not more than six
17 months, after which the case shall be dismissed. The
18 department may seek removal of a child from the home by
19 obtaining an order in the pending case or by seeking emergency
20 removal under Section 32A-4-6 NMSA 1978 during the period of
21 protective supervision if the child's best interest requires
22 such action. When a child is removed in this situation, a
23 permanency hearing shall be scheduled within thirty days of the
24 child coming back into the department's legal custody.

25 F. The court shall hold a permanency hearing and

1 adopt a permanency plan for a child within twelve months of the
 2 child entering foster care. For purposes of this section, a
 3 child shall be considered to have entered foster care on the
 4 earlier of:

5 (1) the date of the first judicial finding
 6 that the child has been abused or neglected; or

7 (2) sixty days after the date on which the
 8 child was removed from the home.

9 G. The court shall hold permanency hearings every
 10 twelve months when a child is in the legal custody of the
 11 department.

12 H. The children's court attorney shall give notice
 13 ~~[to all parties, including the child by and through the child's~~
 14 ~~guardian ad litem or attorney, the child's CASA, a contractor~~
 15 ~~administering the local substitute care review board and the~~
 16 ~~child's foster parent or substitute care provider of the time,~~
 17 ~~place and purpose of any permanency hearing or permanency~~
 18 ~~review hearing held pursuant to this section] of the time,~~
 19 place and purpose of any permanency hearing or permanency
 20 review hearing held pursuant to this section to:

21 (1) all parties, including:

22 (a) the child alleged to be neglected or
 23 abused or in need of court-ordered services, by and through the
 24 child's guardian ad litem or attorney;

25 (b) the child's parent, guardian or

1 custodian, who has allegedly neglected or abused the child or
2 is in need of court-ordered services; and

3 (c) any other person made a party by the
4 court;

5 (2) the child's foster parent or substitute
6 care provider;

7 (3) the child's court-appointed special
8 advocate; and

9 (4) if designated by the council, the
10 substitute care review board.

11 I. The Rules of Evidence shall not apply to
12 permanency hearings. The court may admit testimony by any
13 person given notice of the permanency hearing who has
14 information about the status of the child or the status of the
15 treatment plan. All testimony shall be subject to
16 cross-examination."

17 **SECTION 4.** Section 32A-8-1 NMSA 1978 (being Laws 1993,
18 Chapter 77, Section 203) is amended to read:

19 "32A-8-1. SHORT TITLE.--Chapter [~~32~~] 32A, Article 8 NMSA
20 1978 may be cited as the "Citizen Substitute Care Review Act"."

21 **SECTION 5.** Section 32A-8-2 NMSA 1978 (being Laws 1993,
22 Chapter 77, Section 204) is amended to read:

23 "32A-8-2. PURPOSE OF ACT.--The purpose of the Citizen
24 Substitute Care Review Act is to provide a permanent system for
25 independent and objective monitoring of children placed in the

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1 custody of the department by examining the policies, procedures
 2 and practices of the department and, where appropriate,
 3 specific cases to evaluate the extent to which the department
 4 is effectively discharging its child protection
 5 responsibilities."

6 SECTION 6. Section 32A-8-4 NMSA 1978 (being Laws 1993,
 7 Chapter 77, Section 206) is amended to read:

8 "32A-8-4. [~~STATE ADVISORY COMMITTEE~~] SUBSTITUTE CARE
 9 ADVISORY COUNCIL--MEMBERS--COMPENSATION--RESPONSIBILITIES.--

10 A. [~~A state advisory committee~~] The "substitute
 11 care advisory council" is created and, in accordance with the
 12 provisions of Section 9-1-7 NMSA 1978, is administratively
 13 attached to the regulation and licensing department. The
 14 general purpose of the council is to oversee substitute care
 15 review boards in their monitoring of children placed in the
 16 custody of the children, youth and families department to
 17 identify systemic policy issues regarding substitute care. The
 18 council shall be composed of [~~three persons with expertise in~~
 19 ~~the area of substitute care, appointed by the secretary of~~
 20 ~~finance and administration, and also one representative of each~~
 21 ~~local substitute care review board. Each local board shall~~
 22 ~~select its representative to the state advisory committee in~~
 23 ~~accordance with procedures established by that committee. No]~~
 24 nine persons, including:

25 (1) the secretary of public education or the

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1 secretary's designee;

2 (2) the secretary of human services or the
3 secretary's designee;

4 (3) the secretary of finance and
5 administration or the secretary's designee;

6 (4) the secretary of health or the secretary's
7 designee;

8 (5) two public members, appointed by the
9 governor, who:

10 (a) are at least eighteen and no more
11 than thirty years of age at the time of appointment; and

12 (b) were previously placed in substitute
13 care;

14 (6) two public members, appointed by the
15 governor, who have expertise in the area of child welfare; and

16 (7) one children's court judge, appointed by
17 the governor.

18 B. The council may hire staff and contract for
19 services to carry out the purposes of the Citizen Substitute
20 Care Review Act. Except as provided pursuant to Paragraph (7)
21 of Subsection A of this section, a person or a relative of a
22 person employed by the department or a district court [may]
23 shall not serve on the [state advisory committee] council.

