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AN ACT

RELATING TO THE ABUSE AND NEGLECT ACT; AMENDING THE ABUSE AND
NEGLECT ACT; ADDING DEFINITIONS; PROVIDING NOTICE TO
GRANDPARENTS AND OTHER RELATIVES; CHANGING PROCEDURES FOR
PERMANENCY HEARINGS; MODIFYING AND EXPANDING CONFIDENTIALITY
PROVISIONS.

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

SECTION 1. Section 32A-4-1 NMSA 1978 (being Laws 1993,
Chapter 77, Section 95) is amended to read:

"32A-4-1. SHORT TITLE.--Chapter 32A, Article 4 NMSA
1978 may be cited as the "Abuse and Neglect Act"."

SECTION 2. Section 32A-4-2 NMSA 1978 (being Laws 1993,
Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and
Neglect Act:

A. "abandonment" includes instances when the
parent, without justifiable cause:

(1) left the child without provision for the
child's identification for a period of fourteen days; or

(2) left the child with others, including
the other parent or an agency, without provision for support
and without communication for a period of:

(a) three months if the child was under
six years of age at the commencement of the three-month

1 period; or

2 (b) six months if the child was over
3 six years of age at the commencement of the six-month period;

4 B. "abused child" means a child:

5 (1) who has suffered or who is at risk of
6 suffering serious harm because of the action or inaction of
7 the child's parent, guardian or custodian;

8 (2) who has suffered physical abuse,
9 emotional abuse or psychological abuse inflicted or caused by
10 the child's parent, guardian or custodian;

11 (3) who has suffered sexual abuse or sexual
12 exploitation inflicted by the child's parent, guardian or
13 custodian;

14 (4) whose parent, guardian or custodian has
15 knowingly, intentionally or negligently placed the child in a
16 situation that may endanger the child's life or health; or

17 (5) whose parent, guardian or custodian has
18 knowingly or intentionally tortured, cruelly confined or
19 cruelly punished the child;

20 C. "aggravated circumstances" includes those
21 circumstances in which the parent, guardian or custodian has:

22 (1) attempted, conspired to cause or caused
23 great bodily harm to the child or great bodily harm or death
24 to the child's sibling;

25 (2) attempted, conspired to cause or caused

1 great bodily harm or death to another parent, guardian or
2 custodian of the child;

3 (3) attempted, conspired to subject or has
4 subjected the child to torture, chronic abuse or sexual
5 abuse; or

6 (4) had parental rights over a sibling of
7 the child terminated involuntarily;

8 D. "fictive kin" means a person not related by
9 birth, adoption or marriage with whom a child has an
10 emotionally significant relationship;

11 E. "great bodily harm" means an injury to a person
12 that creates a high probability of death, that causes serious
13 disfigurement or that results in permanent or protracted loss
14 or impairment of the function of a member or organ of the
15 body;

16 F. "neglected child" means a child:

17 (1) who has been abandoned by the child's
18 parent, guardian or custodian;

19 (2) who is without proper parental care and
20 control or subsistence, education, medical or other care or
21 control necessary for the child's well-being because of the
22 faults or habits of the child's parent, guardian or custodian
23 or the failure or refusal of the parent, guardian or
24 custodian, when able to do so, to provide them;

25 (3) who has been physically or sexually

1 abused, when the child's parent, guardian or custodian knew
2 or should have known of the abuse and failed to take
3 reasonable steps to protect the child from further harm;

4 (4) whose parent, guardian or custodian is
5 unable to discharge that person's responsibilities to and for
6 the child because of incarceration, hospitalization or
7 physical or mental disorder or incapacity; or

8 (5) who has been placed for care or adoption
9 in violation of the law; provided that nothing in the
10 Children's Code shall be construed to imply that a child who
11 is being provided with treatment by spiritual means alone
12 through prayer, in accordance with the tenets and practices
13 of a recognized church or religious denomination, by a duly
14 accredited practitioner thereof is for that reason alone a
15 neglected child within the meaning of the Children's Code;
16 and further provided that no child shall be denied the
17 protection afforded to all children under the Children's
18 Code;

19 G. "physical abuse" includes but is not limited to
20 any case in which the child exhibits evidence of skin
21 bruising, bleeding, malnutrition, failure to thrive, burns,
22 fracture of any bone, subdural hematoma, soft tissue swelling
23 or death and:

24 (1) there is not a justifiable explanation
25 for the condition or death;

