

1 HOUSE BILL 205

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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6

7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE
9

10 AN ACT

11 RELATING TO CHILD WELFARE; CREATING THE SECRETARY OF CHILDREN,
12 YOUTH AND FAMILIES NOMINATING COMMITTEE; REQUIRING THE
13 SECRETARY OF CHILDREN, YOUTH AND FAMILIES TO BE SELECTED FROM A
14 LIST OF QUALIFIED NOMINEES CREATED BY THE NOMINATING COMMITTEE;
15 MOVING RULEMAKING AUTHORITY FOR THE PLAN OF CARE PROCESS FROM
16 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE HEALTH CARE
17 AUTHORITY; UPDATING REQUIREMENTS FOR PLANS OF CARE; REQUIRING
18 THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO IMPLEMENT THE
19 MULTILEVEL RESPONSE SYSTEM STATEWIDE; ENACTING THE FAMILIES
20 FIRST ACT WITHIN THE CHILDREN'S CODE; REQUIRING THE CHILDREN,
21 YOUTH AND FAMILIES DEPARTMENT TO DEVELOP AND IMPLEMENT A
22 STRATEGIC PLAN FOR APPROVAL BY THE FEDERAL ADMINISTRATION FOR
23 CHILDREN AND FAMILIES; REQUIRING PROVISIONS OF THE STRATEGIC
24 PLAN TO IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES
25 THAT MEET THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST

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1 PREVENTION SERVICES ACT; PROVIDING FOR CHILDREN, YOUTH AND
2 FAMILIES DEPARTMENT CONSULTATION WITH THE EARLY CHILDHOOD
3 EDUCATION AND CARE DEPARTMENT, THE HEALTH CARE AUTHORITY AND
4 THE DEPARTMENT OF HEALTH; PROVIDING STRATEGIC PLAN
5 REQUIREMENTS; TRANSFERRING THE SUBSTITUTE CARE ADVISORY COUNCIL
6 FROM THE REGULATION AND LICENSING DEPARTMENT TO THE
7 ADMINISTRATIVE OFFICE OF THE COURTS; DEFINING TERMS IN THE
8 CITIZEN SUBSTITUTE CARE REVIEW ACT; PROVIDING FOR STAFFING OF
9 THE SUBSTITUTE CARE ADVISORY COUNCIL; ESTABLISHING CRITERIA FOR
10 CASE REVIEW; PROVIDING FOR RULES PERTAINING TO VOLUNTEER
11 MEMBERS; PROVIDING ACCESS TO AND REQUIREMENTS FOR
12 CONFIDENTIALITY OF CERTAIN RECORDS AND INFORMATION; CHANGING
13 REPORTING REQUIREMENTS; REQUIRING THE SUBSTITUTE CARE ADVISORY
14 COUNCIL TO PROVIDE THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT
15 WITH CASE REPORTS; REQUIRING THE CHILDREN, YOUTH AND FAMILIES
16 DEPARTMENT TO RESPOND TO CASE REPORTS; REQUIRING THE SUBSTITUTE
17 CARE ADVISORY COUNCIL STAFF AND THE CHILDREN, YOUTH AND
18 FAMILIES DEPARTMENT TO MEET QUARTERLY; TRANSFERRING EMPLOYEES,
19 PROPERTY AND CONTRACTUAL OBLIGATIONS; AMENDING, REPEALING AND
20 ENACTING SECTIONS OF THE NMSA 1978.

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

23 SECTION 1. Section 9-2A-3 NMSA 1978 (being Laws 1992,
24 Chapter 57, Section 3) is amended to read:

25 "9-2A-3. DEFINITIONS.--As used in the Children, Youth and

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1 Families Department Act:

2 A. "department" means the children, youth and
3 families department; ~~[and]~~

4 B. "nominating committee" means the secretary of
5 children, youth and families nominating committee; and

6 ~~[B.]~~ C. "secretary" means the secretary of
7 children, youth and families."

8 SECTION 2. Section 9-2A-6 NMSA 1978 (being Laws 1992,
9 Chapter 57, Section 6) is amended to read:

10 "9-2A-6. SECRETARY OF CHILDREN, YOUTH AND FAMILIES--
11 APPOINTMENT.--

12 A. The chief executive and administrative officer
13 of the department is the "secretary of children, youth and
14 families". The secretary shall be appointed by the governor
15 with the consent of the senate and shall be selected from a
16 list of qualified nominees submitted to the governor by the
17 nominating committee. The secretary shall hold office at the
18 pleasure of the governor and shall serve in the executive
19 cabinet.

20 B. An appointed secretary shall serve and have all
21 the duties, responsibilities and authority of that office
22 during the period of time prior to final action by the senate
23 confirming or rejecting ~~[his]~~ the appointment."

24 SECTION 3. A new section of the Children, Youth and
25 Families Department Act, Section 9-2A-6.1 NMSA 1978, is enacted

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1 to read:

2 "9-2A-6.1. [NEW MATERIAL] SECRETARY OF CHILDREN, YOUTH
3 AND FAMILIES NOMINATING COMMITTEE.--

4 A. The "secretary of children, youth and families
5 nominating committee" is created and consists of nine members
6 who are:

7 (1) knowledgeable about child welfare;
8 (2) not recipients of contracts or other forms
9 of compensation from the department;

10 (3) not applicants or nominees for the
11 secretary position; and

12 (4) appointed as follows:

13 (a) six members appointed one each by
14 the speaker of the house of representatives, the majority floor
15 leader of the house of representatives, the minority floor
16 leader of the house of representatives, the president pro
17 tempore of the senate, the majority floor leader of the senate
18 and the minority floor leader of the senate;

19 (b) two members appointed by the
20 governor; and

21 (c) one member appointed by the chief
22 justice of the supreme court.

23 B. A nominating committee member shall:

24 (1) be a resident of New Mexico;

25 (2) serve a four-year term; and

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1 (3) serve without compensation, but shall be
2 reimbursed for expenses incurred in pursuit of the member's
3 duties on the nominating committee pursuant to the Per Diem and
4 Mileage Act.

5 C. The nominating committee and individual members
6 shall be subject to the Governmental Conduct Act, the
7 Inspection of Public Records Act, the Financial Disclosure Act
8 and the Open Meetings Act.

9 D. Administrative support shall be provided to the
10 nominating committee by the staff of the department.

11 E. Initial appointments to the nominating committee
12 shall be made by the appointing authorities prior to July 1,
13 2026. Subsequent appointments shall be made no later than
14 thirty days before the end of a term.

15 F. The first meeting of the appointed members of
16 the nominating committee shall be held prior to September 1,
17 2026. The nominating committee shall select one member to be
18 chair and one member to be secretary of the nominating
19 committee. Following the first meeting, the nominating
20 committee shall meet as often as necessary in order to submit a
21 list to the governor of no fewer than five qualified nominees
22 for appointment as the secretary for the terms beginning
23 January 1, 2027. The list shall be developed to provide
24 geographical diversity, and nominees on the list shall be from
25 at least three different counties of the state.

