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SENATE BILL 627

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Phillip A. Griego

AN ACT

RELATING TO JUVENILE JUSTICE; REQUIRING JUVENILES TO SERVE
COMMUNITY SERVICE HOURS WHEN ADJUDICATED FOR DWI OFFENSES.

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

Section 1. Section 32A-2-19 NMSA 1978 (being Laws 1993,
Chapter 77, Section 48, as amended) is amended to read:

"32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT
OFFENDER. --

A. At the conclusion of the dispositional hearing,
the court may make and include in the dispositional judgment
its findings on the following:

(1) the interaction and interrelationship of
the child with the child's parents, siblings and any other
person who may significantly affect the child's best
interests;

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1 (2) the child's adjustment to his home,
2 school and community;

3 (3) the mental and physical health of all
4 individuals involved;

5 (4) the wishes of the child as to his
6 custodian;

7 (5) the wishes of the child's parents as to
8 the child's custody;

9 (6) whether there exists a relative of the
10 child or other individual who, after study by the department,
11 is found to be qualified to receive and care for the child;

12 (7) the availability of services recommended
13 in the predisposition report; and

14 (8) the ability of the parents to care for
15 the child in the home.

16 B. If a child is found to be delinquent, the court
17 may impose a fine not to exceed the fine that could be imposed
18 if the child were an adult and may enter its judgment making
19 any of the following dispositions for the supervision, care
20 and rehabilitation of the child:

21 (1) any disposition that is authorized for
22 the disposition of a neglected or abused child, in accordance
23 with the Abuse and Neglect Act;

24 (2) transfer legal custody to the department,
25 an agency responsible for the care and rehabilitation of

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1 delinquent children, which shall receive the child at a
2 facility designated by the secretary of the department as a
3 juvenile reception facility. The department shall thereafter
4 determine the appropriate placement, supervision and
5 rehabilitation program for the child. The judge may include
6 recommendations for placement of the child. Commitments are
7 subject to limitations and modifications set forth in Section
8 32A-2-23 NMSA 1978. The types of commitments include:

9 (a) a short-term commitment of one
10 year;

11 (b) a long-term commitment for no more
12 than two years in a long-term facility for the care and
13 rehabilitation of adjudicated delinquent children;

14 (c) if the child is a delinquent
15 offender who committed one of the criminal offenses set forth
16 in Subsection I of Section 32A-2-3 NMSA 1978, a commitment to
17 age twenty-one, unless sooner discharged; or

18 (d) if the child is a youthful
19 offender, a commitment to age twenty-one, unless sooner
20 discharged;

21 (3) place the child on probation under those
22 conditions and limitations as the court may prescribe;

23 (4) place the child in a local detention
24 facility that has been certified in accordance with the
25 provisions of Section 32A-2-4 NMSA 1978 for a period not to

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1 exceed fifteen days within a three hundred sixty-five day time
2 period;

3 (5) if a child is found to be delinquent
4 solely on the basis of Paragraph (3) of Subsection A of
5 Section 32A-2-3 NMSA 1978, the court shall only enter a
6 judgment placing the child on probation or ordering
7 restitution or imposing a fine not to exceed the fine that
8 could be imposed if the child were an adult or any combination
9 of these dispositions; or

10 (6) if a child is found to be delinquent
11 solely on the basis of Paragraph (2), (4) or (5) of Subsection
12 A of Section 32A-2-3 NMSA 1978, the court may make any
13 disposition provided by this section and may enter its
14 judgment placing the child on probation and, as a condition of
15 probation, transfer custody of the child to the department for
16 a period not to exceed six months without further order of the
17 court; provided that this transfer shall not be made unless
18 the court first determines that the department is able to
19 provide or contract for adequate and appropriate treatment for
20 the child and that the treatment is likely to be beneficial.

21 C. When the child is an Indian child, the Indian
22 child's cultural needs shall be considered in the
23 dispositional judgment and reasonable access to cultural
24 practices and traditional treatment shall be provided.

25 D. No child found to be delinquent shall be

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1 committed or transferred to a penal institution or other
2 facility used for the execution of sentences of persons
3 convicted of crimes.

4 E. Whenever the court vests legal custody in an
5 agency, institution or department, it shall transmit with the
6 dispositional judgment copies of the clinical reports,
7 predisposition study and report and other information it has
8 pertinent to the care and treatment of the child.

9 F. Prior to any child being placed in the custody
10 of the department, the department shall be provided with
11 reasonable oral or written notification and an opportunity to
12 be heard.

13 G. In addition to any other disposition pursuant
14 to this section or any other penalty provided by law, if a
15 child fifteen years of age or older is adjudicated delinquent
16 on the basis of Paragraph (2), (4) or (5) of Subsection A of
17 Section 32A-2-3 NMSA 1978, the child's driving privileges may
18 be denied or the child's driver's license may be revoked for a
19 period of ninety days. For a second or a subsequent
20 adjudication, the child's driving privileges may be denied or
21 the child's driver's license revoked for a period of one year.
22 Within twenty-four hours of the dispositional judgment, the
23 court may send to the motor vehicle division of the taxation
24 and revenue department the order adjudicating delinquency.
25 Upon receipt of an order from the court adjudicating

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1 delinquency, the director of the motor vehicle division of the
2 taxation and revenue department may revoke or deny the
3 delinquent's driver's license or driving privileges. Nothing
4 in this section may prohibit the delinquent from applying for
5 a limited driving privilege pursuant to Section 66-5-35 NMSA
6 1978, and nothing in this section precludes the delinquent's
7 participation in an appropriate educational, counseling or
8 rehabilitation program.

9 H. In addition to any other disposition pursuant
10 to this section or any other penalty provided by law, when a
11 child is adjudicated delinquent on the basis of Paragraph (7)
12 of Subsection A of Section 32A-2-3 NMSA 1978, the child shall
13 perform the mandatory community service set forth in Section
14 30-15-1.1 NMSA 1978. When a child fails to completely perform
15 the mandatory community service, the name and address of the
16 child's parent or legal guardian shall be published in a
17 newspaper of general circulation, accompanied by a notice that
18 he is the parent or legal guardian of a child adjudicated
19 delinquent for committing graffiti.

20 I. In addition to any other disposition pursuant to
21 this section or any other penalty provided by law, when a
22 child is adjudicated delinquent on the basis of Subparagraph
23 (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA
24 1978, the court shall require the child to perform a mandatory
25 sixty hours of community service related to reducing the

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1 incidence of driving while under the influence of intoxicating
2 liquors or drugs within a continuous four-month period
3 immediately following his adjudication.

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