

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 23

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Michael Padilla and Candace Gould

AN ACT

RELATING TO YOUTH; AMENDING AND ENACTING SECTIONS OF THE CHILDREN'S CODE, THE ABUSE AND NEGLECT ACT AND THE DELINQUENCY ACT TO PROVIDE FOR SERVICES FOR ELIGIBLE YOUTH IN TRANSITION FROM FOSTER CARE; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Fostering Connections Act"."

SECTION 2. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] FOSTERING CONNECTIONS PROGRAM--CREATION--SERVICES--SUPPORTS.--

A. The "fostering connections program" is

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 established in the department. The program shall provide at  
2 least the following services and supports to eligible youth:

3 (1) major medical and behavioral health care  
4 coverage;

5 (2) housing, in one of the following settings  
6 that the eligible youth chooses:

7 (a) a foster family home;

8 (b) a supervised independent living  
9 setting; or

10 (c) placement in a foster care facility  
11 or another institution; provided that: 1) except as provided  
12 pursuant to Item 2 of this paragraph, an eligible youth who is  
13 residing in a foster care facility upon leaving foster care may  
14 choose to temporarily stay until the eligible youth is able to  
15 transition to a more age-appropriate setting; and 2) if the  
16 court finds that an eligible youth's developmental level,  
17 disability or other condition indicates placement in a foster  
18 care facility or another institution due to an eligible youth's  
19 developmental level, disability or other condition, the  
20 eligible youth shall be placed in a foster care facility or  
21 another institution until the court deems that the eligible  
22 youth may be appropriately placed in another setting;

23 (3) foster care maintenance payments; provided  
24 that these payments:

25 (a) shall remain at least at the rate

.210968.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 set immediately prior to the eligible youth's exit from foster  
2 care;

3 (b) for an eligible youth residing in a  
4 supervised independent living setting, may be sent by the  
5 department, all or in part, directly to the youth. The  
6 department shall determine whether to send all or part of an  
7 eligible youth's foster care maintenance payment directly to a  
8 youth on a case-by-case basis by and in consultation with the  
9 eligible youth in a manner that respects the independence of  
10 the eligible youth; and

11 (c) if the eligible youth is a parent,  
12 the payment rate shall reflect the eligible youth's status as a  
13 parent; and

14 (4) case management services that are:

15 (a) provided under the eligible youth's  
16 direction; and

17 (b) a continuation of the transition  
18 plan pursuant to Section 32A-4-25.2 NMSA 1978, including a  
19 written description of additional resources that will help the  
20 eligible youth in creating permanent relationships and  
21 preparing for the transition to adulthood and independent  
22 living.

23 B. Department rules and guidelines relating to an  
24 eligible youth's housing options shall be respectful of the  
25 eligible youth's autonomy and developmental maturity. For

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 supervised independent living settings:

2 (1) safety assessments of the living  
3 arrangements shall be age-appropriate and be made in accordance  
4 with federal guidance; and

5 (2) a criminal background check shall not be  
6 required for an individual residing in the same residence as  
7 the eligible youth.

8 C. Case management shall include the development of  
9 a case plan, developed jointly by the department and the  
10 eligible youth, that includes a description of the identified  
11 housing situation or living arrangement, the resources to  
12 assist the eligible youth in the transition from the fostering  
13 connections program to adulthood and the needs listed in the  
14 eligible youth's transition plan. Case management shall also  
15 include documentation that assistance has been offered and  
16 provided that would help the eligible youth meet the eligible  
17 youth's individual goals, if this assistance is appropriate and  
18 if the youth is eligible for assistance and consents to receive  
19 such assistance. This shall include assisting the eligible  
20 youth in:

21 (1) obtaining employment or other financial  
22 support;

23 (2) obtaining a government-issued  
24 identification card;

25 (3) opening and maintaining a bank account;

.210968.3

underscored material = new  
~~[bracketed material] = delete~~

1 (4) obtaining appropriate community resources,  
2 including health, mental health, developmental disability and  
3 other disability services and support;

4 (5) when appropriate, satisfying any juvenile  
5 or criminal justice system requirements and assisting with  
6 sealing the youth's juvenile court record pursuant to Section  
7 32A-2-26 NMSA 1978;

8 (6) completing secondary education;

9 (7) applying for admission and aid for post-  
10 secondary education or vocational courses;

11 (8) obtaining the necessary state court  
12 findings and then applying for special immigrant juvenile  
13 status under federal law or applying for other immigration  
14 relief for which the youth may be qualified;

15 (9) creating a power of attorney for health  
16 care or other advance directive pursuant to the Uniform Health-  
17 Care Decisions Act or a power of attorney for mental health  
18 treatment pursuant to the Mental Health Care Treatment  
19 Decisions Act;

20 (10) obtaining a copy of health and education  
21 records of the eligible youth;

22 (11) applying for any public benefits or  
23 benefits for which the eligible youth may be entitled or that  
24 may be due through the eligible youth's parents or relatives,  
25 including state or federal cash assistance, nutritional

.210968.3

underscored material = new  
[bracketed material] = delete

1 assistance or low-income home energy assistance;

2 (12) maintaining relationships with  
3 individuals who are important to the eligible youth, including  
4 searching for individuals with whom the eligible youth has lost  
5 contact;

6 (13) accessing information about maternal and  
7 paternal relatives, including any siblings;

8 (14) accessing youth empowerment opportunities  
9 and peer support groups; and

10 (15) accessing pregnancy and parenting  
11 resources and services."

12 SECTION 3. A new section of the Children's Code is  
13 enacted to read:

14 "[NEW MATERIAL] FOSTERING CONNECTIONS PROGRAM--  
15 PARTICIPATION--VOLUNTARY SERVICES AND SUPPORT AGREEMENT--  
16 INDEPENDENCE COORDINATOR.--

17 A. When a youth elects to participate in the  
18 fostering connections program, the department and the eligible  
19 youth shall execute, and the eligible youth shall be provided  
20 with a signed copy of, a voluntary services and support  
21 agreement that sets forth, at a minimum, the following:

22 (1) a requirement that the eligible youth  
23 continue to be eligible in accordance with the provisions of  
24 the Fostering Connections Act for the duration of the voluntary  
25 services and support agreement;

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 (2) the services and support that the eligible  
2 youth will receive through the fostering connections program;

3 (3) the voluntary nature of the eligible  
4 youth's participation and the eligible youth's right to  
5 terminate the voluntary services and support agreement at any  
6 time; and

7 (4) conditions that may result in the  
8 termination of the voluntary services and support agreement and  
9 the eligible youth's early discharge from the fostering  
10 connections program pursuant to Section 5 of the Fostering  
11 Connections Act.

12 B. An eligible youth may participate in the  
13 fostering connections program for any duration of time while  
14 the youth is between eighteen and twenty-one years of age by  
15 entering into a voluntary services and support agreement  
16 immediately upon turning age eighteen or any time thereafter by  
17 seeking a resumption of jurisdiction.

18 C. As soon as the department determines that the  
19 youth is eligible for the fostering connections program in  
20 accordance with the provisions of the Fostering Connections  
21 Act, the eligible youth and the department shall sign the  
22 voluntary services and support agreement.

23 D. Within fifteen days after execution by the  
24 department and the eligible youth of the voluntary services and  
25 support agreement, the department shall provide those services

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 and supports set forth in that agreement.

2 E. The department or its agent shall assign an  
3 eligible youth an independence coordinator to provide case  
4 management services for the eligible youth. Independence  
5 coordinators and their supervisors shall be specialized in  
6 primarily providing services for eligible youth participating  
7 in the program or shall, at a minimum, have specialized  
8 training in providing transition services and support to youth.

9 F. The department shall provide continued efforts  
10 to assist eligible youth in achieving permanency and creating  
11 permanent connections.

12 G. The department shall consult with the eligible  
13 youth and draft or update the eligible youth's case plan in  
14 accordance with the department's protective services division  
15 rules for case planning. The department shall fulfill the  
16 provisions of the eligible youth's case plan.

17 H. As soon as possible after the youth is  
18 determined eligible for the fostering connections program in  
19 accordance with the provisions of Section 4 of the Fostering  
20 Connections Act and signs the voluntary services and support  
21 agreement, the department shall conduct a determination of  
22 income eligibility for purposes of compliance with federal  
23 foster care and transitional care assistance."

24 SECTION 4. A new section of the Children's Code is  
25 enacted to read:

.210968.3

1           "[NEW MATERIAL] FOSTERING CONNECTIONS PROGRAM--

2           ELIGIBILITY.--The department shall make the fostering  
3           connections program available, on a voluntary basis, to a youth  
4           who:

5                     A. has attained at least eighteen years of age and  
6                     is younger than twenty-one years of age;

7                     B. was adjudicated under the Delinquency Act or the  
8                     Abuse and Neglect Act or an equivalent act under tribal law  
9                     and:

10                    (1) upon attaining eighteen years of age, was  
11                    in an out-of-home placement or had an order for foster care; or

12                    (2) for whom a kinship guardianship assistance  
13                    agreement was in effect if the youth had attained sixteen years  
14                    of age before the agreement became effective or for whom a  
15                    state-funded guardianship assistance agreement was in effect if  
16                    the youth had attained sixteen years of age before the  
17                    agreement became effective; and

18                    C. is:

19                    (1) completing secondary education or an  
20                    educational program leading to an equivalent credential;

21                    (2) enrolled in an institution that provides  
22                    post-secondary or vocational education;

23                    (3) employed for at least eighty hours per  
24                    month;

25                    (4) participating in a program or activity

.210968.3

underscored material = new  
[bracketed material] = delete

1 designed to promote employment or remove barriers to  
2 employment; or

3 (5) incapable of doing any of the activities  
4 described in Paragraphs (1) through (4) of this subsection due  
5 to a physical or behavioral condition, which incapacity is  
6 documented by regularly updated information in the case plan of  
7 the eligible youth."

