

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 461

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO CHILDREN; ENACTING THE CHILDREN'S AND FAMILIES'
RIGHTS ACT; ENACTING THE CHILD WELFARE INNOVATION CENTER ACT.

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 6 of this
act may be cited as the "Children's and Families' Rights Act"."

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

"[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES'
RIGHTS--PURPOSE.--The purpose of the office of children's and
families' rights is to provide independent and objective
recommendations to the department to improve outcomes and well-
being for foster children and to give a voice to children so

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1 that every child in foster care understands the child's rights
2 and achieves the child's potential."

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

5 "[NEW MATERIAL] DEFINITIONS.--As used in the Children's
6 and Families' Rights Act:

7 A. "center" means the child welfare innovation
8 center;

9 B. "eligible adult" means an individual who meets
10 the eligibility criteria for participation in the fostering
11 connections program pursuant to Section 32A-26-3 NMSA 1978;

12 C. "grievance" means a complaint received by the
13 department related to children and eligible adults in foster
14 care and their families and resource families;

15 D. "independent" means the office has independence
16 from the department to investigate grievances and complaints
17 and to make findings and recommendations to the department; and

18 E. "office" means the office of children's and
19 families' rights."

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

22 "[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES'
23 RIGHTS--CREATED--DUTIES.--

24 A. The "office of children's and families' rights"
25 is created and is administratively attached to the department

1 pursuant to Section 9-1-7 NMSA 1978. The office shall maintain
2 autonomy over the office's budget and any decisions the office
3 may make.

4 B. The office shall:

5 (1) administer the children's and families'
6 grievance process;

7 (2) provide mediation services for disputed
8 grievances;

9 (3) provide navigation services for children,
10 youth and families to assist with information sharing and
11 guidance to the department's services;

12 (4) provide civil rights consultation on cases
13 for referral to the department; and

14 (5) recommend improvements to systemic issues
15 adversely impacting the department.

16 C. The office shall contract with a nongovernmental
17 legal firm to provide an independent audit of grievance trends
18 and the grievance process. By July 1, 2024, and by July 1 of
19 each year thereafter, the contracted nongovernmental legal firm
20 shall provide an annual written report that includes the number
21 and type of grievances and complaints by region, outcomes of
22 grievances by region and recommendations for legislative and
23 other policy reforms.

24 D. An individual who files a grievance pursuant to
25 the Children's and Families' Rights Act shall not be precluded

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1 from pursuing other legal or equitable remedies."

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

4 "[NEW MATERIAL] OFFICE OF CHILDREN'S AND FAMILIES'
5 RIGHTS--OPERATIONS.--

6 A. The office shall:

7 (1) independently investigate and respond to
8 grievances and complaints; and

9 (2) make findings and recommendations to the
10 department.

11 B. All salaries and other expenses of the office
12 shall be paid by the department.

13 C. The office shall promulgate rules for the
14 effective performance of the office's duties."

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

17 "[NEW MATERIAL] PROVIDER ADVISORY COUNCIL--CREATED--
18 MEMBERSHIP.--

19 A. The "provider advisory council" is created
20 within and is administered by the center. The center shall
21 appoint the council to include representation from a cross-
22 section of community service providers that support children
23 and families through behavioral health services, child
24 protective services and juvenile justice services. The center
25 shall provide appropriate staff and funding to support the

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1 provider advisory council.

2 B. The provider advisory council shall include
 3 seven members from the following service provider types:

- 4 (1) children's behavioral health;
- 5 (2) housing;
- 6 (3) special education;
- 7 (4) domestic violence;
- 8 (5) family support;
- 9 (6) resource families;
- 10 (7) child advocacy centers;
- 11 (8) adult behavioral health;
- 12 (9) early intervention; and
- 13 (10) social work.

14 C. In addition to the members appointed pursuant to
 15 Subsection B of this section, the provider advisory council
 16 shall include:

- 17 (1) one youth or young adult who is currently
 18 or was previously placed in state custody; and
- 19 (2) one parent who currently has or previously
 20 had a child in state custody.

