HOUSE BILL 292

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Dayan Hochman-Vigil

AN ACT

RELATING TO CORRECTIONAL INSTITUTIONS; ENACTING THE NEW MEXICO PRISON RAPE ELIMINATION ACT; PROVIDING REQUIREMENTS; PROVIDING EXCEPTIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "New Mexico Prison Rape Elimination Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the New Mexico Prison Rape Elimination Act:

A. "agency" means the unit of a state, local, corporate or nonprofit authority with direct responsibility for the operation of a facility that confines inmates, detainees or residents, including the implementation of policy as set by the governing, corporate or nonprofit authority;

B. "agency head" means the principal official of an

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agency;

C. "community confinement facility" means a community treatment center, a halfway house, a restitution center, a mental health facility, an alcohol or drug rehabilitation center or other community correctional facility, including residential reentry centers, other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pretrial release or post-release supervision while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs or similar facility-approved programs during nonresidential hours;

D. "contractor" means a person that provides services on a recurring basis pursuant to a contractual agreement with an agency;

E. "detainee" means a person detained in a lockup, regardless of adjudication status;

F. "direct staff supervision" means that security staff are in the same room with, and within reasonable hearing distance of, a resident or an inmate;

G. "employee" means a person who works directly for an agency or a facility;

H. "exigent circumstances" means any set of temporary and unforeseen circumstances that requires immediate action in order to combat a threat to the security or

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institutional order of a facility;

I. "facility" means an individual prison, jail, lockup, community confinement facility, detention facility, juvenile facility, place, institution, building or part of a building, set of buildings, structure or area, whether or not enclosing a building or set of buildings, that is used by an agency for the confinement of individuals;

J. "facility head" means the principal official of a facility;

K. "gender nonconforming" means a person whose appearance or manner does not conform to traditional societal gender expectations;

L. "inmate" means a person incarcerated or detained in a prison or jail;

M. "intersex" means a person whose sexual or reproductive anatomy or chromosomal pattern does not fit typical definitions of male or female;

N. "jail" means a confinement facility of a state or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less or persons adjudicated guilty who are awaiting transfer to a correctional facility;

O. "juvenile" means a person under the age of eighteen, unless under adult court supervision and confined or

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detained in a prison or jail;

P. "juvenile facility" means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system;

Q. "law enforcement staff" means employees responsible for the supervision and control of detainees in lockups;

R. "lockup" means a facility that contains holding cells, cell blocks or other secure enclosures that are:

(1) under the control of a law enforcement, court or custodial officer; and

(2) primarily used for the temporary confinement of individuals who have recently been arrested or detained or are being transferred to or from a court, jail, prison or other agency;

S. "medical practitioner" means a health professional who, by virtue of education, credentials and experience, is permitted by law to evaluate and care for patients within the scope of the medical practitioner's professional practice;

T. "mental health practitioner" means a mental health professional who, by virtue of education, credentials and experience, is permitted by law to evaluate and care for patients within the scope of the mental health practitioner's professional practice;

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U. "pat-down search" means a running of the hands over the clothed body of an inmate, a detainee or a resident by an employee to determine whether the individual possesses contraband;

V. "prison" means an institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually for a term in excess of one year in length, or a felony;

W. "qualified medical practitioner" means a medical practitioner who has successfully completed specialized training for treating victims of sexual abuse;

X. "qualified mental health practitioner" means a mental health practitioner who has successfully completed specialized training for treating victims of sexual abuse;

Y. "resident" means a person confined or detained in a juvenile facility or in a community confinement facility;

Z. "restricted housing", whether instituted pursuant to disciplinary, administrative, inmate classification or other action, means confinement of an inmate locked in a cell or similar living quarters in a correctional facility for twenty-two or more hours each day without daily, meaningful and sustained human interaction;

AA. "security staff" means employees primarily responsible for the supervision and control of inmates, detainees or residents in housing units, recreational areas,

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dining areas and other program areas of a facility;

BB. "strip search" means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks or genitalia;

CC. "substantiated" means that an allegation was investigated and determined to have occurred;

DD. "transgender" means a person whose gender identity is different from the person's assigned sex at birth;

EE. "unfounded" means that an allegation has been investigated and determined by definitive evidence not to have occurred. An allegation where the evidence is sufficient to conclude that the conduct at issue occurred or may have occurred but the conduct did not amount to a violation of the New Mexico Prison Rape Elimination Act is excluded from the definition of "unfounded";

FF. "unsubstantiated" means an allegation has been investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred;

GG. "volunteer" means an individual who donates time and effort on a recurring basis to enhance the activities and programs of an agency;

HH. "youthful inmate" means a person under the age of eighteen who is under adult court supervision and

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incarcerated or detained in a prison or jail; and

II. "youthful detainee" means a person under the age of eighteen who is under adult court supervision and detained in a lockup.