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1 G. Subsequent to January 1, 2027, the nominating
2 committee shall meet at least ninety days prior to the date on
3 which the term of the secretary ends and as often as necessary
4 thereafter in order to submit a list to the governor, at least
5 thirty days prior to the beginning of the new term, of no fewer
6 than two qualified nominees from diverse geographical areas of
7 the state for appointment as secretary.

8 H. Upon the occurrence of a vacancy of the
9 secretary position, the nominating committee shall meet within
10 thirty days of the date of the beginning of the vacancy and as
11 often as necessary thereafter in order to submit a list to the
12 governor, within sixty days of the first meeting after the
13 vacancy occurs, of no fewer than two qualified nominees from
14 diverse geographical areas of the state for appointment as
15 secretary.

16 I. If a position on the nominating committee
17 becomes vacant during a term, a successor shall be selected in
18 the same manner as the original appointment for that position
19 and shall serve for the remainder of the term of the position
20 vacated.

21 J. The nominating committee shall actively solicit,
22 accept and evaluate applications and may require an applicant
23 to submit any information the nominating committee deems
24 relevant to the consideration of the individual's application.

25 K. A majority vote of all members of the nominating

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1 committee in favor of a person is required for that person to
2 be included on the list of qualified nominees submitted to the
3 governor."

4 SECTION 4. Section 9-2A-8 NMSA 1978 (being Laws 1992,
5 Chapter 57, Section 8, as amended) is amended to read:

6 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
7 other duties provided by law or assigned to the department by
8 the governor, the department shall:

9 A. develop priorities for department services and
10 resources based on state policy and national best-practice
11 standards and local considerations and priorities;

12 B. strengthen collaboration and coordination in
13 state and local services for children, youth and families by
14 integrating critical functions as appropriate, including
15 service delivery, and contracting for services across divisions
16 and related agencies;

17 C. develop and maintain a statewide database,
18 including client tracking of services for children, youth and
19 families;

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

22 E. analyze policies of other departments that
23 affect children, youth and families to encourage common
24 contracting procedures, common service definitions and a
25 uniform system of access;

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1 F. enact [~~regulations~~] rules to control disposition
2 and placement of children under the Children's Code, including
3 [~~regulations~~] rules to limit or prohibit the out-of-state
4 placement of children, including those who have developmental
5 disabilities or emotional, neurobiological or behavioral
6 disorders, when in-state alternatives are available;

7 G. develop reimbursement criteria for licensed
8 child care centers and licensed home providers establishing
9 that accreditation by a department-approved national
10 accrediting body is sufficient qualification for the child care
11 center or home provider to receive the highest reimbursement
12 rate paid by the department;

13 H. assume and implement responsibility for
14 children's mental health and substance abuse services in the
15 state, coordinating with the [~~human services department~~] health
16 care authority and the department of health;

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

19 J. implement prevention and early intervention as a
20 departmental focus;

21 K. conduct biennial assessments of service gaps and
22 needs and establish outcome measurements to address those
23 service gaps and needs, including recommendations from the
24 governor's children's cabinet and the children, youth and
25 families advisory committee;

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1 L. ensure that behavioral health services provided,
2 including mental health and substance abuse services for
3 children, adolescents and their families, shall be in
4 compliance with requirements of Section [~~9-7-6.4~~] 24A-3-1 NMSA
5 1978 and any rules adopted pursuant to that section; [~~and~~]

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

9 [~~M.-~~] N. fingerprint and conduct nationwide criminal
10 history record searches on all department employees, staff
11 members and volunteers whose jobs involve direct contact with
12 department clients, including prospective employees and
13 employees who are promoted, transferred or hired into new
14 positions, and the superiors of all department employees, staff
15 members and volunteers who have direct unsupervised contact
16 with department clients."

17 SECTION 5. Section 32A-1-4 NMSA 1978 (being Laws 1993,
18 Chapter 77, Section 13, as amended) is amended to read:

19 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

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

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

25 C. "child" means a person who is less than eighteen

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1 years old;

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

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

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

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

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

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

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

25 K. "foster parent" means a person, including a

1 relative of the child, licensed or certified by the department
2 or a child placement agency to provide care for children in the
3 custody of the department or agency;

4 L. "guardian" means a person appointed as a
5 guardian by a court or Indian tribal authority or a person
6 authorized to care for the child by a parental power of
7 attorney as permitted by law;

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

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

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

16 (2) eligible for membership in an Indian
17 tribe;

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

21 (1) married; or

22 (2) emancipated;

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

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

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

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

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

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

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

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

23 T. "legal custody" means a legal status created by
24 order of the court or other court of competent jurisdiction or
25 by operation of statute that vests in a person, department or

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

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

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

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

22 (1) reunification;

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

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

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

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

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

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

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

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

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

1 person:

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

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

8 CC. "reservation" means:

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

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

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

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

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

22 FF. "tribal court" means a court with jurisdiction
23 over child custody proceedings that is either a court of Indian
24 offenses, a court established and operated under the law or
25 custom of an Indian tribe or any other administrative body that

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1 is vested by an Indian tribe with authority over child custody
2 proceedings;

3 GG. "tribal court order" means a document issued by
4 a tribal court that is signed by an appropriate authority,
5 including a judge, governor or tribal council member, and that
6 orders an action that is within the tribal court's
7 jurisdiction; and

8 HH. "tribunal" means any judicial forum other than
9 the court."

10 SECTION 6. Section 32A-3A-13 NMSA 1978 (being Laws 2019,
11 Chapter 190, Section 3) is amended to read:

12 "32A-3A-13. PLAN OF CARE--GUIDELINES--CREATION--DATA
13 SHARING--TRAINING.--

14 A. By January 1, 2020, the [~~department~~] health care
15 authority, in consultation with medicaid managed care
16 organizations, private insurers, the office of superintendent
17 of insurance, the [~~human services~~] children, youth and families
18 department and the department of health, shall develop rules to
19 guide hospitals, birthing centers, medical providers, medicaid
20 managed care organizations and private insurers in the care of
21 newborns who exhibit physical, neurological or behavioral
22 symptoms consistent with prenatal drug exposure, withdrawal
23 symptoms from prenatal drug exposure or fetal alcohol spectrum
24 disorder.