8 SECTION 5. A new section of the Children's Code is  
9 enacted to read:

10 "[NEW MATERIAL] TERMINATION OF VOLUNTARY SERVICES AND  
11 SUPPORT AGREEMENT--NOTICE--APPEAL--PROCEDURE.--

12 A. An eligible youth may choose to terminate the  
13 voluntary services and support agreement and stop receiving  
14 services and support under the fostering connections program at  
15 any time. If an eligible youth chooses to terminate the  
16 voluntary services and support agreement, the department shall  
17 provide the eligible youth with a clear and developmentally  
18 appropriate written notice informing the eligible youth of:

19 (1) the potential negative effects of  
20 terminating the voluntary services and support agreement early;

21 (2) the option to reenter the fostering  
22 connections program at any time before attaining twenty-one  
23 years of age, so long as the eligibility requirements set forth  
24 in Section 4 of the Fostering Connections Act are met;

25 (3) the procedures for reentering the

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 fostering connections program; and

2 (4) information about and contact information  
3 for community resources that may benefit the eligible youth,  
4 specifically including information regarding state programs  
5 established pursuant to federal law that provide transitional  
6 foster care assistance to youth.

7 B. If the department determines that a youth is no  
8 longer eligible for the fostering connections program in  
9 accordance with the provisions of Section 4 of the Fostering  
10 Connections Act, and appropriate efforts have been made to  
11 assist the youth in maintaining eligibility, the department may  
12 take action to terminate the voluntary services and support  
13 agreement and stop providing services and support to the youth  
14 as part of the fostering connections program. The department  
15 shall not terminate services without approval of the court and  
16 the presentation of a transition plan consistent with the  
17 provisions of Section 32A-4-25.2 NMSA 1978.

18 C. As part of the case planning and case management  
19 processes, the department shall identify as soon as possible  
20 any barriers to maintaining eligibility that an eligible youth  
21 is encountering and shall make all appropriate efforts to  
22 address those barriers. Appropriate efforts shall be  
23 documented in the case plan.

24 D. Academic breaks in post-secondary education  
25 attendance, such as semester and seasonal breaks, and other

.210968.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 transitions between status that meet eligibility requirements  
2 under Section 4 of the Fostering Connections Act, including  
3 education and employment transitions of no longer than thirty  
4 days, shall not be a basis for termination.

5 E. At least sixty days before the termination of  
6 the voluntary services and support agreement, the department  
7 shall provide a clear and developmentally appropriate written  
8 notice to an eligible youth informing the eligible youth of the  
9 intent to terminate the voluntary services and support  
10 agreement and a clear and developmentally appropriate  
11 explanation of the basis for the termination.

12 F. The written termination notice shall also  
13 provide information about the process for appealing the  
14 termination, information about the option to enter into another  
15 voluntary services and support agreement once the eligible  
16 youth reestablishes eligibility pursuant to Section 4 of the  
17 Fostering Connections Act and information about and contact  
18 information for community resources that may benefit the youth,  
19 specifically including information regarding state programs  
20 established pursuant to federal law that provide transitional  
21 foster care assistance to youth.

22 G. At least sixty days before the termination of  
23 the voluntary services and support agreement, the independence  
24 coordinator shall make efforts to meet in person with the  
25 eligible youth to explain the information in the written

.210968.3

underscored material = new  
[bracketed material] = delete

1 termination notice and to assist the eligible youth in  
2 reestablishing eligibility if the eligible youth wishes to  
3 continue participating in the program.

4 H. An eligible youth may appeal the termination of  
5 the voluntary services and support agreement and any other  
6 actions or inactions by the department administratively in  
7 accordance with the provisions of the Administrative Procedures  
8 Act.

9 I. If an eligible youth remains in the fostering  
10 connections program until attaining twenty-one years of age,  
11 the department shall provide the eligible youth with a clear  
12 and developmentally appropriate written notice informing the  
13 eligible youth of the termination of the voluntary services and  
14 support agreement at twenty-one years of age, the transition  
15 plan requirement and information about and contact information  
16 for community resources that may benefit the youth,  
17 specifically including information regarding state programs  
18 established pursuant to federal law that provide transitional  
19 foster care assistance to youth."

20 SECTION 6. A new section of the Children's Code is  
21 enacted to read:

22 "[NEW MATERIAL] FOSTERING CONNECTIONS PROGRAM--CHILDREN'S  
23 COURT PETITION--CONTENTS--PROGRAM FILE.--

24 A. Within fifteen days after the voluntary services  
25 and support agreement is executed, the department shall file a

.210968.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 petition with the court describing the eligible youth's current  
2 situation, including the youth's name, date of birth and  
3 current address and the reasons why it is in the eligible  
4 youth's best interests to participate in the fostering  
5 connections program. The department shall also provide the  
6 court with a copy of the signed voluntary services and support  
7 agreement, a copy of the case plan and any other information  
8 the department or the youth wants the court to consider.

9 B. The department shall ensure continuity of care  
10 and eligibility by working with youth who want to participate  
11 in the fostering connections program and are likely to be  
12 eligible to participate in the program immediately following  
13 the termination of the court's jurisdiction, upon the youth  
14 turning eighteen years of age. The voluntary services and  
15 support agreement shall be signed and the petition filed with  
16 the court upon the eligible youth's eighteenth birthday or  
17 within ten days thereafter. There shall be no interruption in  
18 the foster care maintenance payment and medical assistance  
19 coverage for an eligible youth who is eligible and chooses to  
20 participate in the program immediately following the  
21 termination of the juvenile court's jurisdiction.

22 C. The court has the jurisdiction to review the  
23 voluntary services and support agreement signed by the  
24 department and the youth pursuant to Section 3 of the Fostering  
25 Connections Act and to conduct permanency reviews as described

.210968.3

underscoring material = new  
[bracketed material] = delete

1 in Section 7 of that act. Upon the filing of a petition by the  
2 department under Subsection A of this section, the court shall  
3 open a fostering connections program file for the youth for the  
4 purpose of determining whether continuing in the program is in  
5 the youth's best interests and for the purpose of conducting  
6 permanency reviews.

7 D. The court shall make the best interests  
8 determination as described in Subsection C of this section not  
9 later than one hundred eighty days after the eligible youth and  
10 the department enter into the voluntary services and support  
11 agreement."

12 SECTION 7. A new section of the Children's Code is  
13 enacted to read:

14 "[NEW MATERIAL] PERMANENCY REVIEW HEARINGS.--

15 A. The court shall conduct a hearing for permanency  
16 review regarding the voluntary services and support agreement  
17 for eligible youth at least once per year and may conduct other  
18 hearings as needed. Upon filing the petition pursuant to  
19 Section 32A-1-10 NMSA 1978 or anytime thereafter, the eligible  
20 youth may request, in the voluntary services and support  
21 agreement or by other appropriate means, a time frame in which  
22 the youth prefers to have the permanency review hearing  
23 scheduled, and the court shall seek to accommodate the request  
24 as the court deems practicable.

25 B. The primary purpose of the permanency review

underscoring material = new  
~~[bracketed material]~~ = delete

1 shall be to ensure that the fostering connections program is  
2 providing the eligible youth with the needed services and  
3 support to help the eligible youth move toward permanency and a  
4 successful transition to adulthood. In a permanency review or  
5 hearing regarding the transition of the eligible youth from  
6 foster care to independent living, the court shall consult with  
7 the eligible youth in an age-appropriate manner regarding the  
8 proposed permanency and transition plan for the eligible youth.  
9 The eligible youth shall have a clear self-advocacy role in the  
10 permanency review, and the hearing shall support the active  
11 engagement of the eligible youth in key decisions. A  
12 permanency review shall be conducted on the record, in an  
13 informal manner and, whenever possible, outside of the  
14 courtroom.

15 C. The department shall prepare and present to the  
16 juvenile court a report addressing progress made in meeting the  
17 goals in the case plan, including an independent living  
18 transition proposal, and shall propose modifications as  
19 necessary to further those goals. The eligible youth shall  
20 play a leadership role in the development of the report.

21 D. The court shall determine whether the fostering  
22 connections program is providing the appropriate services and  
23 support as provided in the voluntary services and support  
24 agreement to carry out the case plan. The court has the  
25 authority to determine whether the eligible youth is receiving

.210968.3

underscored material = new  
[bracketed material] = delete

1 the services and support the eligible youth is entitled to  
2 receive under the program and the department's policies or  
3 state or federal law to help the youth move toward permanency  
4 and a successful transition to adulthood. If the court deems  
5 the eligible youth to require additional services and support  
6 to achieve the goals documented in the case plan and the  
7 department's policies or state or federal law, the court may  
8 make appropriate findings and order the department to take  
9 action to ensure that the eligible youth receives the  
10 identified services and support."

11 SECTION 8. A new section of the Children's Code is  
12 enacted to read:

13 "[NEW MATERIAL] PERIODIC CASE REVIEWS.--The department and  
14 at least one person who is not responsible for case management,  
15 in collaboration with the eligible youth and additional persons  
16 identified by the eligible youth, shall conduct periodic case  
17 reviews not less than once every one hundred eighty days to  
18 evaluate progress made toward meeting the goals set forth in  
19 the case plan. The department shall use a team approach in  
20 conducting case reviews and shall seek to facilitate the  
21 participation of the eligible youth. Reviews shall be  
22 conducted in an informal manner and, whenever possible,  
23 scheduled at times that allow for the attendance and  
24 participation of the eligible youth."