SECTION 3. [NEW MATERIAL] SEXUAL ABUSE AND SEXUAL HARASSMENT--NEW MEXICO PRISON RAPE ELIMINATION ACT COORDINATOR.--

A. An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment.

B. An agency shall employ or designate an upper-level, agency-wide New Mexico Prison Rape Elimination Act coordinator with sufficient time and authority to develop, implement and oversee the agency's efforts to comply with the provisions of the New Mexico Prison Rape Elimination Act in the agency's facilities.

C. If an agency operates more than one facility, each facility shall designate a New Mexico Prison Rape Elimination Act compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the provisions of the New Mexico Prison Rape Elimination Act.

D. "Sexual abuse" includes:

(1) sexual abuse of an inmate, a detainee or a resident by another inmate, detainee or resident; and

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(2) sexual abuse of an inmate, a detainee or a resident by an employee, a contractor or a volunteer.

E. Sexual abuse of an inmate, a detainee or a resident by another inmate, detainee or resident includes the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

(1) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) contact between the mouth and the penis, vulva or anus;

(3) penetration of the anal or genital opening of another person, however slight, by a hand, a finger, an object or other instrument;

(4) any other intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of another person, excluding contact incidental to a physical altercation; and

(5) as otherwise provided in Sections 30-9-1 through 30-9-21 NMSA 1978.

F. Sexual abuse of an inmate, a detainee or a resident by an employee, a contractor or a volunteer includes the following acts, with or without consent of the inmate, detainee or resident:

(1) contact between the penis and the vulva or

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the penis and the anus, including penetration, however slight;

(2) contact between the mouth and the penis, vulva or anus;

(3) contact between the mouth and any body part where the employee, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;

(4) penetration of the anal or genital opening, however slight, by a hand, a finger, an object or other instrument, that is unrelated to official duties or where the employee, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;

(5) any other intentional contact, either directly or through clothing, of or with the genitalia, anus, groin, breast, inner thigh or buttocks that is unrelated to official duties or where the employee, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;

(6) an attempt, a threat or a request by an employee, a contractor or a volunteer to engage in the activities described in this subsection;

(7) a display by an employee, a contractor or a volunteer of the employee's, contractor's or volunteer's uncovered genitalia, buttocks or breast in the presence of an inmate, a detainee or a resident;

(8) voyeurism by an employee, a contractor or a volunteer. "Voyeurism by an employee, a contractor or a

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volunteer" means an invasion of privacy of an inmate, a detainee or a resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in the inmate's cell to perform bodily functions; requiring an inmate to expose the inmate's buttocks, genitals or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions; and

(9) as otherwise provided in Sections 30-9-1 through 30-9-21 NMSA 1978.

G. "Sexual harassment" includes:

(1) repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures or actions of a derogatory or an offensive sexual nature by one inmate, detainee or resident directed toward another; and

(2) repeated verbal comments or gestures of a sexual nature to an inmate, a detainee or a resident by an employee, a contractor or a volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.

SECTION 4. [NEW MATERIAL] CONTRACTS FOR CONFINEMENT OF INMATES.--

A. An agency that contracts for the confinement of the agency's inmates with an agency or other entity shall include in a new contract or contract renewal the entity's

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obligation to comply with the provisions of the New Mexico Prison Rape Elimination Act.

B. A new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the provisions of the New Mexico Prison Rape Elimination Act.

SECTION 5. [NEW MATERIAL] SUPERVISION AND MONITORING OF FACILITIES.--

A. An agency shall ensure that each facility the agency operates shall develop, document and make the facility's best efforts to comply with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, a facility shall take into consideration:

(1) generally accepted detention and correctional practices;

(2) any judicial findings of inadequacy;

(3) any findings of inadequacy from investigative agencies;

(4) any findings of inadequacy from internal or external oversight bodies;

(5) all components of the facility's physical plant, including blind spots or areas where staff or inmates may be isolated;

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(6) the composition of the inmate population;

(7) the number and placement of supervisory employees;

(8) institution programs occurring on a particular shift;

(9) applicable state or local laws, regulations or standards;

(10) the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

(11) any other relevant factors.