24 [B.] C. Terms of office of [local substitute care
25 review board] public members of the [state advisory committee

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1 ~~shall be coterminous with their terms as members of the local~~
 2 ~~boards. Terms of office of members who are appointed by the~~
 3 ~~secretary of finance and administration shall be for three~~
 4 ~~years; provided, however, that appointment of the first state~~
 5 ~~advisory committee members shall be to staggered terms so that~~
 6 ~~one member shall serve for a term of three years, one member~~
 7 ~~shall serve for a term of two years and one member shall serve~~
 8 ~~for a term of one year. The term of each member shall expire~~
 9 ~~on June 30 of the appropriate year] council shall be three~~
 10 ~~years. Public members shall be eligible for reappointment. In~~
 11 ~~the event that a vacancy occurs among the members of the [state~~
 12 ~~advisory committee appointed by the secretary of finance and~~
 13 ~~administration] council, the [secretary] governor shall appoint~~
 14 another person to serve the unexpired portion of the term.

15 [G.] D. The [state advisory committee] council
 16 shall select a chairperson, a vice chairperson [~~an executive~~
 17 ~~committee~~] and other officers as it deems necessary.

18 [D.] E. The [state advisory committee] council
 19 shall meet no less than twice annually and more frequently upon
 20 the call of the chairperson [~~or as the executive committee may~~
 21 ~~determine~~].

22 F. The [~~state advisory committee is authorized to~~]
 23 council shall adopt reasonable rules relating to the functions
 24 and procedures of the [~~local~~] substitute care review boards and
 25 the [~~state advisory committee~~] council in accordance with the

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1 duties of the boards as provided in the Citizen Substitute Care
2 Review Act. These rules shall [~~include guidelines for the~~
3 ~~determination of the appropriate type of review and~~]:

4 (1) establish training requirements for
5 substitute care review board members;

6 (2) establish criteria for council designation
7 of cases for substitute care review board review;

8 (3) establish procedures for substitute care
9 review board review of designated cases;

10 (4) establish criteria for membership and
11 tenure on and operating procedures for substitute care review
12 boards;

13 (5) specify the information needed for [all]
14 designated cases to be monitored by [the local] substitute care
15 review boards; and

16 (6) specify case information to be tracked and
17 reported to the council.

18 G. When adopting rules establishing criteria for
19 designation of cases for substitute care review board review,
20 the council shall weigh the importance of the following
21 factors, including:

22 (1) sibling placements;

23 (2) the frequency and severity of neglect or
24 abuse;

25 (3) the behavioral health status of household

1 members;

2 (4) the placement of children in households
3 where there are no relatives of the children;

4 (5) data related to demographics; and

5 (6) relevant trend data.

6 H. The [~~state advisory committee~~] council shall
7 review and coordinate the activities of the [~~local~~] substitute
8 care review boards and make a report with its recommendations
9 to the department, the courts and the [~~legislature~~] appropriate
10 legislative interim committees, on or before [~~January~~] November
11 1 of each year, regarding statutes, rules, policies and
12 procedures relating to substitute care. This report shall
13 include recommendations for any changes to substitute care
14 review boards.

15 [~~E. State advisory committee~~] I. Council members
16 shall receive per diem and mileage as provided for nonsalaried
17 public officers in the Per Diem and Mileage Act; [~~and~~] provided
18 that, if a different provision of that act applies to a
19 specific member, that member shall be paid pursuant to that
20 applicable provision. Members shall receive no other
21 compensation, perquisite or allowance."

22 **SECTION 7.** Section 32A-8-5 NMSA 1978 (being Laws 1993,
23 Chapter 77, Section 207) is amended to read:

24 "32A-8-5. [~~LOCAL~~] SUBSTITUTE CARE REVIEW BOARDS--
25 APPOINTMENTS--EXCLUSION--TERMS--TRAINING--COMPENSATION--

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1 MEETINGS.--

2 A. The ~~[contractor, selected by the department of~~
3 ~~finance and administration pursuant to the provisions of~~
4 ~~Section 32-8-3 NMSA 1978]~~ council shall establish ~~[and maintain~~
5 ~~local substitute care review boards to review, as provided in]~~
6 no fewer than three substitute care review boards and, in each
7 judicial district established pursuant to Section 34-6-1 NMSA
8 1978, no more than the following number of substitute care
9 review boards:

10 (1) two substitute care review boards in the
11 first judicial district;

12 (2) three substitute care review boards in the
13 second judicial district;

14 (3) one substitute care review board in the
15 third judicial district;

16 (4) two substitute care review boards in the
17 fourth judicial district;

18 (5) two substitute care review boards in the
19 fifth judicial district;

20 (6) two substitute care review boards in the
21 sixth judicial district;

22 (7) two substitute care review boards in the
23 seventh judicial district;

24 (8) two substitute care review boards in the
25 eighth judicial district;

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1 (9) one substitute care review board in the
 2 ninth judicial district;

3 (10) one substitute care review board in the
 4 tenth judicial district;

5 (11) two substitute care review boards in the
 6 eleventh judicial district;

7 (12) two substitute care review boards in the
 8 twelfth judicial district; and

9 (13) two substitute care review boards in the
 10 thirteenth judicial district.