25 SECTION 9. A new section of the Children's Code is

.210968.3

underscored material = new  
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] FOSTERING CONNECTIONS ADVISORY COMMITTEE--  
3 MEMBERSHIP--APPOINTMENT--TERMS--DUTIES--MEETINGS--REPORT.--

4 A. By October 1, 2019, the secretary shall appoint  
5 a "fostering connections advisory committee" to make  
6 recommendations to the department and to the legislature  
7 regarding the fostering connections program. The committee  
8 shall meet on a biannual basis to advise the department and the  
9 legislature regarding ongoing implementation of the fostering  
10 connections program. By September 1, 2020 and each September 1  
11 thereafter, the committee shall provide a written report to the  
12 governor, the legislature and the secretary regarding ongoing  
13 implementation of the fostering connections program, including  
14 the number of participants and the number of early discharges.

15 B. By October 1, 2020 and each October 1  
16 thereafter, the committee shall develop specific  
17 recommendations for expanding the fostering connections program  
18 or improving outcomes for similar groups of at-risk youth.

19 C. The members of the committee shall include:  
20 (1) the following seven voting members:  
21 (a) the secretary, ex officio, or the  
22 secretary's designee;  
23 (b) three members who are appointed by  
24 the secretary as follows: 1) youth who are currently or  
25 previously placed in foster care; or 2) representatives of a

.210968.3

1 youth support or advocacy group; and

2 (c) three members, appointed by the  
3 secretary, as follows: 1) one representative of a child  
4 welfare advocacy organization; 2) one representative of a child  
5 welfare service agency; and 3) one representative of an agency  
6 providing independent living services; and

7 (2) the following ex-officio nonvoting  
8 members:

9 (a) a legislator, appointed by the New  
10 Mexico legislative council; and

11 (b) a children's court judge, appointed  
12 by the administrative office of the courts.

13 D. Members of the committee shall be appointed for  
14 terms of two years; provided that the initial committee  
15 members' terms shall be staggered so that no more than five  
16 members' terms shall expire in any one year.

17 E. The secretary shall convene a first meeting of  
18 the committee by December 1, 2019. At that first meeting, the  
19 members of the committee shall choose a chairperson and  
20 members' terms shall be chosen by lot.

21 F. The secretary shall fill vacancies on the  
22 committee as they occur.

23 G. A majority of the committee members constitutes  
24 a quorum for voting purposes.

25 H. Members of the committee shall receive per diem

1 and mileage pursuant to the Per Diem and Mileage Act and shall  
2 receive no other compensation, perquisite or allowance for  
3 their service on the committee.

4 I. As used in this section:

5 (1) "committee" means the fostering  
6 connections advisory committee; and

7 (2) "secretary" means the secretary of  
8 children, youth and families."

9 SECTION 10. Section 32A-1-4 NMSA 1978 (being Laws 1993,  
10 Chapter 77, Section 13, as amended) is amended to read:

11 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

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

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

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

18 D. "court", when used without further  
19 qualification, means the children's court division of the  
20 district court and includes the judge, special master or  
21 commissioner appointed pursuant to the provisions of the  
22 Children's Code or supreme court rule;

23 E. "court-appointed special advocate" means a  
24 person appointed pursuant to the provisions of the Children's  
25 Court Rules to assist the court in determining the best

1 interests of the child by investigating the case and submitting  
2 a report to the court;

3 F. "custodian" means an adult with whom the child  
4 lives who is not a parent or guardian of the child;

5 G. "department" means the children, youth and  
6 families department, unless otherwise specified;

7 H. "disproportionate minority contact" means the  
8 involvement of a racial or ethnic group with the criminal or  
9 juvenile justice system at a proportion either higher or lower  
10 than that group's proportion in the general population;

11 I. "eligible youth" means an individual who is  
12 between the ages of eighteen and twenty-one who:

13 (1) has chosen to remain under the  
14 jurisdiction of the court; and

15 (2) participates in the fostering connections  
16 program;

17 J. "foster care maintenance payment" means a  
18 payment for the care and support of a child in state custody or  
19 an eligible youth, which payment rate is established through  
20 legislative appropriation and is based on the age and needs of  
21 the child or eligible youth;

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

underscored material = new  
[bracketed material] = delete

1           [~~J-~~] L. "guardian" means a person appointed as a  
2 guardian by a court or Indian tribal authority or a person  
3 authorized to care for the child by a parental power of  
4 attorney as permitted by law;

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

10           [~~L-~~] N. "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           [~~M-~~] O. "Indian child's tribe" or "Indian eligible  
18 youth's tribe" means:

- 19                           (1) the Indian tribe in which an Indian child  
20 or an Indian eligible youth is a member or eligible for  
21 membership; or
- 22                           (2) in the case of an Indian child or Indian  
23 eligible youth who is a member or eligible for membership in  
24 more than one tribe, the Indian tribe with which the Indian  
25 child has more significant contacts;

underscored material = new  
[bracketed material] = delete

1                   P. "Indian eligible youth" means an eligible youth  
2 who is a member of an Indian tribe or eligible for membership  
3 in an Indian tribe;

4                   ~~[N-]~~ Q. "Indian tribe" means a federally recognized  
5 Indian tribe, community or group pursuant to 25 U.S.C. Section  
6 1903(1);

7                   ~~[O-]~~ R. "judge", when used without further  
8 qualification, means the judge of the court;

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

22                   ~~[Q-]~~ T. "parent" or "parents" includes a biological  
23 or adoptive parent if the biological or adoptive parent has a  
24 constitutionally protected liberty interest in the care and  
25 custody of the child;

.210968.3

underscored material = new  
[bracketed material] = delete

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

3                   (1) reunification;

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

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

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

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

14           [S-] V. "person" means an individual or any other  
15 form of entity recognized by law;

16           [T-] W. "preadoptive parent" means a person with  
17 whom a child has been placed for adoption;

18           [U-] X. "protective supervision" means the right to  
19 visit the child in the home where the child is residing,  
20 inspect the home, transport the child to court-ordered  
21 diagnostic examinations and evaluations and obtain information  
22 and records concerning the child;

23           [V-] Y. "relative" means a person related to  
24 another person by blood within the fifth degree of  
25 consanguinity or through marriage by the fifth degree of

underscored material = new  
[bracketed material] = delete

1 affinity;

2 Z. "resumption of jurisdiction" means the court's  
3 resumption of jurisdiction over an eligible youth;

4 [~~W.~~] AA. "reunification" means either a return of  
5 the child to the parent or to the home from which the child was  
6 removed or a return to the noncustodial parent;

7 [~~X.~~] BB. "supervised independent living setting"  
8 means a placement setting that the department licenses for  
9 placement of an eligible youth;

10 CC. "tribal court" means:

11 (1) a court established and operated pursuant  
12 to a code or custom of an Indian tribe; or

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

15 [~~Y.~~] DD. "tribal court order" means a document  
16 issued by a tribal court that is signed by an appropriate  
17 authority, including a judge, governor or tribal council  
18 member, and that orders an action that is within the tribal  
19 court's jurisdiction; [~~and~~

20 ~~Z.]~~ EE. "tribunal" means any judicial forum other  
21 than the court;

22 FF. "voluntary services and support agreement"  
23 means a written agreement, binding on the parties to the  
24 agreement, between the department and an eligible youth, which  
25 agreement specifies, at a minimum, the legal status of the

.210968.3

underscored material = new  
[bracketed material] = delete

1 eligible youth and the rights and obligations of the eligible  
2 youth and the department while the eligible youth is  
3 participating in the fostering connections program; and

4 GG. "youth" means an individual who is at least  
5 eighteen years of age and who is under twenty-one years of  
6 age."

7 SECTION 11. Section 32A-1-5 NMSA 1978 (being Laws 1993,  
8 Chapter 77, Section 14) is amended to read:

9 "32A-1-5. CHILDREN'S COURT ESTABLISHED AS DIVISION OF  
10 DISTRICT COURT--TRANSFER.--

11 A. There is established in the district court for  
12 each county a division to be known as the "children's court".  
13 The district court of each judicial district shall designate  
14 one or more district judges to sit as judge of the children's  
15 court.

16 B. The supreme court shall adopt rules of procedure  
17 not in conflict with the Children's Code governing proceedings  
18 in the children's court, including rules and procedures for  
19 juries.

20 C. If, in a criminal action, it appears to a court  
21 other than the children's court division of the district court  
22 that jurisdiction is properly within the children's court  
23 division, the other court shall transfer the matter to the  
24 children's court division. Upon transfer, the children's court  
25 division obtains jurisdiction over the matter for proceedings

underscored material = new  
[bracketed material] = delete

1 in accordance with the provisions of the Children's Code.

2 D. The children's court shall have jurisdiction  
3 over proceedings related to eligible youth who participate in  
4 the fostering connections program."

5 SECTION 12. Section 32A-1-7.1 NMSA 1978 (being Laws 2005,  
6 Chapter 189, Section 10) is amended to read:

7 "32A-1-7.1. CHILD'S OR ELIGIBLE YOUTH'S ATTORNEY--POWERS  
8 AND DUTIES.--

9 A. An attorney shall represent a child in a  
10 proceeding for which the attorney has been retained or  
11 appointed. The attorney shall provide the same manner of legal  
12 representation and be bound by the same duties to the child as  
13 is due an adult client, in accordance with the rules of  
14 professional conduct.

15 B. The court shall appoint an attorney to represent  
16 an eligible youth. The attorney shall represent the expressed  
17 wishes of the eligible youth in all proceedings.

18 [~~B-~~] C. Unless excused by a court, an attorney  
19 appointed to represent a child or eligible youth shall  
20 represent the child or eligible youth in any subsequent  
21 appeals.

22 [~~G-~~] D. An attorney representing a child or  
23 eligible youth in a proceeding pursuant to the Abuse and  
24 Neglect Act may retain separate counsel to represent the child  
25 in a tort action on a contingency fee basis or any other cause

.210968.3

underscored material = new  
[bracketed material] = delete

1 of action in proceedings that are outside the jurisdiction of  
2 the children's court. When a child's or eligible youth's  
3 attorney retains separate counsel to represent the child or  
4 eligible youth, the attorney shall provide the court with  
5 written notice within ten days of retaining the separate  
6 counsel. The child's or eligible youth's attorney shall not  
7 retain or subsequently obtain any pecuniary interest in an  
8 action filed on behalf of the child or eligible youth outside  
9 of the jurisdiction of the children's court."

