

HOUSE BILL 297

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Patricio Ruiloba

AN ACT

RELATING TO COMPULSORY SCHOOL ATTENDANCE; PROVIDING FOR EARLIER AND MORE INTENSIVE INTERVENTION FOR STUDENTS WHO ARE ABSENT OR CHRONICALLY ABSENT; REDEFINING TERMS; REQUIRING PUBLIC SCHOOLS TO PARTNER WITH COMMUNITY RESOURCES TO ASSIST IN DROPPING RATES OF CHRONIC ABSENTEEISM; PROVIDING A PROCESS THAT PROGRESSES FROM INFORMAL INTERVENTION THROUGH PARENTAL NOTIFICATION AND INTERVENTION TO REFERRAL TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT AND EVENTUALLY TO SUSPENSION OF DRIVER'S LICENSES FOR APPLICABLE STUDENTS; REQUIRING DATA COLLECTION AND USE; PUTTING A RECORD OF ABSENCES AND RESPONSES TO INTERVENTIONS INTO STUDENTS' CUMULATIVE RECORD SO THAT PUBLIC SCHOOLS CONTINUE TO PROVIDE ASSISTANCE TO STUDENTS WHO HAVE TROUBLE ATTENDING CLASS OR SCHOOL AND TO THEIR FAMILIES.

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

.210183.1

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

underscored material = new
[bracketed material] = delete

1 SECTION 1. Section 22-12-2 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 170, as amended) is amended to read:

3 "22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

4 A. Except as otherwise provided, a school-age
5 person shall attend public school, private school, home school
6 or a state institution until the school-age person is at least
7 eighteen years of age unless that person has graduated from
8 high school or received a high school equivalency credential.
9 A parent may give written, signed permission for the school-age
10 person over the age of sixteen to leave school in case of
11 hardship or after all interventions have been tried and the
12 request to leave school is approved by the local superintendent
13 or head administrator of a charter school or private school.

14 B. A school-age person subject to the provisions of
15 the Compulsory School Attendance Law shall attend school for at
16 least the length of time of the school year that is established
17 in the school district in which the person is a resident or the
18 [~~state-chartered~~] charter school or private school in which the
19 person is enrolled and the school district or [~~state-chartered~~]
20 charter school or private school shall not excuse a student
21 from attending school except as provided in that law or for
22 parent-authorized medical reasons.

23 C. [~~Any~~] A parent of a school-age person subject to
24 the provisions of the Compulsory School Attendance Law is
25 responsible for the school attendance of [~~that~~] the school-age

.210183.1

underscored material = new
[bracketed material] = delete

1 person.

2 D. Each [~~local school board and each governing body~~
3 ~~of a charter school or~~] private school shall enforce [~~the~~
4 ~~provisions~~] attendance in accordance with its policies and
5 procedures so long as its students meet the attendance
6 requirements of the Compulsory School Attendance Law [~~for~~
7 ~~students enrolled in their respective schools~~]."

8 SECTION 2. Section 22-12-2.1 NMSA 1978 (being Laws 1986,
9 Chapter 33, Section 27, as amended by Laws 1997, Chapter 239,
10 Section 1 and also by Laws 1997, Chapter 245, Section 1) is
11 amended to read:

12 "22-12-2.1. INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES--
13 STUDENT PARTICIPATION.--

14 A. A public school student [~~shall~~] must have at
15 least a 2.0 grade point average on a 4.0 scale, or its
16 equivalent, either cumulatively or for the grading period
17 immediately preceding participation, in order to be eligible to
18 participate in any interscholastic extracurricular activity.
19 For purposes of this section, "grading period" is a period of
20 time not less than six weeks. The provisions of this
21 subsection shall not apply to students receiving moderate to
22 maximum special education services.

23 B. No student shall be absent from school for
24 school-sponsored interscholastic extracurricular activities in
25 excess of fifteen days per semester, and no class may be missed

.210183.1

underscored material = new
[bracketed material] = delete

1 in excess of fifteen times per semester.

2 C. The provisions of Subsections A and B of this
3 section apply only to interscholastic extracurricular
4 activities.

5 D. The [~~state superintendent~~] secretary may issue a
6 waiver relating to the number of absences for participation in
7 any state or national competition. The [~~state superintendent~~]
8 secretary shall develop a procedure for petitioning cumulative
9 provision eligibility cases, similar to other eligibility
10 situations.