1 (2) the explanation given for the condition
2 is at variance with the degree or nature of the condition;

3 (3) the explanation given for the death is
4 at variance with the nature of the death; or

5 (4) circumstances indicate that the
6 condition or death may not be the product of an accidental
7 occurrence;

8 H. "relative" means a person related to another
9 person by birth, adoption or marriage within the fifth degree
10 of consanguinity;

11 I. "sexual abuse" includes but is not limited to
12 criminal sexual contact, incest or criminal sexual
13 penetration, as those acts are defined by state law;

14 J. "sexual exploitation" includes but is not
15 limited to:

16 (1) allowing, permitting or encouraging a
17 child to engage in prostitution;

18 (2) allowing, permitting, encouraging or
19 engaging a child in obscene or pornographic photographing; or

20 (3) filming or depicting a child for obscene
21 or pornographic commercial purposes, as those acts are
22 defined by state law;

23 K. "sibling" means a brother or sister having one
24 or both parents in common by birth or adoption; and

25 L. "transition plan" means an individualized

1 written plan for a child, based on the unique needs of the
2 child, that outlines all appropriate services to be provided
3 to the child to increase independent living skills. The plan
4 shall also include responsibilities of the child, and any
5 other party as appropriate, to enable the child to be self-
6 sufficient upon emancipation."

7 SECTION 3. A new Section 32A-4-17.1 NMSA 1978 is
8 enacted to read:

9 "32A-4-17.1. NOTICE TO GRANDPARENTS AND
10 RELATIVES.--Within thirty days after a child is taken into
11 custody by law enforcement, or when the department files a
12 petition seeking legal custody of the child, whichever occurs
13 first, the department shall exercise due diligence and make
14 reasonable efforts to identify and provide notice to all
15 grandparents; all parents of a sibling of the child, when the
16 parent has legal custody of the sibling; and other adult
17 relatives of the child, including adult relatives suggested
18 by the parents, unless such notice would be contrary to the
19 best interests of the child due to family or domestic
20 violence. The notice shall:

21 A. specify that the child has been or is being
22 removed from the custody of the parent or parents of the
23 child;

24 B. explain the options the relative has under
25 federal, state or other law to participate in the care and

1 placement of the child, including any options that may be
2 lost by failing to respond to the notice;

3 C. describe the requirements for becoming a foster
4 family home and the additional services and support that are
5 available for children placed in such a home; and

6 D. set out the dates of any currently scheduled
7 court hearings that involve the child."

8 SECTION 4. Section 32A-4-18 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 112, as amended) is amended to read:

10 "32A-4-18. CUSTODY HEARINGS--TIME LIMITATIONS--NOTICE--
11 PROBABLE CAUSE.--

12 A. When a child alleged to be neglected or abused
13 has been placed in the legal custody of the department or the
14 department has petitioned the court for temporary custody, a
15 custody hearing shall be held within ten days from the date
16 the petition is filed to determine if the child should remain
17 in or be placed in the department's custody pending
18 adjudication. Upon written request of the respondent, the
19 hearing may be held earlier, but in no event shall the
20 hearing be held sooner than two days after the date the
21 petition was filed.

22 B. The parent, guardian or custodian of the child
23 alleged to be abused or neglected shall be given reasonable
24 notice of the time and place of the custody hearing.

25 C. At the custody hearing, the court shall return

1 legal custody of the child to the child's parent, guardian or
2 custodian unless probable cause exists to believe that:

3 (1) the child is suffering from an illness
4 or injury, and the parent, guardian or custodian is not
5 providing adequate care for the child;

6 (2) the child is in immediate danger from
7 the child's surroundings, and removal from those surroundings
8 is necessary for the child's safety or well-being;

9 (3) the child will be subject to injury by
10 others if not placed in the custody of the department;

11 (4) there has been an abandonment of the
12 child by the child's parent, guardian or custodian; or

13 (5) the parent, guardian or custodian is not
14 able or willing to provide adequate supervision and care for
15 the child.

16 D. At the conclusion of the custody hearing, if
17 the court determines that probable cause exists pursuant to
18 Subsection C of this section, the court may:

19 (1) return legal custody of the child to the
20 child's parent, guardian or custodian upon such conditions as
21 will reasonably ensure the safety and well-being of the
22 child, including protective supervision by the department; or

23 (2) award legal custody of the child to the
24 department.

