

1 SENATE BILL 38

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO GOVERNMENT ORGANIZATION; CLARIFYING STATUTORY  
12 PROVISIONS PERTAINING TO CHILD CARE FACILITIES; CLARIFYING THE  
13 EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT'S  
14 RESPONSIBILITIES FOR INFANTS, TODDLERS AND CHILDREN WITH  
15 DEVELOPMENTAL DELAYS; AUTHORIZING THE EARLY CHILDHOOD EDUCATION  
16 AND CARE DEPARTMENT TO PERFORM CRIMINAL HISTORY INVESTIGATIONS  
17 FOR CHILD CARE FACILITY LICENSURE AND OTHER PURPOSES; REQUIRING  
18 CONFIDENTIALITY; INCLUDING THE EARLY CHILDHOOD EDUCATION AND  
19 CARE DEPARTMENT IN THE MEMBERSHIP OF RELEVANT BOARDS; PROVIDING  
20 A PENALTY.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 9-7-6.4 NMSA 1978 (being Laws 2004,  
24 Chapter 46, Section 8, as amended) is amended to read:

25 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING

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1 COLLABORATIVE.--

2 A. [~~There is created~~] The "interagency behavioral  
3 health purchasing collaborative" is created, consisting of the  
4 secretaries of aging and long-term services; Indian affairs;  
5 human services; health; corrections; children, youth and  
6 families; early childhood education and care; finance and  
7 administration; workforce solutions; public education; and  
8 transportation; the directors of the administrative office of  
9 the courts; the New Mexico mortgage finance authority; the  
10 governor's commission on disability; the developmental  
11 disabilities [~~planning~~] council; the instructional support and  
12 vocational [~~rehabilitation~~] education division of the public  
13 education department; and the New Mexico health policy  
14 commission; and the governor's health policy coordinator, or  
15 their designees. The collaborative shall be chaired by the  
16 secretary of human services with the respective secretaries of  
17 health and children, youth and families alternating annually as  
18 co-chairs.

19 B. The collaborative shall meet regularly and at  
20 the call of either co-chair and shall:

21 (1) identify behavioral health needs  
22 statewide, with an emphasis on that hiatus between needs and  
23 services set forth in the department of health's gap analysis  
24 and in ongoing needs assessments, and develop a master plan for  
25 statewide delivery of services;

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1 (2) give special attention to regional  
2 differences, including cultural, rural, frontier, urban and  
3 border issues;

4 (3) inventory all expenditures for behavioral  
5 health, including mental health and substance abuse;

6 (4) plan, design and direct a statewide  
7 behavioral health system, ensuring both availability of  
8 services and efficient use of all behavioral health funding,  
9 taking into consideration funding appropriated to specific  
10 affected departments; and

11 (5) contract for operation of one or more  
12 behavioral health entities to ensure availability of services  
13 throughout the state.

14 C. The plan for delivery of behavioral health  
15 services shall include specific service plans to address the  
16 needs of infants, children, adolescents, adults and seniors, as  
17 well as to address workforce development and retention and  
18 quality improvement issues. The plan shall be revised every  
19 two years and shall be adopted by the department of health as  
20 part of the statewide health plan.

21 D. The plan shall take the following principles  
22 into consideration, to the extent practicable and within  
23 available resources:

24 (1) services should be individually centered  
25 and family-focused based on principles of individual capacity

1 for recovery and resiliency;

2 (2) services should be delivered in a  
3 culturally responsive manner in a home- or community-based  
4 setting, where possible;

5 (3) services should be delivered in the least  
6 restrictive and most appropriate manner;

7 (4) individualized service planning and case  
8 management should take into consideration individual and family  
9 circumstances, abilities and strengths and be accomplished in  
10 consultation with appropriate family, caregivers and other  
11 persons critical to the individual's life and well-being;

12 (5) services should be coordinated,  
13 accessible, accountable and of high quality;

14 (6) services should be directed by the  
15 individual or family served to the extent possible;

16 (7) services may be consumer- or family-  
17 provided, as defined by the collaborative;

18 (8) services should include behavioral health  
19 promotion, prevention, early intervention, treatment and  
20 community support; and

21 (9) services should consider regional  
22 differences, including cultural, rural, frontier, urban and  
23 border issues.