11 E. Student standards for participation in
12 interscholastic extracurricular activities shall be applied
13 beginning with a student's academic record in ninth grade
14 [~~nine~~]."

15 SECTION 3. Section 22-12-3 NMSA 1978 (being Laws 1971,
16 Chapter 238, Section 1, as amended) is amended to read:

17 "22-12-3. RELIGIOUS INSTRUCTION [~~EXCUSAL~~] OR TRIBAL
18 OBLIGATIONS.--A public school student may, subject to the
19 approval of the school principal, be [~~excused~~] absent from
20 school to participate in religious instruction or tribal
21 obligations for not more than one class period each school day
22 with the written consent of the student's [~~parents~~] parent at a
23 time period that is not in conflict with the academic program
24 of the school [~~The local school board or governing body of a~~
25 ~~charter school, and its school employees~~] and the student's

.210183.1

underscored material = new
[bracketed material] = delete

1 academic class schedule. The school district or the public
2 school shall not assume responsibility for the religious
3 instruction of any student or permit [~~it~~] religious instruction
4 to be conducted on school property."

5 SECTION 4. Section 22-12-3.1 NMSA 1978 (being Laws 2013,
6 Chapter 198, Section 1) is amended to read:

7 "22-12-3.1. [~~EXCUSED~~] ABSENCES FOR PREGNANT AND PARENTING
8 STUDENTS CONSIDERED MEDICAL ABSENCE.--

9 A. Each school district and charter school shall
10 maintain an attendance policy that:

11 (1) provides at least ten days of [~~excused~~]
12 medical absences for a student who provides documentation of
13 the birth of the student's child and provides [~~excused~~] medical
14 absences for any additional days missed by a pregnant or
15 parenting student for which a longer period of absence is
16 deemed medically necessary by the student's physician; provided
17 that the student shall be allowed a time period to make up the
18 work that the student missed that equals the number of days the
19 student was medically absent for the birth of a child; and

20 (2) provides four days per semester of
21 [~~excused~~] medical absences, in addition to the number of
22 allowed absences for all students, for a student who provides
23 appropriate documentation of pregnancy or that the student is
24 the parent of a child under the age of thirteen needing care;
25 and allows the student a time period to make up the work that

.210183.1

underscored material = new
[bracketed material] = delete

1 the student missed that equals the number of days the student
2 was absent.

3 B. The pregnant or parenting student is responsible
4 for communicating the student's pregnancy and parenting status
5 to the appropriate school personnel if the student chooses to
6 disclose the information.

7 C. The school district or charter school shall
8 provide a copy of the pregnant and parenting student absence
9 policies to all students in middle, junior high and high
10 schools."

11 SECTION 5. Section 22-12-4 NMSA 1978 (being Laws 1978,
12 Chapter 211, Section 10) is amended to read:

13 "22-12-4. RIGHT TO EDUCATION.--All school-age persons in
14 the state shall have a right to a free public education as
15 follows:

16 A. except for school-age persons who are detained
17 in a state or local detention center or enrolled or residing in
18 state institutions other than those school-age persons provided
19 for in Subsection C of this section, [~~any~~] a school-age person
20 [~~shall have~~] has a right to attend public school within the
21 school district in which [~~he~~] the person resides or is present;

22 B. except as provided in Subsection C of this
23 section, the state or local detention center or state
24 institution in which a school-age person is detained, [~~or~~]
25 enrolled or residing shall be responsible for providing

.210183.1

underscored material = new
[bracketed material] = delete

1 educational services for the school-age person; and

2 C. ~~[any]~~ a school-age person who is a client as
3 defined in Section ~~[34-2A-2 NMSA 1953]~~ 43-1-3 NMSA 1978 in a
4 state institution under the authority of the secretary of ~~[the]~~
5 health ~~[and environment department]~~ shall have a right to
6 attend public school in the school district in which the
7 institution in which ~~[he]~~ the person is a client is located if:

8 (1) the school-age person has been recommended
9 for placement in a public school by the educational appraisal
10 and review committee of the school district in which the
11 institution is located; or

12 (2) the school-age person has been recommended
13 for placement in a public school as a result of the appeal
14 process as provided in the special education ~~[regulations]~~
15 rules of the ~~[state board of education]~~ department."

