

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 486

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

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO GOVERNMENT REORGANIZATION; CREATING THE CHILD SAFETY AND WELFARE SERVICES AUTHORITY; PROVIDING POWERS AND DUTIES; TRANSFERRING MONEY, PROPERTY, CONTRACTS AND STATUTORY REFERENCES FROM THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO THE CHILD SAFETY AND WELFARE SERVICES AUTHORITY; PRESCRIBING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 21 of this act may be cited as the "Child Safety and Welfare Services Authority Act"."

SECTION 2. A new section of the Children's Code is

underscored material = new
~~[bracketed material]~~ = delete

underscoring material = new
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Child Safety
3 and Welfare Services Authority Act:

4 A. "authority" means the child safety and welfare
5 services authority;

6 B. "board" means the board of regents of the child
7 safety and welfare services authority; and

8 C. "state superintendent" means the state
9 superintendent of child safety and welfare services."

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

12 "[NEW MATERIAL] PURPOSE OF CHILD SAFETY AND WELFARE
13 SERVICES AUTHORITY.--The purpose of the authority is to:

14 A. provide an independent, accredited state agency
15 governed by a board of regents to administer the state's child
16 welfare and juvenile justice programs formerly administered by
17 the children, youth and families department and other child and
18 family programs assigned to it by law; and

19 B. cooperate and collaborate with other state
20 agencies and institutions, judicial agencies and courts, school
21 districts and local governments to establish a comprehensive,
22 coordinated and integrated child safety and welfare system."

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

25 "[NEW MATERIAL] CHILD SAFETY AND WELFARE SERVICES

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 AUTHORITY--CREATED--BOARD OF REGENTS--MEMBERSHIP--DUTIES.--

2 A. The "child safety and welfare services
3 authority" is created as an adjunct agency. The authority
4 shall be governed by the board.

5 B. The "board of regents" of the authority is
6 composed of seven members appointed by the governor with the
7 advice and consent of the senate. No more than four members
8 shall be appointed from the same political party. The initial
9 appointees shall draw lots for staggered terms and thereafter
10 shall serve for terms of four years.

11 C. Regents shall be appointed as follows:

12 (1) a current or retired children's court or
13 family court judge;

14 (2) a licensed foster parent;

15 (3) a licensed youth behavioral health
16 specialist;

17 (4) one juvenile justice professional who has
18 a graduate degree in juvenile justice or a similar field or who
19 has at least seven years of juvenile justice experience;

20 (5) one licensed social worker; and

21 (6) two public members who have a demonstrated
22 interest in and knowledge of child welfare matters.

23 D. Regents who are not otherwise reimbursable from
24 government funds for travel expenses are entitled to receive
25 per diem and mileage as provided in the Per Diem and Mileage

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 Act and shall receive no other compensation, perquisite or
2 allowance.

3 E. The board shall meet at least quarterly and may
4 meet at the call of the chair or at the request of a majority
5 of the regents. A majority of the regents constitutes a
6 quorum, and a majority vote of the regents present at a meeting
7 is needed to take action. The chair may ask the governor to
8 replace a regent who has three or more unexcused absences.

9 F. A regent shall recuse on any vote in which the
10 regent has a financial interest or the regent or a member of
11 the regent's family to the third degree of consanguinity or
12 affinity has a financial interest or would otherwise benefit.

13 G. The board shall:

14 (1) approve the mission, goals and objectives,
15 policies and procedures of the authority;

16 (2) appoint a state superintendent, who shall
17 be confirmed by the senate and who shall lead the authority as
18 generally directed by the board. The state superintendent
19 shall be compensated at the same rate as a cabinet secretary of
20 a large, complex department;

21 (3) approve the proposed and operating budget
22 of the authority;

23 (4) approve proposed rules recommended by the
24 authority; and

25 (5) select the accrediting agency to accredit

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 the authority."

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

4 "[NEW MATERIAL] AUTHORITY--STRUCTURE.--

5 A. The "state superintendent of child safety and
6 welfare services" shall be appointed solely on merit and
7 without regard to political affiliation. The state
8 superintendent shall:

9 (1) hold a master's or doctoral degree in
10 social work, psychology, human services, criminal justice or a
11 similar field with a concentration in child welfare or juvenile
12 justice or similar concentration; and

13 (2) have at least five years' experience
14 administering a large, complex organization that required a
15 working knowledge and experience in the child welfare or
16 juvenile justice systems.

17 B. The state superintendent may employ
18 professional, clerical and technical assistants to carry out
19 the authority's powers and duties and shall employ a "deputy
20 superintendent for administration and human resources", who has
21 experience with state administrative services or human
22 resources; and a "deputy superintendent for public policy", who
23 has experience with child welfare or juvenile justice policy.

24 C. The authority consists of:

25 (1) the office of the state superintendent,

.230249.1

1 which includes:

2 (a) the chief counsel and other
3 attorneys;

4 (b) the quality assurance bureau; and

5 (c) the tribal affairs bureau;

6 (2) the administrative services division,

7 which includes:

8 (a) the budget bureau;

9 (b) the human resources bureau,

10 including the employee support unit; and

11 (c) the information technology support
12 bureau;

13 (3) the child and family welfare division; and

14 (4) the juvenile justice division."

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

17 "[NEW MATERIAL] STATE SUPERINTENDENT--DUTIES AND GENERAL
18 POWERS.--

19 A. The state superintendent is responsible to the
20 board for the operation of the authority. It is the state
21 superintendent's duty to manage all operations of the authority
22 under the general direction of the board and to administer and
23 enforce the laws with which the state superintendent or the
24 authority is charged.

25 B. To perform the state superintendent's duties,

.230249.1

underscoring material = new
~~[bracketed material]~~ = delete

1 the state superintendent has every power expressly enumerated
2 in the law, whether granted to the state superintendent, the
3 authority or any division of the authority, except when any
4 division is explicitly exempted from the state superintendent's
5 power by statute. In accordance with these provisions, the
6 state superintendent shall:

7 (1) except as otherwise provided in the Child
8 Safety and Welfare Services Authority Act, exercise general
9 supervisory and appointing power over all authority employees,
10 subject to applicable personnel laws and rules;

11 (2) delegate power to subordinates as the
12 state superintendent deems necessary and appropriate, clearly
13 delineating such delegated power and the limitations to that
14 power;

15 (3) in consultation with the board, organize
16 the authority into organizational units as necessary to enable
17 the authority to function most efficiently, subject to any
18 provisions of law requiring or establishing specific
19 organizational units;

20 (4) within the limitations of available
21 appropriations and applicable laws, employ and fix the
22 compensation of those persons necessary to discharge the state
23 superintendent's powers and duties;

24 (5) take administrative action by issuing
25 rules, orders and instructions, not inconsistent with law and

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 approved by the board of regents, to assure implementation of
2 and compliance with the provisions of law for which
3 administration or execution the state superintendent is
4 responsible and to enforce those orders and instructions by
5 appropriate administrative action in the courts;

6 (6) conduct research and studies that will
7 improve the operation of the authority and the provision of
8 services to the children and families of the state;

9 (7) provide courses of instruction and
10 practical training for employees of the authority and other
11 persons involved in the administration of programs with the
12 objectives of improving the operations and efficiency of
13 administration and of promoting comprehensive, coordinated,
14 culturally sensitive services that address the whole child;

15 (8) prepare an annual budget for the authority
16 for approval of the board of regents before submission to the
17 state budget division of the department of finance and
18 administration; and

19 (9) provide cooperation, at the request of
20 other state agencies, to:

21 (a) minimize or eliminate duplication of
22 services and jurisdictional conflicts;

23 (b) coordinate activities and resolve
24 problems of mutual concern; and

25 (c) unless otherwise provided by law,

.230249.1

underscoring material = new
[bracketed material] = delete

1 resolve by agreement the manner and extent to which the
2 authority shall provide budgeting, recordkeeping and related
3 clerical assistance to administratively attached agencies.