24 E. The collaborative shall seek and consider  
25 suggestions of Native American representatives from Indian

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1 nations, tribes and pueblos and the urban Indian population,  
2 located wholly or partially within New Mexico, in the  
3 development of the plan for delivery of behavioral health  
4 services.

5 F. Pursuant to the State Rules Act, the  
6 collaborative shall adopt rules through the human services  
7 department for:

8 (1) standards of delivery for behavioral  
9 health services provided through contracted behavioral health  
10 entities, including:

11 (a) quality management and improvement;

12 (b) performance measures;

13 (c) accessibility and availability of  
14 services;

15 (d) utilization management;

16 (e) credentialing of providers;

17 (f) rights and responsibilities of  
18 consumers and providers;

19 (g) clinical evaluation and treatment  
20 and supporting documentation; and

21 (h) confidentiality of consumer records;

22 and

23 (2) approval of contracts and contract  
24 amendments by the collaborative, including public notice of the  
25 proposed final contract.

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1           G. The collaborative shall, through the human  
2 services department, submit a separately identifiable  
3 consolidated behavioral health budget request. The  
4 consolidated behavioral health budget request shall account for  
5 requested funding for the behavioral health services program at  
6 the human services department and any other requested funding  
7 for behavioral health services from agencies identified in  
8 Subsection A of this section that will be used pursuant to  
9 Paragraph (5) of Subsection B of this section. Any contract  
10 proposed, negotiated or entered into by the collaborative is  
11 subject to the provisions of the Procurement Code.

12           H. The collaborative shall, with the consent of the  
13 governor, appoint a "director of the collaborative". The  
14 director is responsible for the coordination of day-to-day  
15 activities of the collaborative, including the coordination of  
16 staff from the collaborative member agencies.

17           I. The collaborative shall provide a quarterly  
18 report to the legislative finance committee on performance  
19 outcome measures. The collaborative shall submit an annual  
20 report to the legislative finance committee and the interim  
21 legislative health and human services committee that provides  
22 information on:

23                       (1) the collaborative's progress toward  
24 achieving its strategic plans and goals;

25                       (2) the collaborative's performance

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1 information, including contractors and providers; and

2 (3) the number of people receiving services,  
3 the most frequently treated diagnoses, expenditures by type of  
4 service and other aggregate claims data relating to services  
5 rendered and program operations."

6 SECTION 2. Section 9-29-1 NMSA 1978 (being Laws 2019,  
7 Chapter 48, Section 1) is amended to read:

8 "9-29-1. SHORT TITLE.--~~[Sections 1 through 12 of this~~  
9 ~~act]~~ Chapter 9, Article 29 NMSA 1978 may be cited as the "Early  
10 Childhood Education and Care Department Act"."

11 SECTION 3. Section 9-29-8 NMSA 1978 (being Laws 2019,  
12 Chapter 48, Section 8) is amended to read:

13 "9-29-8. DEPARTMENT--DUTIES.--The department shall:

14 A. develop priorities for department programs and  
15 the use of department resources based on state policy, national  
16 best-practice standards, evidence-based interventions and  
17 practices and local considerations and priorities;

18 B. coordinate and align an early childhood  
19 education and care system to:

20 (1) include the family, infant, toddler  
21 program, child care, pre-kindergarten, early pre-kindergarten,  
22 home visitation, early head start, head start, early childhood  
23 special education and early intervention and family support;  
24 and

25 (2) provide New Mexico families with

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1 consistent access to appropriate early childhood care and  
2 education services;

3 C. administer the child care assistance, child care  
4 facility licensing and registered child care home programs;

5 D. develop standards for the department-sponsored  
6 delivery of early childhood programs;

7 E. cooperate with other state agencies that affect  
8 children to develop common contracting procedures and service  
9 definitions and a uniform system of access to early childhood  
10 programs;

11 F. develop reimbursement criteria for child care  
12 [~~centers~~] facilities and home providers licensed by the  
13 department;

14 G. conduct biennial assessments of child care or  
15 early learning service gaps and needs and establish plans to  
16 address those service gaps and needs;

17 H. conduct pre-employment fingerprint-based  
18 national criminal background checks on all department  
19 employees, including those whose employment by the department  
20 arises as a result of the transfer provisions of [~~Section 34 of~~  
21 ~~this 2019 act~~] Laws 2019, Chapter 48, Section 34, and on staff  
22 members and volunteers of department-contracted providers whose  
23 jobs involve direct contact with children participating in  
24 programs delivered by the department or those providers;