10 SECTION 13. Section 32A-1-8 NMSA 1978 (being Laws 1993,  
11 Chapter 77, Section 17, as amended) is amended to read:

12 "32A-1-8. JURISDICTION OF THE COURT--TRIBAL COURT  
13 JURISDICTION.--

14 A. The court has exclusive original jurisdiction of  
15 all proceedings under the Children's Code in which a person is  
16 eighteen years of age or older and was a child at the time the  
17 alleged act in question was committed or is a child alleged to  
18 be:

- 19 (1) a delinquent child;
- 20 (2) a child of a family in need of court-  
21 ordered services or a child in need of services pursuant to the  
22 Family in Need of Court-Ordered Services Act;
- 23 (3) a neglected child;
- 24 (4) an abused child;
- 25 (5) a child subject to adoption; [✕]

underscored material = new  
[bracketed material] = delete

1 (6) a child subject to placement for a  
2 developmental disability or a mental disorder; or

3 (7) an eligible youth participating in the  
4 fostering connections program.

5 B. The court has exclusive original jurisdiction to  
6 emancipate a minor.

7 C. During abuse or neglect proceedings in which New  
8 Mexico is the home state, pursuant to the provisions of the  
9 Uniform Child-Custody Jurisdiction and Enforcement Act, the  
10 court shall have jurisdiction over both parents to determine  
11 the best interest of the child and to decide all matters  
12 incident to the court proceedings.

13 D. Nothing in this section shall be construed to  
14 abridge in any way [~~abridge~~] the rights of any Indian tribe to  
15 exercise jurisdiction over child custody matters as defined by  
16 and in accordance with the federal Indian Child Welfare Act of  
17 1978.

18 E. A tribal court order pertaining to an Indian  
19 child in an action under the Children's Code shall be  
20 recognized and enforced by the district court for the judicial  
21 district in which the tribal court is located. A tribal court  
22 order pertaining to an Indian child that accesses state  
23 resources shall be recognized and enforced pursuant to the  
24 provisions of intergovernmental agreements entered into by the  
25 Indian child's tribe and the department or another state

.210968.3

underscored material = new  
[bracketed material] = delete

1 agency. An Indian child residing on or off a reservation, as a  
2 citizen of this state, shall have the same right to services  
3 that are available to other children of the state, pursuant to  
4 intergovernmental agreements. The cost of the services  
5 provided to an Indian child shall be determined and provided  
6 for in the same manner as services are made available to other  
7 children of the state, utilizing tribal, state and federal  
8 funds and pursuant to intergovernmental agreements. The tribal  
9 court, as the court of original jurisdiction, shall retain  
10 jurisdiction and authority over the Indian child.

11 F. The court may acquire jurisdiction over a Motor  
12 Vehicle Code or municipal traffic code violation as set forth  
13 in Section 32A-2-29 NMSA 1978."

14 SECTION 14. Section 32A-1-9 NMSA 1978 (being Laws 1993,  
15 Chapter 77, Section 18, as amended) is amended to read:

16 "32A-1-9. VENUE AND TRANSFER.--

17 A. Proceedings in the court under the provisions of  
18 the Children's Code shall begin in the county where the child  
19 or eligible youth resides. If delinquency is alleged, the  
20 proceeding may also be begun in the county where the act  
21 constituting the alleged delinquent act occurred or in the  
22 county in which the child is detained. Neglect, abuse, family  
23 in need of court-ordered services, [~~or~~] mental health  
24 proceedings or resumption of jurisdiction cases may also begin  
25 in the county where the child or eligible youth is present when

.210968.3

underscored material = new  
[bracketed material] = delete

1 the proceeding is commenced.

2 B. The venue for proceedings under other laws will  
3 be determined by the venue provisions of the other laws. If  
4 the other laws contain no venue provisions, then the venue and  
5 transfer provisions of Subsections A and C of this section  
6 apply.

7 C. If a proceeding is begun in a court for a county  
8 other than the county in which the child or eligible youth  
9 resides, that court, on its own motion or on the motion of a  
10 party made at any time prior to disposition of the proceeding,  
11 may transfer the proceeding to the court for the county of the  
12 child's or eligible youth's residence for such further  
13 proceedings as the receiving court deems proper. A like  
14 transfer may be made if the residence of the child or eligible  
15 youth changes during or after the proceeding. Certified copies  
16 of all legal and social records pertaining to the proceeding  
17 shall accompany the case on transfer.

18 D. In neglect, abuse, family in need of  
19 court-ordered services or adoption proceedings for the  
20 placement of an Indian child, the court shall, in the absence  
21 of good cause to the contrary, transfer the proceeding to the  
22 jurisdiction of the Indian child's tribe upon the petition of  
23 the Indian child's parent, the Indian child's guardian or the  
24 Indian child's tribe. The transfer shall be barred if there is  
25 an objection to the transfer by a parent of the Indian child or

.210968.3

underscored material = new  
[bracketed material] = delete

1 the Indian child's tribe."

2 SECTION 15. Section 32A-1-10 NMSA 1978 (being Laws 1993,  
3 Chapter 77, Section 19) is amended to read:

4 "32A-1-10. PETITION--WHO MAY SIGN.--

5 A. A petition initiating proceedings pursuant to  
6 the provisions of Chapter ~~[32]~~ 32A, Article 2, 3B, 4 or 6 NMSA  
7 1978 shall be signed by the children's court attorney.

8 B. A petition initiating proceedings pursuant to  
9 the provisions of the Fostering Connections Act shall be signed  
10 by the:

11 (1) children's court attorney; or

12 (2) department, when an eligible youth  
13 requests that the department initiate a proceeding arising  
14 pursuant to the provisions of the Fostering Connections Act.

15 ~~[B-]~~ C. An affidavit for an ex-parte custody order  
16 may be signed by any person who has knowledge of the facts  
17 alleged or is informed of them and believes that they are  
18 true."

19 SECTION 16. Section 32A-1-11 NMSA 1978 (being Laws 1993,  
20 Chapter 77, Section 20, as amended) is amended to read:

21 "32A-1-11. PETITION--FORM AND CONTENT.--

22 A. Except as provided in Subsection C of this  
23 section, a petition initiating proceedings pursuant to the  
24 provisions of Chapter 32A, Article 2, 3B, 4 or 6 NMSA 1978  
25 shall be entitled, "In the Matter of ....., a child"

.210968.3

underscored material = new  
[bracketed material] = delete

1     ~~[and]~~. A petition initiating proceedings pursuant to the  
2     provisions of the Fostering Connections Act shall be entitled,  
3     "In the Matter of ....., an eligible youth". A petition  
4     initiating proceedings for either a child or an eligible youth  
5     shall set forth with specificity:

6                     ~~[A.]~~ (1) the facts necessary to invoke or  
7     resume the jurisdiction of the court;

8                     ~~[B.]~~ (2) if violation of a criminal statute or  
9     other law or ordinance is alleged, the citation to the  
10    appropriate law;

11                    ~~[C.]~~ (3) the name, birth date and residence  
12    address of the child or eligible youth;

13                    ~~[D.] The name and residence address of the parents,~~  
14    ~~guardian, custodian or spouse, if any, of the child; and if no~~  
15    ~~parent, guardian, custodian or spouse, if any, resides or can~~  
16    ~~be found within the state or if a residence address is unknown,~~  
17    ~~the name of any known adult relative residing within the state~~  
18    ~~or, if there be none, the known adult relative residing nearest~~  
19    ~~to the court;~~

20                    ~~E.]~~ (4) whether the child or eligible youth is  
21    in custody or detention pursuant to the Delinquency Act and, if  
22    so, the place of custody or detention and the time the child  
23    was taken into custody; and

24                    ~~[F.]~~ (5) whether the child or eligible youth  
25    is an Indian child. ~~[and]~~

underscored material = new  
[bracketed material] = delete

1           ~~G. If any of the matters required to be set forth~~  
2 ~~by this section are not known, a statement of those matters and~~  
3 ~~the fact that they are not known.]~~

4           B. A petition initiating proceedings relating to  
5 Chapter 32A, Article 2, 3B, 4 or 6 NMSA 1978 shall set forth  
6 with specificity the name and residence of the parents,  
7 guardians, custodian or spouse, if any, of the child and if no  
8 parent, guardian, custodian or spouse resides or can be found  
9 within the state or if a residence address is unknown, the name  
10 of any known adult relative residing within the state. If no  
11 adult relative is known to be residing within the state, the  
12 petition shall set forth with specificity the name and  
13 residence of the child's known adult relative residing nearest  
14 to the court.

15           C. If any matter required to be set forth pursuant  
16 to the provisions of Subsection A or B of this section is not  
17 known, a petition initiating proceedings pursuant to Chapter  
18 32A, Article 2, 3B, 4 or 6 NMSA 1978, or a petition initiating  
19 proceedings pursuant to the Fostering Connections Act, shall  
20 set forth with specificity a statement of that matter and the  
21 fact that it is not known."

22           SECTION 17. Section 32A-1-16 NMSA 1978 (being Laws 1993,  
23 Chapter 77, Section 25) is amended to read:

24           "32A-1-16. BASIC RIGHTS.--

25           A. A child subject to the provisions of the

.210968.3

underscored material = new  
[bracketed material] = delete

1 Children's Code is entitled to the same basic rights as an  
2 adult, except as otherwise provided in the Children's Code.

3 B. A person afforded rights under the Children's  
4 Code shall be advised of those rights at that person's first  
5 appearance before the court on a petition under the Children's  
6 Code.