25 E. Reasonable efforts shall be made to preserve

1 and reunify the family, with the paramount concern being the
2 child's health and safety. When the department determines
3 that the home of an adult relative of the child meets all
4 relevant child protection and licensing standards and
5 placement in the home would be in the best interest of the
6 child, the department shall give a preference to placement of
7 the child in that home. The department shall make reasonable
8 efforts to conduct home studies on appropriate relatives who
9 express an interest in providing placement for the child.

10 F. At the conclusion of the custody hearing, if
11 the court determines that probable cause does not exist
12 pursuant to Subsection C of this section, the court shall:

13 (1) retain jurisdiction and, unless the
14 court permits otherwise, order that the respondent and child
15 remain in the jurisdiction of the court pending the
16 adjudication;

17 (2) return legal custody of the child to the
18 child's parent, guardian or custodian with conditions to
19 provide for the safety and well-being of the child; and

20 (3) order that the child's parent, guardian
21 or custodian allow the child necessary contact with the
22 child's guardian ad litem or attorney.

23 G. At the conclusion of the custody hearing, the
24 court may order the respondent or the child alleged to be
25 neglected or abused, or both, to undergo appropriate

1 diagnostic examinations or evaluations. If the court
2 determines that probable cause does not exist, the court may
3 order the respondent or the child alleged to be neglected or
4 abused, or both, to undergo appropriate diagnostic
5 examinations or evaluations as necessary to protect the
6 child's best interests, based upon the allegations in the
7 petition and the evidence presented at the custody hearing.
8 Copies of any diagnostic or evaluation reports ordered by the
9 court shall be provided to the parties at least five days
10 before the adjudicatory hearing is scheduled. The reports
11 shall not be sent to the court.

12 H. The Rules of Evidence shall not apply to
13 custody hearings.

14 I. Notwithstanding any other provision of law, a
15 party aggrieved by an order entered pursuant to this section
16 shall be permitted to file an immediate appeal as a matter of
17 right. If the order appealed from grants the legal custody
18 of the child to or withholds it from one or more of the
19 parties to the appeal, the appeal shall be expedited and
20 shall be heard at the earliest practicable time. While an
21 appeal pursuant to this section is pending, the court shall
22 have jurisdiction to take further action in the case pursuant
23 to Subsection B of Section 32A-1-17 NMSA 1978.

24 J. Nothing in this section shall be construed to
25 abridge the rights of Indian children pursuant to the federal

1 Indian Child Welfare Act of 1978."

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

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

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

9 B. The predisposition study required pursuant to
10 Subsection A of this section shall contain the following
11 information:

12 (1) a statement of the specific reasons for
13 intervention by the department or for placing the child in
14 the department's custody and a statement of the parent's
15 ability to care for the child in the parent's home without
16 causing harm to the child;

17 (2) a statement of how an intervention plan
18 is designed to achieve placement of the child in the least
19 restrictive setting available, consistent with the best
20 interests and special needs of the child, including a
21 statement of the likely harm the child may suffer as a result
22 of being removed from the parent's home, including emotional
23 harm that may result due to separation from the child's
24 parents, and a statement of how the intervention plan is
25 designed to place the child in close proximity to the

1 parent's home without causing harm to the child due to
2 separation from parents, siblings or any other person who may
3 significantly affect the child's best interest;

4 (3) the wishes of the child as to the
5 child's custodian;

6 (4) a statement of the efforts the
7 department has made to identify and locate all grandparents
8 and other relatives and to conduct home studies on any
9 appropriate relative expressing an interest in providing care
10 for the child, and a statement as to whether the child has a
11 family member who, subsequent to study by the department, is
12 determined to be qualified to care for the child;

13 (5) a description of services offered to the
14 child, the child's family and the child's foster care family
15 and a summary of reasonable efforts made to prevent removal
16 of the child from the child's family or reasonable efforts
17 made to reunite the child with the child's family;

18 (6) a description of the home or facility in
19 which the child is placed and the appropriateness of the
20 child's placement;

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

23 (8) a statement of the child's medical and
24 educational background;

25 (9) if the child is an Indian child, whether

1 the placement preferences set forth in the federal Indian
2 Child Welfare Act of 1978 or the placement preferences of the
3 child's Indian tribe were followed and whether the child's
4 case plan provides for maintaining the child's cultural ties;

5 (10) a case plan that sets forth steps to
6 ensure that the child's physical, medical, psychological and
7 educational needs are met and that sets forth services to be
8 provided to the child and the child's parents to facilitate
9 permanent placement of the child in the parent's home;

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

15 (12) a case plan that sets forth steps to
16 ensure that the child's educational needs are met and, for a
17 child fourteen years of age or older, a case plan that
18 specifically sets forth the child's educational and
19 post-secondary goals; and

20 (13) a description of the child's foster
21 care placement and whether it is appropriate in terms of the
22 educational setting and proximity to the school the child was
23 enrolled in at the time of the placement, including plans for
24 travel for the child to remain in the school in which the
25 child was enrolled at the time of placement, if reasonable

1 and in the child's best interest.

