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SENATE BILL 491

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Linda M. López

AN ACT

RELATING TO LEGAL REPRESENTATION; ADDING THE OFFICE OF FAMILY REPRESENTATION AND ADVOCACY TO THE DEFINITION OF "PUBLIC SERVICE EMPLOYMENT" FOR THE PUBLIC SERVICE LAW LOAN REPAYMENT ACT; ADDING THE DIRECTOR OF THE OFFICE OF FAMILY REPRESENTATION AND ADVOCACY TO THE PUBLIC SERVICE LAW ADVISORY COMMITTEE; ENACTING THE CHILD AND FAMILY WELFARE WORKER LOAN REPAYMENT ACT; PROVIDING POWERS AND DUTIES; CREATING THE CHILD AND FAMILY WELFARE WORKER LOAN REPAYMENT FUND; REQUIRING REPORTS; AMENDING THE ASSIGNMENT OF COUNSEL IN CERTAIN PROCEEDINGS; PROVIDING WAIVERS; PROVIDING FOR THE REPRESENTATION OF CHILDREN OF INDIGENT OR SIMILARLY SITUATED PARENTS; MAKING AN APPROPRIATION.

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

SECTION 1. Section 21-22F-3 NMSA 1978 (being Laws 2005, .231138.1

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1 Chapter 83, Section 3, as amended) is amended to read:

2 "21-22F-3. DEFINITIONS.--As used in the Public Service
3 Law Loan Repayment Act:

4 A. "committee" means the public service law
5 advisory committee;

6 B. "department" means the higher education
7 department;

8 C. "legal education" means education at an
9 accredited law school and any bar review preparation courses
10 for the state bar examination;

11 D. "loan" means money allocated to defray the costs
12 incidental to a legal education under a contract between the
13 federal government or a commercial lender and a law school
14 student, requiring either repayment of principal and interest
15 or repayment in services;

16 E. "participating attorney" means an attorney who
17 receives a loan repayment award from the department pursuant to
18 the provisions of the Public Service Law Loan Repayment Act;
19 and

20 F. "public service employment" means employment
21 with:

22 (1) an organization that is exempt from
23 taxation pursuant to Section 501(c)(3) of Title 26 of the
24 United States Code and that provides for the care and
25 maintenance of indigent persons in New Mexico through civil

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1 legal services;

2 (2) the public defender department; ~~[or]~~

3 (3) a New Mexico district attorney's office;

4 or

5 (4) the office of family representation and
6 advocacy."

7 SECTION 2. Section 21-22F-8 NMSA 1978 (being Laws 2005,
8 Chapter 83, Section 8) is amended to read:

9 "21-22F-8. PUBLIC SERVICE LAW ADVISORY COMMITTEE--
10 CREATED--DUTIES.--

11 A. The "public service law advisory committee" is
12 created to advise the ~~[commission]~~ higher education department
13 on matters relating to the administration of the Public Service
14 Law Loan Repayment Act.

15 B. The committee is composed of:

16 (1) the dean of the university of New Mexico
17 law school or the dean's designee;

18 (2) the executive director of New Mexico legal
19 aid or the director's designee who shall be an attorney
20 employed with an organization that is exempt from taxation
21 pursuant to Section 501(c)(3) of Title 26 of the United States
22 Code and that provides civil legal services to indigent persons
23 in New Mexico;

24 (3) the chief public defender or the chief's
25 designee;

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1 (4) a district attorney appointed by the New
2 Mexico district attorneys association; ~~and~~

3 (5) the director of the office of family
4 representation and advocacy or the director's designee; and

5 ~~(5)~~ (6) a financial aid or career services
6 officer of the university of New Mexico law school designated
7 by the dean.

8 C. The committee shall:

9 (1) make recommendations to the ~~commission~~
10 department on applicants for the public service law loan
11 repayment program;

12 (2) advise the ~~commission~~ department on the
13 adoption of rules to implement the provisions of the Public
14 Service Law Loan Repayment Act; and

15 (3) give advice or other assistance to the
16 ~~commission~~ department as requested."

