

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 343

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO CHILDREN; ENHANCING THE STATE PROGRAM ADMINISTERED
PURSUANT TO THE FEDERAL COMPREHENSIVE ADDICTION AND RECOVERY
ACT OF 2016; MOVING THE PROGRAM FROM THE CHILDREN, YOUTH AND
FAMILIES DEPARTMENT TO THE DEPARTMENT OF HEALTH; AMENDING
REQUIREMENTS FOR PLANS OF SAFE CARE; PROVIDING FOR RULEMAKING.

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

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

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

A. "active efforts" means efforts that are
affirmative, active, thorough and timely and that represent a
higher standard of conduct than reasonable efforts;

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

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1 C. "child" means a person who is less than eighteen
2 years old;

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

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

10 F. "court-appointed special advocate" means a
11 person appointed pursuant to the provisions of the Children's
12 Court Rules to assist the court in determining the best
13 interests of the child by investigating the case and submitting
14 a report to the court;

15 G. "custodian" means an adult with whom the child
16 lives who is not a parent or guardian of the child;

17 H. "department" means the children, youth and
18 families department, unless otherwise specified;

19 I. "disproportionate minority contact" means the
20 involvement of a racial or ethnic group with the criminal or
21 juvenile justice system at a proportion either higher or lower
22 than that group's proportion in the general population;

23 J. "federal Indian Child Welfare Act of 1978" means
24 the federal Indian Child Welfare Act of 1978, as that act may
25 be amended or its sections renumbered;

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1 K. "foster parent" means a person, including a
2 relative of the child, licensed or certified by the department
3 or a child placement agency to provide care for children in the
4 custody of the department or agency;

5 L. "guardian" means a person appointed as a
6 guardian by a court or Indian tribal authority;

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

12 N. "Indian" means, whether an adult or child, a
13 person who is:

- 14 (1) a member of an Indian tribe; or
15 (2) eligible for membership in an Indian
16 tribe;

17 O. "Indian child" means an Indian person, or a
18 person whom there is reason to know is an Indian person, under
19 eighteen years of age, who is neither:

- 20 (1) married; or
21 (2) emancipated;

22 P. "Indian child's tribe" means:

- 23 (1) the Indian tribe in which an Indian child
24 is a member or eligible for membership; or
25 (2) in the case of an Indian child who is a

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1 member or eligible for membership in more than one tribe, the
2 Indian tribe with which the Indian child has more significant
3 contacts;

4 Q. "Indian custodian" means an Indian who, pursuant
5 to tribal law or custom or pursuant to state law:

6 (1) is an adult with legal custody of an
7 Indian child; or

8 (2) has been transferred temporary physical
9 care, custody and control by the parent of the Indian child;

10 R. "Indian tribe" means an Indian nation, tribe,
11 pueblo or other band, organized group or community of Indians
12 recognized as eligible for the services provided to Indians by
13 the secretary because of their status as Indians, including an
14 Alaska native village as defined in 43 U.S.C. Section 1602(c)
15 or a regional corporation as defined in 43 U.S.C. Section 1606.
16 For the purposes of notification to and communication with a
17 tribe as required in the Indian Family Protection Act, "Indian
18 tribe" also includes those tribal officials and staff who are
19 responsible for child welfare and social services matters;

20 S. "judge", when used without further
21 qualification, means the judge of the court;

22 T. "legal custody" means a legal status created by
23 order of the court or other court of competent jurisdiction or
24 by operation of statute that vests in a person, department or
25 agency the right to determine where and with whom a child shall

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1 live; the right and duty to protect, train and discipline the
2 child and to provide the child with food, shelter, personal
3 care, education and ordinary and emergency medical care; the
4 right to consent to major medical, psychiatric, psychological
5 and surgical treatment and to the administration of legally
6 prescribed psychotropic medications pursuant to the Children's
7 Mental Health and Developmental Disabilities Act; and the right
8 to consent to the child's enlistment in the armed forces of the
9 United States;