2 C. A copy of the predisposition report shall be
3 provided by the department to counsel for all parties five
4 days before the dispositional hearing.

5 D. If the child is an adjudicated abused child,
6 any temporary custody orders shall remain in effect until the
7 court has received and considered the predispositional study
8 at the dispositional hearing."

9 SECTION 6. Section 32A-4-22 NMSA 1978 (being Laws 1993,
10 Chapter 77, Section 116, as amended) is amended to read:

11 "32A-4-22. DISPOSITION OF ADJUDICATED ABUSED OR
12 NEGLECTED CHILD.--

13 A. If not held in conjunction with the
14 adjudicatory hearing, the dispositional hearing shall be
15 commenced within thirty days after the conclusion of the
16 adjudicatory hearing. At the conclusion of the dispositional
17 hearing, the court shall make and include in the
18 dispositional judgment its findings on the following:

19 (1) the interaction and interrelationship of
20 the child with the child's parent, siblings and any other
21 person who may significantly affect the child's best
22 interest;

23 (2) the child's adjustment to the child's
24 home, school and community;

25 (3) the mental and physical health of all

1 individuals involved;

2 (4) the wishes of the child as to the
3 child's placement;

4 (5) the wishes of the child's parent,
5 guardian or custodian as to the child's custody;

6 (6) whether reasonable efforts have been
7 made by the department to identify, locate and give notice to
8 all grandparents and other relatives and to conduct home
9 studies on any appropriate relative who expresses an interest
10 in providing care for the child. If the court finds that
11 reasonable efforts in these areas have not been made, the
12 court may make supplemental orders as necessary and may
13 reconsider the matter at the initial judicial review and
14 subsequent periodic review hearings;

15 (7) whether consideration has been given to
16 the child's familial identity and connections;

17 (8) whether there exists a relative of the
18 child or other individual who, after study by the department,
19 is found to be qualified to receive and care for the child;

20 (9) the availability of services recommended
21 in the case plan prepared as a part of the predisposition
22 study in accordance with the provisions of Section 32A-4-21
23 NMSA 1978;

24 (10) the ability of the parent to care for
25 the child in the home so that no harm will result to the

1 child;

2 (11) whether reasonable efforts were made by
3 the department to prevent removal of the child from the home
4 prior to placement in substitute care and whether reasonable
5 efforts were made to attempt reunification of the child with
6 the natural parent;

7 (12) whether reasonable efforts were made by
8 the department to place siblings in custody together, unless
9 such joint placement would be contrary to the safety or well-
10 being of any of the siblings in custody, and whether any
11 siblings not jointly placed have been provided reasonable
12 visitation or other ongoing interaction, unless visitation or
13 other ongoing interaction would be contrary to the safety or
14 well-being of any of the siblings; and

15 (13) if the child is an Indian child,
16 whether the placement preferences set forth in the federal
17 Indian Child Welfare Act of 1978 or the placement preferences
18 of the child's Indian tribe have been followed and whether
19 the Indian child's case plan provides for maintaining the
20 Indian child's cultural ties. When placement preferences
21 have not been followed, good cause for noncompliance shall be
22 clearly stated and supported.

23 B. If a child is found to be neglected or abused,
24 the court may enter its judgment making any of the following
25 dispositions to protect the welfare of the child:

1 (1) permit the child to remain with the
2 child's parent, guardian or custodian, subject to those
3 conditions and limitations the court may prescribe;

4 (2) place the child under protective
5 supervision of the department; or

6 (3) transfer legal custody of the child to
7 one of the following:

8 (a) the noncustodial parent, if it is
9 found to be in the child's best interest; or

10 (b) the department.

11 C. If a child is found to be neglected or abused,
12 in its dispositional judgment the court shall also order the
13 department to implement and the child's parent, guardian or
14 custodian to cooperate with any case plan approved by the
15 court. Reasonable efforts shall be made to preserve and
16 reunify the family, with the paramount concern being the
17 child's health and safety. The court may determine that
18 reasonable efforts are not required to be made when the court
19 finds that:

20 (1) the efforts would be futile; or

21 (2) the parent, guardian or custodian has
22 subjected the child to aggravated circumstances.