16 SECTION 6. Section 22-12-5 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 172, as amended) is amended to read:

18 "22-12-5. PUBLIC SCHOOL ATTENDANCE.--

19 A. Local school boards may admit ~~[school-age~~
20 ~~persons]~~ students who do not live within the school district to
21 the public schools within the school district when there are
22 sufficient public school accommodations to provide for them.

23 B. Local school boards may ~~[permit school-age~~
24 ~~persons]~~ allow students to transfer to a public school outside
25 the ~~[child's]~~ student's attendance zone but within the school

.210183.1

underscored material = new
[bracketed material] = delete

1 district when there are sufficient public school accommodations
2 to provide for them.

3 C. Local school boards [~~may~~] shall charge a tuition
4 fee for the right to attend public school within the school
5 district [~~only~~] to those school-age persons who do not live
6 within the state. The tuition fee shall not exceed the amount
7 generated by the public school fund for a [~~school-age person~~]
8 student similarly situated within the school district for the
9 current school year.

10 D. When the parent [~~or guardian~~] of a student not
11 living in the state pays an ad valorem property tax for school
12 purposes within the school district, the amount of the tuition
13 payable for the school year shall be reduced by the district
14 average ad valorem tax per [~~pupil~~] student as determined by the
15 ad valorem tax credit [~~utilized~~] used in calculating state
16 equalization guarantee distribution."

17 SECTION 7. A new Section 22-12-5.1 NMSA 1978 is enacted
18 to read:

19 "22-12-5.1. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Compulsory School Attendance Law:

21 A. "absent" means a student is not in attendance
22 for a class or a school day;

23 B. "chronically absent" means a student continues
24 to be absent after the public school has offered interventions
25 or resources as provided in Section 22-12-5.3 NMSA 1978 or is

.210183.1

underscored material = new
[bracketed material] = delete

1 absent for a total of ten classes or school days that are not
2 related to the student's medical absences, extracurricular
3 activities, religious instruction or tribal obligations, if
4 any;

5 C. "medical absence" or "medically absent" means a
6 student is not in attendance for a class or a school day for a
7 parent- or doctor-authorized medical reason or the student is a
8 pregnant or parenting student;

9 D. "pattern of absences" means recurring behavior
10 that helps to identify a student's problem with class or school
11 attendance and that serves as an indicator of future behavior
12 and may require the public school's intervention;

13 E. "school day" includes a portion of the school
14 day that is more than two classes; and

15 F. "school principal" includes a head administrator
16 of a charter school."

17 SECTION 8. A new Section 22-12-5.2 NMSA 1978 is enacted
18 to read:

19 "22-12-5.2. [NEW MATERIAL] PUBLIC SCHOOL ATTENDANCE
20 POLICIES--REPORTING.--

21 A. Each public school shall maintain an attendance
22 policy that:

23 (1) provides for early identification of
24 students with absences and students in need of intervention,
25 and early identification of patterns of absences, before

.210183.1

1 chronic absenteeism begins;

2 (2) provides intervention strategies that
3 focus on:

4 (a) keeping students in an educational
5 setting;

6 (b) prohibiting out-of-school suspension
7 and expulsion as the punishment for absences and chronic
8 absenteeism; and

9 (c) assisting a student's family to
10 remove barriers to the student's regular school attendance or
11 attendance in another educational setting;

12 (3) limits the use of withdrawal as provided
13 in Section 22-8-2 NMSA 1978 only after exhausting all
14 intervention efforts to keep students in educational settings;

15 (4) requires that accurate class attendance be
16 taken for every instructional class and day in every public
17 school or school program; and

18 (5) provides for public schools to document
19 the following for each absent or chronically absent student:

20 (a) differentiates medical absence,
21 interscholastic extracurricular activities, religious
22 instruction and tribal obligations for data purposes;

23 (b) attempts by the public school to
24 notify the parent that the student was absent from class or the
25 school day;

.210183.1

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

1 (c) attempts to improve attendance
2 informally by talking to the student or parent and finding
3 solutions to barriers to school attendance or changes to the
4 student's attendance behavior;

5 (d) attempts of the public school to
6 meet formally with the parent to discuss necessary
7 interventions for the student or the family; and

8 (e) intervention strategies implemented
9 to support keeping the student in an educational setting.

10 B. The school district or governing board of a
11 charter school shall review and approve public school
12 attendance policies.

