

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 458

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

AN ACT

RELATING TO CHILD WELFARE; 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
IDENTIFY AND PROVIDE FOSTER CARE PREVENTION SERVICES THAT MEET
THE REQUIREMENTS OF THE FEDERAL FAMILY FIRST PREVENTION
SERVICES ACT; PROVIDING FOR CHILDREN, YOUTH AND FAMILIES
DEPARTMENT CONSULTATION WITH THE EARLY CHILDHOOD EDUCATION AND
CARE DEPARTMENT, THE HEALTH CARE AUTHORITY AND THE DEPARTMENT
OF HEALTH; PROVIDING STRATEGIC PLAN REQUIREMENTS; PROVIDING
ACCESS TO AND REQUIREMENTS FOR CONFIDENTIALITY OF CERTAIN
RECORDS AND INFORMATION.

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

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

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

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

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

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

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

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

F. enact ~~[regulations]~~ rules to control disposition

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

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

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

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

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

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

25 L. ensure that behavioral health services provided,

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

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

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

16 SECTION 2. 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

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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

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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;

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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;

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

8 "[NEW MATERIAL] SHORT TITLE.--Sections 3 through 6 of this
9 act may be cited as the "Families First Act"."

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

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

14 A. "families first services" means foster care
15 prevention services categorized pursuant to the federal Title
16 IV-E prevention services clearinghouse as well-supported,
17 supported or promising that are included in the families first
18 strategic plan implemented pursuant to the Families First Act
19 and are provided by the department through the implementation
20 of that strategic plan; and

21 B. "families first strategic plan" means the plan
22 required pursuant to the Families First Act that is developed
23 and implemented by the department in accordance with the
24 regulations and requirements set forth in the federal Family
25 First Prevention Services Act."

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

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

5 A. In consultation with the early childhood
6 education and care department, the health care authority and
7 the department of health, the department shall develop and
8 implement the families first strategic plan. In developing the
9 families first strategic plan, the department shall:

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

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

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

18 (1) include a comprehensive description of the
19 department's responsibilities and duties for providing families
20 first services;

21 (2) include a comprehensive and detailed list
22 of each of the families first services the department will
23 provide to eligible persons and affirm that each service to be
24 provided:

25 (a) is eligible for reimbursement

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1 pursuant to the federal Family First Prevention Services Act;
2 and

3 (b) is rated as promising, supported or
4 well-supported in accordance with the Title IV-E prevention
5 services clearinghouse;

6 (3) identify all network services providers,
7 including other state agencies, that the department will use
8 for providing families first services. If services are
9 provided by another state agency, the department, together with
10 the other state agency, shall establish safety monitoring
11 protocols for direct monitoring of the services provided by
12 that agency and, for each provider used by the department, list
13 the specific families first service that the network services
14 provider will provide, including:

15 (a) mental health or substance abuse
16 prevention and treatment;

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

18 (c) kinship navigator programs; or

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

22 (4) identify and define the population of
23 eligible persons who may receive families first services and
24 include, at a minimum:

25 (a) a child who is a candidate for

1 foster care but who can remain safely at home with the
2 provision of evidence-based services;

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

5 (c) a pregnant or parenting youth in
6 foster care; and

7 (d) other eligible persons identified by
8 the department;

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

12 (6) identify processes and procedures to be
13 established and followed by the department to maximize federal
14 reimbursements, funding and resources available to the
15 department to provide families first services;

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

20 (8) establish appropriate metrics the
21 department will use to determine and evaluate outcomes from the
22 department's provision of families first services pursuant to
23 the Families First Act, including outcomes related specifically
24 to repeated substantiated reports of maltreatment of a child
25 and the numbers of children entering foster care;

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1 (9) establish an appropriate time line and
2 strategy for providing families first services statewide. The
3 time line shall include the following:

4 (a) no later than June 30, 2027, the
5 department shall provide families first services through a
6 pilot program that is designed for implementation considering
7 factors such as county population density and rates of child
8 maltreatment and repeat maltreatment; and

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

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

20 (11) identify the appropriate information to
21 include in an annual report to be provided by the department to
22 the legislative finance committee, the interim legislative
23 health and human services committee, the interim legislative
24 committee that studies courts, corrections and justice and the
25 governor. At a minimum, the annual report shall include the

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1 following information:

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

4 (b) data, without inclusion of personal
5 identifier information, regarding the uptake and program
6 completion among eligible individuals of families first
7 services, including the area of the state in which the services
8 were accessed;

9 (c) performance results regarding
10 identified outcome measures, to include aggregate data about
11 child participant placement status at the beginning of services
12 and one year after services and whether the child entered
13 foster care within two years after being determined a candidate
14 for foster care and receiving families first services; and

15 (d) fiscal information regarding program
16 and service expenditures and disaggregating state and federal
17 revenue sources.