23 D. Any parent, guardian or custodian of a child
24 who is placed in the legal custody of the department or other
25 person pursuant to Subsection B of this section shall have

1 reasonable rights of visitation with the child as determined
2 by the court, unless the court finds that the best interests
3 of the child preclude any visitation.

4 E. The court may order reasonable visitation
5 between a child placed in the custody of the department and
6 the child's siblings or any other person who may
7 significantly affect the child's best interest, if the court
8 finds the visitation to be in the child's best interest.

9 F. Unless a child found to be neglected or abused
10 is also found to be delinquent, the child shall not be
11 confined in an institution established for the long-term care
12 and rehabilitation of delinquent children.

13 G. When the court vests legal custody in an
14 agency, institution or department, the court shall transmit
15 with the dispositional judgment copies of the clinical
16 reports, the predisposition study and report and any other
17 information it has pertinent to the care and treatment of the
18 child.

19 H. Prior to a child being placed in the custody or
20 protective supervision of the department, the department
21 shall be provided with reasonable oral or written
22 notification and an opportunity to be heard. At any hearing
23 held pursuant to this subsection, the department may appear
24 as a party.

25 I. When a child is placed in the custody of the

1 department, the department shall investigate whether the
2 child is eligible for enrollment as a member of an Indian
3 tribe and, if so, the department shall pursue the enrollment
4 on the child's behalf.

5 J. When the court determines pursuant to
6 Subsection C of this section that no reasonable efforts at
7 reunification are required, the court shall conduct, within
8 thirty days, a permanency hearing as described in Section
9 32A-4-25.1 NMSA 1978. Reasonable efforts shall be made to
10 implement and finalize the permanency plan in a timely
11 manner."

12 **SECTION 7.** Section 32A-4-25.1 NMSA 1978 (being Laws
13 1997, Chapter 34, Section 8, as amended) is amended to read:

14 "32A-4-25.1. PERMANENCY HEARINGS--PERMANENCY REVIEW
15 HEARINGS.--

16 A. A permanency hearing shall be commenced within
17 six months of the initial judicial review of a child's
18 dispositional order or within twelve months of a child
19 entering foster care pursuant to Subsection D of this
20 section, whichever occurs first. Prior to the initial
21 permanency hearing, all parties to the hearing shall attend a
22 mandatory meeting and attempt to settle issues attendant to
23 the permanency hearing and develop a proposed case plan that
24 serves the child's best interest. Prior to the initial
25 permanency hearing, the department shall submit a progress

1 report regarding the child to the local substitute care
2 review board for that judicial district. The local
3 substitute care review board may review the child's
4 dispositional order, any continuation of that order and the
5 department's progress report and report its findings and
6 recommendations to the court.

7 B. At the permanency hearing, all parties shall
8 have the opportunity to present evidence and to cross-examine
9 witnesses. At the conclusion of the permanency hearing, the
10 court shall order one of the following permanency plans for
11 the child:

12 (1) reunification;

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

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

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

21 (5) placement in the legal custody of the
22 department under a planned permanent living arrangement,
23 provided that there is substantial evidence that none of the
24 above plans is appropriate for the child.

25 C. If the court adopts a permanency plan of

1 reunification, the court shall adopt a plan for transitioning
2 the child home within a reasonable period depending on the
3 facts and circumstances of the case, but not to exceed six
4 months, and schedule a permanency review hearing within three
5 months. If the child is reunified, the subsequent hearing
6 may be vacated.

7 D. At the permanency review hearing, all parties
8 and the child's guardian ad litem or attorney shall have the
9 opportunity to present evidence and cross-examine witnesses.
10 Based on the evidence, the court shall:

11 (1) change the plan from reunification to
12 one of the alternative plans provided in Subsection B of this
13 section;

14 (2) dismiss the case and return custody of
15 the child to the child's parent, guardian or custodian;

16 (3) continue legal custody of the child in
17 the department to complete a transition home to the child's
18 parent, guardian or custodian and continue the case plan for
19 not more than six months, after which the case shall be
20 dismissed unless the plan is changed as provided in Paragraph
21 (1) of this subsection; or

22 (4) return the child to the custody of the
23 child's parent, guardian or custodian, subject to any
24 conditions or limitations as the court may prescribe,
25 including protective supervision of the child by the

1 department and continuation of the case plan for not more
2 than six months, after which the case shall be dismissed.
3 The department may seek removal of a child from the home by
4 obtaining an order in the pending case or by seeking
5 emergency removal under Section 32A-4-6 NMSA 1978 during the
6 period of protective supervision if the child's best interest
7 requires such action. When a child is removed in this
8 situation, a permanency hearing shall be scheduled within
9 thirty days of the child coming back into the department's
10 legal custody.