4 C. The state superintendent may apply for and
5 receive, with board approval, in the name of the authority,
6 public or private grants, gifts or donations available to the
7 authority to carry out its programs, duties or services.

8 D. The authority may adopt, amend or repeal rules
9 to carry out the provisions of the Child Safety and Welfare
10 Services Authority Act and other laws for which the authority
11 has responsibility; provided that the board shall approve
12 authority rules before promulgation. Rules shall be adopted
13 and promulgated as provided in the State Rules Act.

14 E. If the board certifies to the secretary of
15 finance and administration and gives contemporaneous notice of
16 such certification through the human services register that the
17 authority has insufficient state funds to operate any of the
18 programs that the authority administers and that reductions in
19 services or benefit levels are necessary, the state
20 superintendent may engage in emergency rulemaking pursuant to
21 the State Rules Act."

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

24 "[NEW MATERIAL] AUTHORITY--ADDITIONAL DUTIES.--In addition
25 to other duties provided by law or assigned to the authority by

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 the board, the authority shall:

2 A. develop priorities for authority services and
3 resources based on state policy and national best practice
4 standards of the authority's accrediting agency and local
5 considerations and priorities;

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

11 C. implement prevention and early intervention as
12 an authority focus;

13 D. develop and maintain a statewide database,
14 including client tracking of services for children, youth and
15 families, and use data to inform decision making and best
16 practices;

17 E. develop standards of service within the
18 authority that focus on prevention, monitoring and outcomes and
19 that meet accrediting standards;

20 F. analyze policies of other departments that
21 affect children, youth and families to encourage common
22 contracting procedures, common service definitions, a uniform
23 system of access and work with the children's cabinet to help
24 ensure that policies and child-focused services are coordinated
25 and integrated across state agencies;

.230249.1

underscored material = new
~~[bracketed material] = delete~~

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

7 H. assume and implement responsibility for
8 children's mental health and substance abuse services in the
9 state, coordinating with the health care authority, the
10 department of health and the early childhood education and care
11 department;

12 I. assume and implement the lead responsibility
13 among all state agencies for domestic violence services;

14 J. conduct biennial assessments of service gaps and
15 needs and establish outcome measurements to address those
16 service gaps and needs, including recommendations from the
17 board, the authority's advisory councils and the children's
18 cabinet; and

19 K. ensure that behavioral health services provided,
20 including mental health and substance abuse services for
21 children, adolescents and their families, shall be in
22 compliance with requirements of Section 24A-3-1 NMSA 1978."

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

25 "NEW MATERIAL] CRIMINAL HISTORY RECORD INVESTIGATIONS--
.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 PROCEDURE--CONFIDENTIALITY--VIOLATION--PENALTY.--

2 A. The authority shall require state and national
3 criminal history record searches as provided in the New Mexico
4 Children's and Juvenile Facility and Program Criminal Records
5 Screening Act on applicants, officers, employees, student
6 interns and volunteers whose jobs involve direct contact with
7 department clients.

8 B. A person who is required to have a criminal
9 history records search shall submit electronic fingerprints to
10 the department of public safety for a state criminal history
11 records search, and the department shall submit the
12 fingerprints to the federal bureau of investigation for a
13 national criminal history records search. Criminal history
14 record searches shall be conducted as provided in the New
15 Mexico Children's and Juvenile Facility and Program Criminal
16 Records Screening Act.

17 C. Criminal histories obtained are confidential and
18 shall be used only for the purpose of determining the
19 suitability of an applicant, public officer, employee, student
20 intern or volunteer for employment or service with the
21 authority; provided that criminal histories may be released or
22 disclosed to another agency or person only upon court order or
23 with the written consent of the person who is the subject of
24 the criminal history record.

25 D. A person who releases or discloses criminal

.230249.1

underscoring material = new
~~[bracketed material]~~ = delete

1 history records or information contained in those records in
2 violation of the provisions of this section is guilty of a
3 misdemeanor and if convicted shall be sentenced pursuant to
4 the provisions of Section 31-19-1 NMSA 1978."

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

7 "[NEW MATERIAL] PROHIBITION ON EMPLOYMENT FOR PERSONS
8 WITH SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR NEGLECT--
9 PROHIBITION ON CONVICTED FELONS--DISCIPLINARY ACTION--
10 CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

11 A. An applicant, officer, employee, student
12 intern or volunteer of the authority having direct
13 unsupervised contact with authority clients shall not have
14 been the subject of a substantiated allegation of child abuse
15 or neglect.

16 B. An officer, employee, student intern or
17 volunteer of the authority who has direct unsupervised
18 contact with authority clients shall not have been convicted
19 of a felony offense that is directly related to the job
20 duties of the officer, employee, student intern or volunteer
21 by a court of this state, any other state or the United
22 States.

23 C. An employee subject to the Personnel Act who
24 has been the subject of a substantiated allegation of abuse
25 or neglect, as investigated and determined by the authority,

.230249.1

underscored material = new
[bracketed material] = delete

1 may be subject to increased supervision or disciplinary
2 action under the Personnel Act. Upon appeal of a
3 disciplinary action to the personnel board pursuant to this
4 section, the personnel board shall defer to the record of the
5 administrative hearing affirming a substantiated allegation
6 of abuse or neglect, if one exists, in determining whether
7 the action taken by the authority was with just cause.

8 D. An employee of the authority subject to
9 dismissal pursuant to this section shall have no right to
10 progressive discipline as a condition precedent to discipline
11 under this section.

12 E. In any appeal of an employee to the personnel
13 board as provided by the Personnel Act, records that are
14 otherwise confidential pursuant to the Abuse and Neglect Act
15 shall be discoverable by the parties and admissible as to any
16 relevant fact; provided that any identifying information
17 related to the reporting party, any other party providing
18 information and information the authority finds would be
19 likely to endanger the life or safety of any person providing
20 information to the authority may be redacted."

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

23 "[NEW MATERIAL] ORGANIZATIONAL UNITS OF THE DEPARTMENT--
24 POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

25 A. Those organizational units of the authority

.230249.1

underscoring material = new
[bracketed material] = delete

1 and the officers of those units specified by law have all of
2 the powers and duties enumerated in the specific laws
3 involved. However, the carrying out of those powers and
4 duties shall be subject to the direction and supervision of
5 the state superintendent, who shall retain the final
6 decision-making authority and responsibility for the
7 administration of any such laws.