18 C. For the purposes of this subsection, "approving
19 authority" means the federal administration for children and
20 families. The department shall:

21 (1) no later than August 1, 2025, finalize the
22 provisions of the families first strategic plan, post the plan
23 to the department's website and provide a copy of the plan to
24 the legislative finance committee, the interim legislative
25 health and human services committee, the interim legislative

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1 committee that studies courts, corrections and justice and the
2 governor;

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

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

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

8 (3) if a submitted strategic plan is not
9 approved and the approving authority indicates that to secure
10 an approval, the strategic plan must be revised, as soon as
11 practicable:

12 (a) revise the families first strategic
13 plan in accordance with the revisions required by the approving
14 authority; and

15 (b) submit the revised strategic plan to
16 the approving authority; and

17 (4) include in the department's reports
18 required pursuant to the Families First Act the status of each
19 families first strategic plan submitted to the approving
20 authority for approval, including any specific revisions
21 required, the dates of submissions and the dates of approval or
22 nonapproval by the approving authority for each submitted
23 strategic plan and any other relevant information related to
24 the status of a families first strategic plan submitted to the
25 approving authority by the department.

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1 D. No later than July 1, 2026, and by each July 1
2 thereafter, the department shall post the annual report as
3 established in the families first strategic plan pursuant to
4 the Families First Act to the department's website, and the
5 department shall submit the annual report to the legislative
6 finance committee, the interim legislative health and human
7 services committee, the interim legislative committee that
8 studies courts, corrections and justice and the governor."

9 **SECTION 6.** A new section of the Children's Code is
10 enacted to read:

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

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

16 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
17 REPORTS AND EXAMINATIONS--SUPPORT SERVICES.--

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

21 B. The predisposition study required pursuant to
22 Subsection A of this section shall contain the following
23 information:

24 (1) a statement of the specific reasons for
25 intervention by the department or for placing the child in the

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1 department's custody and a statement of the parent's ability to
2 care for the child in the parent's home without causing harm to
3 the child;

4 (2) a statement of how an intervention plan is
5 designed to achieve placement of the child in the least
6 restrictive setting available, consistent with the best
7 interests and special needs of the child, including a statement
8 of the likely harm the child may suffer as a result of being
9 removed from the parent's home, including emotional harm that
10 may result due to separation from the child's parents, and a
11 statement of how the intervention plan is designed to place the
12 child in close proximity to the parent's home without causing
13 harm to the child due to separation from parents, siblings or
14 any other person who may significantly affect the child's best
15 interest;

16 (3) the wishes of the child as to the child's
17 custodian;

18 (4) a statement of the efforts the department
19 has made to identify and locate all grandparents and other
20 relatives and to conduct home studies on any appropriate
21 relative expressing an interest in providing care for the
22 child, and a statement as to whether the child has a family
23 member who, subsequent to study by the department, is
24 determined to be qualified to care for the child;

25 (5) a description of services offered to the

1 child, the child's family and the child's foster care family,
2 which, if appropriate and available, may include families first
3 services provided pursuant to the Families First Act, as well
4 as referrals to income support or other services or programs,
5 and a summary of reasonable efforts made to prevent removal of
6 the child from the child's family or reasonable efforts made to
7 reunite the child with the child's family;

8 (6) a description of the home or facility in
9 which the child is placed and the appropriateness of the
10 child's placement;

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

13 (8) a statement of the child's medical and
14 educational background;

15 (9) a case plan that sets forth steps to
16 ensure that the child's physical, medical, cultural,
17 psychological and educational needs are met and that sets forth
18 services to be provided to the child and the child's parents to
19 facilitate permanent placement of the child in the parent's
20 home;

21 (10) for children sixteen years of age and
22 older, a plan for developing the specific skills the child
23 requires for successful transition into independent living as
24 an adult, regardless of whether the child is returned to the
25 child's parent's home;

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1 (11) a case plan that sets forth steps to
2 ensure that the child's educational needs are met and, for a
3 child fourteen years of age or older, a case plan that
4 specifically sets forth the child's educational and post-
5 secondary goals; and

6 (12) a description of the child's foster care
7 placement and whether it is appropriate in terms of the
8 educational setting and proximity to the school the child was
9 enrolled in at the time of the placement, including plans for
10 travel for the child to remain in the school in which the child
11 was enrolled at the time of placement, if reasonable and in the
12 child's best interest.