13 C. School districts and charter schools shall
14 report absences and chronic absenteeism data to the department
15 at the end of each grading period and shall document
16 intervention efforts made to keep students in an educational
17 setting. The department shall compile school district and
18 charter school reports on types of absences, rates of absences
19 and chronic absenteeism and require school districts and
20 charter schools to certify that the information is being
21 reported consistently and correctly. The department shall
22 share information from state-chartered charter schools with the
23 commission."

24 SECTION 9. A new Section 22-12-5.3 NMSA 1978 is enacted
25 to read:

.210183.1

underscored material = new
[bracketed material] = delete

1 "22-12-5.3. [NEW MATERIAL] ENFORCEMENT OF ATTENDANCE
2 LAW--PROCEDURES.--

3 A. Each public school shall initiate the
4 enforcement of the provisions of the Compulsory School
5 Attendance Law for its enrolled students. The enforcement
6 policies of each public school shall focus on prevention and
7 intervention.

8 B. Every public school shall provide interventions
9 to students who are absent or chronically absent, which may
10 include:

11 (1) assessing student and family needs and
12 matching those needs with appropriate public or private
13 providers, including civic and corporate sponsors;

14 (2) making referrals to health care and social
15 service providers;

16 (3) collaborating and coordinating with health
17 and social service agencies and organizations through school-
18 based and off-site delivery systems;

19 (4) recruiting service providers and business,
20 community and civic organizations to provide needed services
21 and goods that are not otherwise available to a student or the
22 student's family;

23 (5) establishing partnerships between the
24 school and community organizations such as civic, business and
25 professional groups and organizations; and recreational, social

.210183.1

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

1 and after-school programs such as boys' and girls' clubs and
2 boy and girl scouts;

3 (6) identifying and coordinating age-
4 appropriate resources for students in need of:

5 (a) counseling, training and placement
6 for employment;

7 (b) drug and alcohol abuse counseling;

8 (c) family crisis counseling; and

9 (d) mental health counseling;

10 (7) promoting family support and parent
11 education programs; and

12 (8) seeking out other services or goods a
13 student or the student's family needs to assist the student to
14 stay in school and succeed.

15 C. Beginning on the first day of school, every
16 classroom teacher or the teacher's educational assistant shall
17 be responsible for taking accurate attendance for every class
18 and report absences to the person assigned by the school
19 principal to collect such data. That person, in cooperation
20 with the student's classroom teacher, shall identify patterns
21 of behavior related to absences and report that information to
22 the school principal.

23 D. Each public school shall provide interventions
24 for students who are missing school as follows:

25 (1) for students who have three unexcused

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

1 absences, five excused absences or a combination of unexcused
2 and excused absences totaling five absences, excluding
3 interscholastic extracurricular absences:

4 (a) for elementary students, the
5 student's parent shall be notified verbally of the student's
6 attendance history, the impact of student absences on student
7 academic outcomes, any available interventions and services
8 available to the student and the student's family and the
9 consequences of further absences, including referral to the
10 juvenile probation office where the student resides; and

11 (b) for middle and high school students,
12 the student and the student's parent shall be notified verbally
13 of the student's attendance history and the impact of student
14 absences on student academic outcomes, any available
15 interventions and services available to the student and the
16 student's family and the consequences of further absences,
17 including referral for chronic absenteeism to the juvenile
18 probation office where the student resides;

19 (2) for students who have five unexcused
20 absences or seven excused absences, or a combination of excused
21 and unexcused absences totaling seven absences, the student's
22 parent shall be notified of the absenteeism in writing by mail.
23 The notice shall include a date, time and place for the parent
24 to meet with the school principal or the head administrator of
25 a charter school to develop intervention strategies that focus

.210183.1

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

1 on keeping the student in an educational setting. A student
2 assistance team shall be convened to establish a specific
3 intervention plan for the student that includes establishing
4 weekly progress monitoring and a contract for attendance; and

5 (3) for students who accumulate more than
6 seven absences, whether excused or unexcused, the school shall
7 give written notice of the absenteeism by mail or personal
8 service on the parent and shall establish nonpunitive
9 consequences at the school level. The school principal or head
10 administrator of a charter school shall consult with the
11 student's teacher and shall initiate meetings with the teacher
12 and the student if the alleged cause of absence from class is
13 teacher-student incompatibility.