10 U. "member" or "membership" means a determination
11 made by an Indian tribe that a person is a member of or
12 eligible for membership in that Indian tribe;

13 V. "parent" or "parents" means a biological or
14 adoptive parent if the biological or adoptive parent has a
15 constitutionally protected liberty interest in the care and
16 custody of the child or a person who has lawfully adopted an
17 Indian child pursuant to state law or tribal law or tribal
18 custom;

19 W. "permanency plan" means a determination by the
20 court that the child's interest will be served best by:

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

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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 X. "person" means an individual or any other form
8 of entity recognized by law;

9 Y. "plan of safe care" means a written plan created
10 by a health care professional intended to ensure the immediate
11 and ongoing safety and well-being of a substance-exposed
12 newborn, or to provide prenatal or perinatal support to a
13 pregnant person dealing with substance use disorder, by
14 addressing the treatment needs of the child and any of the
15 child's parents, relatives, guardians, family members or
16 caregivers to the extent those treatment needs are relevant to
17 the safety of the child;

18 Z. "preadoptive parent" means a person with whom a
19 child has been placed for adoption;

20 AA. "protective supervision" means the right to
21 visit the child in the home where the child is residing,
22 inspect the home, transport the child to court-ordered
23 diagnostic examinations and evaluations and obtain information
24 and records concerning the child;

25 BB. "relative" means a person related to another

1 person:

2 (1) by blood within the fifth degree of
3 consanguinity or through marriage by the fifth degree of
4 affinity; or

5 (2) with respect to an Indian child, as
6 established or defined by the Indian child's tribe's custom or
7 law;

8 CC. "reservation" means:

9 (1) "Indian country" as defined in 18 U.S.C.
10 Section 1151;

11 (2) any lands to which the title is held by
12 the United States in trust for the benefit of an Indian tribe
13 or individual; or

14 (3) any lands held by an Indian tribe or
15 individual subject to a restriction by the United States
16 against alienation;

17 DD. "reunification" means either a return of the
18 child to the parent or to the home from which the child was
19 removed or a return to the noncustodial parent;

20 EE. "secretary" means the United States secretary
21 of the interior;

22 FF. "substance-exposed newborn" means an infant
23 under the age of one who has been prenatally exposed to a
24 controlled substance, including a prescribed or non-prescribed
25 drug, or alcohol that may affect the infant's health or

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1 development;

2 ~~[FF.]~~ GG. "tribal court" means a court with
3 jurisdiction over child custody proceedings that is either a
4 court of Indian offenses, a court established and operated
5 under the law or custom of an Indian tribe or any other
6 administrative body that is vested by an Indian tribe with
7 authority over child custody proceedings;

8 ~~[GG.]~~ HH. "tribal court order" means a document
9 issued by a tribal court that is signed by an appropriate
10 authority, including a judge, governor or tribal council
11 member, and that orders an action that is within the tribal
12 court's jurisdiction; and

13 ~~[HH.]~~ II. "tribunal" means any judicial forum other
14 than the court."

15 **SECTION 2.** Section 32A-3A-2 NMSA 1978 (being Laws 1993,
16 Chapter 77, Section 64, as amended) is amended to read:

17 "32A-3A-2. DEFINITIONS.--As used in the Voluntary
18 Placement and Family Services Act:

19 A. "birthing facility" means a hospital, clinic,
20 birthing center or other location where a pregnant person gives
21 birth to a baby with assistance by a health care provider;

22 B. "CARA navigator" means a professional employed
23 by the department of health to provide intensive case
24 management linking families to resources needed to support
25 health and safety within a family. A "CARA navigator"

1 collaborates with families, hospitals, community providers and
2 managed care organizations to identify and engage the best
3 support systems for each family with a plan of safe care;