17 SECTION 3. A new Section 21-22J-1 NMSA 1978 is enacted to
18 read:

19 "21-22J-1. [NEW MATERIAL] SHORT TITLE.--Sections 3
20 through 9 of this act may be cited as the "Child and Family
21 Welfare Worker Loan Repayment Act".

22 SECTION 4. A new Section 21-22J-2 NMSA 1978 is enacted to
23 read:

24 "21-22J-2. [NEW MATERIAL] DEFINITIONS.--As used in the
25 Child and Family Welfare Worker Loan Repayment Act:

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- 1 A. "applicant" means a person applying for an
2 award;
- 3 B. "award" means the grant of money to repay loans;
- 4 C. "critical field" means social work or other
5 academic field of study that leads to a bachelor's or master's
6 degree and that the office of family representation and
7 advocacy has determined to be critical to the work of the
8 interdisciplinary services division of the office of family
9 representation and advocacy;
- 10 D. "department" means the higher education
11 department;
- 12 E. "fund" means the child and family welfare worker
13 loan repayment fund;
- 14 F. "loan" means a grant of money under contract
15 between a student and the federal government or a commercial
16 lender to defray the costs incidental to an undergraduate or
17 master's level education in a critical field and that requires
18 either repayment of principal and interest or repayment in
19 services;
- 20 G. "office" means the office of family
21 representation and advocacy;
- 22 H. "program" means the office of family
23 representation and advocacy public service worker loan
24 repayment program, which provides money to repay student loans
25 in a critical field; and

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1 I. "public service worker" means an employee of the
2 office with a completed bachelor's or master's degree in a
3 critical field who works directly with children and families in
4 the interdisciplinary services division of the office. The
5 office shall provide an annual list to the department of job
6 classifications that qualify as "public service workers" for
7 the purposes of the Child and Family Welfare Worker Loan
8 Repayment Act."

9 SECTION 5. A new Section 21-22J-3 NMSA 1978 is enacted to
10 read:

11 "21-22J-3. [NEW MATERIAL] POWERS AND DUTIES.--

12 A. The department may:

13 (1) grant an award to repay loans obtained for
14 a public service worker upon such terms and conditions as may
15 be imposed by rule of the department; and

16 (2) delegate to other agencies or contract for
17 the performance of services required by the program.

18 B. An applicant shall be a public service worker
19 before applying for the program."

20 SECTION 6. A new Section 21-22J-4 NMSA 1978 is enacted to
21 read:

22 "21-22J-4. [NEW MATERIAL] AWARDS--CRITERIA--CONTRACT
23 TERMS.--

24 A. Prior to receiving an award, a public service
25 worker shall file an application with the department that meets

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1 the criteria established by rule of the department.

2 B. The following debts are not eligible for
3 repayment pursuant to the Child and Family Welfare Worker Loan
4 Repayment Act:

5 (1) amounts incurred as a result of
6 participation in state loan-for-service programs or other state
7 programs whose purpose states that service be provided in
8 exchange for financial assistance;

9 (2) scholarships that have a service component
10 or obligation;

11 (3) personal loans from friends or relatives;

12 (4) loans that exceed individual standard
13 school expense levels; and

14 (5) loans that are eligible for another state
15 or federal loan repayment program.

16 C. Award criteria shall provide that:

17 (1) the applicant has satisfactorily completed
18 at least one year of service with the office as a public
19 service worker;

20 (2) the percentage of repayment directly
21 relates to years of service completed as a public service
22 worker;

23 (3) the highest priority shall be given to
24 public service workers who work in geographic areas or division
25 positions where vacancies are difficult to fill, as determined

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1 by the director of the office;

2 (4) award amounts may be modified based on
3 available funding or other special circumstances; and

4 (5) an award for each public service worker
5 shall not exceed twenty-five thousand dollars (\$25,000) or the
6 loan indebtedness of the worker, whichever is less.

