

1 AN ACT
2 RELATING TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;
3 PROHIBITING EMPLOYEES, STAFF MEMBERS AND VOLUNTEERS AT THE
4 CHILDREN, YOUTH AND FAMILIES DEPARTMENT, INCLUDING
5 PROSPECTIVE EMPLOYEES, WHO HAVE DIRECT UNSUPERVISED CONTACT
6 WITH DEPARTMENT CLIENTS AND THEIR SUPERIORS FROM CONTINUED
7 EMPLOYMENT UPON SUBSTANTIATION OF AN ABUSE OR NEGLECT
8 ALLEGATION; PROHIBITING ALL PERSONS WHO HAVE DIRECT
9 UNSUPERVISED CONTACT WITH CHILDREN, YOUTH AND FAMILIES
10 DEPARTMENT CLIENTS AND THOSE PERSONS' SUPERIORS FROM BEING
11 EMPLOYEES, STAFF MEMBERS OR VOLUNTEERS AT THE CHILDREN, YOUTH
12 AND FAMILIES DEPARTMENT IF CONVICTED OF A FELONY OFFENSE;
13 ESTABLISHING JUST CAUSE FOR DISCIPLINE; PROVIDING THAT
14 FINDINGS OF ABUSE OR NEGLECT BY THE CHILDREN, YOUTH AND
15 FAMILIES DEPARTMENT ARE BINDING AND NON-APPEALABLE TO THE
16 PERSONNEL BOARD; PROVIDING FOR THE DISCOVERY OF CONFIDENTIAL
17 RECORDS IN HEARINGS BEFORE THE PERSONNEL BOARD OR ITS
18 DESIGNATED HEARING OFFICER.

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

21 SECTION 1. A new section of the Children, Youth and
22 Families Department Act is enacted to read:

23 "PROHIBITION ON EMPLOYMENT FOR INDIVIDUALS WITH
24 SUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR
25 NEGLECT--PROHIBITION ON CONVICTED FELONS--DISCIPLINARY

1 ACTION--CONFIDENTIALITY OF ABUSE AND NEGLECT RECORDS.--

2 A. No employee, staff member or volunteer at the
3 department, including prospective employees, having direct
4 unsupervised contact with department clients, nor the
5 superiors of any such employee, staff member or volunteer,
6 shall have been the subject of a substantiated allegation of
7 child abuse or neglect.

8 B. No employee, staff member or volunteer at the
9 department who has direct unsupervised contact with
10 department clients, or the superiors of an employee, staff
11 member or volunteer at the department who has direct
12 unsupervised contact with department clients, shall have been
13 convicted of a felony offense that is directly related to the
14 job duties of the employee by a court of this state, any
15 other state or the United States.

16 C. Any employee or staff member subject to the
17 Personnel Act who has been the subject of a substantiated
18 allegation of abuse or neglect as investigated and determined
19 by the department may be subject to increased supervision or
20 disciplinary action under the Personnel Act. Upon appeal of
21 a disciplinary action to the personnel board pursuant to this
22 section, the personnel board shall defer to the record of the
23 administrative hearing affirming a substantiated allegation
24 of abuse or neglect, if one exists, in determining whether
25 the action taken by the agency was with just cause.

1 D. An employee or a staff member of the department
2 subject to dismissal under this section shall have no right
3 to progressive discipline as a condition precedent to
4 discipline under this section.

5 E. In any appeal of an employee or staff member to
6 the personnel board as provided by the Personnel Act, records
7 that are otherwise confidential pursuant to the Abuse and
8 Neglect Act shall be discoverable by the parties and
9 admissible as to any relevant fact; provided that any
10 identifying information related to the reporting party, any
11 other party providing information and information the
12 department finds would be likely to endanger the life or
13 safety of any person providing information to the department
14 may be redacted."

15 SECTION 2. Section 9-2A-8 NMSA 1978 (being Laws 1992,
16 Chapter 57, Section 8, as amended) is amended to read:

17 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
18 other duties provided by law or assigned to the department by
19 the governor, the department shall:

20 A. develop priorities for department services and
21 resources based on state policy and national best-practice
22 standards and local considerations and priorities;

23 B. strengthen collaboration and coordination in
24 state and local services for children, youth and families by
25 integrating critical functions as appropriate, including

1 service delivery, and contracting for services across
2 divisions and related agencies;

3 C. develop and maintain a statewide database,
4 including client tracking of services for children, youth and
5 families;

6 D. develop standards of service within the
7 department that focus on prevention, monitoring and outcomes;

8 E. analyze policies of other departments that
9 affect children, youth and families to encourage common
10 contracting procedures, common service definitions and a
11 uniform system of access;

12 F. enact regulations to control disposition and
13 placement of children under the Children's Code, including
14 regulations to limit or prohibit the out-of-state placement
15 of children, including those who have developmental
16 disabilities or emotional, neurobiological or behavioral
17 disorders, when in-state alternatives are available;

18 G. develop reimbursement criteria for licensed
19 child care centers and licensed home providers establishing
20 that accreditation by a department-approved national
21 accrediting body is sufficient qualification for the child
22 care center or home provider to receive the highest
23 reimbursement rate paid by the department;

24 H. assume and implement responsibility for
25 children's mental health and substance abuse services in the

1 state, coordinating with the human services department and
2 the department of health;

3 I. assume and implement the lead responsibility
4 among all departments for domestic violence services;

5 J. implement prevention and early intervention as
6 a departmental focus;

7 K. conduct biennial assessments of service gaps
8 and needs and establish outcome measurements to address those
9 service gaps and needs, including recommendations from the
10 governor's children's cabinet and the children, youth and
11 families advisory committee;

12 L. ensure that behavioral health services
13 provided, including mental health and substance abuse
14 services for children, adolescents and their families, shall
15 be in compliance with requirements of Section 9-7-6.4 NMSA
16 1978; and

17 M. fingerprint and conduct nationwide criminal
18 history record searches on all department employees, staff
19 members and volunteers whose jobs involve direct contact with
20 department clients, including prospective employees and
21 employees who are promoted, transferred or hired into new
22 positions, and the superiors of all department employees,
23 staff members and volunteers who have direct unsupervised
24 contact with department clients." _____