B. In instances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

C. Whenever necessary, but at least once each year, for each facility that an agency operates, in consultation with the agency's New Mexico Prison Rape Elimination Act coordinator, the agency shall assess, determine and document whether adjustments are needed to:

(1) the staffing plan established pursuant to Subsection A of this section;

(2) the facility's deployment of video monitoring systems and other monitoring technologies; and

(3) the resources that the facility has available to commit to ensure adherence to the staffing plan.

D. An agency operating a facility shall implement a

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policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. The policy and practice shall be implemented for night shifts and day shifts. An agency shall have a policy to prohibit staff from alerting other employees that the supervisory rounds are occurring, unless the announcement is related to the legitimate operational functions of the facility.

SECTION 6. [NEW MATERIAL] YOUTHFUL INMATES.--

A. A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound or physical contact with an adult inmate through use of a shared dayroom or other common space, shower area or sleeping quarters.

B. In areas outside of housing units, a facility shall:

(1) maintain sight and sound separation between youthful inmates and adult inmates; or

(2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound or physical contact.

C. Pursuant to the Restricted Housing Act, a youthful inmate shall not be placed in restricted housing for any reason. A youthful inmate shall have access to programs and work opportunities to the extent possible.

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SECTION 7. [NEW MATERIAL] CROSS-GENDER VIEWING AND SEARCHES.--

A. A facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches, including a search of the anal or genital opening, except in exigent circumstances or when performed by a medical practitioner.

B. For a facility whose rated capacity does not exceed fifty inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this section.

C. A facility shall document all cross-gender strip searches, cross-gender visual body cavity searches and cross-gender pat-down searches of female inmates.

D. A facility shall implement policies and procedures that enable inmates to shower, perform bodily functions and change clothing without nonmedical staff of the opposite gender viewing the inmates' breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Policies and procedures shall require an employee of the opposite gender to announce the employee's presence when entering an inmate housing unit.

E. A facility shall not search or physically examine a transgender or an intersex inmate for the sole

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purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

F. An agency shall train security staff in how to conduct cross-gender pat-down searches and searches of transgender and intersex inmates in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.

SECTION 8. [NEW MATERIAL] INMATES WITH DISABILITIES AND INMATES WHO ARE LIMITED IN ENGLISH PROFICIENCY.--

A. An agency shall take appropriate steps to ensure that inmates with disabilities, including inmates who are deaf or hard of hearing, who are blind or have low vision or who have intellectual, psychiatric or speech disabilities, have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. Steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. An agency shall ensure that written materials are

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provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities or limited reading skills or who are blind or have low vision. An agency is not required to take actions that the agency can demonstrate would result in a fundamental alteration in the nature of a service, a program or an activity or in undue financial and administrative burdens as those terms are used in regulations promulgated under Title II of the federal Americans with Disabilities Act of 1990.

B. An agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment to inmates who are limited in English proficiency, including steps to provide interpreters who can interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.

C. An agency shall not rely on inmate interpreters, inmate readers or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first-response duties or the investigation of an inmate's allegations.

SECTION 9. [NEW MATERIAL] HIRING AND PROMOTION DECISIONS.--

A. An agency shall not hire or promote a person who

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may have contact with inmates, and shall not enlist the services of a contractor who may have contact with inmates, who has:

(1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution;

(2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion or if the victim did not consent or was unable to consent or refuse; or

(3) been civilly or administratively adjudicated to have engaged in an activity described in Paragraph (2) of this subsection.

B. An agency shall consider any incidents of sexual harassment in determining whether to hire or promote a person or to enlist the services of a contractor who may have contact with inmates.

C. Before hiring a new employee who may have contact with inmates, an agency shall:

(1) perform a criminal background records check; and

(2) make the agency's best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual

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abuse.

D. An agency shall perform a criminal background records check before enlisting the services of a contractor who may have contact with inmates.

E. An agency shall conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.

F. An agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in Subsection A of this section in written applications or interviews for hiring or promotions and in interviews or written self-evaluations conducted as part of reviews of current employees. An agency shall impose upon employees a continuing affirmative duty to disclose any such misconduct.

G. Material omissions regarding sexual misconduct or the provision of materially false information shall be grounds for termination.

H. An agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an employer for whom the employee has applied to work.

SECTION 10. [NEW MATERIAL] UPGRADES TO FACILITIES AND

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TECHNOLOGY.--

A. When designing or acquiring a new facility, or in planning a substantial expansion or modification of an existing facility, an agency shall consider the effect of the design, acquisition, expansion or modification upon the agency's ability to protect inmates from sexual abuse.