25 I. provide a system of seamless transition from

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1 prenatal to early childhood programs to kindergarten;

2 J. provide consumer education and accessibility to  
3 early childhood care and education programs;

4 K. advance quality early childhood education and  
5 care programs to support the development of children to prepare  
6 them for success in school;

7 L. ensure effective collaboration with state and  
8 local child welfare programs and early childhood health and  
9 behavioral health programs;

10 M. develop and manage effective data systems to  
11 support the necessary functions of a coordinated program;

12 N. develop an aligned system of workforce  
13 development for early childhood professionals; and

14 O. promote culturally and linguistically  
15 appropriate programming and provide equal education and care  
16 opportunities to non-English speaking families."

17 SECTION 4. A new section of the Early Childhood Education  
18 and Care Department Act is enacted to read:

19 "[NEW MATERIAL] CRIMINAL HISTORY INVESTIGATIONS--  
20 PROCEDURES--CONFIDENTIALITY--VIOLATION--PENALTY.--

21 A. To investigate the suitability of an applicant  
22 for licensure or registration as a child care facility or child  
23 care home programs or for employment or volunteering at a  
24 licensed child care facility or registered child care home  
25 program, including any facility or program that has primary

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1 custody of infants, toddlers and children for twenty hours or  
2 more per week, the department shall have access to criminal  
3 history records information furnished by the department of  
4 public safety and the federal bureau of investigation, subject  
5 to any restrictions imposed by federal law.

6 B. An applicant for a license or registration or  
7 for employment or volunteering shall undergo a state and  
8 national criminal history records check, and the applicant  
9 shall submit an electronic set of fingerprints to the  
10 department of public safety for that purpose. The department  
11 of public safety shall conduct a check of state criminal  
12 history records and forward the fingerprints to the federal  
13 bureau of investigation for a national criminal history records  
14 check to determine the existence and content of records of  
15 convictions and arrests in this state or other law enforcement  
16 jurisdictions and to generate a criminal history records check  
17 in accordance with rules of the department of public safety and  
18 regulations of the federal bureau of investigation. The  
19 department of public safety shall review the information  
20 obtained from the criminal history records check and shall  
21 compile and provide that information to the early childhood  
22 education and care department. The early childhood education  
23 and care department shall use the information to investigate  
24 and determine whether an applicant is qualified to hold a  
25 license or an employment or volunteer position.

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1           C. Criminal history information obtained by the  
2 department is confidential and shall be used only for the  
3 purpose of determining the suitability for licensure,  
4 employment or volunteer service and shall not be disclosed to  
5 anyone other than public employees directly involved in the  
6 decision affecting the applicant.

7           D. A person who releases or discloses criminal  
8 history records or information contained in those records in  
9 violation of the provisions of this section is guilty of a  
10 misdemeanor and shall be sentenced in accordance with the  
11 provisions of Section 31-19-1 NMSA 1978."

12           SECTION 5. Section 24-1-2 NMSA 1978 (being Laws 1973,  
13 Chapter 359, Section 2, as amended) is amended to read:

14           "24-1-2. DEFINITIONS.--As used in the Public Health Act:

15           A. "condition of public health importance" means an  
16 infection, a disease, a syndrome, a symptom, an injury or other  
17 threat that is identifiable on an individual or community level  
18 and can reasonably be expected to lead to adverse health  
19 effects in the community;

20           B. "crisis triage center" means a health facility  
21 that:

22                       (1) is licensed by the department of health;  
23 and

24                       (2) provides stabilization of behavioral  
25 health crises and may include residential and nonresidential

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1 stabilization;

2 C. "department" means:

3 (1) the department of health; or

4 (2) the children, youth and families

5 department as to [~~child care centers~~] residential treatment

6 centers that serve persons up to twenty-one years of age,

7 community mental health centers that serve only persons up to

8 twenty-one years of age, day treatment centers that serve

9 persons up to twenty-one years of age, shelter care homes and

10 those outpatient facilities that are also community-based

11 behavioral health facilities serving only persons up to twenty-

12 one years of age;