25 B. Rules shall include guidelines to hospitals,

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1 birthing centers, medical providers, medicaid managed care
2 organizations and private insurers regarding:

3 (1) participation in the ~~[discharge planning]~~
4 plan of care development process, [including] which may occur
5 at a prenatal medical visit and shall occur prior to a
6 substance-exposed child's discharge from a hospital. The plan
7 of care development process shall allow for the creation of a
8 written plan of care that shall be sent to:

9 (a) the child's primary care physician;
10 (b) a medicaid managed care organization
11 insurance plan care coordinator who will monitor the
12 implementation of the plan of care after ~~[discharge]~~ the plan
13 of care is created, if the child is insured, or to a care
14 coordinator ~~[in the children's medical services of the family~~
15 ~~health bureau of the public health division of the department~~
16 ~~of health]~~ that the authority has contracted with who will
17 monitor the implementation of the plan of care after
18 ~~[discharge]~~ the plan of care is created, if the child is
19 uninsured. The health care authority shall ensure that there
20 is at least one care coordinator available in each birthing
21 hospital in the state at all times and shall contract with care
22 coordinators to ensure that uninsured substance-exposed
23 children receive care coordination; and

24 (c) the child's parent, relative,
25 guardian or caretaker who is present at discharge who shall

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1 receive a copy upon discharge. The plan of care shall be
2 signed by an appropriate representative of the discharging
3 hospital and the child's parent, relative, guardian or
4 caretaker who is present at discharge;

5 (2) definitions and evidence-based screening
6 tools, based on standards of professional practice, to be used
7 by health care providers to identify a child born affected by
8 substance use or withdrawal symptoms resulting from prenatal
9 drug exposure or a fetal alcohol spectrum disorder. The rules
10 shall include a requirement that all hospitals, birthing
11 centers and prenatal care providers use the screening, brief
12 intervention and referral to treatment program at all prenatal
13 medical visits and live births;

14 (3) collection and reporting of data to meet
15 federal and state reporting requirements, including the
16 following:

17 (a) by hospitals and birthing centers to
18 the department when: 1) a plan of care has been developed; and
19 2) a family has been referred for a plan of care;

20 (b) information pertaining to a child
21 born and diagnosed by a health care professional as affected by
22 substance abuse, withdrawal symptoms resulting from prenatal
23 drug exposure or a fetal alcohol spectrum disorder; and

24 (c) data collected by hospitals and
25 birthing centers for use by the children's medical services of

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1 the family health bureau of the public health division of the
2 department of health in epidemiological reports and to support
3 and monitor a plan of care. Information reported pursuant to
4 this subparagraph shall be coordinated with communication to
5 insurance carrier care coordinators to facilitate access to
6 services for children and parents, relatives, guardians or
7 caregivers identified in a plan of care;

8 (4) identification of appropriate agencies to
9 be included as supports and services in the plan of care, based
10 on an assessment of the needs of the child and the child's
11 relatives, parents, guardians or caretakers, performed by a
12 discharge planner prior to the child's discharge from the
13 hospital or birthing center, which: ~~[may include~~

- 14 ~~(a) public health agencies;~~
- 15 ~~(b) maternal and child health agencies;~~
- 16 ~~(c) home visitation programs;~~
- 17 ~~(d) substance use disorder prevention~~
18 ~~and treatment providers;~~
- 19 ~~(e) mental health providers;~~
- 20 ~~(f) public and private children and~~
21 ~~youth agencies;~~
- 22 ~~(g) early intervention and developmental~~
23 ~~services;~~
- 24 ~~(h) courts;~~
- 25 ~~(i) local education agencies;~~

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1 ~~(j) managed care organizations; or~~
2 ~~(k) hospitals and medical providers;~~
3 and]

4 (a) shall include: 1) home visitation
5 programs; and 2) substance use disorder prevention and
6 treatment providers; and

7 (b) may include: 1) public health
8 agencies; 2) maternal and child health agencies; 3) mental
9 health providers; 4) infant mental health providers; 5) public
10 and private children and youth agencies; 6) early intervention
11 and developmental services; 7) courts; 8) local education
12 agencies; 9) managed care organizations; or 10) hospitals and
13 medical providers;

14 (5) engagement of the child's relatives,
15 parents, guardians or caretakers in order to identify the need
16 for access to treatment for any substance use disorder or other
17 physical or behavioral health condition that may impact the
18 safety, early childhood development and well-being of the
19 child; and

20 (6) implementation of plans of care that shall
21 include:

22 (a) requirements for care coordinators
23 to actively work with pregnant persons or a substance-exposed
24 child's parents, relatives, guardians, family members or
25 caregivers to refer and connect the pregnant person or

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1 substance-exposed child's parents, relatives, guardians, family
2 members or caregivers to necessary services. Care coordinators
3 shall use an evidence-based intensive care coordination model
4 that is listed in the federal Title IV-E prevention services
5 clearinghouse or another nationally recognized evidence-based
6 clearinghouse for child welfare; and

7 (b) if a pregnant person or a substance-
8 exposed child's parents, relatives, guardians, family members
9 or caregivers are not following the plan of care, requirements
10 that care coordinators make attempts to contact and provide
11 support services to persons who are not following the plan of
12 care. Care coordinators shall attempt to make contact with
13 persons who are not following the plan of care in person, by
14 mail, by phone call and by text message.

15 C. Reports made pursuant to Paragraph (3) of
16 Subsection B of this section shall be collected by the
17 department as distinct and separate from any child abuse report
18 as captured and held or investigated by the department, such
19 that the reporting of a plan of care shall not constitute a
20 report of suspected child abuse and neglect and shall not
21 initiate investigation by the department or a report to law
22 enforcement.

23 D. The department shall summarize and report data
24 received pursuant to Paragraph (3) of Subsection B of this
25 section at intervals as needed to meet federal regulations.

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1 E. ~~The [children's medical services of the family~~
2 ~~health bureau of the public health division of the department~~
3 ~~of health shall collect and record data reported pursuant to~~
4 ~~Subparagraph (c) of Paragraph (3) of Subsection B of this~~
5 ~~section to support and monitor care coordination of plans of~~
6 ~~care for children born without insurance]~~ health care authority
7 shall provide an annual report to the legislative finance
8 committee, the interim legislative health and human services
9 committee and the department of finance and administration on
10 the status of the plan of care system. The report shall
11 include the following aggregate statistical information related
12 to the creation of plans of care:

13 (1) the primary substances that infants were
14 exposed to;

15 (2) the services that infants and families
16 were referred to;

17 (3) the uptake rate of services;

18 (4) whether an infant or an infant's family
19 was subsequently reported to the children, youth and families
20 department; and

21 (5) demographic and geographic data.

22 F. Reports made pursuant to the requirements in
23 this section shall not be construed to relieve a person of the
24 requirement to report to the department knowledge of or a
25 reasonable suspicion that a child is an abused or neglected

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1 child based on criteria as defined by Section 32A-4-2 NMSA
2 1978.

3 G. The department and the health care authority
4 shall work in consultation with the department of health to
5 create and distribute training materials to support and educate
6 discharge planners or social workers on the following:

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

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

14 (3) how to assess whether to create a plan of
15 care when a referral to the department is not required; and

16 (4) the creation and deployment of a plan of
17 care.

18 H. ~~[Nø]~~ A person shall not have a cause of action
19 for any loss or damage caused by any act or omission resulting
20 from the implementation of the provisions of Subsection G of
21 this section or resulting from any training, or lack thereof,
22 required by Subsection G of this section.

23 I. The training, or lack thereof, required by the
24 provisions of Subsection G of this section shall not be
25 construed to impose any specific duty of care."