8 B. The authority shall have access to all
9 records, data and information of other state agencies that
10 are not specifically held confidential by law."

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

13 "[NEW MATERIAL] DIVISION DIRECTORS--BUREAU CHIEFS.--

14 A. The state superintendent may appoint
15 "directors" of such divisions as are established within the
16 authority. Directors are exempt from the Personnel Act.

17 B. The state superintendent may establish within
18 each division such "bureaus" as the state superintendent
19 deems necessary to carry out the provisions of the Child
20 Safety and Welfare Services Authority Act. The state
21 superintendent shall employ a "chief" to be the
22 administrative head of any such bureau. The chief and all
23 subsidiary employees of the authority shall be covered by the
24 provisions of the Personnel Act."

25 SECTION 12. A new section of the Children's Code is

.230249.1

underscoring material = new
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] QUALITY ASSURANCE BUREAU.--

3 A. The purpose of the quality assurance bureau is
4 to facilitate authority efforts to efficiently implement the
5 purposes of the Children's Code.

6 B. In order to measure the quality of services
7 provided, to facilitate satisfactory outcomes for children
8 and families that receive services and to provide a
9 continuing opportunity to improve service delivery, the
10 quality assurance bureau shall:

11 (1) monitor the system for receiving and
12 resolving complaints and grievances;

13 (2) perform periodic investigations and
14 evaluations to assure compliance with the Children's Code and
15 other applicable state and federal laws and regulations;

16 (3) facilitate monitoring of indicators of
17 the authority's performance to determine whether the
18 authority is:

19 (a) providing children and families
20 with individualized, needs-based service plans;

21 (b) providing services in a timely
22 manner; and

23 (c) in compliance with applicable
24 state and federal laws and regulations;

25 (4) identify any deficiencies and recommend

.230249.1

underscoring material = new
[bracketed material] = delete

1 corrective action to the state superintendent;

2 (5) have access to any records maintained by
3 the authority, including confidential information; and

4 (6) promote continuous improvement of all
5 authority processes serving children and families.

6 C. The quality assurance bureau shall contribute
7 to and facilitate the publication of public reports assessing
8 the performance of the authority. The reports shall not
9 disclose the identity of natural persons mentioned in the
10 report, including children or families that receive or are
11 eligible for services or any authority employee."

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

14 "[NEW MATERIAL] CORRECTIONAL OFFICERS--QUALIFICATIONS.--
15 Correctional officers of the authority shall:

16 A. be citizens of the United States;

17 B. be eighteen years of age or older;

18 C. possess a high school education or its
19 equivalent;

20 D. be of good moral character and not have been
21 convicted of a felony offense by a court of this state, any
22 other state or the United States; and

23 E. successfully pass a physical examination and
24 an aptitude examination administered by the authority."

25 SECTION 14. A new section of the Children's Code is
.230249.1

underscoring material = new
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] CORRECTIONAL OFFICERS--ACTING AS PEACE
3 OFFICERS.--

4 A. Correctional officers of the authority who
5 have completed an appropriate American correction association
6 training course and who have at the particular time the
7 principal duty to hold in custody or supervise any child
8 accused or convicted of a delinquent act or criminal offense
9 shall have the power of a peace officer with respect to
10 arrests and enforcement of laws when:

11 (1) on the premises of a facility of the
12 authority or while transporting a child committed to or under
13 the supervision of the authority;

14 (2) supervising a child committed to or
15 under the supervision of the authority anywhere within the
16 state; or

17 (3) engaged in any effort to pursue or
18 apprehend a child pursuant to Paragraph (1) or (2) of this
19 subsection.

20 B. No correctional officer of the authority shall
21 be convicted or held liable for any act performed pursuant to
22 this section if a peace officer could lawfully have performed
23 the same act in the same circumstances.

24 C. Crimes against a correctional officer of the
25 authority while in the lawful discharge of duties that confer

.230249.1

underscoring material = new
[bracketed material] = delete

1 peace officer status pursuant to this section shall be deemed
2 the same crimes and shall bear the same penalties as crimes
3 against a peace officer."

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

6 "[NEW MATERIAL] CHILD SAFETY AND WELFARE SERVICES
7 ADVISORY COMMITTEE CREATED--MEMBERS--PURPOSE.--

8 A. The "child safety and welfare services
9 advisory committee" is created. The committee is composed of
10 eleven members appointed by the board. The board shall
11 appoint persons with demonstrated interest and involvement in
12 child safety and welfare services, particularly those
13 services and programs administered or funded by the
14 authority. Members shall be appointed so as to provide
15 adequate representation of ethnic groups and geographic areas
16 of the state. At least two members shall be parents who are
17 recipients of services provided by the authority; at least
18 two members shall be youths between the ages of sixteen and
19 twenty-one; and at least one member shall be a member of the
20 youth alliance.

21 B. The child safety and welfare services advisory
22 committee shall assist in the development of policies and
23 procedures for the authority.

24 C. The members of the child safety and welfare
25 services advisory committee are entitled to reimbursement for

.230249.1

underscoring material = new
[bracketed material] = delete

1 per diem and mileage as provided in the Per Diem and Mileage
2 Act and shall receive no other compensation, perquisite or
3 allowance."

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

6 "[NEW MATERIAL] JUVENILE JUSTICE PROGRAMS--FEDERAL
7 GRANTS--ADVISORY COMMITTEE--SUPERVISORY FUNCTION.--Any
8 juvenile justice advisory committee appointed pursuant to the
9 federal Juvenile Justice and Delinquency Prevention Act of
10 1974 shall be advisory to the department, except the
11 committee shall serve as the "supervisory board" under that
12 act and any applicable federal regulations."

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

15 "[NEW MATERIAL] JUVENILE JUSTICE ADVISORY COMMITTEE--
16 LEGISLATIVE FINDINGS.--The legislature finds that pursuant to
17 the federal Juvenile Justice and Delinquency Prevention Act
18 of 1974, federal regulations and state law, the juvenile
19 justice advisory committee is required to be given explicit
20 power to continue to fulfill its duties in administering the
21 federal funds made available to the state, if such funding is
22 to continue."

23 SECTION 18. A new section of the Children's Code is
24 enacted to read:

25 "[NEW MATERIAL] FUNCTIONS OF JUVENILE JUSTICE ADVISORY

underscoring material = new
~~[bracketed material] = delete~~

1 COMMITTEE AND DEPARTMENT.--

2 A. The juvenile justice advisory committee shall
3 have policymaking, planning and review powers over only the
4 following functions pursuant to the federal Juvenile Justice
5 and Delinquency Prevention Act of 1974:

6 (1) in conjunction with the authority,
7 approval of a comprehensive state plan and modifications
8 reflecting statewide goals, objectives and priorities for the
9 expenditure of federal funds received under that act;

10 (2) approval or disapproval of applications
11 or amendments submitted by eligible entities pursuant to that
12 act;

13 (3) in conjunction with the authority,
14 assurance that fund accounting, auditing and evaluation of
15 programs and projects funded pursuant to that act comply with
16 federal requirements and state law;

17 (4) in conjunction with the authority,
18 receive and review annual reports from adult jails and
19 lockups regarding compliance with federal requirements that
20 apply when a juvenile is temporarily held in an adult jail or
21 lockup. The juvenile justice advisory committee and the
22 authority shall determine the format of the annual reports;

23 (5) assistance to the governor, the
24 legislature and entities created or funded pursuant to that
25 act in developing new or improved approaches, policies or

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 legislation designed to improve juvenile justice in New
2 Mexico; and

3 (6) provision of technical assistance by the
4 authority to eligible entities pursuant to that act.