14 E. If after the public school provides necessary
15 interventions or other resources or provides the parent links
16 to necessary interventions or other resources, or if the parent
17 or family does not avail itself of school or community
18 resources, or if the student continues to be absent for a total
19 of ten classes or school days, the student shall be considered
20 chronically absent and the school principal shall refer the
21 student to the families in need of services program of the
22 children, youth and families department within five days of the
23 tenth absence. The record of the public school's interventions
24 and the student's and parent's responses to the interventions
25 shall be provided to the children, youth and families

.210183.1

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

1 department and the public education department."

2 SECTION 10. A new section of the Compulsory School
3 Attendance Law is enacted to read:

4 "[NEW MATERIAL] FAMILIES IN NEED OF SERVICES PROGRAM--
5 ADDITIONAL INTERVENTIONS--DETERMINATION OF IMPROVEMENT--FAILURE
6 TO IMPROVE ATTENDANCE BEHAVIOR--SUSPENSION OF DRIVER'S
7 LICENSE.--

8 A. The caseworker for the families in need of
9 services program of the children, youth and families department
10 shall meet with the family at the public school in which the
11 student is enrolled to determine if there are other
12 intervention services that may be provided. The meeting shall
13 involve the school principal or other school personnel and
14 appropriate community partners unless the parent objects. The
15 children, youth and families department shall determine if
16 additional interventions, including monitoring, will be
17 worthwhile in changing the student's behavior.

18 B. If the student has a driver's license, the
19 caseworker assigned to the student shall notify the student and
20 the parent at the meeting provided for in Subsection A of this
21 section that if the families in need of services program does
22 not see behavioral improvements, including class or school day
23 attendance, the caseworker shall report the student's
24 noncompliance to the public education department and the
25 student's driver's license shall be suspended. The

.210183.1

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

1 notification provided for in this subsection serves as notice
2 for purposes of due process.

3 C. No later than thirty days after the meeting, the
4 caseworker shall notify the public school and the public
5 education department of the student's progress. If the student
6 has refused interventions, including placement in an
7 alternative educational setting, and the student's attendance
8 behavior has not improved, the families in need of services
9 program shall notify the motor vehicle division of the taxation
10 and revenue department that the student's driver's license is
11 suspended. The caseworker shall notify the public education
12 department and shall forward the student's record to that
13 department.

14 D. The motor vehicle division shall issue a notice
15 of suspension to the student. The student or the student's
16 parent may request an administrative hearing to oppose the
17 suspension. Unless reinstatement is required as a result of a
18 hearing, a suspended license pursuant to this section shall
19 continue until:

20 (1) the families in need of services program
21 issues a written certificate of compliance to the student;

22 (2) the student presents the certificate of
23 compliance to the motor vehicle division; and

24 (3) the student pays the motor vehicle
25 division the reinstatement fee required by Section 66-5-33.1

.210183.1

underscored material = new
[bracketed material] = delete

1 NMSA 1978.

2 E. If a student turns eighteen and leaves school
3 during the period of suspension, the student's driver's license
4 shall be reinstated."

5 SECTION 11. Section 22-12-7 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 175, as amended) is amended to read:

7 "22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL
8 TRUANTS--PENALTY.--

9 ~~[A. Each local school board and each governing body
10 of a charter school or private school shall initiate the
11 enforcement of the provisions of the Compulsory School
12 Attendance Law for students enrolled in their respective
13 schools.~~

14 ~~B. To initiate enforcement of the provisions of the
15 Compulsory School Attendance Law against an habitual truant, a
16 local school board or governing body of a charter school or
17 private school or its authorized representatives shall give
18 written notice of the habitual truancy by mail to or by
19 personal service on the parent of the student subject to and in
20 noncompliance with the provisions of the Compulsory School
21 Attendance Law. The notice shall include a date, time and
22 place for the parent to meet with the local school district,
23 charter school or private school to develop intervention
24 strategies that focus on keeping the student in an educational
25 setting.~~

.210183.1

underscored material = new
[bracketed material] = delete

1 C. ~~If unexcused absences continue after written~~
2 ~~notice of habitual truancy as provided in Subsection B of this~~
3 ~~section has occurred, the student shall be reported to the~~
4 ~~probation services office of the judicial district where the~~
5 ~~student resides for an investigation as to whether the student~~
6 ~~shall be considered to be a neglected child or a child in a~~
7 ~~family in need of services because of habitual truancy and thus~~
8 ~~subject to the provisions of the Children's Code. The~~
9 ~~probation services office may send a written notice to a parent~~
10 ~~of the student directing the parent and student to report to~~
11 ~~the probation services office to discuss services for the~~
12 ~~student or the family. In addition to any other disposition,~~
13 ~~the children's court may order the habitual truant's driving~~
14 ~~privileges to be suspended for a specified time not to exceed~~
15 ~~ninety days on the first finding of habitual truancy and not to~~
16 ~~exceed one year for a subsequent finding of habitual truancy.~~