21 D. In appointing members, the center shall ensure
 22 that the council reflects the racial, ethnic and linguistic
 23 diversity of the state and represents differing geographic
 24 regions, including tribal, rural and urban areas.

25 E. The terms of membership of the council shall be

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1 staggered, with one-half of the members serving two years and
2 the remainder serving three years for the initial term, and
3 after the initial term, members shall serve two-year terms.
4 Members may serve up to two consecutive terms.

5 F. The provider advisory council shall:

6 (1) meet four times per year;
7 (2) review reports from the office;
8 (3) collect and communicate community service
9 provider concerns and make recommendations regarding services
10 provided under the direction of the department;

11 (4) provide recommendations to the department
12 on:

13 (a) ways to improve New Mexico's child
14 welfare system;

15 (b) related policies and procedures of
16 state agencies;

17 (c) improving provider engagement;

18 (d) identified areas of improvement for
19 service provisions;

20 (e) improvements in cross-agency
21 collaboration;

22 (f) workforce development issues;

23 (g) identified assets and gaps in
24 service delivery; and

25 (h) administrative barriers to accessing

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1 provider services; and

2 (5) provide an annual report of all findings
3 and recommendations to the secretary of children, youth and
4 families and the office.

5 G. Members of the council shall receive per diem
6 and mileage as provided in the Per Diem and Mileage Act."

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

9 "[~~NEW MATERIAL~~] SHORT TITLE.--Sections 7 through 12 of
10 this act may be cited as the "Child Welfare Innovation Center
11 Act"."

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

14 "[~~NEW MATERIAL~~] CHILD WELFARE INNOVATION CENTER--
15 CREATED--PURPOSE.--The "child welfare innovation center" is
16 created as an independent center that seeks to strengthen the
17 policies and practices that promote the well-being, safety and
18 permanency of all children and youth. The center shall provide
19 research-based, inclusive, culturally responsive, high-quality,
20 outcome-based evaluations and solutions. The center shall use
21 scientific approaches and evidence-based and evidence-informed
22 practices to strengthen the capacity and sustainability of New
23 Mexico's child welfare system at the local and state levels."

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

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1 "[NEW MATERIAL] DEFINITIONS.--As used in the Child Welfare
2 Innovation Center Act:

3 A. "center" means the child welfare innovation
4 center;

5 B. "director" means the director of the center;

6 C. "office" means the office of children's and
7 families' rights; and

8 D. "resource family" means the person named on the
9 license issued by the protective services division of the
10 department or a licensed child placement agency who is
11 authorized to care for children in foster care and includes
12 foster parents and preadoptive parents."

13 SECTION 10. A new section of the Children's Code is
14 enacted to read:

15 "[NEW MATERIAL] CHILD WELFARE INNOVATION CENTER--
16 DESIGNATION--DUTIES.--

17 A. The department shall establish the center
18 through a request for proposals process. The center shall have
19 a primary focus on building system capacity to improve the
20 well-being of and ensure vibrant futures for children, youth
21 and their families and communities.

22 B. The center shall:

23 (1) advise the department to support,
24 strengthen and enhance child welfare policies and practices;

25 (2) provide leadership for developing quality

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1 and performance improvement strategies and initiatives;

2 (3) conduct data-driven research and analysis
3 of department programs and services and outcomes for children;

4 (4) recommend improvements to systemic issues
5 impacting the protective services division and behavioral
6 health divisions of the department;

7 (5) gather information from the department's
8 current workforce to identify systemic workforce barriers and
9 provide recommendations that will inform updates to the
10 department's workforce plan;

11 (6) recommend improvements in legislative,
12 administrative and fiscal state policy;

13 (7) collaborate with schools of social work to
14 develop a pipeline of highly competent social workers
15 specializing in public child welfare;

16 (8) appoint, compensate and hire staff and
17 contract for services to carry out the purposes of the center;

18 (9) advise the office on the operations,
19 performance and strategies of the office in order to improve
20 the rights of children, youth and their families; and

21 (10) appoint members and compensate and hire
22 staff for:

23 (a) the provider advisory council; and

24 (b) child and family advocacy boards.