4 C. "care coordinator" means a person assigned to a
5 newborn and the newborn's biological parents by a managed care
6 organization, private insurance or the children's medical
7 services of the family health bureau of the public health
8 division of the department of health, to coordinate the care
9 and services that the newborn or newborn's biological parents
10 need;

11 ~~[A.]~~ D. "child or family in need of family
12 services" means a family:

13 (1) whose child's behavior endangers the
14 child's health, safety, education or well-being;

15 (2) whose child is excessively absent from
16 public school as defined in the Attendance for Success Act;

17 (3) whose child is absent from the child's
18 place of residence for twenty-four hours or more without the
19 consent of the parent, guardian or custodian;

20 (4) in which the parent, guardian or custodian
21 of a child refuses to permit the child to live with the parent,
22 guardian or custodian; or

23 (5) in which the child refuses to live with
24 the child's parent, guardian or custodian;

25 E. "family assessment" means a comprehensive

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1 assessment prepared by a CARA navigator during a home visit to
2 determine the needs of a child and the child's parents,
3 relatives, guardians or caretakers, including an assessment of
4 the likelihood of:

5 (1) imminent danger to the child's well-being;

6 (2) the child becoming an abused child or a
7 neglected child; and

8 (3) the strengths and needs of the child's
9 family members, including parents, relatives, guardians or
10 caretakers, with respect to providing for the health and safety
11 of the child;

12 [~~B.~~] F. "family services" means services that
13 address specific needs of the child or family;

14 [~~C.~~] G. "guardian" means a person appointed as a
15 guardian by a court or Indian tribal authority;

16 [~~D.~~] H. "guardianship assistance agreement" means a
17 written agreement entered into by the prospective guardian and
18 the department or Indian tribe prior to the establishment of
19 the guardianship by a court;

20 [~~E.~~] I. "guardianship assistance payments" means
21 payments made by the department to a kinship guardian or
22 successor guardian on behalf of a child pursuant to the terms
23 of a guardianship assistance agreement;

24 [~~F.~~] J. "guardianship assistance program" means the
25 financial subsidy program provided for in the Voluntary

1 Placement and Family Services Act;

2 ~~[G.]~~ K. "kinship" means the relationship that
3 exists between a child and a relative of the child, a
4 godparent, a member of the child's tribe or clan or an adult
5 with whom the child has a significant bond;

6 L. "managed care organization" means a person or
7 entity eligible to enter into risk-based prepaid capitation
8 agreements with the health care authority to provide health
9 care and related services;

10 ~~[H.]~~ M. "subsidized guardianship" means a
11 guardianship that meets subsidy eligibility criteria pursuant
12 to the Voluntary Placement and Family Services Act; and

13 ~~[I.]~~ N. "voluntary placement agreement" means a
14 written agreement between the department and the parent or
15 guardian of a child."

16 **SECTION 3.** Section 32A-3A-13 NMSA 1978 (being Laws 2019,
17 Chapter 190, Section 3) is amended to read:

18 "32A-3A-13. PLAN OF SAFE CARE--~~[GUIDELINES]~~
19 REQUIREMENTS--CREATION--DATA SHARING--TRAINING.--

20 ~~[A. By January 1, 2020, the department, in~~
21 ~~consultation with medicaid managed care organizations, private~~
22 ~~insurers, the office of superintendent of insurance, the human~~
23 ~~services department and the department of health, shall develop~~
24 ~~rules to guide hospitals, birthing centers, medical providers,~~
25 ~~medicaid managed care organizations and private insurers in the~~

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1 ~~care of newborns who exhibit physical, neurological or~~
2 ~~behavioral symptoms consistent with prenatal drug exposure,~~
3 ~~withdrawal symptoms from prenatal drug exposure or fetal~~
4 ~~alcohol spectrum disorder.~~

5 ~~B. Rules shall include guidelines to hospitals,~~
6 ~~birthing centers, medical providers, medicaid managed care~~
7 ~~organizations and private insurers regarding:~~

