

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 42

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

AN ACT

RELATING TO CHILD WELFARE; AMENDING AND ENACTING SECTIONS OF  
THE NMSA 1978 TO ENACT A NEW MEXICO CHILD SAFETY AND WELFARE  
ACT; CREATING THE CRIMES OF ASSAULT AND BATTERY UPON A CHILD  
WELFARE WORKER OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;  
ENHANCING THE STATE PROGRAM ADMINISTERED PURSUANT TO THE  
FEDERAL COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2016;  
MOVING THAT PROGRAM FROM THE CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT TO THE DEPARTMENT OF HEALTH; AMENDING REQUIREMENTS  
FOR PLANS OF SAFE CARE; REQUIRING THE CHILDREN, YOUTH AND  
FAMILIES DEPARTMENT TO IMPLEMENT THE MULTILEVEL RESPONSE SYSTEM  
STATEWIDE; ENACTING THE FAMILIES FIRST ACT WITHIN THE  
CHILDREN'S CODE; REQUIRING THE CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT TO DEVELOP AND IMPLEMENT A STRATEGIC PLAN FOR  
APPROVAL BY THE FEDERAL ADMINISTRATION FOR CHILDREN AND  
FAMILIES; REQUIRING PROVISIONS OF THE STRATEGIC PLAN TO

.231596.2

underscoring material = new  
[bracketed material] = delete

1 IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES THAT MEET  
2 THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST PREVENTION  
3 SERVICES ACT; PROVIDING ACCESS TO AND REQUIREMENTS FOR  
4 CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION; SPECIFYING  
5 TO WHOM AND UNDER WHAT CIRCUMSTANCES INFORMATION THAT IS HELD  
6 BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT THAT PERTAINS TO  
7 CHILD ABUSE AND NEGLECT MAY BE SHARED; REQUIRING THAT  
8 INFORMATION BE PROVIDED ABOUT CHILD FATALITIES OR NEAR  
9 FATALITIES; PROTECTING PERSONAL IDENTIFIER INFORMATION OF  
10 DEPARTMENT CLIENTS; PROVIDING FOR RULEMAKING; REQUIRING  
11 REPORTS; ESTABLISHING PENALTIES; DECLARING THAT FOSTER CHILDREN  
12 ARE NOT RESIDENTS OF FOSTER HOMES FOR PURPOSES OF HOMEOWNERS  
13 INSURANCE.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-2A-8 NMSA 1978 (being Laws 1992,  
17 Chapter 57, Section 8, as amended) is amended to read:

18 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to  
19 other duties provided by law or assigned to the department by  
20 the governor, the department shall:

21 A. develop priorities for department services and  
22 resources based on state policy and national best-practice  
23 standards and local considerations and priorities;

24 B. strengthen collaboration and coordination in  
25 state and local services for children, youth and families by

.231596.2

1 integrating critical functions as appropriate, including  
2 service delivery, and contracting for services across divisions  
3 and related agencies;

4 C. develop and maintain a statewide database,  
5 including client tracking of services for children, youth and  
6 families;

7 D. develop standards of service within the  
8 department that focus on prevention, monitoring and outcomes;

9 E. analyze policies of other departments that  
10 affect children, youth and families to encourage common  
11 contracting procedures, common service definitions and a  
12 uniform system of access;

13 F. [~~enact regulations~~] adopt rules to control  
14 disposition and placement of children under the Children's  
15 Code, including [~~regulations~~] rules to limit or prohibit the  
16 out-of-state placement of children, including those who have  
17 developmental disabilities or emotional, neurobiological or  
18 behavioral disorders, when in-state alternatives are available;

19 G. develop reimbursement criteria for licensed  
20 child care centers and licensed home providers establishing  
21 that accreditation by a department-approved national  
22 accrediting body is sufficient qualification for the child care  
23 center or home provider to receive the highest reimbursement  
24 rate paid by the department;

25 H. assume and implement responsibility for

.231596.2

underscored material = new  
[bracketed material] = delete

1 children's mental health and substance abuse services in the  
2 state, coordinating with the [~~human services department~~] health  
3 care authority and the department of health;

4 I. assume and implement the lead responsibility  
5 among all departments for domestic violence services;

6 J. implement prevention and early intervention as a  
7 departmental focus;

8 K. conduct biennial assessments of service gaps and  
9 needs and establish outcome measurements to address those  
10 service gaps and needs, including recommendations from the  
11 governor's children's cabinet and the children, youth and  
12 families advisory committee;

13 L. ensure that behavioral health services provided,  
14 including mental health and substance abuse services for  
15 children, adolescents and their families, shall be in  
16 compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA  
17 1978 and any rules adopted pursuant to that section;

18 M. develop and implement the families first  
19 strategic plan for the delivery of services and access to  
20 programs as required pursuant to the Families First Act; and

21 [~~M.~~] N. fingerprint and conduct nationwide criminal  
22 history record searches on all department employees, staff  
23 members and volunteers whose jobs involve direct contact with  
24 department clients, including prospective employees and  
25 employees who are promoted, transferred or hired into new

.231596.2

1 positions, and the superiors of all department employees, staff  
2 members and volunteers who have direct unsupervised contact  
3 with department clients."

4 SECTION 2. A new section of the Criminal Code, Section  
5 30-3-9.3 NMSA 1978, is enacted to read:

6 "30-3-9.3. [NEW MATERIAL] ASSAULT--BATTERY--CHILD WELFARE  
7 WORKERS OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

8 A. As used in this section:

9 (1) "child welfare worker" means an employee  
10 of the children, youth and families department who conducts  
11 direct services with children and families in the family  
12 services division of the department, in the protective services  
13 division of the department, in behavioral health services or in  
14 the juvenile justice division of the department; and

15 (2) "in the lawful discharge of the child  
16 welfare worker's duties" means engaged in the performance of  
17 the duties of a children, youth and families department child  
18 welfare worker.

19 B. Assault upon a child welfare worker consists of:

20 (1) an attempt to commit a battery upon the  
21 person of a child welfare worker who is in the lawful discharge  
22 of the child welfare worker's duties; or

23 (2) any unlawful act, threat or menacing  
24 conduct that causes a child welfare worker who is in the lawful  
25 discharge of the child welfare worker's duties to reasonably

.231596.2

1 believe that the child welfare worker is in danger of receiving  
2 an immediate battery.

3         Whoever commits assault upon a child welfare worker is  
4 guilty of a misdemeanor.

5                 C. Aggravated assault upon a child welfare worker  
6 consists of:

7                         (1) unlawfully assaulting or striking at a  
8 child welfare worker with a deadly weapon while the child  
9 welfare worker is in the lawful discharge of the child welfare  
10 worker's duties; or

11                         (2) willfully and intentionally assaulting a  
12 child welfare worker who is in the lawful discharge of the  
13 child welfare worker's duties with intent to commit any felony.

14         Whoever commits aggravated assault upon a child welfare  
15 worker is guilty of a third degree felony.

16                 D. Assault with intent to commit a violent felony  
17 upon a child welfare worker consists of assaulting a child  
18 welfare worker who is in the lawful discharge of the child  
19 welfare worker's duties with intent to kill the child welfare  
20 worker. Whoever commits assault with intent to commit a  
21 violent felony upon a child welfare worker is guilty of a  
22 second degree felony.

23                 E. Battery upon a child welfare worker is the  
24 unlawful, intentional touching or application of force to the  
25 person of a child welfare worker who is in the lawful discharge

.231596.2

1 of the child welfare worker's duties when done in a rude,  
2 insolent or angry manner. Whoever commits battery upon a child  
3 welfare worker is guilty of a fourth degree felony.

4 F. Aggravated battery upon a child welfare worker  
5 consists of the unlawful touching or application of force to  
6 the person of a child welfare worker with intent to injure that  
7 child welfare worker while the child welfare worker is in the  
8 lawful discharge of the child welfare worker's duties. Whoever  
9 commits aggravated battery upon a child welfare worker by:

10 (1) inflicting an injury to the child welfare  
11 worker that is not likely to cause death or great bodily harm  
12 but does cause painful temporary disfigurement or temporary  
13 loss or impairment of the functions of any member or organ of  
14 the body, is guilty of a fourth degree felony; and

15 (2) inflicting great bodily harm or does so  
16 with a deadly weapon or in any manner whereby great bodily harm  
17 or death can be inflicted, is guilty of a third degree felony.

18 G. A person who assists or is assisted by one or  
19 more other persons to commit a battery upon a child welfare  
20 worker who is in the lawful discharge of the child welfare  
21 worker's duties is guilty of a fourth degree felony."

