

## **Children’s Code Reform Task Force (CCRTF)**

March 28, 2024

4.00 - 5.30 p.m.

Members present

Cristen Conley, Chair  
Catherine Pavelski  
Brandie White  
Hilari Lipton  
Shelly Bucher  
Bette Fleishman  
John Romero (retired Judge)  
Beth Gillia  
Alison Endicott-Quinones  
Shira Greenberg  
Rosenda Chavez-Lara  
Senator Linda Lopez  
Jesse Clifton  
Leslie Jones

### **Introduction of Task Force Chair, Coordinator and Staff**

Cristen Conley introduced herself and noted that she will serve as the Task Force Chair. She is the Executive Director of the Corinne Wolfe Center for Child and Family Justice, University of New Mexico School of Law. She then asked Kathleen Sabo and Tony Ortiz to introduce themselves. Ms. Sabo will serve as Task Force Coordinator and Mr. Ortiz will serve as Task Force Staff.

### **Self-introduction of Task Force members**

The Task Force members introduced themselves and briefly described the work they perform in the child welfare system.

### **Reminder of resolution**

Cristen Conley reminded the Task Force members of the contents of a resolution that will guide how the CCRTF conducts its business. The resolution was adopted during the Task Force meeting held on February 22, 2024.

Ms. Conley noted that the Task Force is not subject to the provisions of the Open Meetings Act, but that it is vitally important to operate in a transparent manner.

Meetings of the CCRTF will be held on the fourth Thursday of each month, beginning on February 22, 2024 and concluding on June 27, 2024. All meetings will be conducted via Zoom. Information on how members of the public can attend the Zoom meetings will be posted online on the website for the Corinne Wolfe Center for Child and Family Justice. <https://childlaw.unm.edu> .

All meetings will be recorded and posted for the public on our dedicated YouTube channel ([youtube.com/@NMChildrensCodeReformTaskForce](https://www.youtube.com/@NMChildrensCodeReformTaskForce)). Anyone attending the meetings will be recorded. However, individuals may be able to appear anonymously once approval is given by the Task Force.

The schedule of meetings, agendas, meeting notes and a copy of this resolution will be posted online on the website for the Corinne Wolfe Center for Child and Family Justice.

Finally, the Task Force will provide an opportunity for public comment. When possible, each registered member of the public wishing to comment will be given two minutes to speak. The Task Force will also accept written comments from members of the public, by way of the chat during an allocated time during meetings or by an email to [kathleensabocctf@gmail.com](mailto:kathleensabocctf@gmail.com) in advance of meetings.

### **Subcommittee reports**

Bette Fleishman, Chair for the Crossover Youth Subcommittee (COY subcommittee), reported on behalf of that subcommittee. The COY subcommittee met on March 20, 2024. The COY subcommittee will develop a definition for “crossover youth” and may also develop definitions for “dually-involved youth”, “dually adjudicated youth” and “fostering connections youth”. Additionally, the COY subcommittee will review recommendations developed by the Children’s Court Improvement Commission (CCIC) and the Children’s Code Rules Committee, as substantive elements that can be appended to the definition of “crossover youth”.

The subcommittee also wants to work on a succinct “Crossover Youth Fact Sheet” that can be utilized to educate the public, policymakers and the media on issues concerning crossover youth.

Following Ms. Fleishman’s report, subcommittee members discussed the following issues:

- include youth who have been in juvenile justice in another state?;
- what is the value of adding definitions into the Children's Code if not making substantive changes? Suggestion: embed recommendations from the Children's Court Improvement Commission (CCIC) in the new definitions;
- for crossover youth, should there be a requirement that parties from the child welfare and juvenile justice systems attend hearings involving those youth;
- does CYFD have the resources and staff for attendance at all hearings for crossover youth? Solution: ask for more funding;
- in crossover youth cases, should one judge be assigned to preside over all hearings for that youth?;
- when considering legislation, be as concise as possible and avoid the use of "Purpose" sections in proposed legislation; and
- always be mindful of the cultural aspects and the Indian Family Protection Act.

The next meeting of the COY subcommittee will be held on April 5, 2024, at 3.30 p.m.

Catherine Pavelski, Co-Chair for the Improving Responses to Poverty and Substance Misuse Subcommittee (PSM subcommittee), reported on behalf of that subcommittee. The PSM subcommittee met on March 18, 2024 and decided to

take a two-pronged approach towards developing recommendations for the Task Force report: 1) specific legislative proposals; and 2) additional general recommendations.

The subcommittee has suggested the following list of issues for consideration as potential legislative proposals:

- more frequent judicial reviews, better aligned with ASFA timelines, in child welfare cases (Section 32A-4-25 NMSA 1978);
- written, standardized notice of changes in a child's placement in child welfare cases (Section 32A-4-14 NMSA 1978);

-the definition of “neglected child” and “abused child” in child welfare cases, including instances when a child has unsupervised access to firearms (Section 32A-4-2 NMSA 1978);

-termination of parental rights in child welfare cases, including foster parent/child, parent/child (32A-5-15) (we may also need to reconcile any revisions with the Adoption Act);

-expand the definition of “families in need of court-ordered services” (Section 32A-3B-2 NMSA 1978) (also, see House Bill 95 (2024));

-custody hearings in child welfare cases, particularly instances when a child can safely be returned to the child’s parent, guardian or custodian (Section 32A-4-18 NMSA 1978);

-funding for kinship and guardianship services is currently provided by the Children, Youth and Families Department (CYFD). Consider removing this responsibility from CYFD and assigning it to another agency;

-explore a definition for “maintenance at home” to clarify who has custody when a judge does or does not sign an Ex Parte Custody order (Section 32A-4-18 (D) (1) NMSA 1978);

-authority for CYFD to use state funds to provide concrete supports for biological parents;

-require CYFD to take active steps to protect the financial assets of children in state custody by determining whether a child is eligible for an “Achieving a Better Life Experience” (ABLE) account; and

Following Ms. Pavelski’s report, Senator Linda Lopez stated that she will ask the interim legislative Health and Human Services Committee for time to present to that committee during the 2024 interim period.