5 B. All budgetary, evaluation, monitoring and
6 grants administration functions required pursuant to the
7 federal Juvenile Justice and Delinquency Prevention Act of
8 1974 shall be carried out by the authority."

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

11 "[NEW MATERIAL] JUVENILE CONTINUUM GRANT FUND--CREATED--
12 PURPOSE--ADMINISTRATION--GRANT APPLICATIONS.--

13 A. The "juvenile continuum grant fund" is created
14 as a nonreverting fund in the state treasury. The fund shall
15 be administered by the authority and consists of
16 appropriations, gifts, grants, donations and bequests made to
17 the fund.

18 B. Money in the juvenile continuum grant fund is
19 subject to appropriation by the legislature to the authority
20 for awarding grants to juvenile justice continuums for the
21 provision of cost-effective services and temporary, nonsecure
22 alternatives to detention for juveniles arrested or referred
23 to juvenile probation and parole or at a risk of such
24 referral.

25 C. A local or tribal government may apply for a

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 grant from the juvenile continuum grant fund for a juvenile
2 justice continuum within its jurisdiction. The amount of the
3 grant application shall not exceed sixty percent of the
4 annual cost of the continuum. A local match of forty percent
5 may consist of money, land, equipment or in-kind services.

6 D. The authority shall adopt rules on
7 qualifications for grants and specify the format, procedure
8 and deadlines for grant applications. The juvenile justice
9 advisory committee shall review all grant applications and
10 submit those applications recommended for final approval to
11 the state superintendent.

12 E. Disbursements from the juvenile continuum
13 grant fund shall be made by warrant of the secretary of
14 finance and administration on vouchers signed by the state
15 superintendent or the state superintendent's designee.

16 F. As used in this section, a "juvenile justice
17 continuum" is a system of services and sanctions for
18 juveniles arrested or referred to juvenile probation and
19 parole or at risk of such referral and consists of a formal
20 partnership among one or more units of local or tribal
21 governments; the children's court; the district attorney; the
22 public defender; local law enforcement agencies; the public
23 schools; and other entities such as private nonprofit
24 organizations, the business community and religious
25 organizations. A juvenile justice continuum shall be

.230249.1

underscored material = new
~~[bracketed material]~~ = delete

1 established through a memorandum of understanding and a
2 continuum board."

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

5 "[NEW MATERIAL] YOUTH ALLIANCE CREATED--ORGANIZATION--
6 FUNCTIONS--COORDINATOR.--

7 A. The "youth alliance" is created and is
8 administratively attached to the authority.

9 B. The youth alliance consists of youth, aged
10 fourteen to twenty-four, from each New Mexico legislative
11 district to be recruited through an open process and selected
12 by a panel of other youth alliance members, legislators,
13 government officials and representatives of community-based
14 organizations using clear criteria developed by the
15 department to ensure ethnic and economic diversity. Members
16 shall serve two-year terms.

17 C. The alliance shall meet at least four times
18 per year to discuss, from a youth perspective, the assets
19 that exist in communities and schools and the gaps that are
20 present in these systems and to recommend opportunities for
21 problem-solving and collaboration to the governor, lieutenant
22 governor and legislature.

23 D. The youth alliance shall issue an annual
24 report that summarizes the activities and findings of the
25 alliance. The report shall be submitted to the governor and

.230249.1

underscored material = new
[bracketed material] = delete

1 the legislature no later than November 15 of each year.

2 E. Subject to sufficient appropriations, the
3 youth alliance members shall engage a diverse group of local
4 peers and solicit their input and launch local projects.

5 F. The position of "youth alliance coordinator"
6 is created in the authority to organize, administer and
7 coordinate youth alliance activities.

8 G. The youth alliance coordinator shall:

9 (1) oversee the recruitment and selection of
10 youth alliance members;

11 (2) organize youth alliance meetings, at
12 least four of which shall include the lieutenant governor and
13 the children's cabinet and at least two of which shall
14 include the governor;

15 (3) assist the youth alliance in preparing
16 an annual report on the alliance's activities and findings;
17 and

18 (4) act as a liaison between the youth
19 alliance and the children's cabinet, the legislature and
20 other government officials to ensure their involvement in
21 activities related to children and youth."

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

24 "[NEW MATERIAL] NEW MEXICO DOMESTIC VIOLENCE LEADERSHIP
25 COMMISSION--MEMBERSHIP--DUTIES.--

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 A. The "New Mexico domestic violence leadership
2 commission" is created and is administratively attached to
3 the authority.

4 B. The New Mexico domestic violence leadership
5 commission consists of twenty-six members appointed by the
6 governor, unless otherwise specified, including:

7 (1) a representative from the office of the
8 governor;

9 (2) the attorney general or the attorney
10 general's designee;

11 (3) a state senator appointed by the
12 president pro tempore of the senate;

13 (4) a state representative appointed by the
14 speaker of the house of representatives;

15 (5) a representative from the department of
16 public safety;

17 (6) the state superintendent or the
18 superintendent's designee;

19 (7) a representative from the judiciary;

20 (8) the president of the New Mexico district
21 attorney association or the president's designee;

22 (9) the chief public defender or the chief
23 public defender's designee;

24 (10) a representative from the corrections
25 department;

.230249.1

1 (11) a representative from a law enforcement
2 agency;

3 (12) a representative from New Mexico legal
4 aid;

5 (13) a representative from the department of
6 health;

7 (14) a representative from the New Mexico
8 coalition against domestic violence or an equivalent
9 organization;

10 (15) a representative from the southwest
11 women's law center or an equivalent organization;

12 (16) a representative from the coalition to
13 stop violence against Native women or an equivalent
14 organization;

15 (17) a representative from the crime victims
16 reparation commission;

17 (18) the director of the New Mexico
18 interpersonal violence data central repository;

19 (19) a representative from the New Mexico
20 intimate partner violence death review team;

21 (20) a representative from the aging and
22 long-term services department;

23 (21) a community representative;

24 (22) two rural domestic violence service
25 providers;

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 (23) a domestic violence survivor nominated
2 by the New Mexico coalition against domestic violence;

3 (24) a representative from a children's
4 advocacy organization; and

5 (25) a representative from a gay and lesbian
6 organization.

7 C. The appointed members of the New Mexico
8 domestic violence leadership commission shall serve at the
9 pleasure of the governor, and the members' appointments shall
10 be reviewed at the commencement of each gubernatorial term.
11 The governor shall designate one member as the chair, and the
12 position of the chair shall be limited by a term of two
13 years.