7 C. An eligible youth retains all the basic rights  
8 of an adult while receiving services pursuant to the fostering  
9 connections program."

10 SECTION 18. Section 32A-1-18 NMSA 1978 (being Laws 1993,  
11 Chapter 77, Section 27, as amended) is amended to read:

12 "32A-1-18. PROCEDURAL MATTERS.--

13 A. When it appears from the facts during the course  
14 of any proceeding under the Children's Code that some finding  
15 or remedy other than or in addition to those indicated by the  
16 petition or motion are appropriate, the court may, either on  
17 motion by the children's court attorney or that of counsel for  
18 the child or eligible youth, amend the petition or motion and  
19 proceed to hear and determine the additional or other issues,  
20 findings or remedies as though originally properly sought.

21 B. Upon application of a party, the court shall  
22 issue, and upon its own motion the court may issue, subpoenas  
23 requiring attendance and testimony of witnesses and the  
24 production of records, documents or other tangible objects at  
25 any hearing.

.210968.3

underscored material = new  
[bracketed material] = delete

1                    C. Upon application of a party to proceedings  
2 relating to the fostering connections program pursuant to the  
3 Fostering Connections Act, the court shall issue, and upon its  
4 own motion the court may issue, subpoenas that require:

5                    (1) attendance and testimony of a witness,  
6 including a representative from an entity from which planning  
7 and assistance is required to effect an adequate transition  
8 plan for a child or for an eligible youth participating in the  
9 fostering connections program or for whom a transition plan is  
10 being developed; or

11                    (2) the production of records, documents or  
12 other tangible objects at any hearing related to the transition  
13 plan of the child or for the eligible youth.

14                    [~~G-~~] D. Subject to the laws relating to the  
15 procedures therefor and the limitations thereon, the court may  
16 punish a person for contempt of court for disobeying an order  
17 of the court or for obstructing or interfering with the  
18 proceedings of the court or the enforcement of its orders.

19                    [~~D-~~] E. In any proceeding under the Children's  
20 Code, either on motion of a party or on the court's own motion,  
21 the court may make an order restraining the conduct of any  
22 party over whom the court has obtained jurisdiction if:

23                    (1) the court finds that the person's conduct  
24 is or may be detrimental or harmful to the child or eligible  
25 youth and will tend to defeat the execution of any order of the

underscored material = new  
[bracketed material] = delete

1 court; and

2 (2) due notice of the motion and the grounds  
3 therefor and an opportunity to be heard thereon have been given  
4 to the person against whom the order is directed.

5 [~~E-~~] F. In any proceeding under the Children's  
6 Code, the court may allow a party or witness to the proceeding  
7 to participate by the use of electronic communications,  
8 consistent with the rights of all parties to the proceeding and  
9 pursuant to rules promulgated by the supreme court."

10 SECTION 19. Section 32A-1-20 NMSA 1978 (being Laws 1993,  
11 Chapter 77, Section 29) is amended to read:

12 "32A-1-20. PURCHASE OF CARE FROM PRIVATE AGENCY BY PUBLIC  
13 AGENCY.--When the legal custody of a child or the placement and  
14 care responsibility of an eligible youth is vested in a public  
15 agency, under the provisions of the Children's Code, the public  
16 agency may transfer physical custody of the child or the  
17 eligible youth to an appropriate private agency and may  
18 purchase care and treatment from the private agency if the  
19 private agency submits periodic reports to the public agency  
20 covering the care and treatment the child or eligible youth is  
21 receiving and the child's or eligible youth's responses to that  
22 care and treatment. These reports shall be made as frequently  
23 as the public agency deems necessary, but not less often than  
24 once each six months for each child or eligible youth. The  
25 private agency shall also afford an opportunity for a

.210968.3

underscored material = new  
[bracketed material] = delete

1 representative of the public agency to examine or consult with  
2 the child or eligible youth as frequently as the public agency  
3 deems necessary."

4 SECTION 20. Section 32A-2-3 NMSA 1978 (being Laws 1993,  
5 Chapter 77, Section 32, as amended) is amended to read:

6 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

7 A. "delinquent act" means an act committed by a  
8 child that would be designated as a crime under the law if  
9 committed by an adult, including the following offenses:

10 (1) any of the following offenses pursuant to  
11 municipal traffic codes or the Motor Vehicle Code:

12 (a) driving while under the influence of  
13 intoxicating liquor or drugs;

14 (b) failure to stop in the event of an  
15 accident causing death, personal injury or damage to property;

16 (c) unlawful taking of a vehicle or  
17 motor vehicle;

18 (d) receiving or transferring of a  
19 stolen vehicle or motor vehicle;

20 (e) homicide by vehicle;

21 (f) injuring or tampering with a  
22 vehicle;

23 (g) altering or changing of an engine  
24 number or other vehicle identification numbers;

25 (h) altering or forging of a driver's

.210968.3

underscored material = new  
[bracketed material] = delete

1 license or permit or any making of a fictitious license or  
2 permit;

3 (i) reckless driving;

4 (j) driving with a suspended or revoked  
5 license; or

6 (k) an offense punishable as a felony;

7 (2) buying, attempting to buy, receiving,  
8 possessing or being served any alcoholic liquor or being  
9 present in a licensed liquor establishment, other than a  
10 restaurant or a licensed retail liquor establishment, except in  
11 the presence of the child's parent, guardian, custodian or  
12 adult spouse. As used in this paragraph, "restaurant" means an  
13 establishment where meals are prepared and served primarily for  
14 on-premises consumption and that has a dining room, a kitchen  
15 and the employees necessary for preparing, cooking and serving  
16 meals. "Restaurant" does not include an establishment, as  
17 defined in regulations promulgated by the director of the  
18 special investigations [~~division~~] unit of the department of  
19 public safety, that serves only hamburgers, sandwiches, salads  
20 and other fast foods;

21 (3) a violation of Section 30-29-2 NMSA 1978,  
22 regarding the illegal use of a glue, aerosol spray product or  
23 other chemical substance;

24 (4) a violation of the Controlled Substances  
25 Act;

.210968.3

1 (5) escape from the custody of a law  
2 enforcement officer or a juvenile probation or parole officer  
3 or from any placement made by the department by a child who has  
4 been adjudicated a delinquent child;

5 (6) a violation of Section 30-15-1.1 NMSA 1978  
6 regarding unauthorized graffiti on personal or real property;  
7 or

8 (7) a violation of an order of protection  
9 issued pursuant to the provisions of the Family Violence  
10 Protection Act;

11 B. "delinquent child" means a child who has  
12 committed a delinquent act;

13 C. "delinquent offender" means a delinquent child  
14 who is subject to juvenile sanctions only and who is not a  
15 youthful offender or a serious youthful offender;

16 D. "detention facility" means a place where a child  
17 may be detained under the Children's Code pending court hearing  
18 and does not include a facility for the care and rehabilitation  
19 of an adjudicated delinquent child;

20 E. "eligible youth" means, except as otherwise  
21 defined in the Children's Code, an individual who:

22 (1) was adjudicated under the Delinquency Act;

23 (2) has an order for foster care placement at  
24 the time the individual reaches the age of eighteen; and

25 (3) is eligible for the fostering connections

underscoring material = new  
~~[bracketed material] = delete~~

1 program established pursuant to the Fostering Connections Act;

2 ~~[E-]~~ F. "felony" means an act that would be a  
3 felony if committed by an adult;

4 ~~[F-]~~ G. "misdemeanor" means an act that would be a  
5 misdemeanor or petty misdemeanor if committed by an adult;

6 ~~[G-]~~ H. "restitution" means financial reimbursement  
7 by the child to the victim or community service imposed by the  
8 court and is limited to easily ascertainable damages for injury  
9 to or loss of property, actual expenses incurred for medical,  
10 psychiatric and psychological treatment for injury to a person  
11 and lost wages resulting from physical injury, which are a  
12 direct and proximate result of a delinquent act. "Restitution"  
13 does not include reimbursement for damages for mental anguish,  
14 pain and suffering or other intangible losses. As used in this  
15 subsection, "victim" means a person who is injured or suffers  
16 damage of any kind by an act that is the subject of a complaint  
17 or referral to law enforcement officers or juvenile probation  
18 authorities. Nothing contained in this definition limits or  
19 replaces the provisions of Subsections A and B of Section  
20 32A-2-27 NMSA 1978;

21 ~~[H-]~~ I. "serious youthful offender" means an  
22 individual fifteen to eighteen years of age who is charged with  
23 and indicted or bound over for trial for first degree murder.  
24 A "serious youthful offender" is not a delinquent child as  
25 defined pursuant to the provisions of this section;

.210968.3

underscored material = new  
[bracketed material] = delete

1           ~~[F.]~~ J. "supervised release" means the release of a  
2 juvenile, whose term of commitment has not expired, from a  
3 facility for the care and rehabilitation of adjudicated  
4 delinquent children, with specified conditions to protect  
5 public safety and promote successful transition and  
6 reintegration into the community. A juvenile on supervised  
7 release is subject to monitoring by the department until the  
8 term of commitment has expired and may be returned to custody  
9 for violating conditions of release; and

10           ~~[G.]~~ K. "youthful offender" means a delinquent  
11 child subject to adult or juvenile sanctions who is:

12                           (1) fourteen to eighteen years of age at the  
13 time of the offense and who is adjudicated for at least one of  
14 the following offenses:

15   (a) second degree murder, as provided in  
16 Section 30-2-1 NMSA 1978;

17   (b) assault with intent to commit a  
18 violent felony, as provided in Section 30-3-3 NMSA 1978;

19   (c) kidnapping, as provided in Section  
20 30-4-1 NMSA 1978;

21   (d) aggravated battery, as provided in  
22 Subsection C of Section 30-3-5 NMSA 1978;