7 D. Every loan repayment award shall be evidenced by
8 a contract between the public service worker and the department
9 working on behalf of the state. The contract shall provide for
10 the payment by the state of a stated sum to the public service
11 worker's federal government or commercial lender and shall
12 state the obligations of the public service worker under the
13 program as established by the department.

14 E. The contract between a public service worker and
15 the department shall provide that, if the public service worker
16 does not comply with the terms of the contract, the public
17 service worker shall reimburse the department for all loan
18 payments made on the public service worker's behalf, plus
19 reasonable interest at a rate to be determined by the
20 department, unless the department finds acceptable extenuating
21 circumstances for why the public service worker cannot serve or
22 comply with the terms of the contract.

23 F. Loan repayment awards shall be in the form of
24 payments from the fund directly to the federal government or
25 commercial lender of a public service worker who has received

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1 the award and shall be considered a payment on behalf of the
2 public service worker pursuant to the contract between the
3 department and the public service worker. A loan repayment
4 award shall not obligate the state or the department to a
5 public service worker's lender for any other payment and shall
6 not be considered to create any privity of contract between the
7 state or the department and the lender.

8 G. The department, after consulting with the
9 office, shall adopt rules to implement the provisions of the
10 Child and Family Welfare Worker Loan Repayment Act. The rules:

11 (1) shall provide a procedure for determining
12 the amount of a loan that shall be repaid; and

13 (2) may provide for the disbursement of loan
14 repayment awards to the lender in annual or other periodic
15 installments."

16 SECTION 7. A new Section 21-22J-5 NMSA 1978 is enacted to
17 read:

18 "21-22J-5. [NEW MATERIAL] CONTRACTS--ENFORCEMENT--
19 CANCELLATION.--

20 A. The general form of a contract required pursuant
21 to the Child and Family Welfare Worker Loan Repayment Act shall
22 be prepared and approved by the department's general counsel,
23 and each contract shall be signed by the public service worker
24 and the secretary of higher education or the secretary's
25 authorized representative on behalf of the state. The

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1 department is vested with full and complete authority and power
2 to sue in its own name for any balance due the state from a
3 public service worker under a loan repayment contract.

4 B. The department may cancel a contract made
5 between the department and a public service worker pursuant to
6 the Child and Family Welfare Worker Loan Repayment Act for any
7 reasonable cause deemed sufficient by the department."

8 SECTION 8. A new Section 21-22J-6 NMSA 1978 is enacted to
9 read:

10 "21-22J-6. [NEW MATERIAL] CHILD AND FAMILY WELFARE WORKER
11 LOAN REPAYMENT FUND CREATED.--The "child and family welfare
12 worker loan repayment fund" is created in the state treasury.
13 The fund consists of appropriations, repayment of awards and
14 interest received by the department, income from investment of
15 the fund, gifts, grants and donations. The fund shall be
16 administered by the department, and money in the fund is
17 appropriated to the department to make loan repayment awards
18 pursuant to the Child and Family Welfare Worker Loan Repayment
19 Act. Money in the fund at the end of a fiscal year shall not
20 revert to any other fund. All payments for loan repayment
21 awards shall be made on warrants of the secretary of finance
22 and administration on vouchers signed by the secretary of
23 higher education or the secretary's authorized representative."

24 SECTION 9. A new Section 21-22J-7 NMSA 1978 is enacted to
25 read:

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1 "21-22J-7. [NEW MATERIAL] REPORTS.--The department shall
2 make annual reports to the governor and the legislature prior
3 to each regular legislative session of its activities, the loan
4 repayment awards granted and the title and job duties of each
5 award recipient. The report shall also include any contract
6 cancellations and any enforcement actions that the department
7 has taken."

