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SENATE BILL 629

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

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO CHILDREN; AMENDING A SECTION OF THE ABUSE AND
NEGLECT ACT TO REQUIRE THE CHILDREN, YOUTH AND FAMILIES
DEPARTMENT TO COLLECT DATA RELATING TO CLOSED CASES OF CHILDREN
WHO HAD BEEN PLACED IN STATE CUSTODY.

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

SECTION 1. Section 32A-4-6 NMSA 1978 (being Laws 1993,
Chapter 77, Section 100, as amended) is amended to read:

"32A-4-6. TAKING INTO CUSTODY--PENALTY--REPORTING---

A. A child may be held or taken into custody:

(1) by a law enforcement officer when the
officer has evidence giving rise to reasonable grounds to
believe that the child is abused or neglected and that there is
an immediate threat to the child's safety; provided that the
law enforcement officer contacts the department to enable the

1 department to conduct an on-site safety assessment to determine
2 whether it is appropriate to take the child into immediate
3 custody, except that a child may be taken into custody by a law
4 enforcement officer without a protective services assessment
5 being conducted if:

6 (a) the child's parent, guardian or
7 custodian has attempted, conspired to cause or caused great
8 bodily harm to the child or great bodily harm or death to the
9 child's sibling;

10 (b) the child's parent, guardian or
11 custodian has attempted, conspired to cause or caused great
12 bodily harm or death to another parent, guardian or custodian
13 of the child;

14 (c) the child has been abandoned;

15 (d) the child is in need of emergency
16 medical care;

17 (e) the department is not available to
18 conduct a safety assessment in a timely manner; or

19 (f) the child is in imminent risk of
20 abuse; or

21 (2) by medical personnel when there are
22 reasonable grounds to believe that the child has been injured
23 as a result of abuse or neglect and that the child may be at
24 risk of further injury if returned to the child's parent,
25 guardian or custodian. The medical personnel shall hold the

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1 child until a law enforcement officer is available to take
2 custody of the child pursuant to Paragraph (1) of this
3 subsection.

4 B. A child shall not be taken into protective
5 custody solely on the grounds that the child's parent, guardian
6 or custodian refuses to consent to the administration of a
7 psychotropic medication to the child.

8 C. When a child is taken into custody by law
9 enforcement, the department is not compelled to place the child
10 in an out-of-home placement and may release the child to the
11 child's parent, guardian or custodian.

12 D. When a child is taken into custody, the
13 department shall make reasonable efforts to determine whether
14 the child is an Indian child.

15 E. If a child taken into custody is an Indian child
16 and is alleged to be neglected or abused, the department shall
17 give notice to the agent of the Indian child's tribe in
18 accordance with the federal Indian Child Welfare Act of 1978.

19 F. Any person who intentionally interferes with
20 protection of a child, as provided by Subsection A of this
21 section, is guilty of a petty misdemeanor.

22 G. By October 1, 2021 and each November 1
23 thereafter, the department shall issue to the legislative
24 health and human services committee a written report that
25 provides the following aggregate data relating to cases of

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1 abuse or neglect that have been closed within thirty days of
2 being referred to the department during the prior fiscal year:

3 (1) the number of children who are taken
4 into custody pursuant to this section and disposition of the
5 case for one of the following reasons:

6 (a) the child has been released to the
7 child's parent, guardian or custodian;

8 (b) the child has been delivered to the
9 department;

10 (c) the child has been delivered to a
11 relative other than the child's parent, guardian or custodian;

12 (d) the child has been delivered to the
13 custody of another agency;

14 (e) the child has been delivered to an
15 entity not listed in Subparagraphs (a) through (d) of this
16 paragraph; and

17 (f) the child has been delivered to a
18 medical facility pursuant to Paragraph (2) of Subsection A of
19 Section 32A-4-7 NMSA 1978. For each child delivered to a
20 medical facility and released, the department shall report
21 which outcome among Subparagraphs (a) through (e) of this
22 paragraph applies after the child was released from the
23 medical facility;

24 (2) the number of cases in which a child is
25 taken into department custody pursuant to each of the reasons

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1 enumerated in Subparagraphs (a) through (f) of Paragraph (1)
2 and Paragraph (2) of Subsection A of this section; and
3 (3) for each case relating to a child who
4 was removed pursuant to this section, the department's actions
5 to ascertain the well-being of that child within the following
6 time frames:

- 7 (a) thirty days of case closure;
- 8 (b) three months of case closure;
- 9 (c) twelve months of case closure;
- 10 (d) twenty-four months of case closure;

11 and

- 12 (e) sixty months of case closure."