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HOUSE BILL 265

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Stefani Lord and Tara Jaramillo and Harlan Vincent

AN ACT

RELATING TO MEDICAL ASSISTANCE; REQUIRING THE HEALTH CARE
AUTHORITY DEPARTMENT TO PROVIDE MEDICAL ASSISTANCE TO PERSONS
FORMERLY CHILDREN IN STATE CUSTODY UNTIL AGE TWENTY-SIX;
REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO ENROLL
CHILDREN IN ITS CUSTODY IN MEDICAL AND PUBLIC ASSISTANCE
PROGRAMS; REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT
TO PROVIDE WRITTEN CERTIFICATION OF THE ENROLLMENT OF CHILDREN
IN ITS CUSTODY IN MEDICAL AND PUBLIC ASSISTANCE PROGRAMS;
MAKING CONFORMING AMENDMENTS.

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

SECTION 1. Section 27-2-2 NMSA 1978 (being Laws 1973,
Chapter 376, Section 2, as amended) is amended to read:

"27-2-2. DEFINITIONS.--As used in the Public Assistance
Act:

.227241.1

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

underscoring material = new
[bracketed material] = delete

1 A. "department" means the [~~human services~~] health
2 care authority department;

3 B. "board" means the [~~human services~~] health care
4 authority department;

5 C. "director" means the secretary of [~~human~~
6 ~~services~~] health care authority;

7 D. "local office" means the county or district
8 office of the [~~human services~~] health care authority
9 department;

10 E. "medicaid advisory committee" means the body,
11 established by federal law, that advises the New Mexico
12 medicaid program on policy development and program
13 administration;

14 F. "medicaid forward plan" means a health care
15 coverage plan that leverages the medicaid program to provide a
16 state-administered health care coverage option;

17 G. "public welfare" or "public assistance" means
18 any aid or relief granted to or on behalf of an eligible person
19 under the Public Assistance Act and regulations issued pursuant
20 to that act;

21 H. "applicant" means a person who has applied for
22 assistance or services under the Public Assistance Act;

23 I. "recipient" means a person who is receiving
24 assistance or services under the Public Assistance Act;

25 J. "federal act" means the federal Social Security

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underscoring material = new
[bracketed material] = delete

1 Act, as may be amended from time to time, and regulations
2 issued pursuant to that act; and

3 K. "secretary" means the secretary of [~~human~~
4 ~~services~~] health care authority."

5 SECTION 2. Section 27-2-12.19 NMSA 1978 (being Laws 2015,
6 Chapter 31, Section 1) is amended to read:

7 "27-2-12.19. FORMER CHILDREN IN STATE CUSTODY AND FORMER
8 FOSTER-CARE RECIPIENTS--MEDICAL ASSISTANCE COVERAGE UNTIL AGE
9 TWENTY-SIX.--The department shall [~~cover individuals~~] provide
10 medical assistance to persons who are residents of New Mexico
11 and who [~~are former~~] were formerly children in the custody of
12 New Mexico or formerly recipients of foster care, regardless of
13 the state where the foster care was received, until those
14 [~~individuals~~] persons reach the age of twenty-six years."

15 SECTION 3. Section 32A-2-23.2 NMSA 1978 (being Laws 2009,
16 Chapter 239, Section 24) is amended to read:

17 "32A-2-23.2. RELEASE PROCEEDINGS.--

18 A. When the department determines that a child is
19 ready to be released, it shall provide a list of children to
20 the juvenile public safety advisory board at least thirty-five
21 days prior to the next regularly scheduled release
22 consideration meeting. The department shall ensure that all
23 other notifications of a pending release proceeding are
24 accomplished consistent with the provisions of the Victims of
25 Crime Act.

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[bracketed material] = delete

1 B. Release consideration meetings shall be held at
2 least quarterly, are not open to the public and shall include
3 the child, a quorum of the board and a representative of the
4 department. The child's attorney shall receive notice and may
5 be present at the release meeting.

6 C. When the secretary of children, youth and
7 families grants the release of a child, the department shall
8 enroll the child in state medical assistance programs and other
9 public assistance programs that the child is entitled to and
10 shall provide the court with written certification of such
11 enrollment."

12 SECTION 4. Section 32A-4-4 NMSA 1978 (being Laws 1993,
13 Chapter 77, Section 98, as amended) is amended to read:

14 "32A-4-4. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY.--

15 A. Reports alleging neglect or abuse shall be
16 referred to the department, which shall conduct an
17 investigation to determine the best interests of the child with
18 regard to any action to be taken. The name and information
19 regarding the person making the report shall not be disclosed
20 absent the consent of the informant or a court order.

21 B. If a report alleging neglect or abuse meets the
22 criteria established pursuant to Section 32A-4-4.1 NMSA 1978,
23 the department may assign the case to the multilevel response
24 system.

25 C. During the investigation of a report alleging

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1 neglect or abuse, the matter may be referred to another
2 appropriate agency and conferences may be conducted for the
3 purpose of effecting adjustments or agreements that will
4 obviate the necessity for filing a petition. A representative
5 of the department shall, at the initial time of contact with
6 the party subject to the investigation, advise the party of the
7 reports or allegations made, in a manner that is consistent
8 with laws protecting the rights of the informant. The parties
9 shall be advised of their basic rights and no party may be
10 compelled to appear at any conference, to produce any papers or
11 to visit any place. The investigation shall be completed
12 within a reasonable period of time from the date the report was
13 made.

14 D. After completion of the investigation on a
15 neglect or abuse report, the department shall either recommend
16 or refuse to recommend the filing of a petition.

17 E. When a child is taken into custody, the
18 department shall file a petition within three days, unless the
19 provisions of Subsection F of Section 32A-4-7 NMSA 1978 apply,
20 in which case the petition shall be filed within five days.

21 F. When the department files a petition, it shall
22 simultaneously provide to the office of family representation
23 and advocacy, and if a child is an Indian child, to the child's
24 Indian nation, tribe or pueblo:

- 25 (1) the petition;

underscored material = new
[bracketed material] = delete

1 (2) the name, telephone numbers and addresses
2 of each respondent; ~~and~~

3 (3) the names, dates of birth and placement
4 information for each child who is a subject of the petition,
5 including:

6 (a) the type of placement; and

7 (b) the name, telephone number and
8 address for the person or entity that holds the license for
9 each child's placement; and

10 (4) written certification of the child's
11 enrollment in state medical assistance programs or other public
12 assistance programs that the child is entitled to.

13 G. If a petition is not filed in a timely manner,
14 the child shall be released to the child's parent, guardian or
15 custodian."

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

18 "32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES,
19 REPORTS AND EXAMINATIONS.--

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

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

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1 (1) a statement of the specific reasons for
2 intervention by the department or for placing the child in the
3 department's custody and a statement of the parent's ability to
4 care for the child in the parent's home without causing harm to
5 the child;

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

18 (3) the wishes of the child as to the child's
19 custodian;

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

1 determined to be qualified to care for the child;

2 (5) a description of services offered to the
3 child, the child's family and the child's foster care family
4 and a summary of reasonable efforts made to prevent removal of
5 the child from the child's family or reasonable efforts made to
6 reunite the child with the child's family;

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

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

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

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

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

25 (11) a case plan that sets forth steps to

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

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

12 (13) written certification of the child's
13 enrollment in state medical assistance programs and other
14 public assistance programs that the child is entitled to.

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

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