17 D.] A. If, after review by the [juvenile probation
18 ~~office where the student resides]~~ families in need of services
19 program of the children, youth and families department, a
20 determination and finding is made that the [habitual truancy]
21 chronic absenteeism by the student may have been caused by the
22 parent of the student, then the matter will be referred [by the
23 ~~juvenile probation office]~~ to the district attorney's office or
24 any law enforcement agency having jurisdiction for appropriate
25 investigation and filing of charges allowed under the

.210183.1

underscored material = new
[bracketed material] = delete

1 Compulsory School Attendance Law. Charges against the parent
2 may be filed in metropolitan court, magistrate court or
3 district court.

4 ~~[E.]~~ B. A parent of the student who, after
5 receiving written notice as provided in Subsection ~~[B]~~ D of
6 ~~[this]~~ Section 22-12-5.3 NMSA 1978 and after the matter has
7 been reviewed in accordance with Subsection ~~[D]~~ A of this
8 section, or who has been informed pursuant to a private
9 school's attendance policy, knowingly allows the student to
10 continue to violate the Compulsory School Attendance Law shall
11 be guilty of a petty misdemeanor. Upon the first conviction, a
12 fine of not less than twenty-five dollars (\$25.00) or more than
13 one hundred dollars (\$100) may be imposed, or the parent of the
14 student may be ordered to perform community service. If
15 violations of the Compulsory School Attendance Law continue,
16 upon the second and subsequent convictions, the parent of the
17 student who knowingly allows the student to continue to violate
18 the Compulsory School Attendance Law shall be guilty of a petty
19 misdemeanor and shall be subject to a fine of not more than
20 five hundred dollars (\$500) or imprisonment for a definite term
21 not to exceed six months or both.

22 ~~[F. The provisions of this section shall apply~~
23 ~~beginning July 1, 2004.]"~~

24 **SECTION 12.** Section 32A-3A-2 NMSA 1978 (being Laws 1993,
25 Chapter 77, Section 64, as amended) is amended to read:

.210183.1

underscored material = new
[bracketed material] = delete

1 "32A-3A-2. DEFINITIONS.--As used in the Family Services
2 Act:

3 A. "child or family in need of family services"
4 means:

5 (1) a family whose child's behavior endangers
6 the child's health, safety, education or well-being;

7 (2) a family whose child is absent or
8 chronically absent from public school;

9 [~~(2)~~] (3) a family whose child is absent from
10 the child's place of residence for twenty-four hours or more
11 without the consent of the parent, guardian or custodian;

12 [~~(3)~~] (4) a family in which the parent,
13 guardian or custodian of a child refuses to permit the child to
14 live with the parent, guardian or custodian; or

15 [~~(4)~~] (5) a family in which the child refuses
16 to live with [~~his~~] the child's parent, guardian or custodian;
17 and

18 B. "family services" means services that address
19 specific needs of the child or family."

20 SECTION 13. Section 32A-3A-3 NMSA 1978 (being Laws 1993,
21 Chapter 77, Section 65, as amended) is amended to read:

22 "32A-3A-3. REQUEST FOR FAMILY SERVICES--WITHDRAWAL OF
23 REQUEST--PRESUMPTION OF GOOD FAITH.--

24 A. Any child or family member who has a reasonable
25 belief that the child or family is in need of family services

.210183.1

underscored material = new
[bracketed material] = delete

1 may request family services from the department.

2 B. Any person, including a public or private school
3 principal, who has a reasonable belief that a child or family
4 is in need of family services may submit a referral to the
5 department.

6 C. A family that requests or accepts family
7 services may withdraw its request for or acceptance of family
8 services at any time.

9 D. A person who refers a child or family for family
10 services is presumed to be acting in good faith and shall be
11 immune from civil or criminal liability, unless the person
12 acted in bad faith or with malicious purpose."

13 SECTION 14. REPEAL.--Sections 22-12-8 and 22-12-9 NMSA
14 1978 (being Laws 1985, Chapter 104, Section 1 and Laws 2004,
15 Chapter 28, Section 1, as amended) are repealed.