22 SECTION 3. Section 32A-1-4 NMSA 1978 (being Laws 1993,  
23 Chapter 77, Section 13, as amended) is amended to read:

24 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

25 A. "active efforts" means efforts that are

.231596.2

1 affirmative, active, thorough and timely and that represent a  
2 higher standard of conduct than reasonable efforts;

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

5 C. "CARA" means the federal Comprehensive Addiction  
6 and Recovery Act of 2016 that established a comprehensive,  
7 coordinated and balanced strategy for substance-exposed  
8 newborns and those newborns' caregivers through enhanced grant  
9 programs that expand prevention and education efforts while  
10 promoting treatment and recovery;

11 [~~G.~~] D. "child" means a person who is less than  
12 eighteen years old;

13 [~~D.~~] E. "council" means the substitute care  
14 advisory council established pursuant to Section 32A-8-4 NMSA  
15 1978;

16 [~~E.~~] F. "court", when used without further  
17 qualification, means the children's court division of the  
18 district court and includes the judge, special master or  
19 commissioner appointed pursuant to the provisions of the  
20 Children's Code or supreme court rule;

21 [~~F.~~] G. "court-appointed special advocate" means a  
22 person appointed pursuant to the provisions of the Children's  
23 Court Rules to assist the court in determining the best  
24 interests of the child by investigating the case and submitting  
25 a report to the court;

.231596.2



1           ~~[G.]~~ H. "custodian" means an adult with whom the  
2 child lives who is not a parent or guardian of the child;

3           ~~[H.]~~ I. "department" means the children, youth and  
4 families department, unless otherwise specified;

5           ~~[I.]~~ J. "disproportionate minority contact" means  
6 the involvement of a racial or ethnic group with the criminal  
7 or juvenile justice system at a proportion either higher or  
8 lower than that group's proportion in the general population;

9           ~~[J.]~~ K. "federal Indian Child Welfare Act of 1978"  
10 means the federal Indian Child Welfare Act of 1978, as that act  
11 may be amended or its sections renumbered;

12           ~~[K.]~~ L. "foster parent" means a person, including a  
13 relative of the child, licensed or certified by the department  
14 or a child placement agency to provide care for children in the  
15 custody of the department or agency;

16           ~~[L.]~~ M. "guardian" means a person appointed as a  
17 guardian by a court or Indian tribal authority or a person  
18 authorized to care for a child by a parental power of attorney  
19 as permitted by law;

20           ~~[M.]~~ N. "guardian ad litem" means an attorney  
21 appointed by the children's court to represent and protect the  
22 best interests of the child in a case; provided that no party  
23 or employee or representative of a party to the case shall be  
24 appointed to serve as a guardian ad litem;

25           ~~[N.]~~ O. "Indian" means, whether an adult or child,

.231596.2

1 a person who is:

2 (1) a member of an Indian tribe; or

3 (2) eligible for membership in an Indian  
4 tribe;

5 ~~[P.]~~ P. "Indian child" means an Indian person, or a  
6 person whom there is reason to know is an Indian person, under  
7 eighteen years of age, who is neither:

8 (1) married; or

9 (2) emancipated;

10 ~~[P.]~~ Q. "Indian child's tribe" means:

11 (1) the Indian tribe in which an Indian child  
12 is a member or eligible for membership; or

13 (2) in the case of an Indian child who is a  
14 member or eligible for membership in more than one tribe, the  
15 Indian tribe with which the Indian child has more significant  
16 contacts;

17 ~~[Q.]~~ R. "Indian custodian" means an Indian who,  
18 pursuant to tribal law or custom or pursuant to state law:

19 (1) is an adult with legal custody of an  
20 Indian child; or

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

23 ~~[R.]~~ S. "Indian tribe" means an Indian nation,  
24 tribe, pueblo or other band, organized group or community of  
25 Indians recognized as eligible for the services provided to

1 Indians by the secretary because of their status as Indians,  
2 including an Alaska native village as defined in 43 U.S.C.  
3 Section 1602(c) or a regional corporation as defined in 43  
4 U.S.C. Section 1606. For the purposes of notification to and  
5 communication with a tribe as required in the Indian Family  
6 Protection Act, "Indian tribe" also includes those tribal  
7 officials and staff who are responsible for child welfare and  
8 social services matters;

9 ~~[S.]~~ T. "judge", when used without further  
10 qualification, means the judge of the court;

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

24 ~~[U.]~~ V. "member" or "membership" means a  
25 determination made by an Indian tribe that a person is a member

.231596.2

1 of or eligible for membership in that Indian tribe;

2 [V.] W. "parent" or "parents" means a biological or  
3 adoptive parent if the biological or adoptive parent has a  
4 constitutionally protected liberty interest in the care and  
5 custody of the child or a person who has lawfully adopted an  
6 Indian child pursuant to state law or tribal law or tribal  
7 custom;

8 [W.] X. "permanency plan" means a determination by  
9 the court that the child's interest will be served best by:

10 (1) reunification;

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

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

16 (4) placement in the legal custody of the  
17 department with the child placed in the home of a fit and  
18 willing relative; or

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

21 [X.] Y. "person" means an individual or any other  
22 form of entity recognized by law;

23 [Y.] Z. "plan of safe care" means a written plan  
24 created by a health care professional intended to ensure the  
25 immediate and ongoing safety and well-being of a substance-

1 exposed newborn by addressing the treatment needs of the child  
 2 and any of the child's parents, relatives, guardians, [~~family~~  
 3 ~~members~~] custodians or [~~caregivers~~] caretakers to the extent  
 4 those treatment needs are relevant to the safety of the child;

5 [~~Z.~~] AA. "preadoptive parent" means a person with  
 6 whom a child has been placed for adoption;

7 [~~AA.~~] BB. "protective supervision" means the right  
 8 to visit the child in the home where the child is residing,  
 9 inspect the home, transport the child to court-ordered  
 10 diagnostic examinations and evaluations and obtain information  
 11 and records concerning the child;

12 [~~BB.~~] CC. "relative" means a person related to  
 13 another person:

14 (1) by blood within the fifth degree of  
 15 consanguinity or through marriage by the fifth degree of  
 16 affinity; or

17 (2) with respect to an Indian child, as  
 18 established or defined by the Indian child's tribe's custom or  
 19 law;

20 [~~CC.~~] DD. "reservation" means:

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

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

.231596.2

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

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

7 [~~EE.~~] FF. "secretary" means the United States  
8 secretary of the interior;

9 GG. "substance-exposed newborn" means an infant  
10 under the age of one who has been prenatally exposed to a  
11 controlled substance, including misuse of a prescribed or non-  
12 prescribed drug or alcohol, that may affect the infant's health  
13 or development;

14 [~~FF.~~] HH. "tribal court" means a court with  
15 jurisdiction over child custody proceedings that is either a  
16 court of Indian offenses, a court established and operated  
17 under the law or custom of an Indian tribe or any other  
18 administrative body that is vested by an Indian tribe with  
19 authority over child custody proceedings;

20 [~~GG.~~] II. "tribal court order" means a document  
21 issued by a tribal court that is signed by an appropriate  
22 authority, including a judge, governor or tribal council  
23 member, and that orders an action that is within the tribal  
24 court's jurisdiction; and

25 [~~HH.~~] JJ. "tribunal" means any judicial forum other

1 than the court."

2 SECTION 4. Section 32A-3A-2 NMSA 1978 (being Laws 1993,  
3 Chapter 77, Section 64, as amended) is amended to read:

4 "32A-3A-2. DEFINITIONS.--As used in the Voluntary  
5 Placement and Family Services Act:

6 A. "birthing facility" means a hospital, clinic or  
7 birthing center where a pregnant person gives birth to a baby  
8 with assistance from a health care provider;

9 B. "CARA navigator" means a professional employed  
10 by the department of health to provide intensive case  
11 management linking families to resources needed to support  
12 health and safety within a family;

13 C. "care coordinator" means a person assigned to a  
14 newborn and the newborn's biological parents, relatives,  
15 guardians, custodians or caretakers by a managed care  
16 organization, private insurance or the children's medical  
17 services of the family health bureau of the public health  
18 division of the department of health;

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

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

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

25 (3) whose child is absent from the child's

.231596.2

1 place of residence for twenty-four hours or more without the  
2 consent of the parent, guardian or custodian;

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

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

8 E. "family assessment" means a comprehensive  
9 assessment based on standards of professional practice prepared  
10 by a CARA navigator during a home visit;

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

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

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

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

23 [~~F.~~] J. "guardianship assistance program" means the  
24 financial subsidy program provided for in the Voluntary  
25 Placement and Family Services Act;

.231596.2



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

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

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

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

15           SECTION 5. Section 32A-3A-13 NMSA 1978 (being Laws 2019,  
 16 Chapter 190, Section 3) is amended to read:

17           "32A-3A-13. PLAN OF SAFE CARE--~~[GUIDELINES]~~  
 18 REQUIREMENTS--CREATION--DATA SHARING--TRAINING.--

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

.231596.2

1 ~~behavioral symptoms consistent with prenatal drug exposure,~~  
2 ~~withdrawal symptoms from prenatal drug exposure or fetal~~  
3 ~~alcohol spectrum disorder.~~

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

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

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

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

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

25 ~~(2) definitions and evidence-based screening~~

underscored material = new  
[bracketed material] = delete

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

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

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

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

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

24 ~~(4) identification of appropriate agencies to~~  
25 ~~be included as supports and services in the plan of care, based~~

.231596.2

1 ~~on an assessment of the needs of the child and the child's~~  
2 ~~relatives, parents, guardians or caretakers, performed by a~~  
3 ~~discharge planner prior to the child's discharge from the~~  
4 ~~hospital or birthing center, which may include:~~

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

25 A. A birthing facility or other health care

1 provider may participate in a plan of safe care development  
2 process at a prenatal or perinatal medical visit.

