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HOUSE BILL 125

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO CONFIDENTIALITY; ALLOWING DISCLOSURE TO FEDERAL AND
TRIBAL SOCIAL SERVICES AGENCIES OF CHILD NEGLECT AND ABUSE
RECORDS AND INFORMATION; PROHIBITING RERELEASE OF INFORMATION.

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

SECTION 1. Section 32A-4-33 NMSA 1978 (being Laws 1993,
Chapter 77, Section 127, as amended) is amended to read:

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

A. All records or information concerning a party to
a neglect or abuse proceeding, including social records,
diagnostic evaluations, psychiatric or psychological reports,
videotapes, transcripts and audio recordings of a child's
statement of abuse or medical reports incident to or obtained
as a result of a neglect or abuse proceeding or that were
produced or obtained during an investigation in anticipation of

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1 or incident to a neglect or abuse proceeding shall be
2 confidential and closed to the public.

3 B. The records described in Subsection A of this
4 section shall be disclosed only to the parties and to any of
5 the following:

- 6 (1) court personnel;
- 7 (2) court-appointed special advocates;
- 8 (3) the child's guardian ad litem;
- 9 (4) the attorney representing the child in an
10 abuse or neglect action, a delinquency action or any other
11 action under the Children's Code;
- 12 (5) department personnel;
- 13 (6) any local substitute care review board or
14 any agency contracted to implement local substitute care review
15 boards;
- 16 (7) law enforcement officials, except when use
17 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
- 18 (8) district attorneys, except when use
19 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
- 20 (9) [~~any state~~] a government social services
21 agency [~~in~~] of any state or a federal or tribal social services
22 agency or when, in the opinion of the department it is in the
23 best interest of the child, a governmental social services
24 agency of another country;
- 25 (10) those persons or entities of an Indian

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1 tribe specifically authorized to inspect the records pursuant
2 to the federal Indian Child Welfare Act of 1978 or any
3 regulations promulgated thereunder;

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

9 (12) school personnel involved with the child
10 if the records concern the child's social or educational needs;

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

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

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

22 (16) any other person or entity, by order of
23 the court, having a legitimate interest in the case or the work
24 of the court.

25 C. An agency, person or institution receiving

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1 information or records pursuant to Subsection B of this section
2 shall not rerelease records closed to the public pursuant to
3 the Abuse and Neglect Act without proper consent or as provided
4 by law.

5 ~~[G-]~~ D. A parent, guardian or legal custodian whose
6 child has been the subject of an investigation of abuse or
7 neglect where no petition has been filed shall have the right
8 to inspect any medical report, psychological evaluation, law
9 enforcement reports or other investigative or diagnostic
10 evaluation; provided that any identifying information related
11 to the reporting party or any other party providing information
12 shall be deleted. The parent, guardian or legal custodian
13 shall also have the right to the results of the investigation
14 and the right to petition the court for full access to all
15 department records and information except those records and
16 information the department finds would be likely to endanger
17 the life or safety of any person providing information to the
18 department.

19 ~~[D-]~~ E. Whoever intentionally and unlawfully
20 releases any information or records closed to the public
21 pursuant to the Abuse and Neglect Act or releases or makes
22 other unlawful use of records in violation of that act is
23 guilty of a petty misdemeanor and shall be sentenced pursuant
24 to the provisions of Section 31-19-1 NMSA 1978.

25 ~~[E-]~~ F. The department shall promulgate rules for
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1 implementing disclosure of records pursuant to this section and
2 in compliance with state and federal law and the Children's
3 Court Rules."

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