8 ~~(1) participation in the discharge planning~~
9 ~~process, including the creation of a written plan of care that~~
10 ~~shall be sent to:~~

11 ~~(a) the child's primary care physician;~~

12 ~~(b) a medicaid managed care organization~~
13 ~~insurance plan care coordinator who will monitor the~~
14 ~~implementation of the plan of care after discharge, if the~~
15 ~~child is insured, or to a care coordinator in the children's~~
16 ~~medical services of the family health bureau of the public~~
17 ~~health division of the department of health who will monitor~~
18 ~~the implementation of the plan of care after discharge, if the~~
19 ~~child is uninsured; and~~

20 ~~(c) the child's parent, relative,~~
21 ~~guardian or caretaker who is present at discharge who shall~~
22 ~~receive a copy upon discharge. The plan of care shall be~~
23 ~~signed by an appropriate representative of the discharging~~
24 ~~hospital and the child's parent, relative, guardian or~~
25 ~~caretaker who is present at discharge;~~

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1 ~~(2) definitions and evidence-based screening~~
2 ~~tools, based on standards of professional practice, to be used~~
3 ~~by health care providers to identify a child born affected by~~
4 ~~substance use or withdrawal symptoms resulting from prenatal~~
5 ~~drug exposure or a fetal alcohol spectrum disorder;~~

6 ~~(3) collection and reporting of data to meet~~
7 ~~federal and state reporting requirements, including the~~
8 ~~following:~~

9 ~~(a) by hospitals and birthing centers to~~
10 ~~the department when: 1) a plan of care has been developed; and~~
11 ~~2) a family has been referred for a plan of care;~~

12 ~~(b) information pertaining to a child~~
13 ~~born and diagnosed by a health care professional as affected by~~
14 ~~substance abuse, withdrawal symptoms resulting from prenatal~~
15 ~~drug exposure or a fetal alcohol spectrum disorder; and~~

16 ~~(c) data collected by hospitals and~~
17 ~~birthing centers for use by the children's medical services of~~
18 ~~the family health bureau of the public health division of the~~
19 ~~department of health in epidemiological reports and to support~~
20 ~~and monitor a plan of care. Information reported pursuant to~~
21 ~~this subparagraph shall be coordinated with communication to~~
22 ~~insurance carrier care coordinators to facilitate access to~~
23 ~~services for children and parents, relatives, guardians or~~
24 ~~caregivers identified in a plan of care;~~

25 ~~(4) identification of appropriate agencies to~~

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1 ~~be included as supports and services in the plan of care, based~~
2 ~~on an assessment of the needs of the child and the child's~~
3 ~~relatives, parents, guardians or caretakers, performed by a~~
4 ~~discharge planner prior to the child's discharge from the~~
5 ~~hospital or birthing center, which may include:~~

- 6 ~~(a) public health agencies;~~
- 7 ~~(b) maternal and child health agencies;~~
- 8 ~~(c) home visitation programs;~~
- 9 ~~(d) substance use disorder prevention~~
10 ~~and treatment providers;~~
- 11 ~~(e) mental health providers;~~
- 12 ~~(f) public and private children and~~
13 ~~youth agencies;~~
- 14 ~~(g) early intervention and developmental~~
15 ~~services;~~
- 16 ~~(h) courts;~~
- 17 ~~(i) local education agencies;~~
- 18 ~~(j) managed care organizations; or~~
- 19 ~~(k) hospitals and medical providers; and~~
- 20 ~~(5) engagement of the child's relatives,~~
21 ~~parents, guardians or caretakers in order to identify the need~~
22 ~~for access to treatment for any substance use disorder or other~~
23 ~~physical or behavioral health condition that may impact the~~
24 ~~safety, early childhood development and well-being of the~~
25 ~~child.]~~

1 A. A birthing facility shall participate in the
 2 discharge planning process, including the creation of a written
 3 plan of safe care that shall be created prior to a substance-
 4 exposed newborn's discharge from a birthing facility and sent
 5 immediately to the child's primary care physician, the
 6 department of health and the department. The:

7 (1) substance-exposed newborn's parent,
 8 relative, guardian or caretaker who is present at discharge
 9 shall receive a copy of the plan of safe care upon discharge.
 10 The plan of safe care shall be signed by an appropriate
 11 representative of the discharging birthing facility and the
 12 substance-exposed newborn's parent, relative, guardian or
 13 caretaker who is present at discharge; and

14 (2) health care providers employed at a
 15 birthing facility shall use definitions and evidence-based
 16 screening tools based on standards of professional practice to
 17 identify a substance-exposed newborn affected by substance use
 18 or withdrawal symptoms resulting from prenatal drug exposure or
 19 a fetal alcohol spectrum disorder.

20 B. The plan of safe care:

21 (1) shall include a referral to an early
 22 intervention family infant toddler program;

23 (2) may include referrals to:

24 (a) public health agencies;

25 (b) maternal and child health agencies;

- 1 (c) mental health care providers;
- 2 (d) infant mental health care providers;
- 3 (e) public and private children and
- 4 youth agencies;
- 5 (f) developmental services;
- 6 (g) courts;
- 7 (h) local education agencies;
- 8 (i) managed care organizations;
- 9 (j) hospitals and medical providers; or
- 10 (k) home visiting programs; and

11 (3) shall, at a minimum, include the
12 following:

- 13 (a) the substance-exposed newborn's
- 14 name, date of birth and date of discharge;
- 15 (b) an emergency contact for a family
- 16 member of the substance-exposed newborn;
- 17 (c) the address for the caregiver who
- 18 will be taking the substance-exposed newborn home from the
- 19 birthing facility;
- 20 (d) the substances to which the
- 21 substance-exposed newborn was exposed;
- 22 (e) a consideration of whether: 1) the
- 23 substance-exposed newborn's exposure occurred as a result of
- 24 medication-assisted treatment or medication prescribed for the
- 25 pregnant parent by a health care provider; and 2) the parent

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1 who gave birth to the substance-exposed newborn is, or will be,
2 actively engaged in ongoing substance use disorder treatment
3 following discharge that would mitigate the future risk of harm
4 to the substance-exposed newborn;

5 (f) the family members that will be
6 living with the substance-exposed newborn who have substance
7 use disorders; and

8 (g) a determination that the substance-
9 exposed newborn will have a safe sleep environment.

10 C. After a plan of safe care is received, the CARA
11 navigator shall conduct an in-home visit with the substance-
12 exposed newborn's family and shall engage the substance-exposed
13 newborn's relatives, parents, guardians or caretakers and
14 conduct a family assessment in order to identify the need for
15 access to treatment for any substance use disorder or other
16 physical or behavioral health condition that may impact the
17 safety, early childhood development and well-being of the
18 substance-exposed newborn.

19 D. By January 1, 2026, the department of health, in
20 consultation with medicaid managed care organizations, private
21 insurers, the office of superintendent of insurance, the health
22 care authority and the department, shall develop rules to guide
23 hospitals, birthing facilities, medical providers, medicaid
24 managed care organizations and private insurers in the care of
25 substance-exposed newborns who exhibit physical, neurological

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1 or behavioral symptoms consistent with prenatal drug exposure,
2 withdrawal symptoms from prenatal drug exposure or fetal
3 alcohol spectrum disorder. Rules shall include requirements
4 for hospitals, birthing facilities, medical providers, medicaid
5 managed care organizations, state agencies and private insurers
6 regarding procedures for monitoring compliance with plans of
7 safe care and evaluating outcomes for substance-exposed
8 newborns and the families of substance-exposed newborns. The
9 procedures shall include requirements for:

10 (1) CARA navigators to immediately triage a
11 case after receiving notification of the creation of a plan of
12 safe care by identifying any known risks to a substance-exposed
13 newborn and thereafter arranging a home visit and completing a
14 family assessment;