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

8 The:

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

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

23 C. The plan of safe care:

24 (1) shall include a referral to an early  
25 intervention family infant toddler program or a home visiting

.231596.2

1 program;

2 (2) may include referrals to:

3 (a) public health agencies;

4 (b) maternal and child health agencies;

5 (c) mental health care providers;

6 (d) infant mental health care providers;

7 (e) public and private children and

8 youth agencies;

9 (f) developmental services;

10 (g) courts;

11 (h) local education agencies;

12 (i) managed care organizations; or

13 (j) hospitals and medical providers; and

14 (3) shall, at a minimum, include the

15 following:

16 (a) the substance-exposed newborn's  
17 name, date of birth and date of discharge;

18 (b) an emergency contact for a  
19 substance-exposed newborn's relative, parent, guardian,  
20 custodian or caretaker;

21 (c) the address for the caregiver who  
22 will be taking the substance-exposed newborn home from the  
23 birthing facility;

24 (d) a consideration of whether: 1) the  
25 substance-exposed newborn's exposure occurred as a result of

1 medication-assisted treatment or medication prescribed for the  
2 pregnant parent by a health care provider; and 2) the parent  
3 who gave birth to the substance-exposed newborn is, or will be,  
4 actively engaged in ongoing substance use disorder treatment  
5 following discharge;

6 (e) the names of the relatives, parents,  
7 guardians, custodians or caretakers that will be living with  
8 the substance-exposed newborn; and

9 (f) a determination that the substance-  
10 exposed newborn will have a safe environment.

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

21 E. By January 1, 2026, the department of health, in  
22 consultation with the office of superintendent of insurance,  
23 the health care authority and the department, shall adopt rules  
24 to guide birthing facilities, medical providers, medicaid  
25 managed care organizations and private insurers in the care of

.231596.2

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

5 F. By January 1, 2026, the department of health  
6 shall adopt rules for monitoring compliance with plans of safe  
7 care and evaluating outcomes for substance-exposed newborns and  
8 the families of substance-exposed newborns. The rules shall  
9 include requirements for:

10 (1) determining the needs of a child and the  
11 child's parents, relatives, guardians, custodians or  
12 caretakers, including an assessment of the likelihood of:

13 (a) imminent danger to the child's  
14 well-being;

15 (b) the child becoming an abused child  
16 or a neglected child; and

17 (c) the strengths and needs of the  
18 child's family members, including parents, relatives,  
19 guardians, custodians or caretakers with respect to providing  
20 for the health and safety of the child;

21 (2) CARA navigators to arrange a home visit  
22 and complete a family assessment upon receiving a notification  
23 of a plan of safe care;

24 (3) CARA navigators to make active efforts to  
25 connect substance-exposed newborns and the families of



1 substance-exposed newborns to services to which they have been  
2 referred;

3 (4) implementation of plans of safe care that  
4 shall include requirements for care coordinators to:

5 (a) actively work with pregnant persons  
6 or a substance-exposed newborn's parents, relatives, guardians,  
7 custodians or caretakers to refer and connect the pregnant  
8 person or substance-exposed newborn's parents, relatives,  
9 guardians, custodians or caretakers to necessary services.

10 Care coordinators shall use an evidence-based intensive care  
11 coordination model that is listed in the federal Title IV-E  
12 prevention services clearinghouse or another nationally  
13 recognized evidence-based clearinghouse for child welfare; and

14 (b) attempt to make contact with persons  
15 who are not following the plan of safe care using multiple  
16 methods, including in person or by mail, telephone call or text  
17 message. If a pregnant person or a substance-exposed newborn's  
18 parents, relatives, guardians, custodians or caretakers are not  
19 following the plan of safe care, care coordinators shall make  
20 attempts to contact and provide support services to persons who  
21 are not following the plan of safe care;

22 (5) 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

.231596.2

1 of a substance-exposed newborn;

2 (6) 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 birthing facilities to the department and the department of  
7 health when a plan of safe care has been developed;

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

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

22 (d) the department of health's  
23 collection of disaggregated data on substance-exposed newborns  
24 that includes the: 1) number of substance-exposed newborns  
25 identified each year; 2) total number of services provided to

.231596.2

1 substance-exposed newborns; and 3) outcomes achieved.

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

4 (7) confidentiality related to plans of safe  
5 care.

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

14 [~~D.~~] H. The department of health shall summarize  
15 and report data received pursuant to Paragraph [~~(3)~~] (6) of  
16 Subsection [~~B~~] F of this section at intervals as needed to meet  
17 federal regulations.

18 [~~E.~~] I. The children's medical services of the  
19 family health bureau of the public health division of the  
20 department of health shall collect and record data reported  
21 pursuant to Subparagraph (c) of Paragraph [~~(3)~~] (6) of  
22 Subsection [~~B~~] F of this section to support and monitor care  
23 coordination of plans of safe care for [~~children born~~]  
24 substance-exposed newborns without insurance.

25 [~~F.~~] J. Reports made pursuant to the requirements

.231596.2

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

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

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

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

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

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

23 (5) mandatory reporting requirements; and

24 (6) proper coding of substance exposure and  
25 neonatal abstinence syndrome.

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

7           ~~[F.]~~ M. The training, or lack thereof, required by  
 8 the provisions of Subsection ~~[G]~~ K of this section shall not be  
 9 construed to impose any specific duty of care.

10           N. Nothing in this section shall apply to the  
 11 Indian Family Protection Act, information or records concerning  
 12 Indian children or Indian parents, guardians or custodians or  
 13 investigations or proceedings pursuant to that act."

14           SECTION 6. Section 32A-3A-14 NMSA 1978 (being Laws 2019,  
 15 Chapter 190, Section 4) is amended to read:

16           "32A-3A-14. NOTIFICATION TO THE DEPARTMENT OF  
 17 NONCOMPLIANCE WITH A PLAN OF SAFE CARE.--

18           A. The department of health shall notify the  
 19 department within twenty-four hours and the department shall  
 20 conduct an evaluation to assess the substance-exposed newborn's  
 21 immediate needs and the family's ability to keep the  
 22 substance-exposed newborn safe if the parents, relatives,  
 23 guardians, custodians or caretakers of a ~~[child released from a~~  
 24 hospital or freestanding birthing center pursuant to a plan of  
 25 care fail to comply with that plan, the department shall be

.231596.2

1 notified and the department may conduct a family assessment.  
2 Based on the results of the family assessment, the department  
3 may offer or provide referrals for counseling, training, or  
4 other services aimed at addressing the underlying causative  
5 factors that may jeopardize the safety or well-being of the  
6 child. The child's parents, relatives, guardians or caretakers  
7 may choose to accept or decline any service or program offered  
8 subsequent to the family assessment; provided that if the  
9 child's parents, relatives, guardians or caretakers decline  
10 those services or programs, the department may proceed with an  
11 investigation.

12 B. As used in this section, "family assessment"  
13 means a comprehensive assessment prepared by the department at  
14 the time the department receives notification of failure to  
15 comply with the plan of care to determine the needs of a child  
16 and the child's parents, relatives, guardians or caretakers,  
17 including an assessment of the likelihood of:

18 (1) imminent danger to a child's well-being;

19 (2) the child becoming an abused child or  
20 neglected child; and

21 (3) the strengths and needs of the child's  
22 family members, including parents, relatives, guardians or  
23 caretakers, with respect to providing for the health and safety  
24 of the child] substance-exposed newborn:

25 (1) refuse to engage in a family assessment

1 conducted by a CARA navigator;

2 (2) disengage with a CARA navigator and the  
3 family assessment indicates that the parent, relative,  
4 guardian, custodian or caretaker's failure to engage with  
5 services will result in risk of imminent danger to the  
6 substance-exposed newborn; or

7 (3) fail to comply with a plan of safe care  
8 and the family assessment indicates that failure of the parent,  
9 relative, guardian, custodian or caretaker to comply with the  
10 plan of safe care will result in risk of imminent danger to the  
11 substance-exposed newborn.