14 D. The New Mexico domestic violence leadership
15 commission shall meet, pursuant to the Open Meetings Act, at
16 the call of the chair at least six times annually. For the
17 purposes of conducting business, a majority of the members of
18 the commission constitutes a quorum.

19 E. Members of the New Mexico domestic violence
20 leadership commission shall not be paid but shall receive per
21 diem and mileage as provided in the Per Diem and Mileage Act.

22 F. The New Mexico domestic violence leadership
23 commission shall:

24 (1) identify domestic violence services that
25 are lacking or in need of improvement and provide

.230249.1

underscored material = new
[bracketed material] = delete

1 recommendations to the state superintendent and the governor
2 to enhance the quality and efficiency of services statewide;

3 (2) develop strategies for addressing issues
4 of domestic violence and raising public awareness;

5 (3) study possible inequities in the
6 treatment and disposition of males involved in domestic
7 violence;

8 (4) review laws, rules and policies related
9 to domestic violence to assess their effectiveness and
10 recommend changes; and

11 (5) report annually before October 1 to an
12 appropriate legislative interim committee and the governor on
13 domestic violence policy issues."

14 SECTION 22. Section 30-22-11.1 NMSA 1978 (being Laws
15 1993, Chapter 121, Section 1, as amended) is amended to read:

16 "30-22-11.1. ESCAPE FROM THE CUSTODY OF THE [~~CHILDREN,~~
17 ~~YOUTH AND FAMILIES DEPARTMENT~~] CHILD SAFETY AND WELFARE
18 SERVICES AUTHORITY--ESCAPE FROM JUVENILE DETENTION.--Escape
19 from the custody of the [~~children, youth and families~~
20 ~~department~~] child safety and welfare services authority
21 consists of any person who has been adjudicated as a
22 delinquent child and has been committed lawfully to the
23 custody of [~~a department~~] an authority juvenile justice
24 facility or who is alleged to be a delinquent child and has
25 been lawfully detained in a juvenile detention facility:

.230249.1

underscoring material = new
[bracketed material] = delete

1 A. escaping or attempting to escape from custody
2 within the confines of [~~a children, youth and families~~
3 ~~department~~] an authority juvenile justice facility; or

4 B. escaping or attempting to escape from another
5 lawful place of custody or confinement that is not within the
6 confines of [~~a children, youth and families department~~] an
7 authority juvenile justice facility.

8 Any person who commits escape from the custody of a
9 [~~children, youth and families department~~] child safety and
10 welfare services authority juvenile justice facility is
11 guilty of a misdemeanor."

12 SECTION 23. Section 30-22-11.2 NMSA 1978 (being Laws
13 1994, Chapter 18, Section 1, as amended) is amended to read:

14 "30-22-11.2. AGGRAVATED ESCAPE FROM THE CUSTODY OF THE
15 [~~CHILDREN, YOUTH AND FAMILIES DEPARTMENT~~] CHILD SAFETY AND
16 WELFARE SERVICES AUTHORITY.--Aggravated escape from the
17 custody of the [~~children, youth and families department~~]
18 child safety and welfare services authority consists of any
19 person who has been adjudicated as a delinquent child and has
20 been committed lawfully to the custody of [~~a department~~] an
21 authority juvenile justice facility or who is alleged to be a
22 delinquent child and has been lawfully detained in a juvenile
23 detention facility:

24 A. escaping or attempting to escape from custody
25 within the confines of [~~a children, youth and families~~

.230249.1

underscoring material = new
[bracketed material] = delete

1 ~~department]~~ an authority juvenile justice facility and
2 committing assault or battery on another person in the course
3 of escaping or attempting to escape; or

4 B. escaping or attempting to escape from a lawful
5 place of custody or confinement that is not within the
6 confines of [~~a children, youth and families department]~~ an
7 authority juvenile justice facility and committing assault or
8 battery on another person in the course of escaping or
9 attempting to escape.

10 Any person who commits aggravated escape from the
11 custody of the [~~children, youth and families department]~~
12 child safety and welfare services authority is guilty of a
13 fourth degree felony."

14 SECTION 24. Section 31-12-12 NMSA 1978 (being Laws
15 2003, Chapter 387, Section 2, as amended) is amended to read:

16 "31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT OR
17 INTERVENTION FUND CREATED--APPROPRIATION--PROGRAM
18 REQUIREMENTS.--

19 A. The "domestic violence offender treatment or
20 intervention fund" is created as a nonreverting fund in the
21 state treasury. The fund consists of gifts, grants,
22 donations, appropriations and distributions to the fund made
23 pursuant to the Tax Administration Act.

24 B. Balances in the domestic violence offender
25 treatment or intervention fund are appropriated to the

.230249.1

underscored material = new
[bracketed material] = delete

1 ~~[children, youth and families department]~~ child safety and
2 welfare services authority to provide ~~[funds]~~ funding to
3 domestic violence offender treatment or intervention programs
4 to defray the cost of providing treatment or intervention to
5 domestic violence offenders. Unexpended or unencumbered
6 balances remaining in the fund at the end of any fiscal year
7 shall not revert to the general fund.

8 C. Payment out of the domestic violence offender
9 treatment or intervention fund shall be made on warrants
10 drawn by the secretary of finance and administration on
11 vouchers issued and signed by the ~~[secretary of children,~~
12 ~~youth and families upon warrants drawn by the department of~~
13 ~~finance and administration]~~ state superintendent of child
14 safety and welfare services.

15 D. In order to be eligible for money from the
16 domestic violence offender treatment or intervention fund, a
17 domestic violence offender treatment or intervention program
18 shall include the following components in its program:

19 (1) an initial assessment to determine if a
20 domestic violence offender will benefit from participation in
21 the program;

22 (2) a written contract, which must be signed
23 by the domestic violence offender, that sets forth:

24 (a) attendance and participation
25 requirements;

.230249.1

1 (b) consequences for failure to attend
2 or participate in the program; and

3 (c) a confidentiality clause that
4 prohibits disclosure of information revealed during treatment
5 or intervention sessions;

6 (3) strategies to hold domestic violence
7 offenders accountable for their violent behavior;

8 (4) a requirement that group discussions are
9 limited to members of the same gender;

10 (5) an education component that:

11 (a) defines physical, emotional,
12 sexual, economic and verbal abuse and techniques for stopping
13 those forms of abuse; and

14 (b) examines gender roles,
15 socialization, the nature of violence, the dynamics of power
16 and control and the effects of domestic violence on children;

17 (6) a requirement that a domestic violence
18 offender not be under the influence of alcohol or drugs
19 during a treatment or intervention session;

20 (7) a requirement, except with respect to a
21 domestic violence offender who is a voluntary participant in
22 the program, that the program provide monthly written reports
23 to the presiding judge or the domestic violence offender's
24 probation or parole officer regarding:

25 (a) proof of the domestic violence

1 offender's enrollment in the program;

2 (b) progress reports that address the
3 domestic violence offender's attendance, fee payments and
4 compliance with other program requirements; and

5 (c) evaluations of progress made by
6 the domestic violence offender and recommendations as to
7 whether or not to require the offender's further
8 participation in the program; and

9 (8) a requirement that the term of the
10 program be at least fifty-two weeks.