8 SECTION 10. Section 32A-1-4 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 13, as amended) is amended to read:

10 "32A-1-4. DEFINITIONS.--As used in the Children's Code:

11 A. "active efforts" means efforts that are
12 affirmative, active, thorough and timely and that represent a
13 higher standard of conduct than reasonable efforts;

14 B. "adult" means a person who is eighteen years of
15 age or older;

16 C. "child" means a person who is less than eighteen
17 years old;

18 D. "council" means the substitute care advisory
19 council established pursuant to Section 32A-8-4 NMSA 1978;

20 E. "court", when used without further
21 qualification, means the children's court division of the
22 district court and includes the judge, special master or
23 commissioner appointed pursuant to the provisions of the
24 Children's Code or supreme court rule;

25 F. "court-appointed special advocate" means a

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1 person appointed pursuant to the provisions of the Children's
2 Court Rules to assist the court in determining the best
3 interests of the child by investigating the case and submitting
4 a report to the court;

5 G. "custodian" means an adult with whom the child
6 lives who is not a parent or guardian of the child;

7 H. "department" means the children, youth and
8 families department, unless otherwise specified;

9 I. "disproportionate minority contact" means the
10 involvement of a racial or ethnic group with the criminal or
11 juvenile justice system at a proportion either higher or lower
12 than that group's proportion in the general population;

13 J. "federal Indian Child Welfare Act of 1978" means
14 the federal Indian Child Welfare Act of 1978, as that act may
15 be amended or its sections renumbered;

16 K. "foster parent" means a person, including a
17 relative of the child, licensed or certified by the department
18 or a child placement agency to provide care for children in the
19 custody of the department or agency;

20 L. "guardian" means a person appointed as a
21 guardian by a court or Indian tribal authority;

22 M. "guardian ad litem" means an attorney appointed
23 by the children's court to represent and protect the best
24 interests of the child in a case; provided that no party or
25 employee or representative of a party to the case shall be

1 appointed to serve as a guardian ad litem;

2 N. "Indian" means, whether an adult or child, a
3 person who is:

4 (1) a member of an Indian tribe; or

5 (2) eligible for membership in an Indian
6 tribe;

7 O. "Indian child" means an Indian person, or a
8 person whom there is reason to know is an Indian person, under
9 eighteen years of age, who is neither:

10 (1) married; or

11 (2) emancipated;

12 P. "Indian child's tribe" means:

13 (1) the Indian tribe in which an Indian child
14 is a member or eligible for membership; or

15 (2) in the case of an Indian child who is a
16 member or eligible for membership in more than one tribe, the
17 Indian tribe with which the Indian child has more significant
18 contacts;

19 Q. "Indian custodian" means an Indian who, pursuant
20 to tribal law or custom or pursuant to state law:

21 (1) is an adult with legal custody of an
22 Indian child; or

23 (2) has been transferred temporary physical
24 care, custody and control by the parent of the Indian child;

25 R. "Indian tribe" means an Indian nation, tribe,

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1 pueblo or other band, organized group or community of Indians
2 recognized as eligible for the services provided to Indians by
3 the secretary because of their status as Indians, including an
4 Alaska native village as defined in 43 U.S.C. Section 1602(c)
5 or a regional corporation as defined in 43 U.S.C. Section 1606.
6 For the purposes of notification to and communication with a
7 tribe as required in the Indian Family Protection Act, "Indian
8 tribe" also includes those tribal officials and staff who are
9 responsible for child welfare and social services matters;

10 S. "judge", when used without further
11 qualification, means the judge of the court;

12 T. "legal custody" means a legal status created by
13 order of the court or other court of competent jurisdiction or
14 by operation of statute that vests in a person, department or
15 agency the right to determine where and with whom a child shall
16 live; the right and duty to protect, train and discipline the
17 child and to provide the child with food, shelter, personal
18 care, education and ordinary and emergency medical care; the
19 right to consent to major medical, psychiatric, psychological
20 and surgical treatment and to the administration of legally
21 prescribed psychotropic medications pursuant to the Children's
22 Mental Health and Developmental Disabilities Act; and the right
23 to consent to the child's enlistment in the armed forces of the
24 United States;