13 C. A copy of the predisposition report shall be
14 provided by the department to counsel for all parties five days
15 before the dispositional hearing.

16 D. If the child is an adjudicated abused child, any
17 temporary custody orders shall remain in effect until the court
18 has received and considered the predispositional study at the
19 dispositional hearing."

20 **SECTION 8.** Section 32A-4-33 NMSA 1978 (being Laws 1993,
21 Chapter 77, Section 127, as amended) is amended to read:

22 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

23 A. All records or information concerning a party to
24 a neglect or abuse proceeding, including social records,
25 diagnostic evaluations, psychiatric or psychological reports,

1 videotapes, transcripts and audio recordings of a child's
2 statement of abuse or medical reports incident to or obtained
3 as a result of a neglect or abuse proceeding or that were
4 produced or obtained during an investigation in anticipation of
5 or incident to a neglect or abuse proceeding shall be
6 confidential and closed to the public.

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

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

13 (2) court-appointed special advocates
14 appointed to the neglect or abuse proceeding;

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

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

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

23 (6) ~~[any local substitute care review board or~~
24 ~~any agency contracted to implement local substitute care review~~
25 ~~boards]~~ a staff member of the substitute care advisory council,

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1 if the records are requested for the purpose of carrying out
2 the provisions of the Citizen Substitute Care Review Act;

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

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

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

11 (10) a foster parent, if the records are those
12 of a child currently placed with that foster parent or of a
13 child being considered for placement with that foster parent
14 and the records concern the social, medical, psychological or
15 educational needs of the child;

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

18 (12) a grandparent, parent of a sibling,
19 relative or fictive kin, if the records or information pertain
20 to a child being considered for placement with that
21 grandparent, parent of a sibling, relative or fictive kin and
22 the records or information concern the social, medical,
23 psychological or educational needs of the child;

24 (13) health care or mental health
25 professionals involved in the evaluation or treatment of the

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1 child or of the child's parents, guardian, custodian or other
2 family members;

3 (14) protection and advocacy representatives
4 pursuant to the federal Developmental Disabilities Assistance
5 and Bill of Rights Act and the federal Protection and Advocacy
6 for Mentally Ill Individuals Amendments Act of 1991;

7 (15) children's safehouse organizations
8 conducting investigatory interviews of children on behalf of a
9 law enforcement agency or the department;

10 (16) representatives of the federal government
11 or their contractors authorized by federal statute or
12 regulation to review, inspect, audit or otherwise have access
13 to records and information pertaining to neglect or abuse
14 proceedings;

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

20 (18) any other person or entity, by order of
21 the court, having a legitimate interest in the case or the work
22 of the court.

23 C. A parent, guardian or legal custodian whose
24 child has been the subject of an investigation of abuse or
25 neglect where no petition has been filed shall have the right

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1 to inspect any medical report, psychological evaluation, law
2 enforcement reports or other investigative or diagnostic
3 evaluation; provided that any identifying information related
4 to the reporting party or any other party providing information
5 shall be deleted. The parent, guardian or legal custodian
6 shall also have the right to the results of the investigation
7 and the right to petition the court for full access to all
8 department records and information except those records and
9 information the department finds would be likely to endanger
10 the life or safety of any person providing information to the
11 department.

12 D. Whoever intentionally and unlawfully releases
13 any information or records closed to the public pursuant to the
14 Abuse and Neglect Act or releases or makes other unlawful use
15 of records in violation of that act is guilty of a petty
16 misdemeanor and shall be sentenced pursuant to the provisions
17 of Section 31-19-1 NMSA 1978.

18 E. The department shall promulgate rules for
19 implementing disclosure of records pursuant to this section and
20 in compliance with state and federal law and the Children's
21 Court Rules."

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