13 D. "director" means the secretary;

14 E. "health care provider" means [~~an individual~~] a

15 person licensed to provide health care in the ordinary course

16 of business, except as otherwise defined in the Public Health

17 Act;

18 F. "health facility" means a public hospital,

19 profit or nonprofit private hospital, general or special

20 hospital, outpatient facility, crisis triage center,

21 freestanding birth center, adult daycare facility, nursing

22 home, intermediate care facility, assisted living facility,

23 boarding home not under the control of an institution of higher

24 learning, child care [~~center~~] facility, shelter care home,

25 diagnostic and treatment center, rehabilitation center,

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1 infirmary, community mental health center that serves both  
2 children and adults or adults only, residential treatment  
3 center that serves persons up to twenty-one years of age,  
4 community mental health center that serves only persons up to  
5 twenty-one years of age and day treatment center that serves  
6 persons up to twenty-one years of age or a health service  
7 organization operating as a freestanding hospice or a home  
8 health agency. The designation of these entities as health  
9 facilities is only for the purposes of definition in the Public  
10 Health Act and does not imply that a freestanding hospice or a  
11 home health agency is considered a health facility for the  
12 purposes of other provisions of state or federal laws. "Health  
13 facility" also includes those facilities that, by federal  
14 regulation, must be licensed by the state to obtain or maintain  
15 full or partial, permanent or temporary federal funding. It  
16 does not include the offices and treatment rooms of licensed  
17 private practitioners;

18 G. "screening" means a preliminary procedure,  
19 including a test or examination, that:

20 (1) may require further investigation; and  
21 (2) can identify individuals with unrecognized  
22 health risk factors or asymptomatic disease conditions in  
23 populations;

24 H. "secretary" means:

25 (1) the secretary of health; ~~[or]~~

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1 (2) the secretary of children, youth and  
2 families as to [~~child care centers~~] residential treatment  
3 centers that serve persons up to twenty-one years of age,  
4 community mental health centers that serve only persons up to  
5 twenty-one years of age, day treatment centers that serve  
6 persons up to twenty-one years of age, shelter care homes and  
7 those outpatient facilities that are also community-based  
8 behavioral health facilities serving only persons up to twenty-  
9 one years of age; or

10 (3) the secretary of early childhood education  
11 and care for child care facilities; and

12 I. "test" means any diagnostic or investigative  
13 analysis or medical procedure that determines the presence of,  
14 absence of or exposure to a condition of public health  
15 importance or its precursor in an individual."

16 SECTION 6. Section 28-10-1 NMSA 1978 (being Laws 1973,  
17 Chapter 349, Section 1, as amended) is amended to read:

18 "28-10-1. GOVERNOR'S COMMISSION ON DISABILITY.--

19 A. [~~There is created~~] The "governor's commission on  
20 disability" is created, consisting of [~~fifteen~~] sixteen  
21 members, nine of whom shall be appointed by the governor. The  
22 [~~six~~] seven remaining members shall be the director of the  
23 vocational rehabilitation division of the public education  
24 department, the secretary of [~~labor~~] workforce solutions or the  
25 secretary's designee, the director of the behavioral health

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1 services division of the human services department, the  
2 secretary of children, youth and families or the secretary's  
3 designee, the secretary of early childhood education and care  
4 or the secretary's designee, the secretary of aging and long-  
5 term services or the secretary's designee and the secretary of  
6 human services or the secretary's designee. Initially, three  
7 members shall be appointed for terms ending December 31, 1978,  
8 three members for terms ending December 31, 1980 and three  
9 members for terms ending December 31, 1982. Thereafter,  
10 appointments shall be for six years expiring on December 31 of  
11 even-numbered years. Appointed members shall be appointed from  
12 different geographic areas of the state and from the major  
13 disability services in the state. Appointed members shall  
14 include ~~[individuals]~~ persons with disabilities,  
15 representatives of government and private enterprise, parents  
16 or guardians of ~~[individuals]~~ persons with disabilities and  
17 professionals in, or those who are interested in, service for  
18 ~~[individuals]~~ persons with disabilities. Not more than five of  
19 the members appointed by the governor shall be of the same  
20 political party.

21 B. A majority of the members of the commission  
22 constitutes a quorum for the transaction of business. The  
23 commission shall meet at least twice a year and shall annually  
24 elect a chair and a vice chair.

25 C. The commission shall be primarily concerned with

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1 those [~~individuals~~] persons with disabilities who have a  
2 condition that, regardless of its physical or mental origin,  
3 constitutes a substantial occupational disadvantage."