25 U. "member" or "membership" means a determination

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1 made by an Indian tribe that a person is a member of or
2 eligible for membership in that Indian tribe;

3 V. "office" means the office of family
4 representation and advocacy, unless otherwise specified;

5 [V-] W. "parent" or "parents" means a biological or
6 adoptive parent if the biological or adoptive parent has a
7 constitutionally protected liberty interest in the care and
8 custody of the child or a person who has lawfully adopted an
9 Indian child pursuant to state law or tribal law or tribal
10 custom;

11 [W-] X. "permanency plan" means a determination by
12 the court that the child's interest will be served best by:

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

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

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

22 (5) placement in the legal custody of the
23 department under a planned permanent living arrangement;

24 [X-] Y. "person" means an individual or any other
25 form of entity recognized by law;

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1 ~~[Y.]~~ Z. "plan of care" means a plan created by a
2 health care professional intended to ensure the safety and
3 well-being of a substance-exposed newborn by addressing the
4 treatment needs of the child and any of the child's parents,
5 relatives, guardians, family members or caregivers to the
6 extent those treatment needs are relevant to the safety of the
7 child;

8 ~~[Z.]~~ AA. "preadoptive parent" means a person with
9 whom a child has been placed for adoption;

10 ~~[AA.]~~ BB. "protective supervision" means the right
11 to visit the child in the home where the child is residing,
12 inspect the home, transport the child to court-ordered
13 diagnostic examinations and evaluations and obtain information
14 and records concerning the child;

15 ~~[BB.]~~ CC. "relative" means a person related to
16 another person:

17 (1) by blood within the fifth degree of
18 consanguinity or through marriage by the fifth degree of
19 affinity; or

20 (2) with respect to an Indian child, as
21 established or defined by the Indian child's tribe's custom or
22 law;

23 ~~[CC.]~~ DD. "reservation" means:

24 (1) "Indian country" as defined in 18 U.S.C.
25 Section 1151;

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1 (2) any lands to which the title is held by
2 the United States in trust for the benefit of an Indian tribe
3 or individual; or

4 (3) any lands held by an Indian tribe or
5 individual subject to a restriction by the United States
6 against alienation;

7 [~~DD-~~] EE. "reunification" means either a return of
8 the child to the parent or to the home from which the child was
9 removed or a return to the noncustodial parent;

10 [~~EE-~~] FF. "secretary" means the United States
11 secretary of the interior;

12 [~~FF-~~] GG. "tribal court" means a court with
13 jurisdiction over child custody proceedings that is either a
14 court of Indian offenses, a court established and operated
15 under the law or custom of an Indian tribe or any other
16 administrative body that is vested by an Indian tribe with
17 authority over child custody proceedings;

18 [~~GG-~~] HH. "tribal court order" means a document
19 issued by a tribal court that is signed by an appropriate
20 authority, including a judge, governor or tribal council
21 member, and that orders an action that is within the tribal
22 court's jurisdiction; and

23 [~~HH-~~] II. "tribunal" means any judicial forum other
24 than the court."

25 SECTION 11. Section 32A-4-10 NMSA 1978 (being Laws 1993,
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1 Chapter 77, Section 104, as amended) is amended to read:

2 "32A-4-10. BASIC RIGHTS.--

3 A. A child subject to the provisions of the
4 Children's Code is entitled to the same basic rights as an
5 adult, except as otherwise provided in the Children's Code.