23   (e) aggravated battery against a  
24 household member, as provided in Subsection C of Section  
25 30-3-16 NMSA 1978;

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 (f) aggravated battery upon a peace  
2 officer, as provided in Subsection C of Section 30-22-25 NMSA  
3 1978;

4 (g) shooting at a dwelling or occupied  
5 building or shooting at or from a motor vehicle, as provided in  
6 Section 30-3-8 NMSA 1978;

7 (h) dangerous use of explosives, as  
8 provided in Section 30-7-5 NMSA 1978;

9 (i) criminal sexual penetration, as  
10 provided in Section 30-9-11 NMSA 1978;

11 (j) robbery, as provided in Section  
12 30-16-2 NMSA 1978;

13 (k) aggravated burglary, as provided in  
14 Section 30-16-4 NMSA 1978;

15 (l) aggravated arson, as provided in  
16 Section 30-17-6 NMSA 1978; or

17 (m) abuse of a child that results in  
18 great bodily harm or death to the child, as provided in Section  
19 30-6-1 NMSA 1978;

20 (2) fourteen to eighteen years of age at the  
21 time of the offense, who is adjudicated for any felony offense  
22 and who has had three prior, separate felony adjudications  
23 within a three-year time period immediately preceding the  
24 instant offense. The felony adjudications relied upon as prior  
25 adjudications shall not have arisen out of the same transaction

.210968.3

underscored material = new  
[bracketed material] = delete

1 or occurrence or series of events related in time and location.  
2 Successful completion of consent decrees [~~are~~] is not  
3 considered a prior adjudication for the purposes of this  
4 paragraph; or

5 (3) fourteen years of age and who is  
6 adjudicated for first degree murder, as provided in Section  
7 30-2-1 NMSA 1978."

8 SECTION 21. Section 32A-4-2 NMSA 1978 (being Laws 1993,  
9 Chapter 77, Section 96, as amended) is amended to read:

10 "32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect  
11 Act:

12 A. "abandonment" includes instances when the  
13 parent, without justifiable cause:

14 (1) left the child without provision for the  
15 child's identification for a period of fourteen days; or

16 (2) left the child with others, including the  
17 other parent or an agency, without provision for support and  
18 without communication for a period of:

19 (a) three months if the child was under  
20 six years of age at the commencement of the three-month period;  
21 or

22 (b) six months if the child was over six  
23 years of age at the commencement of the six-month period;

24 B. "abused child" means a child:

25 (1) who has suffered or who is at risk of

1 suffering serious harm because of the action or inaction of the  
2 child's parent, guardian or custodian;

3 (2) who has suffered physical abuse, emotional  
4 abuse or psychological abuse inflicted or caused by the child's  
5 parent, guardian or custodian;

6 (3) who has suffered sexual abuse or sexual  
7 exploitation inflicted by the child's parent, guardian or  
8 custodian;

9 (4) whose parent, guardian or custodian has  
10 knowingly, intentionally or negligently placed the child in a  
11 situation that may endanger the child's life or health; or

12 (5) whose parent, guardian or custodian has  
13 knowingly or intentionally tortured, cruelly confined or  
14 cruelly punished the child;

15 C. "aggravated circumstances" includes those  
16 circumstances in which the parent, guardian or custodian has:

17 (1) attempted, conspired to cause or caused  
18 great bodily harm to the child or great bodily harm or death to  
19 the child's sibling;

20 (2) attempted, conspired to cause or caused  
21 great bodily harm or death to another parent, guardian or  
22 custodian of the child;

23 (3) attempted, conspired to subject or has  
24 subjected the child to torture, chronic abuse or sexual abuse;  
25 or

.210968.3

1 (4) had parental rights over a sibling of the  
2 child terminated involuntarily;

3 D. "educational decision maker" means an individual  
4 appointed by the children's court to attend school meetings and  
5 to make decisions about the child's education that a parent  
6 could make under law, including decisions about the child's  
7 educational setting, and the development and implementation of  
8 an individual education plan for the child;

9 E. "fictive kin" means a person not related by  
10 birth, adoption or marriage with whom a child has an  
11 emotionally significant relationship;

12 F. "great bodily harm" means an injury to a person  
13 that creates a high probability of death, that causes serious  
14 disfigurement or that results in permanent or protracted loss  
15 or impairment of the function of a member or organ of the body;

16 G. "neglected child" means a child:

17 (1) who has been abandoned by the child's  
18 parent, guardian or custodian;

19 (2) who is without proper parental care and  
20 control or subsistence, education, medical or other care or  
21 control necessary for the child's well-being because of the  
22 faults or habits of the child's parent, guardian or custodian  
23 or the failure or refusal of the parent, guardian or custodian,  
24 when able to do so, to provide them;

25 (3) who has been physically or sexually

1 abused, when the child's parent, guardian or custodian knew or  
2 should have known of the abuse and failed to take reasonable  
3 steps to protect the child from further harm;

4 (4) whose parent, guardian or custodian is  
5 unable to discharge that person's responsibilities to and for  
6 the child because of incarceration, hospitalization or physical  
7 or mental disorder or incapacity; or

8 (5) who has been placed for care or adoption  
9 in violation of the law; provided that nothing in the  
10 Children's Code shall be construed to imply that a child who is  
11 being provided with treatment by spiritual means alone through  
12 prayer, in accordance with the tenets and practices of a  
13 recognized church or religious denomination, by a duly  
14 accredited practitioner thereof is for that reason alone a  
15 neglected child within the meaning of the Children's Code; and  
16 further provided that no child shall be denied the protection  
17 afforded to all children under the Children's Code;

18 H. "physical abuse" includes any case in which the  
19 child suffers strangulation or suffocation and any case in  
20 which the child exhibits evidence of skin bruising, bleeding,  
21 malnutrition, failure to thrive, burns, fracture of any bone,  
22 subdural hematoma, soft tissue swelling or death and:

23 (1) there is not a justifiable explanation for  
24 the condition or death;

25 (2) the explanation given for the condition is

1 at variance with the degree or nature of the condition;

2 (3) the explanation given for the death is at  
3 variance with the nature of the death; or

4 (4) circumstances indicate that the condition  
5 or death may not be the product of an accidental occurrence;

6 I. "relative" means a person related to another  
7 person by birth, adoption or marriage within the fifth degree  
8 of consanguinity;

9 J. "sexual abuse" includes criminal sexual contact,  
10 incest or criminal sexual penetration, as those acts are  
11 defined by state law;

12 K. "sexual exploitation" includes:

13 (1) allowing, permitting or encouraging a  
14 child to engage in prostitution;

15 (2) allowing, permitting, encouraging or  
16 engaging a child in obscene or pornographic photographing; or

17 (3) filming or depicting a child for obscene  
18 or pornographic commercial purposes, as those acts are defined  
19 by state law;

20 L. "sibling" means a brother or sister having one  
21 or both parents in common by birth or adoption;

22 M. "strangulation" has the same meaning as set  
23 forth in Section 30-3-11 NMSA 1978;

24 N. "suffocation" has the same meaning as set forth  
25 in Section 30-3-11 NMSA 1978; ~~and~~

.210968.3

underscored material = new  
[bracketed material] = delete

1           O. "transition plan" means an individualized  
2 written plan for a child, based on the unique needs of the  
3 child, that outlines all appropriate services to be provided to  
4 the child to increase independent living skills. The plan  
5 shall also include responsibilities of the child, the agency  
6 and any other party as appropriate, to enable the child to be  
7 [~~self-sufficient~~] successful as an adult upon emancipation; and

8           P. "youth" means an individual who is at least  
9 eighteen and less than twenty-one years of age."

10           SECTION 22. Section 32A-4-15 NMSA 1978 (being Laws 1993,  
11 Chapter 77, Section 109) is amended to read:

12           "32A-4-15. PETITION--AUTHORIZATION TO FILE.--

13           A. A petition alleging neglect or abuse shall not  
14 be filed unless the children's court attorney has determined  
15 and endorsed upon the petition that the filing of the petition  
16 is in the best interests of the child. The children's court  
17 attorney shall, upon request of a person authorizing the filing  
18 of a petition, furnish legal services in connection with the  
19 authorization and preparation of the petition and the  
20 representation of the petitioner if the petitioner so requests.

21           B. A petition requesting resumption of jurisdiction  
22 for the purposes of participation in the fostering connections  
23 program shall be filed at the request of a youth. The petition  
24 shall be filed by the youth's attorney, the children's court  
25 attorney or the youth."

underscoring material = new  
~~[bracketed material]~~ = delete

1           **SECTION 23.** Section 32A-4-23.1 NMSA 1978 (being Laws  
2 2009, Chapter 239, Section 43) is amended to read:

3           "32A-4-23.1. DISPOSITION OF AN UNDOCUMENTED IMMIGRANT  
4 CHILD IN A PROCEEDING UNDER THE ABUSE AND NEGLECT ACT.--

5           A. Whenever the court adjudicates that a child is  
6 abused or neglected, the department shall determine the child's  
7 immigration status. At the first judicial review, the  
8 department shall report the child's immigration status to the  
9 court. Services to children alleged to have been abused,  
10 neglected or abandoned must be provided without regard to the  
11 immigration status of the child except where immigration status  
12 is explicitly set forth as a statutory or regulatory condition  
13 of coverage or eligibility.

14           B. If the child is an undocumented immigrant, the  
15 department shall include in the treatment plan a recommendation  
16 as to whether the permanency plan for the child includes  
17 reuniting the child with the child's parents and whether it is  
18 in the child's best interest to be returned to the child's  
19 country of origin. If the permanency plan does not include  
20 reunification and the department does not recommend that the  
21 child be returned to the country of origin, the department  
22 shall determine whether the child may be eligible for special  
23 immigrant juvenile status under federal law.