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1 SECTION 7. Section 32A-3A-14 NMSA 1978 (being Laws 2019,
2 Chapter 190, Section 4) is amended to read:

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

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

25 B. As used in this section, "family assessment"

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1 means a comprehensive assessment prepared by the department at
2 the time the department receives notification of failure to
3 comply with the plan of care to determine the needs of a child
4 and the child's parents, relatives, guardians or caretakers,
5 including an assessment of the likelihood of:

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

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

15 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
16 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--
17 NOTIFICATION OF PLAN OF CARE.--

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

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1 matter immediately to:

- 2 (1) a local law enforcement agency;
- 3 (2) the department; or
- 4 (3) a tribal law enforcement or social
- 5 services agency for any Indian child residing in Indian
- 6 country.

7 B. A law enforcement agency receiving the report

8 shall immediately transmit the facts of the report and the

9 name, address and phone number of the reporter by telephone to

10 the department and shall transmit the same information in

11 writing within forty-eight hours. The department shall

12 immediately transmit the facts of the report and the name,

13 address and phone number of the reporter by telephone to a

14 local law enforcement agency and shall transmit the same

15 information in writing within forty-eight hours. The written

16 report shall contain the names and addresses of the child and

17 the child's parents, guardian or custodian, the child's age,

18 the nature and extent of the child's injuries, including any

19 evidence of previous injuries, and other information that the

20 maker of the report believes might be helpful in establishing

21 the cause of the injuries and the identity of the person

22 responsible for the injuries. The written report shall be

23 submitted upon a standardized form agreed to by the law

24 enforcement agency and the department.

25 C. The recipient of a report under Subsection A of

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

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

19 E. A law enforcement agency or the department shall
20 have access to any of the records pertaining to a child abuse
21 or neglect case maintained by any of the persons enumerated in
22 Subsection A of this section, except as otherwise provided in
23 the Abuse and Neglect Act.

24 F. A person who violates the provisions of
25 Subsection A of this section is guilty of a misdemeanor and

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1 shall be sentenced pursuant to the provisions of Section
2 31-19-1 NMSA 1978.

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

17 H. A volunteer, contractor or staff of a hospital,
18 [~~or~~] freestanding birthing center or clinic that provides
19 prenatal care shall:

20 (1) complete a written plan of care for a
21 substance-exposed newborn or a pregnant person who agrees to
22 creating a plan of care, as provided for by department rule and
23 the Children's Code; and

24 (2) provide notification to the department and
25 the health care authority. Notification by a health care

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1 provider pursuant to this paragraph shall not be construed as a
2 report of child abuse or neglect.

3 I. As used in this section, "notification" means
4 informing the department and the health care authority that a
5 substance-exposed newborn was born and providing a copy of the
6 plan of care that was created for the child; provided that
7 notification shall comply with federal guidelines and shall not
8 constitute a report of child abuse or neglect.

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

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

13 "32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

14 A. The department shall establish a multilevel
15 response system to evaluate and provide services to a child or
16 the family, relatives, caretakers or guardians of a child with
17 respect to whom a report alleging neglect or abuse has been
18 made. The multilevel response system may include an
19 alternative to investigation upon completion of an evaluation
20 that may be completed at intake by the department, the results
21 of which indicate that there is no immediate concern for the
22 child's safety; provided, however, that an investigation shall
23 be conducted for any report:

24 (1) alleging sexual abuse of a child or
25 serious or imminent harm to a child;

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- 1 (2) indicating a child fatality;
- 2 (3) requiring law enforcement involvement, as
- 3 identified pursuant to rules promulgated by the department; or
- 4 (4) requiring a specialized assessment or a
- 5 traditional investigative approach, as determined pursuant to
- 6 rules promulgated by the department.

7 B. The department may remove a case from the

8 multilevel response system and conduct an investigation if

9 imminent danger of serious harm to the child becomes evident.

10 The department may reassign a case from investigation to the

11 multilevel response system at the discretion of the department.

12 C. For each family, including the child who is the

13 subject of a report to the department and that child's

14 relatives, caretakers or guardians, that receives services

15 under the multilevel response system, the department shall

16 conduct a family assessment. Based on the results of the

17 family assessment, the department may offer or provide

18 referrals for counseling, training or other services aimed at

19 addressing the underlying causative factors jeopardizing the

20 safety or well-being of the child who is the subject of a

21 report to the department. A family member, relative, caretaker

22 or guardian may choose to accept or decline any services or

23 programs offered under the multilevel response system;

24 provided, however, that if a family member, relative, caretaker

25 or guardian declines services, the department may choose to

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1 proceed with an investigation.

2 D. The department shall employ licensed social
3 workers to provide services to families, relatives, caretakers
4 or guardians participating in the multilevel response system to
5 the extent that licensed social workers are available for
6 employment.

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

9 ~~F. The department may limit implementation of the~~
10 ~~multilevel response system to areas of the state where~~
11 ~~appropriate services are available and operate the system~~
12 ~~within available state and federal resources.]~~

13 G.] E. The department shall:

14 (1) provide an annual report of system
15 implementation and outcomes to the legislative finance
16 committee, the interim legislative health and human services
17 committee, the interim committee that studies courts,
18 corrections and justice and the department of finance and
19 administration as part of the department's budget submission;

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

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

25 (4) develop performance measures, as provided

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1 in the Accountability in Government Act, for the multilevel
2 response system; and

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

11 [~~H.~~] F. The department shall promulgate rules to
12 implement the provisions of this section.

13 [~~F.~~] G. As used in this section, "family
14 assessment" means a comprehensive, evidence-based assessment
15 tool used by the department to determine the needs of a child
16 and the child's family, relatives, caretakers or guardians at
17 the time the department receives a report of child abuse and
18 neglect, including an assessment of the likelihood of:

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

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

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

25 SECTION 10. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] SHORT TITLE.--Sections 10 through 13 of
3 this act may be cited as the "Families First Act"."

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

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

8 A. "families first services" means foster care
9 prevention services categorized pursuant to the federal Title
10 IV-E prevention services clearinghouse as well-supported,
11 supported or promising that are included in the families first
12 strategic plan implemented pursuant to the Families First Act
13 and are provided by the department through the implementation
14 of that strategic plan; and

15 B. "families first strategic plan" means the plan
16 required pursuant to the Families First Act that is developed
17 and implemented by the department in accordance with the
18 regulations and requirements set forth in the federal Family
19 First Prevention Services Act."