6 B. At the inception of an abuse or neglect
7 proceeding, the court shall appoint the office to represent or
8 to assign counsel [~~shall be appointed~~] for the parent, guardian
9 or custodian of the child. The appointed office or assigned
10 counsel shall represent the parent, guardian or custodian who
11 is named as a party until an indigency determination is made by
12 the court at the custody hearing. [~~Counsel shall also be~~
13 ~~appointed~~] The court shall also appoint the office if, in the
14 court's discretion, appointment of counsel is required in the
15 interest of justice.

16 C. At the inception of an abuse and neglect
17 proceeding, the court shall appoint the office to represent or
18 to assign a guardian ad litem for a child under fourteen years
19 of age. If the child is fourteen years of age or older, the
20 court shall appoint the office to represent or to assign an
21 attorney for the child. No officer or employee of an agency
22 that is vested with the legal custody of the child shall be
23 [~~appointed~~] assigned as guardian ad litem of or attorney for
24 the child. Only an attorney with appropriate experience shall
25 be [~~appointed~~] assigned as guardian ad litem of or attorney for

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1 the child.

2 D. When reasonable and appropriate, the ~~[court]~~
3 office shall ~~[appoint]~~ assign a guardian ad litem or attorney
4 who is knowledgeable about the child's particular cultural
5 background.

6 E. When a child reaches fourteen years of age, the
7 child's guardian ad litem shall continue as the child's
8 attorney; provided that the ~~[court]~~ office shall ~~[appoint]~~
9 assign a different attorney for the child if:

10 (1) the child requests a different attorney;

11 (2) the guardian ad litem requests to be
12 removed; or

13 (3) the ~~[court]~~ office determines that the
14 ~~[appointment]~~ assignment of a different attorney is
15 appropriate.

16 F. The court and the office shall assure that the
17 child's guardian ad litem zealously represents the child's best
18 interest and that the child's attorney zealously represents the
19 child.

20 G. A person afforded rights under the Children's
21 Code shall be advised of those rights at that person's first
22 appearance before the court on a petition under the Children's
23 Code.

24 H. Any adult entitled to representation by the
25 office may knowingly and intelligently waive the right to

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1 representation. The waiver may be for all or any part of the
2 proceedings. The waiver shall be in writing and countersigned
3 by the person's assigned or appointed attorney."

4 SECTION 12. A new Section 32A-4-10.1 NMSA 1978 is enacted
5 to read:

6 "32A-4-10.1. [NEW MATERIAL] APPOINTMENT OF COUNSEL NOT
7 CONTRACTED WITH OR EMPLOYED BY THE OFFICE OF FAMILY
8 REPRESENTATION AND ADVOCACY--AUTHORITY TO PAY COURT COSTS AND
9 EXPENSES FOR GUARDIANS AD LITEM AND COUNSEL APPOINTED BY THE
10 COURT.--

11 A. The office may seek appointment of attorneys not
12 contracted with the office to represent children and indigent
13 parents, guardians or custodians when the director of the
14 office determines that no office staff or contract attorneys
15 are available.

16 B. The costs associated with this appointment shall
17 be a charge upon the funds of the office. These costs shall
18 include:

19 (1) compensation equivalent to that of
20 attorneys contracted with the office; and

21 (2) the reasonable expenses of service of
22 summonses, notices, subpoenas, traveling expenses of witnesses
23 and other like expenses incurred in the appointed
24 representation, at rates commensurate with those paid by the
25 office for cases involving contractors.

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1 C. The office is authorized to pay the costs
2 associated with the court appointment of guardians ad litem and
3 counsel appointed by the court:

4 (1) pursuant to this section from the date of
5 appointment without approval by the secretary of general
6 services; and

7 (2) to serve in cases under the Abuse and
8 Neglect Act or the Fostering Connections Act before the
9 establishment of the office for services provided after July 1,
10 2023, without approval by the secretary of general services.

11 D. For the purposes of Subsection C of this
12 section, the office is authorized to pay the following costs
13 associated with court appointment:

14 (1) compensation equivalent to that of
15 attorneys contracted with the office; and

16 (2) the reasonable expenses of service of
17 summonses, notices, subpoenas, traveling expenses of witnesses
18 and other like expenses incurred in the appointed
19 representation at rates commensurate with those paid by the
20 office for cases involving contractors."