11 B. The council, or a contractor performing services
 12 for the council pursuant to Subsection B of Section 32A-8-4
 13 NMSA 1978, shall provide administrative support to substitute
 14 care review boards in accordance with the Citizen Substitute
 15 Care Review Act [the disposition of children in the custody of
 16 the department prior to judicial review. Each board shall, to
 17 the maximum extent feasible, represent the various
 18 socioeconomic, racial and ethnic groups of the community that
 19 they serve.

20 ~~B. Criteria for membership and tenure on local~~
 21 ~~substitute care review boards shall be determined by the state~~
 22 ~~advisory committee, after consultation with the department of~~
 23 ~~finance and administration and the contractor. No] and rules~~
 24 that the council has adopted.

25 C. A person or a relative of a person employed by

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1 the department of finance and administration, the children,
2 youth and families department, the human services department,
3 the public education department, the department of health, a
4 contractor of the council or a district court [~~may~~] shall not
5 serve on a [~~local~~] substitute care review board.

6 [~~G. Each local substitute care review board shall~~
7 ~~elect a chairperson, a vice chairperson and other officers as~~
8 ~~it deems necessary.~~]

9 D. [~~Local~~] The composition of each substitute care
10 review board shall be broadly representative of the community
11 in which the board serves and include members with expertise in
12 the prevention and treatment of child abuse and neglect and may
13 include adult former victims of child abuse or neglect.

14 E. Each substitute care review board shall meet at
15 least once per quarter to review cases designated in accordance
16 with council rules.

17 F. Substitute care review board members may receive
18 per diem and mileage as provided for nonsalaried public
19 officers in the Per Diem and Mileage Act; [~~and~~] provided that,
20 if a different provision of that act applies to a specific
21 member, that member shall be paid pursuant to that applicable
22 provision. Members shall receive no other compensation,
23 perquisite or allowance.

24 G. Upon request of the council, a substitute care
25 review board shall prepare a report summarizing its activities.

1 These reports shall not contain confidential information."

2 SECTION 8. Section 32A-8-6 NMSA 1978 (being Laws 1993,
3 Chapter 77, Section 208) is amended to read:

4 "32A-8-6. ~~[CITIZEN]~~ SUBSTITUTE CARE REVIEW BOARD REVIEWS
5 OF [DISPOSITIONAL JUDGMENTS] CASES.--

6 ~~[A. Prior to any judicial review by the court~~
7 ~~pursuant to Section 32-4-23 NMSA 1978, the local substitute~~
8 ~~care review board shall review any dispositional order or the~~
9 ~~continuation of the order and the department's progress report~~
10 ~~on the child and submit a report to the court. The] When~~
11 council rules designate the review of a case, a substitute care
12 review board shall conduct the review in accordance with the
13 provisions of the Children's Code and the Abuse and Neglect Act
14 and council rules. The designated substitute care review board
15 shall submit a report to the court for each case that it
16 reviews. The substitute care review board shall give the
17 parties in [the] a children's court [proceedings shall be given
18 prior] case under substitute care review board review notice of
19 [the] a substitute care review board meeting related to that
20 case and [be afforded] afford the parties an opportunity to
21 participate fully in the substitute care review board meeting.

22 ~~[B. The report of the local substitute care review~~
23 ~~board submitted to the court pursuant to this section shall~~
24 ~~become a part of the child's permanent court record.]"~~

25 SECTION 9. Section 32A-8-7 NMSA 1978 (being Laws 1993,

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1 Chapter 77, Section 209) is amended to read:

2 "32A-8-7. [~~TEMPORARY PROVISIONS~~] TRANSFER PROVISIONS--
3 FUNDS--CONTRACTS--REFERENCES IN LAW.--On the effective date of
4 this 2016 act:

5 A. [~~On the effective date of the Children's Code~~]
6 all functions, records, personnel, appropriations, money,
7 furniture, property, equipment and supplies of the department
8 of finance and administration relating to the Citizen
9 Substitute Care Review Act shall be transferred to the
10 [~~department of finance and administration~~] council;

11 B. [~~On the effective date of the Children's Code~~]
12 all appropriations, contract funds and funds for contract
13 administration and staff, the cost of [~~advisory committee~~]
14 council per diem and travel, training and all other costs
15 relating to the Citizen Substitute Care Review Act shall be
16 transferred from the department of finance and administration
17 to the [~~department of finance and administration~~] council;

18 C. [~~On the effective date of the Children's Code~~]
19 all existing rules and regulations, contracts and agreements
20 [~~in effect with~~] of the department [~~for providing a~~] of finance
21 and administration relating to the statewide system of [~~local~~]
22 substitute care review boards shall be binding and effective on
23 the [~~department of finance and administration~~] council; and

24 D. all references in law to the state advisory
25 committee shall be deemed to be references to the council."