12 B. Nothing in this section shall apply to the  
13 Indian Family Protection Act, information or records concerning  
14 Indian children or Indian parents, guardians or custodians or  
15 investigations or proceedings pursuant to that act."

16 SECTION 7. Section 32A-4-2 NMSA 1978 (being Laws 1993,  
17 Chapter 77, Section 96, as amended) is amended to read:

18 "32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect  
19 Act:

20 A. "abandonment" includes instances when the  
21 parent, without justifiable cause:

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

24 (2) left the child with others, including the  
25 other parent or an agency, without provision for support and

.231596.2

1 without communication for a period of:

2 (a) three months if the child was under  
3 six years of age at the commencement of the three-month period;  
4 or

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

7 B. "abused child" means a child:

8 (1) who has suffered or who is at risk of  
9 suffering serious harm because of the action or inaction of the  
10 child's parent, guardian or custodian;

11 (2) who has suffered physical abuse, emotional  
12 abuse or psychological abuse inflicted or caused by the child's  
13 parent, guardian or custodian;

14 (3) who has suffered sexual abuse or sexual  
15 exploitation inflicted by the child's parent, guardian or  
16 custodian;

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

20 (5) whose parent, guardian or custodian has  
21 knowingly or intentionally tortured, cruelly confined or  
22 cruelly punished the child;

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

25 (1) attempted, conspired to cause or caused



1 great bodily harm to the child or great bodily harm or death to  
2 the child's sibling;

3 (2) attempted, conspired to cause or caused  
4 great bodily harm or death to another parent, guardian or  
5 custodian of the child;

6 (3) attempted, conspired to subject or has  
7 subjected the child to torture, chronic abuse or sexual abuse;  
8 or

9 (4) had parental rights over a sibling of the  
10 child terminated involuntarily;

11 D. "educational decision maker" means an individual  
12 appointed by the children's court to attend school meetings and  
13 to make decisions about the child's education that a parent  
14 could make under law, including decisions about the child's  
15 educational setting, and the development and implementation of  
16 an individual education plan for the child;

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

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

24 G. "neglected child" means a child:

25 (1) who has been abandoned by the child's

.231596.2

1 parent, guardian or custodian;

2 (2) who is without proper parental care and  
3 control or subsistence, education, medical or other care or  
4 control necessary for the child's well-being because of the  
5 faults or habits of the child's parent, guardian or custodian  
6 or the failure or refusal of the parent, guardian or custodian,  
7 when able to do so, to provide them;

8 (3) who has been physically or sexually  
9 abused, when the child's parent, guardian or custodian knew or  
10 should have known of the abuse and failed to take reasonable  
11 steps to protect the child from further harm;

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

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

.231596.2

1           H. "personal identifier information" means a  
2 person's name and contact information, including home or  
3 business address, email address or phone number;

4           ~~[H.]~~ I. "physical abuse" includes any case in which  
5 the child suffers strangulation or suffocation and any case in  
6 which the child exhibits evidence of skin bruising, bleeding,  
7 malnutrition, failure to thrive, burns, fracture of any bone,  
8 subdural hematoma, soft tissue swelling or death and:

9                   (1) there is not a justifiable explanation for  
10 the condition or death;

11                   (2) the explanation given for the condition is  
12 at variance with the degree or nature of the condition;

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

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

17           ~~[I.]~~ J. "relative" means a person related to  
18 another person by birth, adoption or marriage within the fifth  
19 degree of consanguinity;

20           ~~[J.]~~ K. "sexual abuse" includes criminal sexual  
21 contact, incest or criminal sexual penetration, as those acts  
22 are defined by state law;

23           ~~[K.]~~ L. "sexual exploitation" includes:

24                   (1) allowing, permitting or encouraging a  
25 child to engage in prostitution;

.231596.2

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

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

6 [~~H.~~] M. "sibling" means a brother or sister having  
7 one or both parents in common by birth or adoption;

8 [~~M.~~] N. "strangulation" has the same meaning as set  
9 forth in Section 30-3-11 NMSA 1978;

10 [~~N.~~] O. "suffocation" has the same meaning as set  
11 forth in Section 30-3-11 NMSA 1978; and

12 [~~O.~~] P. "transition plan" means an individualized  
13 written plan for a child, based on the unique needs of the  
14 child, that outlines all appropriate services to be provided to  
15 the child to increase independent living skills. The plan  
16 shall also include responsibilities of the child, and any other  
17 party as appropriate, to enable the child to be self-sufficient  
18 upon emancipation."

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

21 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--  
22 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--  
23 NOTIFICATION OF PLAN OF SAFE CARE.--

24 A. Every person, including a licensed physician; a  
25 resident or an intern examining, attending or treating a child;

.231596.2

1 a law enforcement officer; a judge presiding during a  
2 proceeding; a registered nurse; a visiting nurse; a school  
3 employee; a social worker acting in an official capacity; or a  
4 member of the clergy who has information that is not privileged  
5 as a matter of law, who knows or has a reasonable suspicion  
6 that a child is an abused or a neglected child shall report the  
7 matter immediately to:

- 8 (1) a local law enforcement agency;
- 9 (2) the department; or
- 10 (3) a tribal law enforcement or social  
11 services agency for any Indian child residing in Indian  
12 country.

13 B. A law enforcement agency receiving the report  
14 shall immediately transmit the facts of the report and the  
15 name, address and phone number of the reporter by telephone to  
16 the department and shall transmit the same information in  
17 writing within forty-eight hours. The department shall  
18 immediately transmit the facts of the report and the name,  
19 address and phone number of the reporter by telephone to a  
20 local law enforcement agency and shall transmit the same  
21 information in writing within forty-eight hours. The written  
22 report shall contain the names and addresses of the child and  
23 the child's parents, guardian or custodian, the child's age,  
24 the nature and extent of the child's injuries, including any  
25 evidence of previous injuries, and other information that the

.231596.2

1 maker of the report believes might be helpful in establishing  
2 the cause of the injuries and the identity of the person  
3 responsible for the injuries. The written report shall be  
4 submitted upon a standardized form agreed to by the law  
5 enforcement agency and the department.

6 C. The recipient of a report under Subsection A of  
7 this section shall take immediate steps to ensure prompt  
8 investigation of the report. The investigation shall ensure  
9 that immediate steps are taken to protect the health or welfare  
10 of the alleged abused or neglected child, as well as that of  
11 any other child under the same care who may be in danger of  
12 abuse or neglect. A local law enforcement officer trained in  
13 the investigation of child abuse and neglect is responsible for  
14 investigating reports of alleged child abuse or neglect at  
15 schools, daycare facilities or child care facilities.

16 D. If the child alleged to be abused or neglected  
17 is in the care or control of or in a facility administratively  
18 connected to the department, the report shall be investigated  
19 by a local law enforcement officer trained in the investigation  
20 of child abuse and neglect. The investigation shall ensure  
21 that immediate steps are taken to protect the health or welfare  
22 of the alleged abused or neglected child, as well as that of  
23 any other child under the same care who may be in danger of  
24 abuse or neglect.

25 E. A law enforcement agency or the department shall

.231596.2

1 have access to any of the records pertaining to a child abuse  
2 or neglect case maintained by any of the persons enumerated in  
3 Subsection A of this section, except as otherwise provided in  
4 the Abuse and Neglect Act.

5 F. A person who violates the provisions of  
6 Subsection A of this section is guilty of a misdemeanor and  
7 shall be sentenced pursuant to the provisions of Section  
8 31-19-1 NMSA 1978.

9 G. A finding that a pregnant woman is using or  
10 abusing drugs made pursuant to an interview, self-report,  
11 clinical observation or routine toxicology screen shall not  
12 alone form a sufficient basis to report child abuse or neglect  
13 to the department pursuant to Subsection A of this section. A  
14 volunteer, contractor or staff of a hospital or freestanding  
15 birthing center shall not make a report based solely on that  
16 finding and shall make a notification pursuant to Subsection H  
17 of this section. Nothing in this subsection shall be construed  
18 to prevent a person from reporting to the department a  
19 reasonable suspicion that a child is an abused or neglected  
20 child based on other criteria as defined by Section 32A-4-2  
21 NMSA 1978, or a combination of criteria that includes a finding  
22 pursuant to this subsection.

23 H. A volunteer, contractor or staff of a hospital  
24 or freestanding birthing center shall:

- 25 (1) complete a written plan of safe care for a

.231596.2

1 substance-exposed newborn as provided for by department of of  
2 health rule and the Children's Code; and

3 (2) provide notification, in a form and manner  
4 prescribed by the department, to the department and the  
5 department of health. Notification by a health care provider  
6 pursuant to this paragraph shall not be construed as a report  
7 of child abuse or neglect.