21 SECTION 13. Section 32A-26-2 NMSA 1978 (being Laws 2019,
22 Chapter 149, Section 2, as amended) is amended to read:

23 "32A-26-2. DEFINITIONS.--As used in the Fostering
24 Connections Act:

25 A. "active efforts" means a heightened standard

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1 that is greater than reasonable efforts that include
2 affirmative, active, thorough and timely efforts;

3 B. "eligible adult" means an individual who meets
4 the eligibility criteria for participation in the fostering
5 connections program;

6 C. "foster care maintenance payment" means a
7 payment for the care and support of an eligible adult, which is
8 based on the needs of the eligible adult;

9 D. "host home" means a setting in an eligible
10 adult's former foster home or in another residence in which an
11 eligible adult:

12 (1) shares a residence with another adult or
13 adults; and

14 (2) agrees to meet the basic expectations
15 established by the:

16 (a) eligible adult;

17 (b) other adult or adults sharing the
18 residence; and

19 (c) department;

20 E. "office" means the office of family
21 representation and advocacy;

22 [~~E.~~] F. "placement and care" means the day-to-day
23 care and protection of the child or eligible adult, including
24 responsibility for placement decisions about the child or
25 eligible adult;

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1 ~~[F.]~~ G. "supervised independent living setting"
2 means an age-appropriate setting that the department approves
3 for placement of an eligible adult, which setting:

4 (1) is consistent with federal law and
5 guidance for a supervised setting in which an eligible adult
6 lives independently; and

7 (2) may be a residence where the eligible
8 adult lives alone or shares a residence with others, including:

9 (a) a host home;

10 (b) a college dormitory or other post-
11 secondary education or training housing; or

12 (c) the home of a parent of the eligible
13 adult;

14 ~~[G.]~~ H. "transition plan" means a written,
15 individualized plan developed collaboratively between the
16 department and the eligible adult that assesses the eligible
17 adult's strengths and needs, establishes goals and identifies
18 the services and activities that will be provided to the
19 eligible adult to achieve the established goals, the time
20 frames for achieving the goals and the individuals or entities
21 responsible for providing the identified services and
22 activities as provided by rule;

23 ~~[H.]~~ I. "voluntary services and support agreement"
24 means a written agreement, binding on the parties to the
25 agreement, between the department and an eligible adult, which

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1 agreement is consistent with the requirements of a voluntary
2 placement agreement pursuant to federal law and which
3 specifies, at a minimum, the legal status of the eligible adult
4 and the rights and obligations of the eligible adult and the
5 department while the eligible adult is participating in the
6 fostering connections program; and

7 ~~[F.]~~ J. "young adult" means an individual who is at
8 least eighteen years of age and who is under twenty-one years
9 of age and is not currently participating in the fostering
10 connections program pursuant to Section 32A-26-3 NMSA 1978."

11 SECTION 14. Section 32A-26-7 NMSA 1978 (being Laws 2019,
12 Chapter 149, Section 7, as amended) is amended to read:

13 "32A-26-7. FOSTERING CONNECTIONS PROGRAM--CHILDREN'S
14 COURT PETITION--JURISDICTION--CONTENTS--PROGRAM FILE.--

15 A. An eligible adult participating in the fostering
16 connections program shall remain under the jurisdiction of the
17 children's court while participating in the program. The
18 eligible adult is the eligible adult's own legal custodian.

19 B. Within fifteen days after the voluntary services
20 and support agreement is executed, the department shall file a
21 petition initiating proceedings pursuant to the Fostering
22 Connections Act that shall be entitled, "In the Matter of . . .
23 , an eligible adult", and shall set forth with
24 specificity:

25 (1) the name, birth date and residence of the

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1 eligible adult; and

2 (2) the facts necessary to invoke the
3 jurisdiction of the court.