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

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

24 A. In consultation with the early childhood
25 education and care department, the health care authority and

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1 the department of health, the department shall develop and
2 implement the families first strategic plan. In developing the
3 families first strategic plan, the department shall:

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

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

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

12 (1) include a comprehensive description of the
13 department's responsibilities and duties for providing families
14 first services;

15 (2) include a comprehensive and detailed list
16 of each of the families first services the department will
17 provide to eligible persons and affirm that each service to be
18 provided:

19 (a) is eligible for reimbursement
20 pursuant to the federal Family First Prevention Services Act;
21 and

22 (b) is rated as promising, supported or
23 well-supported in accordance with the Title IV-E prevention
24 services clearinghouse;

25 (3) identify all network services providers,

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1 including other state agencies, that the department will use
2 for providing families first services. If services are
3 provided by another state agency, the department, together with
4 the other state agency, shall establish safety monitoring
5 protocols for direct monitoring of the services provided by
6 that agency and, for each provider used by the department, list
7 the specific families first service that the network services
8 provider will provide, including:

- 9 (a) mental health or substance abuse
10 prevention and treatment;
- 11 (b) in-home parent skill-based programs;
- 12 (c) kinship navigator programs; or
- 13 (d) any other programs or services that
14 are eligible or become eligible for reimbursement pursuant to
15 the federal Family First Prevention Services Act;

16 (4) identify and define the population of
17 eligible persons who may receive families first services and
18 include, at a minimum:

- 19 (a) a child who is a candidate for
20 foster care but who can remain safely at home with the
21 provision of evidence-based services;
- 22 (b) a parent, guardian or caregiver of a
23 child at risk of entering foster care;
- 24 (c) a pregnant or parenting youth in
25 foster care; and

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1 (d) other eligible persons identified by
2 the department;

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

6 (6) identify processes and procedures to be
7 established and followed by the department to maximize federal
8 reimbursements, funding and resources available to the
9 department to provide families first services;

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

14 (8) establish appropriate metrics the
15 department will use to determine and evaluate outcomes from the
16 department's providing of families first services pursuant to
17 the Families First Act, including outcomes related specifically
18 to subsequent substantiated reports of maltreatment and the
19 numbers of children entering foster care;

20 (9) establish an appropriate time line and
21 strategy for providing families first services statewide. The
22 time line shall include the following:

23 (a) no later than June 30, 2027, the
24 department shall provide families first services through a
25 pilot program that is designed for implementation considering

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1 factors such as county population density and rates of child
2 maltreatment and repeat maltreatment; and

3 (b) no later than June 30, 2032, the
4 department shall provide statewide implementation of families
5 first services rolled out in a manner consistent with the best
6 practices derived from the evaluation of the observation,
7 experiences and discernible outcomes of the pilot program;

8 (10) provide a detailed description of how the
9 department will continuously monitor the families first
10 strategic plan, from development of the plan through the pilot
11 program phase and to statewide implementation. Included in
12 that description shall be how the department will monitor key
13 factors likely to best ensure fidelity to the service model
14 developed within the families first strategic plan; and

15 (11) establish the appropriate information to
16 include in an annual report to be provided by the department to
17 the legislative finance committee, the interim legislative
18 health and human services committee and the governor. At a
19 minimum, the annual report shall include the following
20 information:

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

23 (b) data, without inclusion of personal
24 identifier information, regarding the uptake and program
25 completion among eligible individuals of families first

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1 services, including the area of the state in which the services
2 were accessed;

3 (c) performance results regarding
4 identified outcome measures, to include aggregate data about
5 child participant placement status at the beginning of services
6 and one year after services and whether the child entered
7 foster care within two years after being determined a candidate
8 for foster care and receiving families first services; and

9 (d) fiscal information regarding program
10 and service expenditures and disaggregating state and federal
11 revenue sources.

12 C. For the purposes of this subsection, "approving
13 authority" means the federal administration for children and
14 families. The department shall:

15 (1) no later than August 1, 2025, finalize the
16 provisions of the families first strategic plan, post the plan
17 to the department's website and provide a copy of the plan to
18 the legislative finance committee, the interim legislative
19 health and human services committee and the governor;

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

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

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

25 (3) if a submitted strategic plan is not

1 approved and the approving authority indicates that to secure
2 an approval, the strategic plan must be revised, as soon as
3 practicable:

4 (a) revise the families first strategic
5 plan in accordance with the revisions required by the approving
6 authority; and

7 (b) submit the revised strategic plan to
8 the approving authority; and

9 (4) include in the department's reports
10 required pursuant to the Families First Act the status of each
11 families first strategic plan submitted to the approving
12 authority for approval, including any specific revisions
13 required, the dates of submissions and the dates of approval or
14 nonapproval by the approving authority for each submitted
15 strategic plan and any other relevant information related to
16 the status of a families first strategic plan submitted to the
17 approving authority by the department.

18 D. No later than July 1, 2026, and by each July 1
19 thereafter, the department shall post the annual report as
20 established in the families first strategic plan pursuant to
21 the Families First Act to the department's website, and the
22 department shall submit the annual report to the legislative
23 finance committee, the interim legislative health and human
24 services committee and the governor."

25 SECTION 13. A new section of the Children's Code is

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1 enacted to read:

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

5 SECTION 14. Section 32A-4-21 NMSA 1978 (being Laws 1993,
6 Chapter 77, Section 115, as amended) is amended to read:

7 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
8 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

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

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

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

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

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

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

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

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

24 (6) a description of the home or facility in
25 which the child is placed and the appropriateness of the

1 child's placement;

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

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

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

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

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

22 (12) a description of the child's foster care
23 placement and whether it is appropriate in terms of the
24 educational setting and proximity to the school the child was
25 enrolled in at the time of the placement, including plans for

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

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

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

11 SECTION 15. Section 32A-4-33 NMSA 1978 (being Laws 1993,
12 Chapter 77, Section 127, as amended) is amended to read:

13 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

14 A. All records or information concerning a party to
15 a neglect or abuse proceeding, including social records,
16 diagnostic evaluations, psychiatric or psychological reports,
17 videotapes, transcripts and audio recordings of a child's
18 statement of abuse or medical reports incident to or obtained
19 as a result of a neglect or abuse proceeding or that were
20 produced or obtained during an investigation in anticipation of
21 or incident to a neglect or abuse proceeding shall be
22 confidential and closed to the public.

23 B. The records described in Subsection A of this
24 section shall be disclosed only to the parties and:

25 (1) court personnel and persons or entities

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1 authorized by contract with the court to review, inspect or
2 otherwise have access to records or information in the court's
3 possession;

4 (2) court-appointed special advocates
5 appointed to the neglect or abuse proceeding;

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

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

10 (5) department personnel and persons or
11 entities authorized by contract with the department to review,
12 inspect or otherwise have access to records or information in
13 the department's possession;

14 (6) ~~[any local substitute care review board or~~
15 ~~any agency contracted to implement local substitute care review~~
16 ~~boards]~~ a staff member of the substitute care advisory council,
17 if the records are requested for the purpose of carrying out
18 the provisions of the Citizen Substitute Care Review Act;

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

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

23 (9) any state government or tribal government
24 social services agency in any state or when, in the opinion of
25 the department, it is in the best interest of the child, a

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1 governmental social services agency of another country;

2 (10) a foster parent, if the records are those
3 of a child currently placed with that foster parent or of a
4 child being considered for placement with that foster parent
5 and the records concern the social, medical, psychological or
6 educational needs of the child;

7 (11) school personnel involved with the child
8 if the records concern the child's social or educational needs;