8 I. As used in this section, "notification" means  
9 informing the department and the department of health that a  
10 substance-exposed newborn was born and providing a copy of the  
11 plan of safe care that was created for the child; provided that  
12 notification shall comply with federal guidelines and shall not  
13 constitute a report of child abuse or neglect.

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

16 SECTION 9. Section 32A-4-4.1 NMSA 1978 (being Laws 2019,  
17 Chapter 137, Section 2) is amended to read:

18 "32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

19 A. The department shall establish a multilevel  
20 response system to evaluate and provide services to a child or  
21 the family, relatives, caretakers or guardians of a child with  
22 respect to whom a report alleging neglect or abuse has been  
23 made. The multilevel response system may include an  
24 alternative to investigation upon completion of an evaluation  
25 that may be completed at intake by the department, the results

.231596.2



1 of which indicate that there is no immediate concern for the  
2 child's safety; provided, however, that an investigation shall  
3 be conducted for any report:

4 (1) alleging sexual abuse of a child or  
5 serious or imminent harm to a child;

6 (2) indicating a child fatality;

7 (3) requiring law enforcement involvement, as  
8 identified pursuant to rules promulgated by the department; or

9 (4) requiring a specialized assessment or a  
10 traditional investigative approach, as determined pursuant to  
11 rules promulgated by the department.

12 B. The department may remove a case from the  
13 multilevel response system and conduct an investigation if  
14 imminent danger of serious harm to the child becomes evident.  
15 The department may reassign a case from investigation to the  
16 multilevel response system at the discretion of the department.

17 C. For each family, including the child who is the  
18 subject of a report to the department and that child's  
19 relatives, caretakers or guardians, that receives services  
20 under the multilevel response system, the department shall  
21 conduct a family assessment. Based on the results of the  
22 family assessment, the department may offer or provide  
23 referrals for counseling, training or other services aimed at  
24 addressing the underlying causative factors jeopardizing the  
25 safety or well-being of the child who is the subject of a

.231596.2

1 report to the department. A family member, relative, caretaker  
2 or guardian may choose to accept or decline any services or  
3 programs offered under the multilevel response system;  
4 provided, however, that if a family member, relative, caretaker  
5 or guardian declines services, the department may choose to  
6 proceed with an investigation.

7 D. The department shall employ licensed social  
8 workers to provide services to families, relatives, caretakers  
9 or guardians participating in the multilevel response system to  
10 the extent that licensed social workers are available for  
11 employment.

12 ~~[E. The department may pilot the multilevel~~  
13 ~~response system prior to statewide implementation.]~~

14 ~~F. The department may limit implementation of the~~  
15 ~~multilevel response system to areas of the state where~~  
16 ~~appropriate services are available and operate the system~~  
17 ~~within available state and federal resources.]~~

18 G.] E. The department shall:

19 (1) provide an annual report of system  
20 implementation and outcomes to the legislative finance  
21 committee, the interim legislative health and human services  
22 committee, the interim legislative committee that studies  
23 courts, corrections and justice and the department of finance  
24 and administration as part of the department's budget  
25 submission;

1 (2) arrange for an independent evaluation of  
 2 the multilevel response system, including examining outcomes  
 3 for child safety and well-being and cost-effectiveness;

4 (3) incorporate the multilevel response system  
 5 into the department's quality assurance review process;

6 (4) develop performance measures, as provided  
 7 in the Accountability in Government Act, for the multilevel  
 8 response system; and

9 (5) implement the multilevel response system  
 10 statewide no later than July 1, [~~2022, if the department pilots~~  
 11 ~~or otherwise geographically limits the multilevel response~~  
 12 ~~system, submit a plan to the legislative finance committee and~~  
 13 ~~the department of finance and administration setting forth how~~  
 14 ~~the system could be expanded statewide, including a plan to~~  
 15 ~~address service availability, and identifying costs that would~~  
 16 ~~be incurred by the department]~~ 2027.

17 [H.] F. The department shall promulgate rules to  
 18 implement the provisions of this section.

19 [I.] G. As used in this section, "family  
 20 assessment" means a comprehensive, evidence-based assessment  
 21 tool used by the department to determine the needs of a child  
 22 and the child's family, relatives, caretakers or guardians at  
 23 the time the department receives a report of child abuse and  
 24 neglect, including an assessment of the likelihood of:

25 (1) imminent danger to a child's well-being;

.231596.2

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

3 (3) the strengths and needs of the child's  
4 family members, relatives, caretakers or guardians with respect  
5 to providing for the health and safety of the child."

6 SECTION 10. Section 32A-4-21 NMSA 1978 (being Laws 1993,  
7 Chapter 77, Section 115, as amended) is amended to read:

8 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,  
9 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

10 A. Prior to holding a dispositional hearing, the  
11 court shall direct that a predisposition study and report be  
12 submitted in writing to the court by the department.

13 B. The predisposition study required pursuant to  
14 Subsection A of this section shall contain the following  
15 information:

16 (1) a statement of the specific reasons for  
17 intervention by the department or for placing the child in the  
18 department's custody and a statement of the parent's ability to  
19 care for the child in the parent's home without causing harm to  
20 the child;

21 (2) a statement of how an intervention plan is  
22 designed to achieve placement of the child in the least  
23 restrictive setting available, consistent with the best  
24 interests and special needs of the child, including a statement  
25 of the likely harm the child may suffer as a result of being

.231596.2

1 removed from the parent's home, including emotional harm that  
2 may result due to separation from the child's parents, and a  
3 statement of how the intervention plan is designed to place the  
4 child in close proximity to the parent's home without causing  
5 harm to the child due to separation from parents, siblings or  
6 any other person who may significantly affect the child's best  
7 interest;

8 (3) the wishes of the child as to the child's  
9 custodian;

10 (4) a statement of the efforts the department  
11 has made to identify and locate all grandparents and other  
12 relatives and to conduct home studies on any appropriate  
13 relative expressing an interest in providing care for the  
14 child, and a statement as to whether the child has a family  
15 member who, subsequent to study by the department, is  
16 determined to be qualified to care for the child;

17 (5) a description of services offered to the  
18 child, the child's family and the child's foster care family,  
19 which, if appropriate and available, may include families first  
20 services provided pursuant to the Families First Act, as well  
21 as referrals to income support or other services or programs,  
22 and a summary of reasonable efforts made to prevent removal of  
23 the child from the child's family or reasonable efforts made to  
24 reunite the child with the child's family;

25 (6) a description of the home or facility in

.231596.2

1 which the child is placed and the appropriateness of the  
2 child's placement;

3 (7) the results of any diagnostic examination  
4 or evaluation ordered at the custody hearing;

5 (8) a statement of the child's medical and  
6 educational background;

7 (9) a case plan that sets forth steps to  
8 ensure that the child's physical, medical, cultural,  
9 psychological and educational needs are met and that sets forth  
10 services to be provided to the child and the child's parents to  
11 facilitate permanent placement of the child in the parent's  
12 home;

13 (10) for children sixteen years of age and  
14 older, a plan for developing the specific skills the child  
15 requires for successful transition into independent living as  
16 an adult, regardless of whether the child is returned to the  
17 child's parent's home;

18 (11) a case plan that sets forth steps to  
19 ensure that the child's educational needs are met and, for a  
20 child fourteen years of age or older, a case plan that  
21 specifically sets forth the child's educational and post-  
22 secondary goals; and

23 (12) a description of the child's foster care  
24 placement and whether it is appropriate in terms of the  
25 educational setting and proximity to the school the child was

.231596.2

1 enrolled in at the time of the placement, including plans for  
 2 travel for the child to remain in the school in which the child  
 3 was enrolled at the time of placement, if reasonable and in the  
 4 child's best interest.

5 C. A copy of the predisposition report shall be  
 6 provided by the department to counsel for all parties five days  
 7 before the dispositional hearing.

8 D. If the child is an adjudicated abused child, any  
 9 temporary custody orders shall remain in effect until the court  
 10 has received and considered the predispositional study at the  
 11 dispositional hearing."