4 C. A petition filed pursuant to Subsection B of
5 this section shall be accompanied by a copy of the eligible
6 adult's voluntary services and support agreement and transition
7 plan.

8 D. There shall be no interruption in the foster
9 care maintenance payment, housing, medical assistance coverage
10 or case management for an eligible adult who is eligible and
11 chooses to participate in the fostering connections program
12 immediately following the termination of children's court
13 jurisdiction at age eighteen.

14 E. At the inception of a fostering connections
15 proceeding, the court shall appoint ~~[an attorney]~~ the office to
16 represent or to assign an attorney to represent the eligible
17 adult. If the eligible adult consents, the attorney who
18 previously served as the eligible adult's attorney may be
19 ~~[appointed]~~ assigned by the office.

20 F. Any eligible adult entitled to representation by
21 the office may knowingly and intelligently waive the right to
22 representation. The waiver may be for all or any part of the
23 proceedings. The waiver shall be in writing and countersigned
24 by the person's assigned or appointed attorney.

25 ~~[F.]~~ G. Until excused by a court, the office or an

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[bracketed material] = delete

1 attorney [~~appointed~~] assigned to represent an eligible adult
2 shall represent the eligible adult in any subsequent appeals.

3 [G.] H. A hearing held pursuant to the Fostering
4 Connections Act shall be commenced within ninety days of the
5 filing of the petition, at which time the court shall review
6 the voluntary services and support agreement and determine
7 whether the agreement is in the best interests of the eligible
8 adult and the transition plan meets the requirements of the
9 Fostering Connections Act."

10 **SECTION 15.** Section 32A-27-2 NMSA 1978 (being Laws 2022,
11 Chapter 51, Section 2) is amended to read:

12 "32A-27-2. DEFINITIONS.--As used in the Family
13 Representation and Advocacy Act:

14 A. "at risk of being placed" means conditions
15 within a child's family may require the child be removed from
16 the custody of a parent, custodian or guardian and placed in
17 the legal custody of the children, youth and families
18 department;

19 B. "client" means:

20 (1) an eligible adult pursuant to the
21 Fostering Connections Act;

22 (2) a child who is, or is at risk of, being
23 placed in the legal custody of the children, youth and families
24 department; or

25 (3) [~~a~~] an indigent parent, custodian or

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1 guardian of a child who is, or is at risk of, being placed in
2 the legal custody of the children, youth and families
3 department or a similarly situated parent, custodian or
4 guardian who is not indigent but whom the court has determined
5 requires counsel to be assigned in the interest of justice;

6 C. "commission" means the family representation and
7 advocacy commission that provides oversight of the office of
8 family representation and advocacy;

9 D. "director" means the director of the office of
10 family representation and advocacy; and

11 E. "office" means the office of family
12 representation and advocacy."

13 SECTION 16. Section 32A-27-3 NMSA 1978 (being Laws 2022,
14 Chapter 51, Section 3) is amended to read:

15 "32A-27-3. OFFICE CREATED--DUTIES.--

16 A. The "office of family representation and
17 advocacy" is created as an adjunct agency pursuant to Section
18 9-1-6 NMSA 1978 and shall be overseen by the commission.

19 B. The office shall:

20 (1) work closely with the children, youth and
21 families department to leverage federal funding pursuant to
22 Title IV-E of the federal Social Security Act; and

23 (2) ~~appoint~~ assign, compensate, evaluate and
24 retain attorneys and other staff to provide legal
25 representation for eligible adults under the Fostering

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1 Connections Act, [~~and~~] for children and indigent parents,
2 custodians or guardians whose children are, or are at risk of
3 being placed, in the legal custody of the children, youth and
4 families department and for similarly situated parents,
5 guardians and custodians who are not indigent but whom the
6 court determines require counsel to be assigned in the interest
7 of justice."

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