9 (12) a grandparent, parent of a sibling,
10 relative or fictive kin, if the records or information pertain
11 to a child being considered for placement with that
12 grandparent, parent of a sibling, relative or fictive kin and
13 the records or information concern the social, medical,
14 psychological or educational needs of the child;

15 (13) health care or mental health
16 professionals involved in the evaluation or treatment of the
17 child or of the child's parents, guardian, custodian or other
18 family members;

19 (14) protection and advocacy representatives
20 pursuant to the federal Developmental Disabilities Assistance
21 and Bill of Rights Act and the federal Protection and Advocacy
22 for Mentally Ill Individuals Amendments Act of 1991;

23 (15) children's safehouse organizations
24 conducting investigatory interviews of children on behalf of a
25 law enforcement agency or the department;

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1 (16) representatives of the federal government
2 or their contractors authorized by federal statute or
3 regulation to review, inspect, audit or otherwise have access
4 to records and information pertaining to neglect or abuse
5 proceedings;

6 (17) any person or entity attending a meeting
7 arranged by the department to discuss the safety, well-being
8 and permanency of a child, when the parent or child, or parent
9 or legal custodian on behalf of a child younger than fourteen
10 years of age, has consented to the disclosure; and

11 (18) any other person or entity, by order of
12 the court, having a legitimate interest in the case or the work
13 of the court.

14 C. A parent, guardian or legal custodian whose
15 child has been the subject of an investigation of abuse or
16 neglect where no petition has been filed shall have the right
17 to inspect any medical report, psychological evaluation, law
18 enforcement reports or other investigative or diagnostic
19 evaluation; provided that any identifying information related
20 to the reporting party or any other party providing information
21 shall be deleted. The parent, guardian or legal custodian
22 shall also have the right to the results of the investigation
23 and the right to petition the court for full access to all
24 department records and information except those records and
25 information the department finds would be likely to endanger

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1 the life or safety of any person providing information to the
2 department.

3 D. Whoever intentionally and unlawfully releases
4 any information or records closed to the public pursuant to the
5 Abuse and Neglect Act or releases or makes other unlawful use
6 of records in violation of that act is guilty of a petty
7 misdemeanor and shall be sentenced pursuant to the provisions
8 of Section 31-19-1 NMSA 1978.

9 E. The department shall promulgate rules for
10 implementing disclosure of records pursuant to this section and
11 in compliance with state and federal law and the Children's
12 Court Rules."

13 SECTION 16. Section 32A-8-2 NMSA 1978 (being Laws 1993,
14 Chapter 77, Section 204, as amended) is amended to read:

15 "32A-8-2. PURPOSE OF ACT.--The purpose of the Citizen
16 Substitute Care Review Act is to provide a permanent system for
17 independent and objective monitoring [~~of children placed in the~~
18 ~~custody~~] of the department by examining the policies,
19 procedures and practices of the department and, where
20 appropriate, specific cases to evaluate [~~the extent to which~~
21 ~~the department is effectively~~] its effectiveness in discharging
22 its child protection responsibilities and to meet federal
23 requirements for citizen review panels under the federal Child
24 Abuse Prevention and Treatment Act."

25 SECTION 17. A new section of the Citizen Substitute Care

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1 Review Act is enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Citizen
3 Substitute Care Review Act:

4 A. "board" means a substitute care review board of
5 volunteer members facilitated by council staff convened for the
6 purpose of reviews of designated cases or other related
7 activities deemed appropriate by the council;

8 B. "case" means an abuse or neglect case referred
9 to the department;

10 C. "council" means the substitute care advisory
11 council;

12 D. "identified adult" means an adult participating
13 in the fostering connections program or that program's
14 successor;

15 E. "identified child" means a child who is:

16 (1) the subject of a referral of abuse and
17 neglect made to the department;

18 (2) receiving services from the department; or

19 (3) in the custody of the department due to
20 abuse and neglect proceedings;

21 F. "public member" means an individual who has been
22 appointed by the governor;

23 G. "substitute care" means custodial or residential
24 care for an identified child that is ordered or otherwise
25 sanctioned by the court and in which the child does not live

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1 with either of the child's birth parents. "Substitute care"
2 includes foster care, kinship care or care within a group home,
3 residential treatment center, juvenile justice facility, semi-
4 independent living program or emergency shelter; and

5 H. "volunteer member" means an individual who has
6 met eligibility requirements to perform volunteer services for
7 the council."

8 SECTION 18. Section 32A-8-4 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 206, as amended) is amended to read:

10 "32A-8-4. SUBSTITUTE CARE ADVISORY COUNCIL--MEMBERS--
11 COMPENSATION--RESPONSIBILITIES--ADVISORY COMMITTEE.--

12 A. The "substitute care advisory council" is
13 created [~~and, in accordance with the provisions of Section~~
14 ~~9-1-7 NMSA 1978, is administratively attached to the regulation~~
15 ~~and licensing department. The general purpose of the council~~
16 ~~is to oversee substitute care review boards in their monitoring~~
17 ~~of children placed in the custody of the children, youth and~~
18 ~~families department to identify systemic policy issues~~
19 ~~regarding substitute care]~~ in the administrative office of the
20 courts. The council shall exercise its functions independently
21 and not under the control of the administrative office of the
22 courts. The council shall be composed of [~~nine persons~~] ten
23 voting members, including:

24 (1) the secretary of public education or the
25 secretary's designee;

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1 (2) the secretary of [~~human services~~] health
2 care authority or the secretary's designee;

3 (3) the secretary of finance and
4 administration or the secretary's designee;

5 (4) the secretary of health or the secretary's
6 designee;

7 [~~(5) two public members, appointed by the~~
8 ~~governor, who:~~

9 (a) ~~are at least eighteen and no more~~
10 ~~than thirty years of age at the time of appointment; and~~

11 (b) ~~were previously placed in substitute~~
12 ~~care;~~

13 (6) ~~two public members, appointed by the~~
14 ~~governor, who have expertise in the area of child welfare; and]~~

15 (5) the secretary of early childhood education
16 and care or the secretary's designee;

17 [~~(7)~~] (6) one children's court judge,
18 appointed by the governor; and

19 (7) four public members, two of whom have
20 expertise in the area of child welfare and two of whom have had
21 experience in abuse and neglect proceedings, including former
22 foster youth, biological parents, foster parents and adoptive
23 parents.

24 B. [~~The council may hire staff and contract for~~
25 ~~services to carry out the purposes of the Citizen Substitute~~

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1 ~~Care Review Act.]~~ The secretary of children, youth and families
2 or the secretary's designee shall serve as a nonvoting member.

3 C. Except as provided pursuant to Paragraph [~~(7)~~]
4 (6) of Subsection A and Subsection B of this section, a person
5 or a relative of a person employed by the department or a
6 district court shall not serve on the council.

7 [~~D.~~] D. Terms of office of public members of the
8 council shall be three years. Public members shall be eligible
9 for reappointment. In the event that a vacancy occurs among
10 the members of the council, the governor shall appoint another
11 person to serve the unexpired portion of the term.