11 E. Counseling for couples shall not be a
12 component of a domestic violence offender treatment or
13 intervention program.

14 F. As used in this section, "domestic violence
15 offender" means a person:

16 (1) convicted for an offense pursuant to the
17 provisions of the Crimes Against Household Members Act;

18 (2) convicted for violating an order of
19 protection granted by a court pursuant to the provisions of
20 the Family Violence Protection Act;

21 (3) referred to a domestic violence offender
22 treatment or intervention program by a judge, a domestic
23 violence special commissioner or the parole board; or

24 (4) who voluntarily participates in a
25 domestic violence offender treatment or intervention

underscoring material = new
~~[bracketed material]~~ = delete

1 program."

2 SECTION 25. Section 32A-1-4 NMSA 1978 (being Laws 1993,
3 Chapter 77, Section 13, as amended) is amended to read:

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

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

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

10 C. "authority" or "department" means the child
11 safety and welfare services authority;

12 D. "board of regents" means the board of regents
13 of the child safety and welfare services authority;

14 [~~E.~~] E. "child" means a person who is less than
15 eighteen years old;

16 [~~D.~~] F. "council" means the substitute care
17 advisory council established pursuant to Section 32A-8-4 NMSA
18 1978;

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

24 [~~F.~~] H. "court-appointed special advocate" means
25 a person appointed pursuant to the provisions of the

.230249.1

1 Children's Court Rules to assist the court in determining the
2 best interests of the child by investigating the case and
3 submitting a report to the court;

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

6 ~~[H.]~~ ~~"department" means the children, youth and~~
7 ~~families department, unless otherwise specified;~~

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

12 ~~[J.]~~ K. "federal Indian Child Welfare Act of
13 1978" means the federal Indian Child Welfare Act of 1978, as
14 that act may be amended or its sections renumbered;

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

19 ~~[L.]~~ M. "guardian" means a person appointed as a
20 guardian by a court or Indian tribal authority;

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

underscoring material = new
~~[bracketed material] = delete~~

1 [~~N-~~] O. "Indian" means, whether an adult or
2 child, a person who is:

- 3 (1) a member of an Indian tribe; or
4 (2) eligible for membership in an Indian
5 tribe;

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

- 9 (1) married; or
10 (2) emancipated;

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

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

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

- 20 (1) is an adult with legal custody of an
21 Indian child; or
22 (2) has been transferred temporary physical
23 care, custody and control by the parent of the Indian child;

24 [~~R-~~] S. "Indian tribe" means an Indian nation,
25 tribe, pueblo or other band, organized group or community of

underscoring material = new
~~[bracketed material]~~ = delete

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

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

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

.230249.1

underscored material = new
[bracketed material] = delete

1 ~~[U.]~~ V. "member" or "membership" means a
2 determination made by an Indian tribe that a person is a
3 member of or eligible for membership in that Indian tribe;

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

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

- 13 (1) reunification;
- 14 (2) placement for adoption after the
15 parents' rights have been relinquished or terminated or after
16 a motion has been filed to terminate parental rights;

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

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

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

24 ~~[X. "person" means an individual or any other~~
25 ~~form of entity recognized by law;]~~

1 Y. "plan of care" means a plan created by a
2 health care professional intended to ensure the safety and
3 well-being of a substance-exposed newborn by addressing the
4 treatment needs of the child and any of the child's parents,
5 relatives, guardians, family members or caregivers to the
6 extent those treatment needs are relevant to the safety of
7 the child;

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

10 AA. "protective supervision" means the right to
11 visit the child in the home where the child is residing,
12 inspect the home, transport the child to court-ordered
13 diagnostic examinations and evaluations and obtain
14 information and records concerning the child;

15 BB. "relative" means a person related to another
16 person:

17 (1) by blood within the fifth degree of
18 consanguinity or through marriage by the fifth degree of
19 affinity; or

20 (2) with respect to an Indian child, as
21 established or defined by the Indian child's tribe's custom
22 or law;

23 CC. "reservation" means:

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

underscoring material = new
~~[bracketed material] = delete~~

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

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

7 DD. "reunification" means either a return of the
8 child to the parent or to the home from which the child was
9 removed or a return to the noncustodial parent;

10 EE. "secretary" means the United States secretary
11 of the interior;

12 FF. "state superintendent" means the state
13 superintendent of child safety and welfare services;

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

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

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

.230249.1

underscoring material = new
[bracketed material] = delete

1 other than the court."

2 SECTION 26. Section 32A-15-3 NMSA 1978 (being Laws
3 1985, Chapter 103, Section 3 and Laws 1985, Chapter 140,
4 Section 3, as amended) is amended to read:

5 "32A-15-3. CRIMINAL HISTORY RECORDS CHECK--BACKGROUND
6 CHECKS.--

7 A. State and national criminal history records
8 checks shall be conducted on all operators, employees,
9 student interns and volunteers and prospective operators,
10 employees, student interns and volunteers of every facility
11 or program that has primary custody of children for twenty
12 hours or more per week; and juvenile detention facilities,
13 juvenile correction facilities or treatment facilities.
14 State and national criminal history records checks shall also
15 be conducted on all prospective foster or adoptive parents
16 and other adult relatives and non-relatives residing in the
17 prospective foster or adoptive parent's household and on the
18 child's relatives or fictive kin and other relatives or
19 residents residing in the relatives' or fictive kin's
20 households when the authority considers placing a child with
21 the child's relative or fictive kin. The objective of
22 conducting the records checks is to protect the children
23 involved and promote the children's safety and welfare while
24 receiving service from the facilities [~~and~~], programs or
25 placements.

.230249.1

underscoring material = new
~~[bracketed material]~~ = delete

1 B. For purposes of investigating the suitability
2 of persons enumerated in Subsection A of this section, the
3 ~~[department]~~ authority shall have access to criminal history
4 records information furnished by the department of public
5 safety and the federal bureau of investigation, subject to
6 any restrictions imposed by federal law. As directed by the
7 ~~[department]~~ authority, a person enumerated in Subsection A
8 of this section shall submit a set of electronic fingerprints
9 to the department of public safety. The department of public
10 safety shall conduct a check of state criminal history
11 records and forward the fingerprints to the federal bureau of
12 investigation for a national criminal history records check
13 to determine the existence and content of records of
14 convictions and arrests in this state or other law
15 enforcement jurisdictions and to generate a criminal history
16 records check in accordance with rules of the department and
17 regulations of the federal bureau of investigation. The
18 department of public safety shall review the information
19 returned from the criminal history records check and compile
20 and disseminate the criminal history record information to
21 the department, which shall use the information to
22 investigate and determine whether a person is qualified to
23 provide care for a child or be a foster or adoptive parent.

