

Children's Code Reform Task Force

Thursday, March 30, 2023

4:00–5.30 p.m.

Members present

Judge Catherine Begaye, Chair

Leslie Jones

Catherine Pavelski

Bette Fleishman

Diana Garcia

Alison Endicott-Quinones

Judge Alma Roberson

Beth Gillia

Brandie White

Dennica Torres

Hilari Lipton

Jesse Clifton

John Romero

Senator Linda Lopez

Shira Greenberg

Rosenda Chavez-Lara

Staff

Kathleen Sabo

Tony Ortiz

Welcome from Judge Catherine Begaye, Task Force Chair

Judge Catherine Begaye, Chair, called the meeting to order and welcomed the task force members to the meeting.

Recap: Kathleen Sabo

Ms. Sabo briefly re-capped the prior task force meeting, which was held on February 16, 2023. Two subcommittees were formed: the Improving Responses to Poverty and Substance Misuse Subcommittee; and the Crossover Youth Subcommittee. During the prior task force meeting, there was a discussion regarding stakeholders whom we may want to invite to address the task force or the subcommittees.

Next, Ms. Sabo introduced and welcomed Hilari Lipton, who is a new task force member. Ms. Lipton is the Senior Advisor to the Secretary of the Children, Youth and Families Department. When asked for her thoughts on needed reforms to the Children's Code, Ms. Lipton stated that she would like to see the Children's Code aligned with the way that the child welfare system currently operates. Additionally, she would like to see policies related to the behavioral health of children incorporated into the code.

Finally, Ms. Sabo stated that there will soon be a dedicated web page for the task force and it will be located on the New Mexico judiciary's web site. The web page will provide the public with access to the work of the task force and a place to register to attend monthly task force meetings.

Report from Senator Linda Lopez regarding task force funding and other legislative matters

Senator Linda Lopez told the task force members that she had allocated \$75,000 in the 2023 Junior appropriations bill, to fund the work of the Children's Code Reform Task Force in fiscal year 2024. The appropriation is contingent upon the Governor's signature. **[See Paragraph (1) of Subsection C of Section 2 of the Senate Finance Committee Substitute for Senate Bill 192: "to the**

administrative office of the courts, seventy-five thousand dollars (\$75,000) for the Children’s Code reform task force to assess and recommend changes”.]

Senator Lopez noted that there were many bills introduced during the 2023 legislative session that proposed changes to the child welfare system.

Finally, Senator Lopez reminded the task force members that in 2022, the legislature passed and the Governor signed House Bill 46 (The Family Representation and Advocacy Act). The act created an independent office to provide legal representation to children, youth and families in cases involving allegations of abuse and neglect. However, she also shared her concern that the Office of Family Representation was not adequately funded during the 2023 legislative session.

Report from the Improving Responses to Poverty and Substance Misuse Subcommittee

The subcommittee co-chairs reported on the work of the subcommittee. The subcommittee has met several times since the previous task force meeting.

During the March 20th subcommittee meeting, members assembled in breakout groups and identified the following topics for further research.

Group 1:

-Will examine Children’s Code provisions regarding timelines for periodic judicial reviews and permanency hearings with an eye to revisions that would align hearings more closely with the Adoption and Safe Families Act (ASFA) timelines for the initial permanency hearing and for a required change of plan at 15 of the last 22 months in custody;

-Will begin looking at what is required to find “compelling reasons” not to change the plan at 15 of 22 months in our Code as well as in ASFA and Families First; and

-Will gather information concerning the operations of Drug Courts throughout the state.

Group 2:

-Will research laws of other jurisdictions that may address the nexus between poverty and findings of neglect. In particular, will review laws in Colorado and Arizona. Also, will review the laws of the Navajo Nation, the Choctaw Nation, the Cherokee Nation, and certain tribes in Washington state.

-Will also research laws of other jurisdictions that may address the nexus between poverty and findings of neglect. Will review the laws in Nevada, Mexico, Canada, and Nordic countries. Also, will review the United Nations Convention on the Rights of the Child; and

-Will comb through Articles 1 and 4 of the Children's Code, looking for provisions that may be amended to more clearly distinguish between poverty and neglect.

Group 3:

-Will look at prenatal exposure and the Plan of Care from 2019, C.A.R.A (Comprehensive Addiction and Recovery Act), H.B 230, S.B. 51;

-Will also look into the Families First legislation and operations of Family Drug Courts;

-Will look into legislation and laws from other states that advocate for parents' rights; and

-Noted that future action items will need to include advocating for funding related to proposed changes to the Code during the interim committee meetings and calling our legislators throughout the year.

Group 4: Will look to the Public Education Department to see if there is someone in that department who could be included in our meetings with a goal of including the PED in the continuum of services for children and families as stated in the purpose section of the code; and

-Will look at some early intervention programs/services as alternatives for families and whether we can use language in Section D of the Indian Families Protection Act (IFPA) to require these programs/services in all cases under the code.

The other co-chair reported that during the March 27th subcommittee meeting, the breakout groups provided additional information on their work.

Group 1: No updates from group members present at this time. A group member has reached out to Drug Court judges but does not yet have any responses.

Group 2: The group has reviewed the Nevada Children's Code, which is similar to New Mexico's code. In particular, the group will focus on prevention programs embedded in the Nevada code. The group has also reviewed the United Nations Convention on the Rights of the Child. The group noted that the provisions primarily address basic human rights, such as access to clean water, which are more applicable to the lives of children living in Third World countries. The group will also examine codes in countries that have a similar socio-economic status to New Mexico. The group is also looking at the Codes of various states and tribal nations.