15 (2) CARA navigators to make active efforts to
16 connect substance-exposed newborns and the families of
17 substance-exposed newborns to services to which they have been
18 referred;

19 (3) care coordinators and CARA navigators to
20 work in partnership to ensure that plans of safe care are
21 followed;

22 (4) updates to plans of safe care made by CARA
23 navigators to offer or provide referrals for counseling,
24 training or other services aimed at addressing the underlying
25 causative factors that may jeopardize the safety or well-being

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1 of a substance-exposed newborn;

2 (5) the collection and reporting of data to
3 meet federal and state reporting requirements, including the
4 following:

5 (a) the collection and reporting of data
6 by hospitals and birthing facilities to the department and the
7 department of health when a plan of safe care has been
8 developed;

9 (b) information pertaining to a
10 substance-exposed newborn diagnosed by a health care
11 professional as affected by substance abuse, withdrawal
12 symptoms resulting from prenatal drug exposure or a fetal
13 alcohol spectrum disorder;

14 (c) data collected by hospitals and
15 birthing facilities for use by the children's medical services
16 of the family health bureau of the public health division of
17 the department of health in epidemiological reports and to
18 support and monitor a plan of safe care. Information reported
19 pursuant to this subparagraph shall be coordinated with care
20 coordinators to facilitate access to services for children and
21 parents, relatives, guardians or caregivers identified in a
22 plan of safe care; and

23 (d) the department of health's
24 collection of disaggregated data on substance-exposed newborns
25 that includes the: 1) number of substance-exposed newborns

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1 identified each year; 2) total number of services provided to
2 substance-exposed newborns; and 3) outcomes achieved.

3 Information collected pursuant to this subparagraph shall be
4 reported to the legislature annually; and

5 (6) confidentiality related to plans of safe
6 care.

7 [~~E.~~] E. Reports made pursuant to Paragraph [~~(3)~~]
8 (5) of Subsection [~~B~~] D of this section shall be collected by
9 the department and the department of health as distinct and
10 separate from any child abuse report as captured and held or
11 investigated by the department, such that the reporting of a
12 plan of care shall not constitute a report of suspected child
13 abuse and neglect and shall not initiate investigation by the
14 department or a report to law enforcement.

15 [~~D.~~] F. The department of health shall summarize
16 and report data received pursuant to Paragraph [~~(3)~~] (5) of
17 Subsection [~~B~~] D of this section at intervals as needed to meet
18 federal regulations.

19 [~~E.~~] G. The children's medical services of the
20 family health bureau of the public health division of the
21 department of health shall collect and record data reported
22 pursuant to Subparagraph (c) of Paragraph [~~(3)~~] (5) of
23 Subsection [~~B~~] D of this section to support and monitor care
24 coordination of plans of safe care for [~~children born~~]
25 substance-exposed newborns without insurance.

1 ~~[F-]~~ H. Reports made pursuant to the requirements
 2 in this section shall not be construed to relieve a person of
 3 the requirement to report to the department knowledge of or a
 4 reasonable suspicion that a child is an abused or neglected
 5 child based on criteria as defined by Section 32A-4-2 NMSA
 6 1978.

7 ~~[G-]~~ I. The department shall work in consultation
 8 with the department of health to create and distribute training
 9 materials to support and educate discharge planners, ~~[or]~~
 10 health care providers, care coordinators, CARA navigators and
 11 social workers on the following:

12 (1) how to assess whether to make a referral
 13 to the department pursuant to the Abuse and Neglect Act;

14 (2) how to assess whether to make a
 15 notification to the department pursuant to Subsection B of
 16 Section 32A-4-3 NMSA 1978 for a child who has been diagnosed as
 17 affected by substance abuse, withdrawal symptoms resulting from
 18 prenatal drug exposure or a fetal alcohol spectrum disorder;

19 (3) how to assess whether to create a plan of
 20 safe care when a referral to the department is not required;

21 ~~[and]~~

22 (4) the creation and deployment of a plan of
 23 safe care;

24 (5) avoiding stigma and bias;

25 (6) mandatory reporting requirements; and

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1 (7) proper coding of substance exposure and
2 neonatal abstinence syndrome.