24           C. If the child is eligible for special immigrant  
25 juvenile status, the department shall move the court for a

.210968.3

1 special immigrant juvenile status order containing the  
2 necessary findings to establish that the child meets the  
3 criteria for federal special immigrant juvenile status. The  
4 department's motion shall include a statement of the express  
5 wishes of the child, as expressed by the child or the child's  
6 guardian ad litem or attorney.

7 D. After consultation with the child and the  
8 child's guardian ad litem or attorney, the department shall  
9 determine whether the child's best interests would be served by  
10 the filing of a petition for special immigrant juvenile status  
11 and application for adjustment of status and if in the child's  
12 best interest, within sixty days after an entry of the special  
13 immigrant juvenile status order, the department shall file a  
14 petition for special immigrant juvenile status and an  
15 application for adjustment of status on behalf of the child.

16 E. If a petition and application have been filed  
17 and the petition and application have not been granted by the  
18 time the child reaches eighteen years of age, the court may  
19 retain jurisdiction over the case for the sole purpose of  
20 ensuring that the child continues to satisfy the requirements  
21 for classification as a special immigrant juvenile.

22 F. Review hearings for the child shall be set  
23 solely for the purpose of confirming that the child continues  
24 to satisfy such requirements and determining the status of the  
25 petition and application.

underscored material = new  
[bracketed material] = delete

1 G. The court's jurisdiction terminates upon the  
2 final decision of the federal authorities.

3 H. An undocumented immigrant who is eligible for  
4 the fostering connections program and elects to participate in  
5 the fostering connections program remains under the  
6 jurisdiction of the court to the same degree as any other  
7 eligible youth.

8 [~~H.~~] I. Retention of jurisdiction in this instance  
9 does not affect the transition services available to the child  
10 or eligible youth.

11 [~~I.~~] J. The court [~~may~~] shall not retain  
12 jurisdiction of the case after the immigrant child's twenty-  
13 first birthday.

14 [~~J.~~] K. In a judicial review report provided to the  
15 court for a child for whom the court has granted the special  
16 immigrant juvenile status order described in Subsection C of  
17 this section, the court shall be advised of the status of the  
18 petition and application process concerning the child."

19 **SECTION 24.** Section 32A-4-24 NMSA 1978 (being Laws 1993,  
20 Chapter 77, Section 118, as amended) is amended to read:

21 "32A-4-24. LIMITATIONS ON DISPOSITIONAL JUDGMENTS--  
22 MODIFICATION, TERMINATION OR EXTENSION OF COURT ORDERS.--

23 A. A judgment vesting legal custody of a child in  
24 an agency shall remain in force for an indeterminate period not  
25 exceeding two years from the date entered.

.210968.3

underscored material = new  
[bracketed material] = delete

1           B. A judgment vesting legal custody of a child in  
2 an individual, other than the child's parent or permanent  
3 guardian, shall remain in force for two years from the date  
4 entered, unless sooner terminated by court order.

5           C. A judgment vesting legal custody of a child in  
6 the child's parent or a permanent guardian shall remain in  
7 force for an indeterminate period from the date entered until  
8 terminated by court order or until the child is emancipated or  
9 reaches the age of majority.

10           D. At any time prior to expiration, a judgment  
11 vesting legal custody or granting protective supervision may be  
12 modified, revoked or extended on motion by any party, including  
13 the child by and through the child's guardian ad litem.

14           E. Prior to the expiration of a judgment  
15 transferring legal custody to an agency, the court may extend  
16 the judgment for additional periods of one year if it finds  
17 that the extension is necessary to safeguard the welfare of the  
18 child or the public interest.

19           F. When a child reaches eighteen years of age, all  
20 neglect and abuse orders affecting the child then in force  
21 automatically terminate except as provided in ~~[Section]~~  
22 Sections 32A-4-23.1 [NMSA 1978 and Subsection D of Section] and  
23 32A-4-25.3 NMSA 1978 and the provisions of the Fostering  
24 Connections Act. The termination of the orders shall not  
25 disqualify a child from eligibility for transitional services.

.210968.3

underscored material = new  
[bracketed material] = delete

1           G. An eligible youth participating in the fostering  
2 connections program shall remain under the jurisdiction of the  
3 court while the eligible youth is participating in the  
4 fostering connections program. A child welfare agency has  
5 placement and care responsibility for the eligible youth. The  
6 eligible youth is the eligible youth's own legal custodian."

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

9           "32A-4-25. PERIODIC JUDICIAL REVIEW OF DISPOSITIONAL  
10 JUDGMENTS.--

11           A. The initial judicial review shall be held within  
12 sixty days of the disposition. At the initial judicial review,  
13 the parties shall demonstrate to the court efforts made to  
14 implement the treatment plan approved by the court in its  
15 dispositional order. The court shall determine the extent to  
16 which the treatment plan has been implemented and make  
17 supplemental orders as necessary to ensure compliance with the  
18 treatment plan and the safety of the child. Prior to the  
19 initial judicial review, the department shall submit a copy of  
20 the adjudicatory order, the dispositional order and notice of  
21 the initial judicial review to the council. The staff of the  
22 council, or an entity contracting with the council, shall  
23 review the case. If the staff or contracting entity determines  
24 that the case meets the criteria established in council rules,  
25 the staff or contracting entity shall designate the case for

.210968.3

underscored material = new  
~~[bracketed material] = delete~~

1 review by a substitute care review board. A representative of  
2 the substitute care review board, if designated, shall be  
3 permitted to attend and comment to the court.

4 B. The court shall conduct subsequent periodic  
5 judicial reviews of the dispositional order within six months  
6 of the conclusion of the permanency hearing or, if a motion has  
7 been filed for termination of parental rights or permanent  
8 guardianship, within six months of the decision on that motion  
9 and every six months thereafter. Prior to a subsequent  
10 periodic judicial review, the department shall submit a  
11 progress report to the council or any designated substitute  
12 care review board. Prior to any judicial review by the court  
13 pursuant to this section, the substitute care review board may  
14 review the dispositional order or the continuation of the order  
15 and the department's progress report and report its findings  
16 and recommendations to the court.

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

19 (1) a judicial review hearing conducted by the  
20 court; or

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

24 D. The children's court attorney shall give notice  
25 of the time, place and purpose of any judicial review hearing

.210968.3

underscored material = new  
~~[bracketed material] = delete~~

1 held pursuant to Subsection A, B or C of this section to:

2 (1) all parties, including:

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

6 (b) the child's parent, guardian or  
7 custodian, who has allegedly neglected or abused the child or  
8 is in need of court-ordered services; and

9 (c) any other person made a party by the  
10 court;

11 (2) the child's foster parent or substitute  
12 care provider;

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

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

17 E. At any subsequent judicial review hearing held  
18 pursuant to Subsection B of this section, the department and  
19 all parties given notice pursuant to Subsection D of this  
20 section shall have the opportunity to present evidence and to  
21 cross-examine witnesses. At the hearing, the department shall  
22 show that it has made reasonable effort to implement any  
23 treatment plan approved by the court in its dispositional order  
24 and shall present a treatment plan consistent with the purposes  
25 of the Children's Code for any period of extension of the

.210968.3

underscoring material = new  
~~[bracketed material]~~ = delete

1 dispositional order. The respondent shall demonstrate to the  
2 court that efforts to comply with the treatment plan approved  
3 by the court in its dispositional order and efforts to maintain  
4 contact with the child were diligent and made in good faith.  
5 The court shall determine the extent of compliance with the  
6 treatment plan and whether progress is being made toward  
7 establishing a stable and permanent placement for the child.

8 F. The Rules of Evidence shall not apply to  
9 hearings held pursuant to this section. The court may admit  
10 testimony by any person given notice of the hearing who has  
11 information about the status of the child or the status of the  
12 treatment plan.

13 G. At the conclusion of any hearing held pursuant  
14 to this section, the court shall make findings of fact and  
15 conclusions of law.

16 H. When the child is an Indian child, the court  
17 shall determine during review of a dispositional order whether  
18 the placement preferences set forth in the federal Indian Child  
19 Welfare Act of 1978 or the placement preferences of the child's  
20 Indian tribe were followed and whether the child's treatment  
21 plan provides for maintaining the child's cultural ties. When  
22 placement preferences have not been followed, good cause for  
23 noncompliance shall be clearly stated and supported.

24 I. Based on its findings at a judicial review  
25 hearing held pursuant to Subsection B of this section, the

.210968.3

1 court shall order one of the following dispositions:

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

6 (2) permit the child to remain with the  
7 child's parent, guardian or custodian subject to those  
8 conditions and limitations the court may prescribe, including  
9 protective supervision of the child by the department;

10 (3) return the child to the child's parent and  
11 place the child under the protective supervision of the  
12 department;

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

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

17 (b) a relative or other individual who,  
18 after study by the department or other agency designated by the  
19 court, is found by the court to be qualified to receive and  
20 care for the child and is appointed as a permanent guardian of  
21 the child; or

22 (c) the department, subject to the  
23 provisions of Paragraph (6) of this subsection;

24 (5) continue the child in the legal custody of  
25 the department with or without any required parental

1 involvement in a treatment plan. Reasonable efforts shall be  
2 made to preserve and reunify the family, with the paramount  
3 concern being the child's health and safety unless the court  
4 finds that such efforts are not required. The court may  
5 determine that reasonable efforts are not required to be made  
6 when the court finds that:

7 (a) the efforts would be futile; or

8 (b) the parent, guardian or custodian  
9 has subjected the child to aggravated circumstances;

10 (6) make additional orders regarding the  
11 treatment plan or placement of the child to protect the child's  
12 best interests if the court determines the department has  
13 failed in implementing any material provision of the treatment  
14 plan or abused its discretion in the placement or proposed  
15 placement of the child; or

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

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

23 (b) a hearing on the merits of  
24 terminating parental rights.