The next meeting of the PSM subcommittee will be held on April 2, 2024, at 3:30 p.m.

### **Evolving recommendations**

To facilitate discussion and development of the above-mentioned issues, Kathleen Sabo and Tony Ortiz have created Google documents that frame the particular issues, reference relevant legislative proposals and research materials, identify Task Force

contacts, and pose pertinent questions. As work on these issues evolves, one or two Task Force members assigned to the discrete issues will be granted editing privileges.

Kathleen Sabo reminded the Task Force members that a final report must be completed by June 30, 2024. She also noted that the final report will include public comment offered at Task Force meetings.

### **Additional Issues for Consideration**

There was a question as to whether the task force could address statutes within the Children's Code addressing confidentiality, and where that inquiry could fit within the current task force subcommittee structure. A suggestion was made to consider creating a new subcommittee. A reminder was made that legislation was introduced recently that addressed confidentiality and to review the language of that proposed legislation.

### **Public comment**

Dr. Craig Childress: he expressed his concern that "psychological child abuse" produces pathology in children. He wants to develop a definition for "psychological child abuse". He is also an advocate for independent review of mental health services provided by family courts.

Melanie Greenham: she is interested in and working on "Kayden's Law", also known as "The Keeping Children Safe From Family Violence Act". Ms. Greenham also expressed interest in reviewing the duty to report child abuse and child neglect in the New Mexico statutes (Section 32A-4-3 NMSA 1978).

Monica Miura: she is a member of a coalition working on recommendations to improve services for children with mental health challenges. The coalition wants to prepare a memorial for the 2025 legislative session, that draws upon work in ten other states on this issue. A copy of Ms. Miura's written statement is attached here:

"My name is Monica Miura and I am an advocate working with a coalition, which includes members from: the State of NM Behavioral Health Planning Council's Child and Adolescent Subcommittee, Families ASAP, Attachment Healing Center, and Southern NM NAMI, that are committed to improving outcomes for children with mental health challenges and the families that are raising them. Our coalition has been focused on the desire to study the possible benefits of changing the wording in the Children's Code (found in the various sections of 32A6A), to give both parents and the minor child the right to consent to mental health treatment. Currently the

Children's Code says that a minor child at 14 years old can refuse mental health treatment.

We would not be the first state to change this law. A 2016 study, "What Can Parents Do? A Review of State Laws Regarding Decision Making for Adolescent Drug Abuse and Mental Health Treatment" conducted on behalf of the NIH, examined US state laws regarding parental and adolescent decision-making for substance use and mental health inpatient and outpatient treatment. These ten states have this updated joint consent law in place: Idaho, Kansas, Maryland, Massachusetts, Montana, Nebraska, New Hampshire, New York, Pennsylvania, and Texas.

Our coalition would like to see a Memorial created to study the effect this law change in other states has had on their children's well-being.

We believe that when the Children's Code was last revised, part of the reason for deciding upon the age of 14 was because children's advocates feared that parents used mental health treatment, especially residential treatment, when children became "difficult." We think that mental health treatment no longer works that way and the checks and balances involved with medical necessity prevent treatment being used inappropriately. We also

recognize that when the current law was put into place many years ago it was to give children the right to seek treatment that their parents may be unwilling to recognize is warranted.

We also believe this study is warranted to see if the age should be reconsidered based on the developmental stages of young teens and the impact that treatment refusal can have on families. Treatment refusal can have dire consequences for the child and family, often leading to the need for higher levels of care such as residential treatment, CYFD Juvenile Justice, or Child Protective Custody. Community-based therapies can keep the youth stable and with a better ability to cope with adolescence and to maintain mental and behavioral health wellness.

We support the right of a minor child to seek treatment, our concern is about the right to refusal. If warranted, based on the study conducted from the Memorial, we are interested in modified wording to the Children's Code that allows families to make the decision for their children to take advantage of needed therapies. Right now, parents are responsible for their minor children but have no decision-making power to get them mental health treatment even when they see them exhibiting extremely dangerous behaviors that could have life-long consequences or are in fear for their child's life. We'd like to see new wording that gives both parents and the minor child

the right to consent to mental health treatment and does not allow the minor child to refuse treatment when the parent has given consent.

We respectfully request that the Children's Code task force recommend that a Memorial be created to study what changes the 10 other states have experienced in youth outcomes in their communities since changing their laws."

Lorilynn Violanta: she wants to review and revise the definition of "neglect" in the Children's Code, to differentiate between poverty and neglect. Ms. Violanta is also an advocate for providing additional resources to families in poverty.

### **Responses to public comment**

-there is a provision in the Children's Code that provides for an involuntary commitment to a mental health treatment facility (Section 32A-6-22 NMSA 1978). Task Force members stated that involuntary commitments are rarely used in New Mexico;

-let's be mindful of the distinction between the overmedication of children in state custody vis a vis the medication of children who are still with their biological parents. In the latter case, the proper use of medication can help to stabilize the family; and

-when children fourteen years of age or older refuse therapy and baseline medications, there is anecdotal evidence of escalating behavior by those children;

-a challenge for the task is to look at the system created w/ kids in custody and withdrawal from meds over time;

-several Task Force members stated that caution is paramount when discussing and debating a child's right to refuse therapy and medication. It would be helpful to hear from children with lived experience.

### **Next meeting**

The next meeting of the Task Force will be held on April 25, 2024, at 4.00 - 5.30 p.m.