25 C. By July 1, 2024, and by July 1 of each year

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1 thereafter, the center shall provide an annual written report
2 for the prior calendar year that shall:

3 (1) include a summary of the center's findings
4 and recommendations to improve the child welfare system at the
5 state and local levels;

6 (2) be distributed electronically before July
7 1 of each year to the governor, the department, the interim
8 legislative health and human services committee and the
9 administrative office of the courts; and

10 (3) be posted on the department's website
11 within ten days of the report's submission to the governor.

12 D. The department shall issue a response to the
13 center's annual report no later than ninety days after the
14 department's receipt of the report and a follow-up report six
15 months later."

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

18 "[NEW MATERIAL] DIRECTOR--QUALIFICATIONS--DUTIES--HIRING--
19 CENTER STAFF.--

20 A. There shall be a director of the center who
21 shall be the administrative head of the center and shall be
22 devoted full-time to the duties of the center. The director
23 shall be appointed by the entity that is chosen through the
24 request for proposals process to establish the center.

25 B. The director shall have the following

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1 qualifications:

2 (1) a master's degree in social work and a
3 current license pursuant to the Social Work Practice Act; or

4 (2) an active license to practice law issued
5 pursuant to rules promulgated by the supreme court; or

6 (3) a master's degree in public policy, public
7 health or the equivalent thereof; and

8 (4) at least eight years of child welfare
9 experience with an emphasis on child abuse and neglect and its
10 prevention.

11 C. The director shall hire staff to carry out the
12 duties of the center, including the review of cases for the
13 purpose of improving practice and procedure."

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

16 "[NEW MATERIAL] CHILD AND FAMILY ADVOCACY BOARDS--
17 PURPOSE--CREATED--MEMBERSHIP--DUTIES.--

18 A. The federal Child Abuse Prevention and Treatment
19 Act requires each state to create citizen review boards to meet
20 quarterly and report annually on efforts to ensure that the
21 state is following child protection requirements. There are
22 created "child and family advocacy boards", the purpose of
23 which is to examine specific cases to evaluate the extent to
24 which the department is effectively discharging its child
25 protection responsibilities.

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1 B. Child and family advocacy boards are created
2 within and administered by the center. The center shall
3 provide appropriate staff and funding to support the child and
4 family advocacy boards.

5 C. By July 1, 2024, and by July 1 of each year
6 thereafter, child and family advocacy boards shall provide an
7 annual report of all findings and recommendations to the
8 secretary of children, youth and families and the director.
9 The annual reports shall not contain confidential information.

10 D. Three child and family advocacy boards shall be
11 established with five members per board appointed by the
12 director. There shall be one board that shall review the
13 department's compliance with the Indian Family Protection Act.
14 A second board shall review critical incidents. The boards may
15 review cases based on criteria established by the director.

16 E. Members shall serve three-year terms. The
17 composition of each child and family advocacy board shall be
18 broadly representative of the state and include members with
19 expertise in the prevention and treatment of child abuse and
20 neglect, such as parents, custodians, guardians or former
21 foster youth.

22 F. A person or a relative of a person employed by
23 the department or a district court shall not be a member of a
24 child and family advocacy board.

25 G. Each child and family advocacy board shall meet

1 at least once per quarter to review cases designated in
2 accordance with policies established by the director.

3 H. Child and family advocacy boards shall:

4 (1) conduct case reviews in accordance with
5 the provisions of the Children's Code, the Abuse and Neglect
6 Act and rules promulgated by the department; and

7 (2) give the parties in a children's court
8 case under review notice of a child and family advocacy board
9 meeting related to that case and afford the parties an
10 opportunity to participate fully in the child and family
11 advocacy board meeting.

12 I. Members of child and family advocacy boards
13 shall receive per diem and mileage as provided in the Per Diem
14 and Mileage Act.

15 J. As used in this section, "critical incident"
16 means:

17 (1) a fatality, near fatality or serious
18 bodily or emotional injury of a child who is in the custody of
19 or receiving services from an executive agency or a constituent
20 agency; or

21 (2) circumstances that result in a reasonable
22 belief that an executive agency or a constituent agency failed
23 in its duty to protect a child and, as a result, the child was
24 at imminent risk of, or suffered, serious bodily or emotional
25 injury or death."

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