3 ~~[H.—No]~~ J. A person shall not have a cause of
4 action for any loss or damage caused by any act or omission
5 resulting from the implementation of the provisions of
6 Subsection ~~[G]~~ I of this section or resulting from any
7 training, or lack thereof, required by Subsection ~~[G]~~ I of this
8 section.

9 ~~[I.—]~~ K. The training, or lack thereof, required by
10 the provisions of Subsection ~~[G]~~ I of this section shall not be
11 construed to impose any specific duty of care.

12 L. Any individual, entity or agency fulfilling the
13 obligations imposed by this section or conducting activities
14 pursuant to this section, including implementation or
15 monitoring of compliance with a plan of safe care, shall be
16 immune from civil or criminal liability arising from such
17 actions. This immunity shall extend to actions taken to
18 report, coordinate or provide services under this section;
19 provided that the actions are not grossly negligent or
20 conducted with willful misconduct."

21 SECTION 4. Section 32A-3A-14 NMSA 1978 (being Laws 2019,
22 Chapter 190, Section 4) is amended to read:

23 "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF
24 NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

25 A. If the parents, relatives, guardians or

1 caretakers of a child released from a hospital or freestanding
 2 birthing center pursuant to a plan of safe care fail to comply
 3 with that plan, the department of health, a medicaid managed
 4 care organization insurance plan care coordinator or a care
 5 coordinator contracted with the department of health shall
 6 notify the department [~~shall be notified~~] within twenty-four
 7 hours and the department [~~may~~] shall conduct a family
 8 assessment. Based on the results of the family assessment, the
 9 department may offer or provide referrals for counseling,
 10 training, or other services aimed at addressing the underlying
 11 causative factors that may jeopardize the safety or well-being
 12 of the child. The child's parents, relatives, guardians or
 13 caretakers may choose to accept or decline any service or
 14 program offered subsequent to the family assessment; provided
 15 that if the child's parents, relatives, guardians or caretakers
 16 decline those services or programs, and the department [~~may~~]
 17 determines that those services or programs are necessary to
 18 address concerns of imminent harm to the child, the department
 19 shall proceed with an investigation.

20 B. As used in this section, "family assessment"
 21 means a comprehensive assessment prepared by the department at
 22 the time the department receives notification of failure to
 23 comply with the plan of safe care to determine the needs of a
 24 child and the child's parents, relatives, guardians or
 25 caretakers, including an assessment of the likelihood of:

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- 1 (1) imminent danger to a child's well-being;
2 (2) the child becoming an abused child or
3 neglected child; and
4 (3) the strengths and needs of the child's
5 family members, including parents, relatives, guardians or
6 caretakers, with respect to providing for the health and safety
7 of the child."

8 SECTION 5. Section 32A-4-3 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 97, as amended) is amended to read:

10 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
11 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--
12 NOTIFICATION OF PLAN OF SAFE CARE.--

13 A. Every person, including a licensed physician; a
14 resident or an intern examining, attending or treating a child;
15 a law enforcement officer; a judge presiding during a
16 proceeding; a registered nurse; a visiting nurse; a school
17 employee; a social worker acting in an official capacity; or a
18 member of the clergy who has information that is not privileged
19 as a matter of law, who knows or has a reasonable suspicion
20 that a child is an abused or a neglected child shall report the
21 matter immediately to:

- 22 (1) a local law enforcement agency;
23 (2) the department; or
24 (3) a tribal law enforcement or social
25 services agency for any Indian child residing in Indian

1 country.