4 SECTION 7. Section 28-16A-4 NMSA 1978 (being Laws 1993,  
5 Chapter 50, Section 4, as amended) is amended to read:

6 "28-16A-4. DEVELOPMENTAL DISABILITIES COUNCIL--CREATION--  
7 MEMBERSHIP--TERMS.--

8 A. The "developmental disabilities council" is  
9 created in accordance with the federal Developmental  
10 Disabilities Assistance and Bill of Rights Act. The council  
11 shall be an adjunct agency as provided in the Executive  
12 Reorganization Act.

13 B. The council shall consist of no fewer than  
14 [~~twenty-five~~] twenty-six members, at least sixty percent of  
15 whom shall be:

16 (1) [~~individuals~~] persons with developmental  
17 disabilities;

18 (2) parents or legal guardians of children  
19 with developmental disabilities; or

20 (3) immediate relatives or guardians of adults  
21 with mentally impairing developmental disabilities who cannot  
22 advocate for themselves.

23 C. Of the sixty percent of members described in  
24 Subsection B of this section, one-third shall be [~~individuals~~]  
25 persons with developmental disabilities, one-third shall be

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1 members described in Paragraphs (2) and (3) of Subsection B of  
2 this section and one-third shall be a combination of members  
3 described in Subsection B of this section. At least one member  
4 described in Subsection B of this section shall be an immediate  
5 relative or guardian of ~~[an individual]~~ a person who resides or  
6 previously resided in an institution or shall be ~~[an~~  
7 ~~individual]~~ a person with a developmental disability who  
8 resides or previously resided in an institution. No member of  
9 the council shall be an employee, or someone who manages  
10 employees, of a state agency that receives funds to provide  
11 developmental disabilities supports and services.

12 D. The council shall also include:

- 13 (1) the secretary of health, or the  
14 secretary's designee;
- 15 (2) the secretary of human services, or the  
16 secretary's designee;
- 17 (3) the secretary of children, youth and  
18 families, or the secretary's designee;
- 19 (4) the secretary of early childhood education  
20 and care;
- 21 ~~[(4)]~~ (5) the secretary of aging and long-term  
22 services, or the secretary's designee;
- 23 ~~[(5)]~~ (6) the secretary of public education,  
24 or the secretary's designee;
- 25 ~~[(6)]~~ (7) the director of the vocational

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1 rehabilitation division of the public education department, or  
2 the director's designee;

3 [~~(7)~~] (8) the director of the state protection  
4 and advocacy system established pursuant to the federal  
5 Developmental Disabilities Assistance and Bill of Rights Act of  
6 1990, or the director's designee;

7 [~~(8)~~] (9) the director of an entity within a  
8 state institution of higher education designated as a  
9 university center for excellence in developmental disabilities  
10 education, research and service; and

11 [~~(9)~~] (10) at all times, representatives of  
12 local and nongovernmental agencies and private nonprofit groups  
13 concerned with services for [~~individuals~~] persons with  
14 developmental disabilities in New Mexico.

15 E. The governor shall select the members of the  
16 council for appointment pursuant to Subsection B and  
17 [~~Paragraph~~] Paragraphs (9) and (10) of Subsection D of this  
18 section after soliciting recommendations from organizations  
19 representing a broad range of [~~individuals~~] persons with  
20 developmental disabilities and [~~individuals~~] other persons  
21 interested in [~~individuals~~] persons with developmental  
22 disabilities. The council may, at the initiative of the  
23 council or at the request of the governor, coordinate council  
24 and public input to the governor regarding all recommendations.

25 F. The membership of the council shall be

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1 geographically representative of the state and reflect the  
2 diversity of the state with respect to race and ethnicity.

3 G. Members, except for ex-officio members, shall be  
4 appointed by the governor for terms of three years.

5 H. The governor shall provide for rotation of the  
6 membership of the council. These provisions shall allow  
7 members to continue to serve on the council until those  
8 members' successors are appointed and qualified.

9 I. The council shall notify the governor regarding  
10 membership requirements of the council and shall notify the  
11 governor when vacancies on the council remain unfilled for a  
12 significant period of time.

13 J. Council members shall recuse themselves from any  
14 discussion of grants or contracts for which such members'  
15 departments, agencies or programs are grantees, contractors or  
16 applicants. The council shall ensure that no council member  
17 casts a vote on any matter that would provide direct financial  
18 benefit to the member or otherwise give the appearance of a  
19 conflict of interest."