The group requested that we maintain a folder in the shared Google drive with sub-folders for Children's Code sections for which we are considering reforms.

Group 3: The group is reviewing the Comprehensive Recovery and Addiction Act and suggested that we may need to request information from the Children, Youth and Families Department (CYFD) regarding their rules around implementation of (CARA) and Families First legislation. CYFD employees can be invited to meet with our work groups on these matters and perhaps later to full task force meetings or focus groups as part of educating the larger community. The group is looking at the Thriving Families, Safer Children coalition for legislation in member states that protect parents' rights. The group also noted two areas for future exploration: 1) the need for transitional programs that aid families who previously have been receiving public assistance and face the loss of food and housing benefits when the parents begin new employment, and; 2) information sharing between CYFD and other departments, e.g. probation and parole, for families involved in multiple systems.

Group 4: No report at this time.

Group 5: No report at this time.

The next meeting of this subcommittee will be held on Monday, April 3rd, at 4.00 to 5.00 p.m.

Report from the Crossover Youth Subcommittee

The co-chair reported on the work of the subcommittee. The subcommittee has met once since the previous task force meeting. During the subcommittee meeting on March 21st, an initial list of priorities was discussed, including:

- Develop a definition for “crossover youth”;
- Develop a system to track the number of children who are crossover youth (youth who are in the child welfare system and the juvenile justice system);
- When youth in the child welfare system are placed in detention, they are categorized as “runaways”. That is an inaccurate label and should be revised;
- There is a need for better communication and provision of notice between the child welfare system and the juvenile justice system. Parties include probation services, a guardian ad litem, the child’s attorney, the children’s court attorney, and the office of the public defender. Pertinent statutes and rules may include 32A-2-7 NMSA 1978, 32A-2-12 NMSA 1978 and Rule 10-103 NMRA;
- CYFD should have an internal process that provides notice to CYFD staff when a child in foster care has contact with the juvenile justice system;
- Strengthen notice provisions related to a change of placement. Ensure that tribes receive notice concerning a change of placement;
- Develop a system to alert the court if a youth is arrested for another alleged offense;
- What is the appropriate balance regarding confidentiality and sequestered cases;
- With regard to crossover youth, do we need closed hearings so that there can be discussions concerning mental health issues and case planning;
- Should there be the equivalent of a pretrial conference so all can talk freely?;

- On a statewide basis, perhaps one judge should preside over all crossover youth cases;
- As we move forward on our work, we should invite Children's Court judges, especially judges in rural areas, to address the task force;
- When youth are placed in inappropriate facilities, it can lead to further arrests for "kid" behavior;
- Often enhanced punishment for foster youth (e.g. arrested for stealing foster mom's sunglasses v. child who is grounded for same action), and then thrown out of where they are;
- During the post-adjudication period, build-in regular judicial check-ins to ensure that the youth has been placed in an appropriate facility;
- Other state agencies need to be included, including Indian Affairs, the Public Education Department (contact Debbie Poulin);
- Require training for professionals in the child welfare and juvenile justice systems, including crosstraining between the disciplines, to learn each others' systems;
- Regarding crossover youth, including training on the collateral consequences that may include a loss of services when a youth is arrested and placed in detention; and
- Require attorneys to be involved in hearings.

Following the report, task force members made the following comments:

- The Administrative Office of the Courts has a list of crossover youth that it provides to judges throughout the state; and
- The Second Judicial District Court formerly kept a list of crossover youth for judges in that district and there was a monthly meeting re: crossover youth, but not sure if shared with DAs, etc. Perhaps that list is still generated.

The next meeting of this subcommittee will be held on Tuesday, April 4th, from 4.30 to 5.30 p.m.

Additional brainstorming on stakeholders who we want to invite to address the task force (system-impacted youth, families with lived experience, tribal representatives, law enforcement, social workers working with youth and families, etc.)

- What is meant by “tribal representatives”? Who should be invited to participate?
- Kate Girard, from the New Mexico Early Childhood Education and Care Department (ECECD);
- Educators from the Las Cruces area, particularly educators for children with disabilities and autism and children in CYFD custody at the John Paul Taylor detention facility;
- Shelter providers, domestic violence providers, CASA Q, transition providers, young parents, and people who have insight regarding the Temporary Assistance to Needy Families (TANF) program;
- Court-appointed special advocates (CASA), so they can discuss their role in child welfare cases;
- Grandparents who are raising their grandchildren;
- Karen McCutcheon, who works for the Drug Court in Sandoval county;
- Representatives from other specialty courts throughout the state; and
- Representative Doreen Gallegos, who serves as the Executive Director for the CASA in Dona Ana county.

Finally, task force members briefly discussed whether it would be possible to compensate some citizens who may want to share information with the task force. In some instances, taking time off work or paying for child care may prevent them from attending task force meetings and sharing their experiences.

Upcoming meetings

The next meeting of the Children’s Code Task Force will be held on April 13, 2023, from 4:00 p.m.-5:30 p.m.

The Children’s Code Reform Task Force will report to the Children’s Code Improvement Commission (CCIC) at the commission’s quarterly meeting, on April 20th, 2023. The commission will meet from 11:00 a.m.-2 p.m.