12 SECTION 11. Section 32A-4-33 NMSA 1978 (being Laws 1993,  
 13 Chapter 77, Section 127, as amended) is amended to read:

14 "32A-4-33. CONFIDENTIALITY--~~[RECORDS]~~ INFORMATION--  
 15 PENALTY.--

16 A. In investigations and proceedings alleging abuse  
 17 or neglect, the department shall not disclose personal  
 18 identifier information of the child or the child's parent,  
 19 guardian or custodian, except as follows:

20 (1) in the case of the fatality or near  
 21 fatality of a child;

22 (2) in cases in which a child is missing or  
 23 abducted or the child is or may be in danger of serious injury  
 24 or death unless immediate action is taken or there are other  
 25 exigent circumstances, the department shall release to law

.231596.2

1 enforcement and the nationally recognized organization that  
2 serves as the national clearinghouse and resource center for  
3 information about missing and exploited children as much  
4 personal identifier information as necessary to identify the  
5 child, a possible abductor or a suspect in an abuse or neglect  
6 case or to protect evidence of a crime against the child;

7 (3) when a child or child's parent or guardian  
8 has been publicly identified by a person outside the  
9 department, but only that personal identifier information that  
10 has been publicly identified; or

11 (4) to the persons enumerated in Subsection E  
12 of this section.

13 B. Department information obtained during the  
14 course of an investigation into allegations of abuse or neglect  
15 shall be maintained by the department as required by federal  
16 law as a condition of the allocation of federal funds in New  
17 Mexico. The public release of department information shall be  
18 construed as openly as possible under federal and state law.

19 C. Information released by the department that has  
20 not otherwise been publicly released shall be redacted as  
21 needed to safeguard personal identifier information of the  
22 child and the child's family. In a case in which a child or  
23 the child's family has been publicly identified through news  
24 reports, a lawsuit or other means, the department may respond  
25 publicly with factual and complete information about the

.231596.2



1 actions the department has taken in the case.

2 ~~[A. All records or]~~ D. Other than in the case of a  
 3 fatality, redacted information concerning a party to a neglect  
 4 or abuse proceeding, including social records, diagnostic  
 5 evaluations, psychiatric or psychological reports, videotapes,  
 6 transcripts and audio recordings of a child's statement of  
 7 abuse or medical reports incident to or obtained as a result of  
 8 a neglect or abuse proceeding or that were produced or obtained  
 9 during an investigation in anticipation of or incident to a  
 10 neglect or abuse proceeding, ~~[shall be confidential and closed~~  
 11 ~~to the public]~~ may be released by the department to a person  
 12 who is conducting bona fide research or investigations, the  
 13 results of which should provide the department information on  
 14 child abuse and neglect that would be useful to the department  
 15 in developing policy and practice.

16 ~~[B.]~~ E. The ~~[records]~~ information described in  
 17 Subsection [A] D of this section shall be disclosed ~~[only]~~  
 18 without redaction to the parties and:

19 (1) court personnel and persons or entities  
 20 authorized by contract with the court to review, inspect or  
 21 otherwise have access to ~~[records or]~~ information in the  
 22 court's possession;

23 (2) court-appointed special advocates  
 24 appointed to the neglect or abuse proceeding;

25 (3) the child's guardian ad litem;

.231596.2

1 (4) the attorney representing the child in an  
2 abuse or neglect action, a delinquency action or any other  
3 action under the Children's Code;

4 (5) department personnel and persons or  
5 entities authorized by contract with the department to review,  
6 inspect or otherwise have access to [~~records or~~] information in  
7 the department's possession;

8 (6) any local substitute care review board or  
9 any agency contracted to implement local substitute care review  
10 boards;

11 (7) law enforcement officials, except when use  
12 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

13 (8) district attorneys, except when use  
14 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

15 (9) any state government or tribal government  
16 social services agency in any state or when, in the opinion of  
17 the department, it is in the best interest of the child, a  
18 governmental social services agency of another country;

19 (10) a foster parent, if the [~~records are~~  
20 ~~those~~] information is that of a child currently placed with  
21 that foster parent or of a child being considered for placement  
22 with that foster parent and the [~~records concern~~] information  
23 concerns the social, medical, psychological or educational  
24 needs of the child;

25 (11) school personnel involved with the child

1 but only if the [~~records concern~~] information concerns the  
2 child's social, medical or educational needs;

3 (12) a grandparent, parent of a sibling,  
4 relative or fictive kin, if the [~~records or~~] information  
5 [~~pertain~~] pertains to a child being considered for placement  
6 with that grandparent, parent of a sibling, relative or fictive  
7 kin and the [~~records or~~] information [~~concern~~] concerns the  
8 social, medical, psychological or educational needs of the  
9 child;

10 (13) health care or mental health  
11 professionals involved in the evaluation or treatment of the  
12 child or of the child's parents, guardian, custodian or other  
13 family members;

14 (14) protection and advocacy representatives  
15 pursuant to the federal Developmental Disabilities Assistance  
16 and Bill of Rights Act and the federal Protection and Advocacy  
17 for Mentally Ill Individuals Amendments Act of 1991;

18 (15) children's safehouse organizations  
19 conducting [~~investigatory~~] interviews of children on behalf of  
20 a law enforcement agency or the department;

21 (16) representatives of the federal government  
22 or their contractors authorized by federal statute or  
23 regulation to review, inspect, audit or otherwise have access  
24 to [~~records and~~] information pertaining to neglect or abuse  
25 proceedings;

.231596.2

1 (17) ~~[any]~~ a person ~~[or entity]~~ attending a  
2 meeting arranged by the department to discuss the safety, well-  
3 being and permanency of a child, when the parent or child, or  
4 parent or ~~[legal]~~ custodian on behalf of a child younger than  
5 fourteen years of age, has consented to the disclosure; ~~[and]~~

6 (18) the office of the state medical  
7 investigator; and

8 ~~[(18)]~~ (19) any other person ~~[or entity]~~, by  
9 order of the court, having a legitimate interest in the case or  
10 the work of the court.

11 F. A party to a court proceeding relating to a  
12 department investigation into allegations of abuse and neglect  
13 may comment publicly as long as the party does not disclose  
14 personal identifier information that is still confidential  
15 regarding the child or the child's parent or guardian.

16 ~~[G.]~~ G. A parent, guardian or ~~[legal]~~ custodian  
17 whose child has been the subject of an investigation of abuse  
18 or neglect where no petition has been filed shall have the  
19 right to inspect any medical report, psychological evaluation,  
20 law enforcement reports or other investigative or diagnostic  
21 evaluation; provided that any ~~[identifying]~~ personal identifier  
22 information related to the reporting party or any other party  
23 providing information shall be deleted or redacted. The  
24 parent, guardian or ~~[legal]~~ custodian shall also have the right  
25 to the results of the investigation and the right to petition

1 the court for full access to all department records and  
2 information except [~~those records and~~] that information the  
3 department finds would be likely to endanger the life or safety  
4 of [~~any~~] a person providing information to the department.

5 H. The department is not required by this section  
6 to disclose department information if the district attorney  
7 successfully petitions the children's court that disclosure  
8 would cause specific, material harm to a criminal investigation  
9 or prosecution.

10 I. The department shall provide pertinent  
11 department information upon request to a prospective adoptive  
12 parent, foster parent or guardian if the information concerns a  
13 child for whom the prospective adoptive parent, foster parent  
14 or guardian seeks to adopt or provide care.

15 J. A person may authorize the release of department  
16 information about the person's self but shall not waive the  
17 confidentiality of department information concerning any other  
18 person.

19 K. The department shall provide a summary of the  
20 outcome of a department investigation to the person who  
21 reported the suspected child abuse or neglect in a timely  
22 manner no later than twenty days after the deadline for  
23 closure of the investigation.

24 [~~D.~~] L. Whoever intentionally and unlawfully  
25 releases any information [~~or records~~] closed to the public

.231596.2

1 pursuant to the Abuse and Neglect Act or releases or makes  
2 other unlawful use of [~~records~~] information in violation of  
3 that act is guilty of a petty misdemeanor and shall be  
4 sentenced pursuant to the provisions of Section 31-19-1 NMSA  
5 1978.

6 ~~[E.]~~ M. The department [~~shall~~] may promulgate rules  
7 for implementing disclosure of records pursuant to this section  
8 and in compliance with state and federal law and the Children's  
9 Court Rules.

10 N. Nothing in this section or Section 32A-4-33.1  
11 NMSA 1978 limits the right of a person to seek documents or  
12 information through other provisions of law.

13 O. Nothing in this section applies to the Indian  
14 Family Protection Act, information concerning Indian children  
15 or Indian parents, guardians or custodians, as those terms are  
16 defined in that act, or investigations or proceedings pursuant  
17 to that act."

18 SECTION 12. Section 32A-4-33.1 NMSA 1978 (being Laws  
19 2009, Chapter 239, Section 52) is amended to read:

20 "32A-4-33.1. FATALITIES--NEAR FATALITIES--RECORDS RELEASE  
21 [~~WHEN A CHILD DIES~~].--

22 A. As used in this section:

23 (1) "near fatality" means an act that, as  
24 certified by a physician, including the child's treating  
25 physician, placed a child in a serious or critical medical

1 condition; and

2 (2) "personal identifier information" means:

3 (a) a person's name;

4 (b) all but the last four digits of a  
5 person's: 1) taxpayer identification number; 2) financial  
6 account number; 3) credit or debit card number; or 4) driver's  
7 license number;

8 (c) all but the year of a person's date  
9 of birth;

10 (d) a person's social security number;

11 and

12 (e) a person's street address, but not  
13 the city, state or zip code.