20 SECTION 8. Section 28-16A-6 NMSA 1978 (being Laws 1993,  
21 Chapter 50, Section 6, as amended) is amended to read:

22 "28-16A-6. ELIGIBILITY.--

23 A. For purposes of eligibility for support and  
24 services, "developmental disability" means a severe chronic  
25 disability of [~~an individual~~] a person, which disability:

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1 (1) is attributable to a mental or physical  
2 impairment, including the result from trauma to the brain, or  
3 combination of mental and physical impairments;

4 (2) is manifested before the person reaches  
5 the age of twenty-two years;

6 (3) is expected to continue indefinitely;

7 (4) results in substantial functional  
8 limitations in three or more of the following areas of major  
9 life activity:

10 (a) self-care;

11 (b) receptive and expressive language;

12 (c) learning;

13 (d) mobility;

14 (e) self-direction;

15 (f) capacity for independent living; and

16 (g) economic self-sufficiency; and

17 (5) reflects the person's need for a  
18 combination and sequence of special, interdisciplinary or  
19 generic care treatment or other support and services that are  
20 of [~~life-long~~] lifelong or extended duration and are  
21 individually planned and coordinated.

22 B. A child, from birth through two years of age,  
23 who is at risk for or who has a developmental delay as defined  
24 by rules of the early childhood education and care department  
25 is eligible for early intervention services.

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1           C. ~~[An individual]~~ A person who is eligible for  
2 developmental disability supports and services based on any  
3 previous definition of developmental disability used by the  
4 state and was receiving services on June 15, 1993 shall remain  
5 eligible for developmental disability supports and services.  
6 However, a child, from birth through age two, who is determined  
7 to be at risk for or who has a developmental delay shall be  
8 eligible for early intervention services only, unless the child  
9 meets the criteria set forth in Subsection A of this section."

10           SECTION 9. Section 28-16A-8 NMSA 1978 (being Laws 1993,  
11 Chapter 50, Section 8, as amended) is amended to read:

12           "28-16A-8. REPORTING ON COMMUNITY SERVICES FOR PERSONS  
13 WITH DEVELOPMENTAL DISABILITIES.--The department of health, the  
14 human services department, the public education department, the  
15 vocational rehabilitation division of the public education  
16 department, the children, youth and families department, the  
17 early childhood education and care department, the New Mexico  
18 school for the blind and visually impaired and the New Mexico  
19 school for the deaf shall provide to the council, on an annual  
20 basis, information and data with respect to the actual or  
21 estimated number of ~~[individuals]~~ persons with developmental  
22 disabilities served by the agency, the type of services  
23 provided, any major changes in policies adopted in the previous  
24 year or anticipated in the coming year that have had or are  
25 expected to have a beneficial or deleterious effect on persons

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1 with developmental disabilities and any gaps in eligibility or  
2 services that pose a barrier to the provision of services  
3 needed by persons with developmental disabilities."

4 SECTION 10. Section 28-16A-9 NMSA 1978 (being Laws 1993,  
5 Chapter 50, Section 9, as amended) is amended to read:

6 "28-16A-9. INFORMATION AND REFERRAL SYSTEM--COORDINATION  
7 AND CONTINUATION.--In order to coordinate information and  
8 referral services and eliminate the duplication of effort, the  
9 council shall provide information and referral services for  
10 persons with disabilities, their families, providers of support  
11 and services and local and state agencies, including:

- 12 A. the human services department;
- 13 B. the department of health;
- 14 C. the public education department and its
- 15 vocational rehabilitation division;
- 16 D. the New Mexico school for the deaf;
- 17 E. the New Mexico school for the blind and visually
- 18 impaired;
- 19 F. the Carrie Tingley crippled children's hospital;
- 20 [~~and~~]
- 21 G. the children, youth and families department; and
- 22 H. the early childhood education and care
- 23 department."

24 SECTION 11. Section 28-16A-13 NMSA 1978 (being Laws 1993,  
25 Chapter 50, Section 13, as amended) is amended to read:

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1 "28-16A-13. AUTHORIZATION FOR PROVIDING SUPPORT AND  
2 SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.--

3 A. Subject to the availability of appropriations  
4 provided expressly for this purpose, the department may:

5 (1) acquire, provide or coordinate support and  
6 services for persons with developmental disabilities;

7 (2) enter into contracts and provider  
8 agreements with agencies and ~~[individuals]~~ persons capable of  
9 providing support and services to persons with developmental  
10 disabilities; and

11 (3) establish advisory councils and task  
12 forces as necessary to guide the development and review of  
13 support and services to persons with developmental  
14 disabilities.