12 E. A member of the council shall be entitled to
13 receive per diem and mileage as provided for nonsalaried public
14 officers pursuant to the Per Diem and Mileage Act; provided
15 that, if a different provision of that act applies to a member,
16 that member shall be paid pursuant to that provision. A member
17 of the council shall receive no other compensation, perquisite
18 or allowance.

19 [~~D.~~] F. The council shall select a chairperson, a
20 vice chairperson and other officers as it deems necessary.

21 [~~E.~~] G. The council shall meet no less than [~~twice~~
22 ~~annually~~] quarterly and more frequently upon the call of the
23 chairperson.

24 H. The council shall, on or before October 1 of
25 each year, designate cases for review that involve children in

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1 substitute care who:

2 (1) are under the age of five; or

3 (2) have remained in substitute care for
4 longer than six months.

5 I. The council may establish work groups and enter
6 into contracts, memoranda of understanding and joint powers
7 agreements to carry out the provisions of the Citizen
8 Substitute Care Review Act.

9 ~~[F.]~~ J. The council shall adopt reasonable rules
10 relating to the functions and procedures of ~~[the substitute~~
11 ~~care review boards and]~~ the council ~~[in accordance with the~~
12 ~~duties of the boards as provided in the Citizen Substitute Care~~
13 ~~Review Act]~~. These rules shall establish:

14 ~~(1) establish training requirements for~~
15 ~~substitute care review board members;~~

16 ~~(2) establish criteria for council designation~~
17 ~~of cases for substitute care review board review;~~

18 ~~(3) establish procedures for substitute care~~
19 ~~review board review of designated cases;~~

20 ~~(4) establish criteria for membership and~~
21 ~~tenure on and operating procedures for substitute care review~~
22 ~~boards;~~

23 ~~(5) specify the information needed for~~
24 ~~designated cases to be monitored by substitute care review~~
25 ~~boards; and~~

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1 ~~(6) specify case information to be tracked and~~
2 ~~reported to the council.~~

3 G. ~~When adopting rules establishing criteria for~~
4 ~~designation of cases for substitute care review board review,~~
5 ~~the council shall weigh the importance of the following~~
6 ~~factors, including:~~

7 ~~(1) sibling placements;~~

8 ~~(2) the frequency and severity of neglect or~~
9 ~~abuse;~~

10 ~~(3) the behavioral health status of household~~
11 ~~members;~~

12 ~~(4) the placement of children in households~~
13 ~~where there are no relatives of the children;~~

14 ~~(5) data related to demographics; and~~

15 ~~(6) relevant trend data]~~

16 (1) procedures to ensure compliance with the
17 Open Meetings Act;

18 (2) initial and annual training requirements
19 for council staff;

20 (3) requirements for public participation,
21 including participation on work groups and boards;

22 (4) procedures for the council's review of
23 designated cases;

24 (5) procedures to provide for public outreach
25 and public comment to assess the impact of current child

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1 protection procedures and practices on children and families in
2 the community; and

3 (6) other procedures to provide for compliance
4 with the Citizen Substitute Care Review Act and the federal
5 Child Abuse Prevention and Treatment Act as it relates to
6 citizen review panels.

7 ~~[H.] K. The council shall [review and coordinate~~
8 ~~the activities of the substitute care review boards and make a~~
9 ~~report with its recommendations to the department, the courts~~
10 ~~and the appropriate legislative interim committees] provide~~
11 periodic reports on the work of the council, including an
12 annual written report to the governor, the appropriate
13 legislative interim committee studying courts, corrections and
14 justice, the legislative finance committee, the legislative
15 health and human services committee, the department, the
16 administrative office of the courts and other persons,
17 organizations or agencies deemed appropriate. The annual
18 report shall be distributed electronically on or before
19 November 1 of each year [regarding statutes, rules, policies
20 and procedures relating to substitute care]. This report shall
21 include [recommendations for any changes to substitute care
22 review boards.

23 ~~I. Council members shall receive per diem and~~
24 ~~mileage as provided for nonsalaried public officers in the Per~~
25 ~~Diem and Mileage Act; provided that, if a different provision~~

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1 of that act applies to a specific member, that member shall be
2 paid pursuant to that applicable provision. Members shall
3 receive no other compensation, perquisite or allowance.

4 J. The council shall appoint by October 1 of each
5 year a six-member advisory committee from a list of substitute
6 care review board members that the substitute care review
7 boards shall nominate. The advisory council shall meet with
8 the council at least once per year to advise the council on
9 matters relating to substitute care review. Advisory committee
10 members shall serve terms of one year and may be reappointed] a
11 summary of the activities of the council and recommendations to
12 improve child protective services at the state and local
13 levels. Other reports regarding trends or topics deemed
14 necessary by the council may be provided to the governor, the
15 legislature, the department and the administrative office of
16 the courts."

17 SECTION 19. A new section of the Citizen Substitute Care
18 Review Act is enacted to read:

19 "[NEW MATERIAL] COUNCIL ADMINISTRATION--STAFFING.--

20 A. The council shall hire a director who:

21 (1) shall oversee, manage and direct
22 processing of cases filed or reviewed pursuant to the Citizen
23 Substitute Care Review Act, provide administrative support to
24 the council and conduct any other activities as deemed
25 necessary by the council to support its functions;

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1 (2) shall act impartially in a nonpartisan
2 manner;

3 (3) shall promote public awareness of the
4 purpose and services of the council and the methods for
5 submitting requests for case review;

6 (4) shall employ staff for the council and fix
7 compensation of the staff;

8 (5) shall prepare a budgetary request to be
9 submitted through the administrative office of the courts; and

10 (6) may apply for and accept grants, gifts and
11 bequests from other states, federal and interstate agencies,
12 independent authorities, private firms, individuals and
13 foundations for the purpose of carrying out the
14 responsibilities of the council.

15 B. The director shall possess the following
16 qualifications:

17 (1) a master's degree in social work and
18 possession of a license issued pursuant to the Social Work
19 Practice Act; or

20 (2) an active license to practice law issued
21 pursuant to rules promulgated by the supreme court; and

22 (3) at least five years' experience in child
23 welfare, with an emphasis on child abuse and neglect prevention
24 or abatement.

25 C. The director shall hire staff to carry out the

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1 purposes of the Citizen Substitute Care Review Act, including
2 review of cases. Council staff providing professional services
3 shall possess:

4 (1) a bachelor's degree in social work,
5 psychology, guidance and counseling, education, sociology,
6 criminal justice, criminology or family studies and at least
7 two years of experience in child welfare administration with an
8 emphasis on child abuse and neglect prevention or abatement; or

9 (2) at least four years of experience combined
10 from:

11 (a) study at an accredited college or
12 university in a field related to child welfare; or

13 (b) professional experience working in
14 the field of child welfare.

15 D. Council staff shall be required to complete
16 annual training directly relating to enhancing staff
17 proficiency, meeting job requirements and conducting case
18 reviews required pursuant to the Citizen Substitute Care Review
19 Act."