2 B. A law enforcement agency receiving the report
3 shall immediately transmit the facts of the report and the
4 name, address and phone number of the reporter by telephone to
5 the department and shall transmit the same information in
6 writing within forty-eight hours. The department shall
7 immediately transmit the facts of the report and the name,
8 address and phone number of the reporter by telephone to a
9 local law enforcement agency and shall transmit the same
10 information in writing within forty-eight hours. The written
11 report shall contain the names and addresses of the child and
12 the child's parents, guardian or custodian, the child's age,
13 the nature and extent of the child's injuries, including any
14 evidence of previous injuries, and other information that the
15 maker of the report believes might be helpful in establishing
16 the cause of the injuries and the identity of the person
17 responsible for the injuries. The written report shall be
18 submitted upon a standardized form agreed to by the law
19 enforcement agency and the department.

20 C. The recipient of a report under Subsection A of
21 this section shall take immediate steps to ensure prompt
22 investigation of the report. The investigation shall ensure
23 that immediate steps are taken to protect the health or welfare
24 of the alleged abused or neglected child, as well as that of
25 any other child under the same care who may be in danger of

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1 abuse or neglect. A local law enforcement officer trained in
2 the investigation of child abuse and neglect is responsible for
3 investigating reports of alleged child abuse or neglect at
4 schools, daycare facilities or child care facilities.

5 D. If the child alleged to be abused or neglected
6 is in the care or control of or in a facility administratively
7 connected to the department, the report shall be investigated
8 by a local law enforcement officer trained in the investigation
9 of child abuse and neglect. The investigation shall ensure
10 that immediate steps are taken to protect the health or welfare
11 of the alleged abused or neglected child, as well as that of
12 any other child under the same care who may be in danger of
13 abuse or neglect.

14 E. A law enforcement agency or the department shall
15 have access to any of the records pertaining to a child abuse
16 or neglect case maintained by any of the persons enumerated in
17 Subsection A of this section, except as otherwise provided in
18 the Abuse and Neglect Act.

19 F. A person who violates the provisions of
20 Subsection A of this section is guilty of a misdemeanor and
21 shall be sentenced pursuant to the provisions of Section
22 31-19-1 NMSA 1978.

23 G. A finding that a pregnant woman is using or
24 abusing drugs made pursuant to an interview, self-report,
25 clinical observation or routine toxicology screen shall not

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1 alone form a sufficient basis to report child abuse or neglect
 2 to the department pursuant to Subsection A of this section. A
 3 volunteer, contractor or staff of a hospital or freestanding
 4 birthing center shall not make a report based solely on that
 5 finding and shall make a notification pursuant to Subsection H
 6 of this section. Nothing in this subsection shall be construed
 7 to prevent a person from reporting to the department a
 8 reasonable suspicion that a child is an abused or neglected
 9 child based on other criteria as defined by Section 32A-4-2
 10 NMSA 1978, or a combination of criteria that includes a finding
 11 pursuant to this subsection.

12 H. A volunteer contractor or staff of a hospital,
 13 [~~or~~] freestanding birthing center or clinic that provides
 14 prenatal or perinatal care shall:

15 (1) complete a written plan of safe care for a
 16 substance-exposed newborn or a pregnant person who agrees to
 17 creating a plan of safe care, as provided for by department of
 18 health rule and the Children's Code; and

19 (2) provide notification to the department of
 20 health. Notification by a health care provider pursuant to
 21 this paragraph shall not be construed as a report of child
 22 abuse or neglect.

23 I. As used in this section, "notification" means
 24 informing the department and the department of health that a
 25 substance-exposed newborn was born and providing a copy of the

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1 plan of safe care that was created for the child; provided that
2 notification shall comply with federal guidelines and shall not
3 constitute a report of child abuse or neglect. The department
4 of health shall be responsible for ensuring compliance with
5 federal reporting requirements related to plans of safe care.

6 J. As used in this section, "school employee"
7 includes employees of a school district or a public school."

8 SECTION 6. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2025.