15 B. Support and services shall be provided based on  
16 individual support and service plans developed by an  
17 interdisciplinary team. The team is responsible for  
18 collectively evaluating ~~[the]~~ a child's or adult's needs and  
19 developing an individual support and service plan to meet the  
20 needs; provided that the early childhood education and care  
21 department shall be responsible for the team that is evaluating  
22 a child for family, infant, toddler program services.

23 C. The department or, for children eligible for  
24 family, infant, toddler program services, the early childhood  
25 education and care department shall:

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1 (1) solicit the involvement of consumers,  
2 providers, parents, professional organizations and other  
3 governmental organizations prior to the adoption or revision of  
4 [~~any policies or regulations~~] rules concerning the provision of  
5 support, services, standards or funding systems. Participants  
6 shall be selected in a manner that reflects geographical,  
7 cultural, organizational and professional representation across  
8 the state;

9 (2) develop [~~policies, procedures~~] rules, [~~and~~  
10 ~~regulations~~] including policies and procedures that, to the  
11 extent possible, will promote uniformity in reimbursement and  
12 quality assurance systems regardless of the source of funding;  
13 and

14 (3) convene and maintain a family, infant,  
15 toddler [~~inter-agency~~] interagency coordinating council and a  
16 statewide adult support and services task force that shall, at  
17 a minimum, address quality assurance."

18 SECTION 12. Section 28-16A-18 NMSA 1978 (being Laws 1993,  
19 Chapter 50, Section 18, as amended) is amended to read:

20 "28-16A-18. DEVELOPMENTAL DISABILITIES EARLY CHILDHOOD  
21 EVALUATION SYSTEM.--The state shall have a timely,  
22 comprehensive, multidisciplinary system for evaluating infants,  
23 toddlers and preschool-age children suspected of having  
24 developmental delays. Diagnostic evaluations for infants and  
25 toddlers shall address family service needs and shall include

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1 training capabilities to educate community providers and  
2 parents in the understanding and application of the  
3 evaluations. This diagnostic evaluation system shall be  
4 jointly provided through a coordinated system by the children's  
5 medical services bureau of the public health division or the  
6 developmental disabilities supports division of the department,  
7 the early childhood education and care department, the  
8 university of New Mexico's center for development and  
9 disability and the public education department."

10 SECTION 13. Section 28-16A-19 NMSA 1978 (being Laws 2003,  
11 Chapter 323, Section 1, as amended) is amended to read:

12 "28-16A-19. INFORMATION AND REFERRAL TASK FORCE  
13 CREATION.--~~[There is created an]~~ The "information and referral  
14 task force" ~~[located]~~ is created in the council to develop a  
15 statewide, comprehensive "211" information and referral plan  
16 for use as a telephone dialing code for access to health and  
17 human services. The plan shall include a tariff structure  
18 based on existing agreements, a common taxonomy of terms,  
19 coordination between public and private systems and  
20 standardized statewide training and exploration of a  
21 centralized information repository. The task force shall  
22 include representation from the department of health; the human  
23 services department; the children, youth and families  
24 department; the early childhood education and care department;  
25 the workforce solutions department; the aging and long-term

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1 services department; the internet long-term care link program;  
2 the governor's commission on disability; the New Mexico  
3 commission for the blind; the commission for deaf and hard-of-  
4 hearing persons; a statewide organization that raises money for  
5 health and human service purposes; and other interested  
6 parties."

7 SECTION 14. Section 32A-15-3 NMSA 1978 (being Laws 1985,  
8 Chapter 103, Section 3 and Laws 1985, Chapter 140, Section 3,  
9 as amended) is amended to read:

10 "32A-15-3. CRIMINAL HISTORY RECORDS CHECK--BACKGROUND  
11 CHECKS.--

12 A. [~~Nationwide~~] State and national criminal history  
13 [~~record~~] records checks shall be conducted on all operators,  
14 staff, [~~and~~] employees and volunteers and prospective  
15 operators, staff, [~~and~~] employees and volunteers of child care  
16 facilities, including every facility or program that has  
17 primary custody of children for twenty hours or more per week,  
18 and juvenile detention, correction or treatment facilities.