20 SECTION 20. A new section of the Citizen Substitute Care
21 Review Act is enacted to read:

22 "[NEW MATERIAL] ATTORNEY GENERAL REPRESENTATION AND
23 CONSULTATION.--The attorney general shall advise and consult
24 with the council, acting pursuant to the Citizen Substitute
25 Care Review Act, and render legal services upon request of the

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1 council."

2 SECTION 21. A new section of the Citizen Substitute Care
3 Review Act is enacted to read:

4 "[NEW MATERIAL] VOLUNTEER MEMBER PARTICIPATION--RULES.--

5 A. The council shall promulgate rules relating to
6 volunteer member participation, which shall include provisions
7 for:

8 (1) efforts to recruit and retain volunteer
9 members who are broadly representative of the communities in
10 which they serve and to include volunteer members with
11 expertise in the prevention and treatment of child abuse and
12 neglect and adult former victims of child abuse or neglect;

13 (2) a membership process that includes
14 background checks and orientation training;

15 (3) ongoing training requirements;

16 (4) procedures to address actual, perceived or
17 possible conflicts of interest;

18 (5) a code of conduct; and

19 (6) procedures to maintain confidentiality of
20 information required to be kept confidential as required by
21 law.

22 B. Each volunteer member who meets the requirements
23 established by council rules shall participate at least once
24 quarterly in case reviews and other activities deemed
25 appropriate by council staff.

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1 C. Volunteer members may receive per diem and
2 mileage as provided for nonsalaried public officers in the Per
3 Diem and Mileage Act; provided that if a different provision of
4 that act applies to a specific member, that member shall be
5 paid pursuant to that applicable provision. Members shall
6 receive no other compensation, perquisite or allowance."

7 SECTION 22. A new section of the Citizen Substitute Care
8 Review Act is enacted to read:

9 "[NEW MATERIAL] SUBSTITUTE CARE REVIEW BOARD
10 ESTABLISHMENT--CASE REVIEW.--

11 A. The council shall establish boards composed
12 entirely of volunteer members to review cases designated in
13 accordance with council rules.

14 B. When a case has been designated for review
15 pursuant to Subsection H of Section 32A-8-4 NMSA 1978, the
16 staff of the council shall convene a board to review the case.

17 C. If a case reviewed by a board is a children's
18 court case, the staff of the council shall give the parties to
19 the case notice of the review and afford the parties to the
20 case an opportunity to provide input relevant to the review.
21 If the case involves an Indian child, notice shall additionally
22 be provided to persons afforded notice pursuant to the Indian
23 Family Protection Act.

24 D. After a board's review of a children's court
25 case, council staff shall submit a report of the board's

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1 findings and recommendations to the children's court, the
2 department and the parties to the case. If the case involves
3 an Indian child, the report shall additionally be provided to
4 persons afforded notice pursuant to the Indian Family
5 Protection Act.

6 E. The department shall:

7 (1) acknowledge receipt of the report within
8 ten business days; and

9 (2) within thirty days of receipt, provide a
10 response to the board's findings and recommendations, including
11 plans for adopting the recommendations or taking alternative
12 action.

13 F. Council staff and the department shall meet
14 quarterly, or as needed to work toward mutually agreed-upon
15 outcomes."

16 SECTION 23. A new section of the Citizen Substitute Care
17 Review Act is enacted to read:

18 "[NEW MATERIAL] ACCESS TO RECORDS.--

19 A. Subject to state or federal law to the contrary,
20 council staff shall have access to, including the right to
21 inspect and copy, any records necessary to carry out council
22 responsibilities, including access to the following:

23 (1) social records, diagnostic evaluations,
24 psychiatric or psychological reports, video footage,
25 transcripts and audio records of a child's statement of abuse

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1 or medical reports incident to an abuse or neglect proceeding;

2 (2) a record of an agency, hospital,
3 organization, school, person or office, including the clerk of
4 the court, the department, a court-appointed special advocate
5 program, a public or private health care facility, a medical or
6 mental health care professional, a law enforcement agency or
7 other agency that provides services to children and families;

8 (3) a record of an administrative hearing
9 conducted by the department and any findings or conclusions
10 resulting from such hearing; and

11 (4) a record of a private meeting with a child
12 in protective custody or with an individual with knowledge of
13 the case or grievance.

14 B. The department shall establish procedures to
15 provide the requested records in a timely manner.

16 C. The department shall:

17 (1) establish procedures to provide the
18 requested records in a timely manner and to ensure staff
19 availability to provide input for case reviews; and

20 (2) ensure that its agents and contractors
21 provide requested records in a timely manner and ensure staff
22 availability to provide input for case reviews.

23 D. The department or its agent or contractor shall
24 not discharge, discriminate against in any manner or retaliate
25 against an employee, volunteer or contractor who, in good

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1 faith, communicates with the council about a case review or
2 provision of records pursuant to this section."

3 SECTION 24. A new section of the Citizen Substitute Care
4 Review Act is enacted to read:

5 "[NEW MATERIAL] CONFIDENTIALITY OF INFORMATION.--

6 A. Information obtained or generated by a member of
7 the council, a staff member of the council or a member of a
8 board for the purpose of performing duties in compliance with
9 the Citizen Substitute Care Review Act is not subject to the
10 provisions of the Inspection of Public Records Act.

11 B. The name, address or other personally
12 identifiable information of a person whose records are released
13 to council staff are confidential.

14 C. A member of the council, a staff member of the
15 council or a member of a board with knowledge of a case that
16 was obtained pursuant to the Citizen Substitute Care Review Act
17 shall maintain that information as confidential unless:

18 (1) the identified child or identified adult
19 who is the subject of the case consents in writing to
20 disclosure of that information to another person;

21 (2) the identified child or identified adult
22 who is the subject of the case provides oral consent for
23 disclosure to another person that is immediately documented in
24 writing by council staff; or

25 (3) disclosure is ordered by a court."

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1 **SECTION 25. TEMPORARY PROVISION.--**On July 1, 2025:

2 A. the functions, employees, money, appropriations,
3 records, equipment and other property of the regulation and
4 licensing department pertaining to the substitute advisory care
5 council shall be transferred from the regulation and licensing
6 department to the administrative office of the courts;

7 B. all contractual obligations pertaining to the
8 substitute advisory care council shall be deemed to be
9 contractual obligations of the administrative office of the
10 courts; and

11 C. statutory references to the substitute advisory
12 care council or other functions transferred from the
13 registration and licensing department to the administrative
14 office of the courts shall be deemed to be references to the
15 administrative office of the courts.

16 **SECTION 26. REPEAL.--**Sections 32A-8-5 and 32A-8-6 NMSA
17 1978 (being Laws 1993, Chapter 77, Sections 207 and 208, as
18 amended) are repealed.

19 **SECTION 27. EFFECTIVE DATE.--**The effective date of the
20 provisions of this act is July 1, 2025.