14 ~~[A.]~~ B. After learning that a child fatality or  
15 near fatality has occurred and that there is reasonable  
16 suspicion that the fatality or near fatality was caused by  
17 abandonment, abuse or neglect, the department shall upon  
18 written request [~~to the secretary of the department~~] release  
19 the following information, if in the department's possession,  
20 within five business days:

21 ~~[(1) the age and gender of the child;~~

22 ~~(2) the date of death;~~

23 ~~(3) whether the child was in foster care or in~~  
24 ~~the home of the child's parent or guardian at the time of~~  
25 ~~death; and~~

.231596.2

underscoring material = new  
[bracketed material] = delete

1                                   ~~(4) whether an investigation is being~~  
2                                   ~~conducted by the department.~~

3                                   ~~B. If an investigation is being conducted by the~~  
4                                   ~~department, then a request for further information beyond that~~  
5                                   ~~listed in Subsection A of this section shall be answered with a~~  
6                                   ~~statement that a report is under investigation]~~

7                                   (1) for a fatality:

8   (a) the name, age and gender of the  
9   child;

10    (b) the date and location of the  
11    fatality; and

12    (c) the cause of death, if known;

13                                   (2) for a near fatality:

14    (a) the age and gender of the child; and

15    (b) the type and extent of injuries;

16                                   (3) for either a fatality or near fatality:

17    (a) whether the child is currently or  
18    has been in the custody of the department within the last five  
19    years or the child's family is currently or has been served or  
20    under investigation by the department within the last five  
21    years;

22    (b) whether the child lived with a  
23    parent, guardian or custodian; was in foster care; was in a  
24    residential facility or detention facility; was a runaway; or  
25    had some other living arrangement;

underscored material = new  
[bracketed material] = delete



1                   (c) whether an investigation is being  
2 conducted by the department or by a law enforcement agency, if  
3 known;

4                   (d) a detailed synopsis of prior reports  
5 of abuse or neglect involving the child, siblings or other  
6 children in the home, if applicable; and

7                   (e) actions taken by the department to  
8 ensure the safety of siblings, if applicable; and

9                   (4) any other information that is publicly  
10 known.

11               C. Upon completion of a child abandonment, abuse or  
12 neglect investigation into a [~~child's death~~] fatality or near  
13 fatality, if it is determined that abandonment, abuse or  
14 neglect caused the [~~child's death~~] fatality or near fatality,  
15 the following documents shall be released upon written request:

16                   (1) a summary of the department's  
17 investigation;

18                   (2) a law enforcement investigation report, if  
19 in the department's possession; [~~and~~]

20                   (3) [~~a medical examiner's~~] the medical  
21 investigator's report, if in the department's possession; and

22                   (4) in the case of a fatality, the  
23 department's file on the child who died.

24               D. Prior to releasing [~~any document pursuant to~~]  
25 documents specified in Subsection C of this section, the

.231596.2

1 department shall consult with the district attorney and shall  
2 redact:

3 (1) information that, ~~[would]~~ in the opinion  
4 of the district attorney, ~~[jeopardize]~~ would cause specific  
5 material harm to a criminal investigation or [proceeding]  
6 prosecution;

7 (2) ~~[identifying]~~ personal identifier  
8 information related to a reporting party or any other party  
9 providing information and any other child living in the home;

10 (3) information that is privileged,  
11 confidential or not subject to disclosure pursuant to ~~[any]~~  
12 Section 32A-4-33 NMSA 1978 or other state or federal law; and

13 (4) in the case of a near fatality, personal  
14 identifier information for the child, parent, guardian,  
15 resource parent and any other child living in the home.

16 E. ~~[Once]~~ If documents pursuant to this section  
17 have been released by the department, the department may  
18 comment on the case ~~[within the scope of the release].~~

19 F. Information released by the department  
20 consistent with the requirements of this section does not  
21 require prior notice to any other ~~[individual]~~ person.

22 G. Nothing in this section shall be construed as  
23 requiring the department to obtain documents not in the abuse  
24 and neglect case file.

25 H. A person disclosing abandonment, abuse ~~[and]~~ or

1 neglect case file information as required by this section shall  
2 not be subject to suit in civil or criminal proceedings for  
3 complying with the requirements of this section.

4 I. The department shall continue to provide timely  
5 allowable information to the public on the investigation into a  
6 case of fatality or near fatality of a child, including a  
7 summary report that shall include:

8 (1) actions taken by the department in  
9 response to the case, including changes in policies, practices,  
10 procedures and processes that have been made to address issues  
11 raised in the investigation of the case and any recommendations  
12 for further changes in policies, practices, procedures,  
13 processes and other rules or laws to address the issues; and

14 (2) the information described in Subsection J  
15 or K of this section.

16 J. If the summary report involves a child who was  
17 residing in the child's home, the report shall contain a  
18 summary of all of the following:

19 (1) whether services pursuant to the Abuse and  
20 Neglect Act were being provided to the child, a member of the  
21 child's household or a person who had been arrested for  
22 abandonment, abuse or neglect of the child prior to the time of  
23 the fatality or near fatality and the date of the last contact  
24 between the person providing the services and the person  
25 receiving the services prior to or at the time of the fatality

.231596.2

1 or near fatality;

2 (2) whether the child, a member of the child's  
3 household or the person who had been arrested for abandonment,  
4 abuse or neglect of the child prior to the fatality or near  
5 fatality was the subject of a current or previous department  
6 report;

7 (3) all involvement of the child's parents or  
8 the person who had been arrested for abuse or neglect of the  
9 child prior to the fatality or near fatality in a situation for  
10 which a department report was made or services provided  
11 pursuant to the Abuse and Neglect Act in the five years  
12 preceding the incident that culminated in the fatality or near  
13 fatality; and

14 (4) any investigation pursuant to a department  
15 report concerning the child, a member of the child's household  
16 or the person who had been suspected of or arrested for the  
17 abandonment, abuse or neglect of the child or services provided  
18 to the child or the child's household since the date of the  
19 incident involving a fatality or a near fatality.

20 K. If the summary report involves a child who was  
21 in out-of-home placement, the summary report shall include:

22 (1) the name of the agency the licensee was  
23 licensed by; and

24 (2) the licensing history of the out-of-home  
25 placement, including the type of license held by the operator

1 of the placement, the period for which the placement has been  
2 licensed and a summary of all violations by the licensee and  
3 any other actions by the licensee or an employee of the  
4 licensee that constitute a substantial failure to protect and  
5 promote the health, safety and welfare of a child.

6 L. Nothing in this section shall apply to the  
7 Indian Family Protection Act, information or records concerning  
8 Indian children or Indian parents, guardians or custodians or  
9 investigations or proceedings pursuant to that act."

10 SECTION 13. A new section of the Abuse and Neglect Act  
11 is enacted to read:

12 "[NEW MATERIAL] CREATION AND MAINTENANCE OF DASHBOARD ON  
13 DEPARTMENT WEBSITE--ANNUAL REPORT.--

14 A. The department shall create and maintain a  
15 public, easily accessible and searchable dashboard on the  
16 department's website. The confidentiality of personal  
17 identifier information shall be safeguarded consistent with  
18 federal and state law. The dashboard shall be updated at least  
19 quarterly and shall include the data to be reported to the  
20 governor and the legislature.

21 B. By February 1 of each year, the department shall  
22 submit a report to the governor and the legislature that  
23 includes the following data for the prior twelve months ending  
24 on December 31:

25 (1) the number of fatalities and near

.231596.2

1 fatalities of children in the custody of the department or as a  
2 result of abandonment, abuse or neglect when in the custody of  
3 a parent, guardian, custodian or other person;

4 (2) the number of children in department  
5 custody and the average length of time in custody, including  
6 the number of in-state and out-of-state placements in which  
7 children are placed;

8 (3) the number of children in foster care and  
9 the length of time in foster care or living with relatives or  
10 fictive kin;

11 (4) the number of complaints received alleging  
12 abandonment, abuse or neglect;

13 (5) the number of investigations that resulted  
14 from the complaints, the number of complaints accepted for  
15 investigation and not accepted for investigation and the  
16 identified reasons in the aggregate for not investigating a  
17 complaint;

18 (6) the number of children removed from the  
19 custody of a parent, guardian, custodian or other person and  
20 the reasons for removals;

21 (7) the number of children returned to a  
22 household from which they were removed;

23 (8) the number of children placed in the  
24 custody of the department who have run away while in custody;

25 (9) the number of cases in which families

.231596.2

1 subject to court-ordered treatment plans or voluntary placement  
 2 agreements have absconded with children placed in the custody  
 3 of the department;

4 (10) the number of adoptions and the number of  
 5 adoptions for which funding was terminated prior to the child  
 6 reaching the age of eighteen;

7 (11) the number of children and cases  
 8 transferred to the jurisdiction of Indian nations, tribes and  
 9 pueblos pursuant to the Indian Family Protection Act; and

10 (12) any other information the department  
 11 considers of interest to the public.