19 [~~Nationwide~~] State and national criminal history [~~record~~]  
20 records checks shall also be conducted on all prospective  
21 foster or adoptive parents and other adult relatives and  
22 non-relatives residing in the prospective foster or adoptive  
23 parent's household. The objective of conducting the [~~record~~]  
24 records checks is to protect the children involved and promote  
25 the children's safety and welfare while receiving service from

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1 the facilities and programs.

2 ~~[B. The department shall fingerprint all operators,~~  
3 ~~staff and employees and prospective operators, staff and~~  
4 ~~employees of child care facilities and all prospective foster~~  
5 ~~or adoptive parents and other adult relatives and non-relatives~~  
6 ~~residing in the prospective foster or adoptive parent's~~  
7 ~~household. The department shall conduct a background check of~~  
8 ~~all operators, staff and employees and prospective operators,~~  
9 ~~staff and employees of child care facilities and all~~  
10 ~~prospective foster or adoptive parents and other adult~~  
11 ~~relatives and non-relatives residing in the prospective foster~~  
12 ~~or adoptive parent's household and shall submit a fingerprint~~  
13 ~~card for those individuals to the department of public safety~~  
14 ~~and the federal bureau of investigation for this purpose.~~

15 ~~C. Criminal history records obtained by the~~  
16 ~~department pursuant to the provisions of this section are~~  
17 ~~confidential. The department is authorized to use criminal~~  
18 ~~history records obtained from the federal bureau of~~  
19 ~~investigation to conduct background checks on prospective~~  
20 ~~operators, staff and employees of child care facilities and~~  
21 ~~foster parents.]~~

22 B. The early childhood education and care  
23 department shall have access to criminal history information on  
24 prospective and current operators, staff, employees and  
25 volunteers of child care facilities, including every facility

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1 or program under the department's authority that has primary  
2 custody of infants, toddlers and children for twenty hours or  
3 more per week.

4 C. The children, youth and families department  
5 shall have access to criminal history information on:

6 (1) prospective and current operators, staff,  
7 employees and volunteers of juvenile detention, correction or  
8 treatment facilities or a facility or program under the  
9 department's authority that has primary custody of children for  
10 twenty hours or more per week; and

11 (2) all prospective foster or adoptive parents  
12 or other adult relatives and non-relatives residing in a  
13 prospective foster or adoptive parent's household.

14 D. For purposes of investigating the suitability of  
15 persons enumerated in Subsections B and C of this section, the  
16 early childhood education and care department or the children,  
17 youth and families department, as applicable, shall have access  
18 to criminal history records information furnished by the  
19 department of public safety and the federal bureau of  
20 investigation, subject to any restrictions imposed by federal  
21 law. As directed by the applicable department, a person  
22 enumerated in Subsection A of this section shall submit a set  
23 of electronic fingerprints to the department of public safety.  
24 The department of public safety shall conduct a check of state  
25 criminal history records and forward the fingerprints to the

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1 federal bureau of investigation for a national criminal history  
2 records check to determine the existence and content of records  
3 of convictions and arrests in this state or other law  
4 enforcement jurisdictions and to generate a criminal history  
5 records check in accordance with rules of the department and  
6 regulations of the federal bureau of investigation. The  
7 department of public safety shall review the information  
8 returned from the criminal history records check and compile  
9 and disseminate a response to the appropriate department, which  
10 shall use the information to investigate and determine whether  
11 a person is qualified to provide care for a child or be a  
12 foster or adoptive parent.

13 ~~[D.]~~ E. Criminal history records obtained pursuant  
14 to the provisions of this section are confidential and are not  
15 a public record for purposes of the Inspection of Public  
16 Records Act and shall not be used for any purpose other than  
17 ~~[conducting background checks]~~ determining suitability for  
18 licensure, employment, volunteer service, fostering or  
19 adoption. Criminal history records obtained pursuant to the  
20 provisions of this section and the information contained in  
21 those records shall not be released or disclosed to any other  
22 person or agency, except pursuant to a court order or with the  
23 written consent of the person who is the subject of the  
24 records.

25 ~~[E.]~~ F. A person who releases or discloses criminal

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1 history records or information contained in those records in  
2 violation of the provisions of this section is guilty of a  
3 misdemeanor and shall be sentenced pursuant to the provisions  
4 of Section 31-19-1 NMSA 1978."

5 SECTION 15. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2022.

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