25 J. Dispositional orders entered pursuant to this

underscored material = new  
[bracketed material] = delete

1 section shall remain in force for a period of six months,  
2 except for orders that provide for transfer of the child to the  
3 child's noncustodial parent or to a permanent guardian.

4 K. When the court determines, pursuant to Paragraph  
5 (5) of Subsection I of this section, that no reasonable efforts  
6 at reunification are required, the court shall conduct, within  
7 thirty days, a permanency hearing as described in Section  
8 32A-4-25.1 NMSA 1978. The department shall make reasonable  
9 efforts to place the child in a timely manner in accordance  
10 with the permanency plan and to complete whatever steps are  
11 necessary to finalize the permanent placement of the child.

12 L. Subsequent judicial review of proceedings  
13 involving eligible youth shall proceed in accordance with the  
14 provisions of Section 7 of the Fostering Connections Act."

15 SECTION 26. Section 32A-4-25.1 NMSA 1978 (being Laws  
16 1997, Chapter 34, Section 8, as amended by Laws 2016, Chapter  
17 54, Section 7 and by Laws 2016, Chapter 60, Section 3) is  
18 amended to read:

19 "32A-4-25.1. PERMANENCY HEARINGS--PERMANENCY REVIEW  
20 HEARINGS.--

21 A. A permanency hearing shall be commenced within  
22 six months of the initial judicial review of a child's  
23 dispositional order or within twelve months of a child entering  
24 foster care pursuant to Subsection [D] E of this section,  
25 whichever occurs first. Prior to the initial permanency

.210968.3

underscored material = new  
[bracketed material] = delete

1 hearing:

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

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

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

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

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

21 (1) reunification;

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

25 (3) placement with a person who will be the

underscored material = new  
[bracketed material] = delete

1 child's permanent guardian;

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

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

9 (6) placement in the legal custody of the  
10 department under a planned permanent living arrangement;  
11 provided that there is substantial evidence that none of the  
12 permanency plans set forth in Paragraphs (1) through (5) of  
13 this subsection is appropriate for the child.

14 C. If the court adopts a permanency plan of  
15 reunification, the court shall adopt a plan for transitioning  
16 the child home within a reasonable period depending on the  
17 facts and circumstances of the case, but not to exceed six  
18 months, and schedule a permanency review hearing within three  
19 months. If the child is reunified, the subsequent hearing may  
20 be vacated.

21 D. At the permanency review hearing, all parties  
22 and the child's guardian ad litem or attorney shall have the  
23 opportunity to present evidence and cross-examine witnesses.  
24 Based on the evidence, the court shall:

25 (1) change the plan from reunification to one

.210968.3

1 of the alternative plans provided in Subsection B of this  
2 section;

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

5 (3) continue legal custody of the child in the  
6 department to complete a transition home to the child's parent,  
7 guardian or custodian and continue the case plan for not more  
8 than six months, after which the case shall be dismissed unless  
9 the plan is changed as provided in Paragraph (1) of this  
10 subsection; or

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

24 E. The court shall hold a permanency hearing and  
25 adopt a permanency plan for a child within twelve months of the

.210968.3

underscoring material = new  
~~[bracketed material] = delete~~

1 child entering foster care. For purposes of this section, a  
2 child shall be considered to have entered foster care on the  
3 earlier of:

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

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

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

11 G. The children's court attorney shall give notice  
12 of the time, place and purpose of any permanency hearing or  
13 permanency review hearing held pursuant to this section to:

14 (1) all parties, including:

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

18 (b) the child's parent, guardian or  
19 custodian, who has allegedly neglected or abused the child or  
20 is in need of court-ordered services; and

21 (c) any other person made a party by the  
22 court;

23 (2) the child's foster parent or substitute  
24 care provider;

25 (3) the child's court-appointed special

.210968.3

underscored material = new  
[bracketed material] = delete

1 advocate; and

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

4 H. The Rules of Evidence shall not apply to  
5 permanency hearings. The court may admit testimony by any  
6 person given notice of the permanency hearing who has  
7 information about the status of the child or the status of the  
8 treatment plan. All testimony shall be subject to cross-  
9 examination.

10 I. Subsequent judicial review of proceedings  
11 involving eligible youth shall proceed in accordance with the  
12 provisions of Section 7 of the Fostering Connections Act."

13 SECTION 27. Section 32A-4-25.2 NMSA 1978 (being Laws  
14 2009, Chapter 239, Section 47) is amended to read:

15 "32A-4-25.2. TRANSITION SERVICES--PLANNING.--

16 A. Transition services shall be provided to youth  
17 beginning at age fourteen and shall assist the youth in gaining  
18 skills and competencies to successfully transition to  
19 adulthood.

20 B. Transition services shall be provided in at  
21 least the following domains:

22 (1) housing;

23 (2) education;

24 (3) finances and employment;

25 (4) supportive relationships and community

underscored material = new  
[bracketed material] = delete

1 connections;

2 (5) cultural and personal identity;

3 (6) daily living skills;

4 (7) transportation; and

5 (8) parenting.

6 C. The transition services that the youth receives  
7 shall be documented in the youth's case plan, which shall be  
8 updated at least once every six months.

9 D. Beginning at age sixteen, as part of a youth's  
10 transition planning and case planning process, a youth shall  
11 be:

12 (1) notified of the opportunity, beginning at  
13 age eighteen, to participate in the fostering connections  
14 program; and

15 (2) provided information on the benefits of  
16 the fostering connections program, criteria for eligibility and  
17 how the agency can assist the youth in establishing eligibility  
18 when the youth reaches the age of eighteen.

19 ~~[A.]~~ E. Prior to a child's reaching seventeen years  
20 of age, the department shall meet with the child, the child's  
21 attorney and others of the child's choosing, including  
22 biological family members, to develop a transition plan to  
23 provide permanency and stability for the youth upon leaving  
24 care. The department shall assist the child in identifying and  
25 planning to meet the child's needs after the child's eighteenth

.210968.3

underscored material = new  
[bracketed material] = delete

1 birthday, including housing, education, employment or income,  
2 health and mental health, local opportunities for mentors and  
3 continuing support services.

4 ~~[B.]~~ F. The department shall present the child's  
5 proposed transition plan to the court at the first hearing  
6 scheduled after the child's seventeenth birthday.

7 ~~[G.]~~ G. The court shall approve and order a  
8 transition plan for the child. The transition plan approved by  
9 the court shall be reviewed at every subsequent review and  
10 permanency hearing."

11 **SECTION 28.** Section 32A-4-25.3 NMSA 1978 (being Laws  
12 2009, Chapter 239, Section 48) is amended to read:

13 "32A-4-25.3. DISCHARGE HEARING.--

14 A. At the last review or permanency hearing held  
15 prior to the child's eighteenth birthday, or prior to an  
16 eligible youth's discharge from the fostering connections  
17 program, the court shall review the transition plan and shall  
18 determine whether the department has made reasonable efforts to  
19 implement the requirements of Subsection B of this section.

20 B. The court shall determine:

21 (1) whether written information concerning the  
22 child's or eligible youth's family history, the whereabouts of  
23 any sibling if appropriate and education and health records  
24 have been provided to the child or eligible youth;

25 (2) whether the child's or eligible youth's

underscored material = new  
[bracketed material] = delete

1 social security card, certified birth certificate, state-issued  
2 identification card, death certificate of a parent, ~~and~~ proof  
3 of citizenship or residence and proof that the child or  
4 eligible youth has been in foster care have been provided to  
5 the child or eligible youth;

6 (3) whether assistance in obtaining medicaid  
7 has been provided to the child or eligible youth, unless the  
8 child or eligible youth is ineligible for medicaid; and

9 (4) whether referral for a guardianship or  
10 limited guardianship if the child or eligible youth is  
11 incapacitated has been made.

12 C. If the court finds that the department has not  
13 made reasonable efforts to meet all the requirements of  
14 Subsection B of this section and that termination of  
15 jurisdiction would be harmful to the young adult, the court may  
16 continue to exercise its jurisdiction for a period not to  
17 exceed one year from the child's eighteenth birthday or the  
18 eligible youth's discharge from the fostering connections  
19 program. The young adult must consent to continued  
20 jurisdiction of the court. The court may dismiss for good  
21 cause the case at any time after the child's eighteenth  
22 birthday ~~[for good cause]~~ or the eligible youth's discharge  
23 from the fostering connections program."

24 SECTION 29. TEMPORARY PROVISION--AMENDED STATE PLAN  
25 AMENDMENT--CHILDREN, YOUTH AND FAMILIES DEPARTMENT RULES.--

.210968.3

underscored material = new  
[bracketed material] = delete

1           A. By October 1, 2019, the children, youth and  
2 families department shall:

3                   (1) submit an amendment to the state plan to  
4 seek federal funding for newly eligible youth for whom a  
5 kinship guardianship assistance agreement was in effect if the  
6 child had attained sixteen years of age before the agreement  
7 became effective or for whom a state-funded guardianship  
8 assistance agreement was in effect if the youth had attained  
9 sixteen years of age before the agreement became effective;

10                   (2) implement the fostering connections  
11 program pursuant to the provisions of the Fostering Connections  
12 Act and maximize the children, youth and families department's  
13 access to federal funds for extended guardianship assistance  
14 and extended adoption assistance for the benefit of eligible  
15 youth, as "eligible youth" is defined in the Children's Code,  
16 participating in the fostering connections program; and

17                   (3) adopt and promulgate rules as needed to  
18 carry out the provisions of the Fostering Connections Act.

19           B. As used in this section, "eligible youth" means  
20 an individual who is between the ages of eighteen and twenty-  
21 one who, pursuant to the Fostering Connections Act:

22                   (1) has chosen to remain under the  
23 jurisdiction of the court; and

24                   (2) participates in the fostering connections  
25 program."

.210968.3