24 C. Criminal history records obtained pursuant to
25 the provisions of this section are confidential and are not a

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 public record for purposes of the Inspection of Public
2 Records Act and shall not be used for any purpose other than
3 determining suitability for licensure, employment, volunteer
4 service, fostering or adoption. Criminal history records
5 obtained pursuant to the provisions of this section and the
6 information contained in those records shall not be released
7 or disclosed to any other person or agency, except pursuant
8 to a court order or with the written consent of the person
9 who is the subject of the records.

10 D. A person who releases or discloses criminal
11 history records or information contained in those records in
12 violation of the provisions of this section is guilty of a
13 misdemeanor and shall be sentenced pursuant to the provisions
14 of Section 31-19-1 NMSA 1978.

15 E. As used in this section:

16 (1) "behavior management skills development"
17 means services for children and adolescents with
18 psychological, emotional, behavioral, neurobiological or
19 substance abuse problems in the home, community or school
20 when such problems are of such severity that highly
21 supportive and structured therapeutic behavioral
22 interventions are required. These services are designed to
23 maintain the client in the client's home, community or school
24 setting;

25 (2) "case management" means services

.230249.1

1 provided in order to assist children and adolescents with
2 identifying and meeting multiple and complex, special
3 physical, cognitive and behavioral health care needs through
4 planning, securing, monitoring, advocating and coordinating
5 services;

6 (3) "child placement agency" means an
7 individual or an entity licensed by the department as an
8 adoption agency, a foster care agency or both that is
9 undertaking to place a child in a home in this or any other
10 state for the purpose of providing foster care or adoption
11 services;

12 (4) "comprehensive community support
13 services" means a variety of interventions, primarily face-
14 to-face and in community locations, that address barriers
15 that impede the development of skills necessary to
16 independent functioning in the community;

17 (5) "day treatment" means a coordinated and
18 intensive set of structured individualized therapeutic
19 services, in a school or a facility licensed by the
20 department, provided for children, adolescents and their
21 families who are living in the community;

22 (6) "employee" means a person working for a
23 facility or program who has direct care responsibilities or
24 potential unsupervised access to care recipients;

25 (7) "facility" means a juvenile correction

underscored material = new
~~[bracketed material] = delete~~

1 facility, a juvenile detention facility or a treatment
2 facility;

3 (8) "group home" means mental and behavioral
4 health services offered in a supervised, licensed facility
5 that provides structured therapeutic group living for
6 children or adolescents with moderate behavioral,
7 psychological, neurobiological or emotional problems, when
8 clinical history and opinion establish that the needs of the
9 client cannot be met in a less restrictive environment;

10 (9) "intensive outpatient programming" means
11 a time-limited, multifaceted approach to treatment services
12 for children or adolescents who require structure and support
13 to achieve and sustain recovery;

14 (10) "juvenile correction facility" means
15 the physical plant and buildings operated by or on behalf of
16 the juvenile justice division of the ~~[department]~~ authority
17 or any other facility or location designated by the juvenile
18 justice division's director to house or provide care to
19 clients committed to the custody of the ~~[department]~~
20 authority;

21 (11) "juvenile detention facility" means a
22 place where a child may be detained ~~[under]~~ pursuant to the
23 Children's Code pending a court hearing and does not include
24 a facility for the care and rehabilitation of an adjudicated
25 delinquent child;

.230249.1

1 (12) "operator" means a person who has any
2 oversight over a facility's or program's employees or day-to-
3 day operations;

4 (13) "prevention, intervention and
5 reunification services" means prevention awareness, family
6 support and reunification services for families that are at
7 high risk of child maltreatment;

8 (14) "primary custody" means that a facility
9 or program holds temporary or long-term custody or
10 supervision over children in the absence of a parent or
11 guardian;

12 (15) "program" means behavior management
13 skills development, case management, a group home, day
14 treatment, treatment foster care services, a child placement
15 agency, licensed shelter care, comprehensive community
16 support services, intensive outpatient programming,
17 supervised visitation and safe exchange and ~~[children, youth~~
18 ~~and families department]~~ authority contractors and providers
19 receiving funding or reimbursement to provide prevention,
20 intervention and reunification services;

21 (16) "residential treatment facility" means
22 a program that provides twenty-four-hour therapeutic care to
23 children or adolescents with severe behavioral,
24 psychological, neurobiological or emotional problems who are
25 in need of psychosocial rehabilitation in a residential

1 facility;

2 (17) "shelter care" means ~~[any]~~ a facility
3 that provides short-term emergency living accommodations to
4 children in a crisis situation, such as abandonment, abuse or
5 neglect, or who are runaways;

6 (18) "student intern" means a person who is
7 paid or unpaid and is present in a facility or program to
8 work, observe or gain skills in a particular profession;

9 (19) "supervised visitation and safe
10 exchange" means a service that provides children and their
11 parents with a safe, nurturing environment for supervised
12 visitation and exchange, allowing a child to continue the
13 child's relationship with the noncustodial parent without
14 being placed in the middle of parental conflicts;

15 (20) "treatment facility" means a
16 residential treatment facility or group home;

17 (21) "treatment foster care services" means
18 a program that provides therapeutic services to children or
19 adolescents who are psychologically or emotionally disturbed
20 or behaviorally disordered and are placed in a foster family
21 setting; and

22 (22) "volunteer" means a person who spends
23 less than six hours per week at a program, is under direct
24 physical supervision and is not counted in the program
25 facility ratio."

.230249.1

underscored material = new
[bracketed material] = delete

1 SECTION 27. Section 32A-15-4 NMSA 1978 (being Laws
2 1985, Chapter 103, Section 4 and also Laws 1985, Chapter 140,
3 Section 4, as amended) is amended to read:

4 "32A-15-4. PROCEDURES.--~~[By December 31, 1993]~~
5 Procedures shall be established by ~~[regulation]~~ rule to
6 provide for employment history and background checks for all
7 present and prospective personnel identified in Section
8 ~~[32-9-3]~~ 32A-15-3 NMSA 1978:

9 A. by the ~~[secretary of children, youth and~~
10 ~~families]~~ state superintendent for child care facilities and
11 juvenile detention and correction facilities; and

12 B. by the secretary of health for health and
13 treatment facilities."

14 SECTION 28. Section 32A-22-2 NMSA 1978 (being Laws
15 2005, Chapter 64, Section 2, as amended) is amended to read:

16 "32A-22-2. CHILDREN'S CABINET CREATED.--

17 A. The "children's cabinet" is created and is
18 administratively attached to the office of the governor. The
19 children's cabinet shall meet at least six times each year.

20 B. The children's cabinet consists of:

- 21 (1) the governor;
- 22 (2) the lieutenant governor;
- 23 (3) the ~~[secretary of children, youth and~~
24 ~~families]~~ state superintendent as a representative of the
25 board of regents of the authority;

.230249.1

- 1 (4) the secretary of early childhood
2 education and care;
- 3 (5) the secretary of corrections;
- 4 (6) the secretary of [~~human services~~] health
5 care authority;
- 6 (7) the secretary of workforce solutions;
- 7 (8) the secretary of health;
- 8 (9) the secretary of finance and
9 administration;
- 10 (10) the secretary of economic development;
- 11 (11) the secretary of public safety;
- 12 (12) the secretary of aging and long-term
13 services;
- 14 (13) the secretary of Indian affairs; and
- 15 (14) the secretary of public education.