12 C. Data shall be disaggregated by age, race,  
 13 ethnicity, gender, disability status and geographic location.

14 D. The report shall be published on the  
 15 department's website."

16 **SECTION 14.** A new section of the Children's Code is  
 17 enacted to read:

18 "[NEW MATERIAL] SHORT TITLE.--Sections 14 through 17 of  
 19 this act may be cited as the "Families First Act"."

20 **SECTION 15.** A new section of the Children's Code is  
 21 enacted to read:

22 "[NEW MATERIAL] DEFINITIONS.--As used in the Families  
 23 First Act:

24 A. "families first services" means foster care  
 25 prevention services categorized pursuant to the federal Title

.231596.2

1 IV-E prevention services clearinghouse as well-supported,  
2 supported or promising that are included in the families first  
3 strategic plan implemented pursuant to the Families First Act  
4 and are provided by the department through the implementation  
5 of that strategic plan; and

6 B. "families first strategic plan" means the plan  
7 required pursuant to the Families First Act that is developed  
8 and implemented by the department in accordance with the  
9 regulations and requirements set forth in the federal Family  
10 First Prevention Services Act."

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

13 "[NEW MATERIAL] FAMILIES FIRST STRATEGIC PLAN--DEPARTMENT  
14 DUTIES--FAMILIES FIRST SERVICES--TIME LINE--IMPLEMENTATION.--

15 A. In consultation with the early childhood  
16 education and care department, the health care authority and  
17 the department of health, the department shall develop and  
18 implement the families first strategic plan. In developing the  
19 families first strategic plan, the department shall:

20 (1) ensure that provisions of the families  
21 first strategic plan align with and meet the requirements set  
22 forth in the federal Family First Prevention Services Act; and

23 (2) maximize resources from the federal  
24 government under Title IV-E that are available to the  
25 department to provide families first services.

.231596.2

underscored material = new  
[bracketed material] = delete



1           B. The families first strategic plan required  
2 pursuant to Subsection A of this section shall:

3                   (1) include a comprehensive description of the  
4 department's responsibilities and duties for providing families  
5 first services;

6                   (2) include a comprehensive and detailed list  
7 of each of the families first services the department will  
8 provide to eligible persons and affirm that each service to be  
9 provided:

10                           (a) is eligible for reimbursement  
11 pursuant to the federal Family First Prevention Services Act;  
12 and

13                           (b) is rated as promising, supported or  
14 well-supported in accordance with the Title IV-E prevention  
15 services clearinghouse;

16                   (3) identify all network services providers,  
17 including other state agencies, that the department will use  
18 for providing families first services. If services are  
19 provided by another state agency, the department, together with  
20 the other state agency, shall establish safety monitoring  
21 protocols for direct monitoring of the services provided by  
22 that agency and, for each provider used by the department, list  
23 the specific families first service that the network services  
24 provider will provide, including:

25                           (a) mental health or substance abuse

.231596.2

1 prevention and treatment;

2 (b) in-home parent skill-based programs;

3 (c) kinship navigator programs; or

4 (d) any other programs or services that  
5 are eligible or become eligible for reimbursement pursuant to  
6 the federal Family First Prevention Services Act;

7 (4) identify and define the population of  
8 eligible persons who may receive families first services and  
9 include, at a minimum:

10 (a) a child who is a candidate for  
11 foster care but who can remain safely at home with the  
12 provision of evidence-based services;

13 (b) a parent, guardian or caregiver of a  
14 child at risk of entering foster care;

15 (c) a pregnant or parenting youth in  
16 foster care; and

17 (d) other eligible persons identified by  
18 the department;

19 (5) identify processes and procedures to be  
20 established and followed by the department to determine  
21 eligibility for any families first service;

22 (6) identify processes and procedures to be  
23 established and followed by the department to maximize federal  
24 reimbursements, funding and resources available to the  
25 department to provide families first services;

.231596.2

1 (7) identify the process that the department  
2 will use to monitor and oversee the safety of children who  
3 receive families first services and programs, as required by  
4 the federal Family First Prevention Services Act;

5 (8) establish appropriate metrics the  
6 department will use to determine and evaluate outcomes from the  
7 department's provision of families first services pursuant to  
8 the Families First Act, including outcomes related specifically  
9 to repeated substantiated reports of maltreatment of a child  
10 and the numbers of children entering foster care;

11 (9) establish an appropriate time line and  
12 strategy for providing families first services statewide. The  
13 time line shall include the following:

14 (a) no later than June 30, 2027, the  
15 department shall provide families first services through a  
16 pilot program that is designed for implementation considering  
17 factors such as county population density and rates of child  
18 maltreatment and repeat maltreatment; and

19 (b) no later than June 30, 2032, the  
20 department shall provide statewide implementation of families  
21 first services rolled out in a manner consistent with the best  
22 practices derived from the evaluation of the pilot program;

23 (10) provide a detailed description of how the  
24 department will continuously monitor the families first  
25 strategic plan, from development of the plan through the pilot

.231596.2

1 program phase and to statewide implementation. Included in  
2 that description shall be how the department will monitor key  
3 factors likely to best ensure fidelity to the service model  
4 developed within the families first strategic plan; and

5 (11) identify the appropriate information to  
6 include in an annual report to be provided by the department to  
7 the legislative finance committee, the interim legislative  
8 health and human services committee, the interim legislative  
9 committee that studies courts, corrections and justice and the  
10 governor. At a minimum, the annual report shall include the  
11 following information:

12 (a) an up-to-date inventory of all  
13 families first services available;

14 (b) data, without inclusion of personal  
15 identifier information, regarding the uptake and program  
16 completion among eligible individuals of families first  
17 services, including the area of the state in which the services  
18 were accessed;

19 (c) performance results regarding  
20 identified outcome measures, to include aggregate data about  
21 child participant placement status at the beginning of services  
22 and one year after services and whether the child entered  
23 foster care within two years after being determined a candidate  
24 for foster care and receiving families first services; and

25 (d) fiscal information regarding program

1 and service expenditures and disaggregating state and federal  
2 revenue sources.

3 C. For the purposes of this subsection, "approving  
4 authority" means the federal administration for children and  
5 families. The department shall:

6 (1) no later than August 1, 2025, finalize the  
7 provisions of the families first strategic plan, post the plan  
8 to the department's website and provide a copy of the plan to  
9 the legislative finance committee, the interim legislative  
10 health and human services committee, the interim legislative  
11 committee that studies courts, corrections and justice and the  
12 governor;

13 (2) no later than September 1, 2025:

14 (a) submit the families first strategic  
15 plan to the approving authority for approval; and

16 (b) begin providing families first  
17 services pursuant to the provisions of the Families First Act;

18 (3) if a submitted strategic plan is not  
19 approved and the approving authority indicates that to secure  
20 an approval, the strategic plan must be revised, as soon as  
21 practicable:

22 (a) revise the families first strategic  
23 plan in accordance with the revisions required by the approving  
24 authority; and

25 (b) submit the revised strategic plan to

.231596.2

1 the approving authority; and

2 (4) include in the department's reports  
3 required pursuant to the Families First Act the status of each  
4 families first strategic plan submitted to the approving  
5 authority for approval, including any specific revisions  
6 required, the dates of submissions and the dates of approval or  
7 nonapproval by the approving authority for each submitted  
8 strategic plan and any other relevant information related to  
9 the status of a families first strategic plan submitted to the  
10 approving authority by the department.

11 D. No later than July 1, 2026, and by each July 1  
12 thereafter, the department shall post the annual report as  
13 established in the families first strategic plan pursuant to  
14 the Families First Act to the department's website, and the  
15 department shall submit the annual report to the legislative  
16 finance committee, the interim legislative health and human  
17 services committee, the interim legislative committee that  
18 studies courts, corrections and justice and the governor."

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

21 "[NEW MATERIAL] RULES.--By August 1, 2027, the department  
22 shall promulgate and adopt rules as necessary to carry out the  
23 provisions of the Families First Act."

24 SECTION 18. A new section of the New Mexico Insurance  
25 Code is enacted to read:

.231596.2