11 E. The court shall hold a permanency hearing and
12 adopt a permanency plan for a child within twelve months of
13 the child entering foster care. For purposes of this
14 section, a child shall be considered to have entered foster
15 care on the earlier of:

16 (1) the date of the first judicial finding
17 that the child has been abused or neglected; or

18 (2) sixty days after the date on which the
19 child was removed from the home.

20 F. The court shall hold permanency hearings every
21 twelve months when a child is in the legal custody of the
22 department.

23 G. The children's court attorney shall give notice
24 to all parties, including the child by and through the
25 child's guardian ad litem or attorney, the child's CASA, a

1 contractor administering the local substitute care review
2 board and the child's foster parent or substitute care
3 provider of the time, place and purpose of any permanency
4 hearing or permanency review hearing held pursuant to this
5 section.

6 H. The Rules of Evidence shall not apply to
7 permanency hearings. The court may admit testimony by any
8 person given notice of the permanency hearing who has
9 information about the status of the child or the status of
10 the treatment plan. All testimony shall be subject to cross-
11 examination."

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

14 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

15 A. All records or information concerning a party
16 to a neglect or abuse proceeding, including social records,
17 diagnostic evaluations, psychiatric or psychological reports,
18 videotapes, transcripts and audio recordings of a child's
19 statement of abuse or medical reports incident to or obtained
20 as a result of a neglect or abuse proceeding or that were
21 produced or obtained during an investigation in anticipation
22 of or incident to a neglect or abuse proceeding shall be
23 confidential and closed to the public.

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

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

5 (2) court-appointed special advocates
6 appointed to the neglect or abuse proceeding;

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

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

11 (5) department personnel and persons or
12 entities authorized by contract with the department to
13 review, inspect or otherwise have access to records or
14 information in the department's possession;

15 (6) any local substitute care review board
16 or any agency contracted to implement local substitute care
17 review boards;

18 (7) law enforcement officials, except when
19 use immunity is granted pursuant to Section 32A-4-11 NMSA
20 1978;

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

23 (9) any state government social services
24 agency in any state or when, in the opinion of the department
25 it is in the best interest of the child, a governmental

1 social services agency of another country;

2 (10) those persons or entities of an Indian
3 tribe specifically authorized to inspect the records pursuant
4 to the federal Indian Child Welfare Act of 1978 or any
5 regulations promulgated thereunder;

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

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

14 (13) a grandparent, parent of a sibling,
15 relative or fictive kin, if the records or information
16 pertain to a child being considered for placement with that
17 grandparent, parent of a sibling, relative or fictive kin and
18 the records or information concern the social, medical,
19 psychological or educational needs of the child;

20 (14) health care or mental health
21 professionals involved in the evaluation or treatment of the
22 child or of the child's parents, guardian, custodian or other
23 family members;

24 (15) protection and advocacy representatives
25 pursuant to the federal Developmental Disabilities Assistance

1 and Bill of Rights Act and the federal Protection and
2 Advocacy for Mentally Ill Individuals Amendments Act of 1991;

3 (16) children's safehouse organizations
4 conducting investigatory interviews of children on behalf of
5 a law enforcement agency or the department;

6 (17) representatives of the federal
7 government or their contractors authorized by federal statute
8 or regulation to review, inspect, audit or otherwise have
9 access to records and information pertaining to neglect or
10 abuse proceedings;

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

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

20 C. A parent, guardian or legal custodian whose
21 child has been the subject of an investigation of abuse or
22 neglect where no petition has been filed shall have the right
23 to inspect any medical report, psychological evaluation, law
24 enforcement reports or other investigative or diagnostic
25 evaluation; provided that any identifying information related

1 to the reporting party or any other party providing
2 information shall be deleted. The parent, guardian or legal
3 custodian shall also have the right to the results of the
4 investigation and the right to petition the court for full
5 access to all department records and information except those
6 records and information the department finds would be likely
7 to endanger the life or safety of any person providing
8 information to the department.

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

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

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