16 C. Each year, the governor shall select a person
17 to serve as chair of the cabinet."

18 SECTION 29. Section 32A-26-11 NMSA 1978 (being Laws
19 2020, Chapter 52, Section 13) is amended to read:

20 "32A-26-11. ADMINISTRATIVE APPEALS.--A young adult may
21 appeal an adverse eligibility determination in accordance
22 with rules promulgated by the [~~department~~] authority. The
23 [~~department~~] authority shall provide the young adult, in the
24 young adult's primary language, with clear and
25 developmentally appropriate verbal and written information

underscored material = new
[bracketed material] = delete

1 concerning the administrative appeal process."

2 SECTION 30. Section 40-7A-3 NMSA 1978 (being Laws 1981,
3 Chapter 171, Section 3, as amended) is amended to read:

4 "40-7A-3. DEFINITIONS.--As used in the Child Placement
5 Agency Licensing Act:

6 A. "authority" or "department" means the child
7 safety and welfare services authority;

8 ~~[A.]~~ B. "child" means an individual under the age
9 of eighteen years;

10 ~~[B.]~~ C. "child placement agency" means [~~any~~
11 ~~individual, partnership, unincorporated association or~~
12 ~~corporation~~] a person undertaking to place a child in a home
13 in this or any other state for the purpose of foster care or
14 adoption of the child;

15 ~~[C. "department" means the children, youth and~~
16 ~~families department;]~~

17 D. "division" means the [~~protective services~~]
18 child and family welfare division of the department;

19 E. "foster home" means a home maintained by an
20 individual having the care and control, for periods exceeding
21 twenty-four hours, of a child who is not placed for adoption;

22 F. "person" means [~~any~~] an individual or a
23 partnership, unincorporated association or corporation; and

24 G. state superintendent" or "secretary" means the
25 [~~secretary of children, youth and families~~] state

.230249.1

underscored material = new
[bracketed material] = delete

1 superintendent of child safety and welfare services."

2 SECTION 31. Section 40-10B-3 NMSA 1978 (being Laws
3 2001, Chapter 167, Section 3, as amended) is amended to read:

4 "40-10B-3. DEFINITIONS.--As used in the Kinship
5 Guardianship Act:

6 A. "authority" or "department" means the child
7 safety and welfare services authority;

8 ~~[A.]~~ B. "caregiver" means an adult, who is not a
9 parent of a child, with whom a child resides and who provides
10 that child with the care, maintenance and supervision
11 consistent with the duties and responsibilities of a parent
12 of the child;

13 ~~[B.]~~ C. "child" means an individual who is a
14 minor;

15 ~~[C. "department" means the children, youth and~~
16 ~~families department;]~~

17 D. "guardian" means a person appointed as a
18 guardian by a court or Indian tribal authority;

19 E. "Indian" means, whether an adult or child, a
20 person who is:

- 21 (1) a member of an Indian tribe; or
22 (2) eligible for membership in an Indian
23 tribe;

24 F. "Indian child" means an Indian person, or a
25 person whom there is reason to know is an Indian person,

.230249.1

1 under eighteen years of age, who is neither:

2 (1) married; or

3 (2) emancipated;

4 G. "Indian child's tribe" means:

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

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

11 H. "Indian custodian" means an Indian who,
12 pursuant to tribal law or custom or pursuant to state law:

13 (1) is an adult with legal custody of an
14 Indian child; or

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

17 I. "Indian tribe" means an Indian nation, tribe,
18 pueblo or other band, organized group or community of Indians
19 recognized as eligible for the services provided to Indians
20 by the secretary of the interior because of their status as
21 Indians, including an Alaska native village as defined in 43
22 U.S.C. Section 1602(c) or a regional corporation as defined
23 in 43 U.S.C. Section 1606. For the purposes of notification
24 to and communication with a tribe as required in the Indian
25 Family Protection Act, "Indian tribe" also includes those

underscoring material = new
~~[bracketed material] = delete~~

1 tribal officials and staff who are responsible for child
2 welfare and social services matters;

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

7 K. "parent" means a biological or adoptive parent
8 of a child whose parental rights have not been terminated and
9 includes an individual identified as a parent under the New
10 Mexico Uniform Parentage Act; and

11 L. "relative" means an individual related to a
12 child as a spouse, parent, stepparent, brother, sister,
13 stepbrother, stepsister, half-brother, half-sister, uncle,
14 aunt, niece, nephew, first cousin or any person denoted by
15 the prefix "grand" or "great", or the spouse or former spouse
16 of the persons specified."

17 SECTION 32. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
18 MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY
19 REFERENCES--RULES OF DEPARTMENT ARE RULES OF THE AUTHORITY
20 UNTIL AMENDED OR REPEALED.--

21 A. On the effective date of this act, all
22 functions, appropriations, money, records, furniture,
23 equipment and supplies and other property of the children,
24 youth and families department shall be transferred to the
25 child safety and welfare services authority.

.230249.1

underscored material = new
~~[bracketed material] = delete~~

1 B. On the effective date of this act, all
2 agreements and contractual obligations of the children, youth
3 and families department, including tribal-state agreements,
4 shall be obligations of the child safety and welfare services
5 authority.

6 C. On the effective date of this act, all
7 statutory references to the children, youth and families
8 department, including tribal-state agreements, shall be
9 deemed to be references to the child safety and welfare
10 services authority.

11 D. The rules of the children, youth and families
12 department shall be deemed to be rules of the child safety
13 and welfare services authority until the authority amends or
14 repeals the rules.

15 E. The governor's office, the department of
16 finance and administration, the state personnel office and
17 the children, youth and families department shall assist in a
18 smooth transition from the children, youth and families
19 department to the child safety and welfare services
20 authority.

21 **SECTION 33. TEMPORARY PROVISION--COMPILATION**
22 **INSTRUCTION.--**The compilation shall reflect that Chapter 32A,
23 Article 27 NMSA 1978 is an article in the Children's Code.

24 **SECTION 34. REPEAL.--**

25 A. Sections 9-2A-1 through 9-2A-23 NMSA 1978

.230249.1

underscoring material = new
~~[bracketed material] = delete~~

1 (being Laws 1992, Chapter 57, Sections 1 through 4 and 6
2 through 8, Laws 2005, Chapter 271, Section 2, Laws 2011,
3 Chapter 163, Section 1, Laws 1992, Chapter 57, Sections 9
4 through 12 and 14, Laws 2007, Chapter 351, Section 1, Laws
5 1992, Chapter 57, Sections 15 and 16, Laws 1993, Chapter 120,
6 Section 1, Laws 1997, Chapter 110, Section 1, Laws 2003,
7 Chapter 324, Sections 1 through 4 and Laws 2007, Chapter 65,
8 Section 2, as amended) are repealed.

9 B. Section 32A-19-1 NMSA 1978 (being Laws 1993,
10 Chapter 77, Section 228, as amended) is repealed.

11 SECTION 35. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is [TBD].