B. When installing or updating a video monitoring system, an electronic surveillance system or other monitoring technology, an agency shall consider how the technology may enhance the agency's ability to protect inmates from sexual abuse.

SECTION 11. [NEW MATERIAL] EVIDENCE PROTOCOL--FORENSIC MEDICAL EXAMINATIONS.--

A. An agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions when investigating allegations of sexual abuse.

B. An evidence protocol pursuant to Subsection A of this section shall be developmentally appropriate for youth where applicable and shall be adapted from or otherwise based on the most recent edition of the publication of the office on violence against women of the United States department of justice, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents", or similarly comprehensive and authoritative protocols developed after 2024.

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C. An agency shall offer a victim of sexual abuse access to forensic medical examinations, whether on site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. The examinations shall be performed by a sexual assault forensic examiner or a sexual assault nurse examiner where possible. If a sexual assault forensic examiner or a sexual assault nurse examiner cannot be made available, the examination may be performed by another qualified medical practitioner. The agency shall document the agency's efforts to provide a sexual assault forensic examiner or a sexual assault nurse examiner.

D. An agency shall attempt to make available to a victim of sexual abuse a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide the services a qualified community-based staff member or a qualified agency staff member. An agency shall document efforts to secure services from rape crisis centers. An agency may use a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system, including a law enforcement agency, and offers a comparable level of confidentiality to a nongovernmental entity that provides similar victim services.

E. If requested by a victim of sexual abuse, the victim's victim advocate or a qualified agency staff member or

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qualified community-based staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.

F. To the extent an agency is not responsible for investigating allegations of sexual abuse, the agency shall request that an investigating agency follow the requirements of Subsections A through E of this section.

G. The requirements of Subsections A through F of this section shall apply to any state, county or local entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails.

H. As used in this section:

(1) "rape crisis center" means an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages; and

(2) "qualified agency staff member" and "qualified community-based staff member" means an individual who has been screened for appropriateness to serve in that role and has received education concerning sexual assault and forensic examination issues in general.

SECTION 12. [NEW MATERIAL] REFERRALS OF ALLEGATIONS FOR INVESTIGATION.--

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A. An agency shall ensure that an administrative or a criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

B. The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if the agency does not have a website, make the policy available through other means. The agency shall document all referrals.

C. A state, local or county entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of those investigations.

SECTION 13. [NEW MATERIAL] EMPLOYEE TRAINING--VOLUNTEER TRAINING.--

A. An agency shall train an employee who may have contact with inmates on:

(1) the agency's zero-tolerance policy for sexual abuse and sexual harassment;

(2) how to fulfill the employee's responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;

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(3) the right of inmates to be free from sexual abuse and sexual harassment;

(4) the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;

(5) the dynamics of sexual abuse and sexual harassment in confinement;

(6) the common reactions of victims of sexual abuse and sexual harassment;

(7) how to detect and respond to signs of threatened and actual sexual abuse;

(8) how to avoid inappropriate relationships with inmates;

(9) how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming inmates; and

(10) how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

B. Employee training pursuant to this section shall be tailored to the gender of the inmates at the employee's facility. An employee shall receive additional training if the employee is reassigned from a facility of one gender to a facility of the opposite gender.

C. An agency shall provide each employee with refresher training every two years to ensure that all employees

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know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on the agency's current sexual abuse and sexual harassment policies.

D. An agency shall document, through employee signature or electronic verification, that an employee understands the training that the employee has received.

E. An agency shall ensure that all volunteers and contractors who have contact with inmates have been trained on the volunteers' and contractors' responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures.

F. The type of training provided to volunteers and contractors shall correspond with the services the volunteers and contractors provide and level of contact the volunteers and contractors have with inmates. All volunteers and contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

G. An agency shall maintain documentation confirming that volunteers and contractors understand the training that the volunteers and contractors have received pursuant to this section.

SECTION 14. [NEW MATERIAL] INMATE EDUCATION.--

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A. During an agency's inmate intake process, inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

B. Within thirty days of intake of an inmate, an agency shall provide comprehensive education to the inmate either in person or through video regarding the inmate's rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting incidents of sexual abuse and sexual harassment and regarding the agency's policies and procedures for responding to incidents of sexual abuse and sexual harassment.

C. Current inmates who have not received education pursuant to this section shall be educated within one year of the effective date of the New Mexico Prison Rape Elimination Act, and an inmate shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility.

D. An agency shall provide inmate education in formats accessible to all inmates, including those who are limited in English proficiency, deaf or hard of hearing, blind or have low vision or otherwise disabled, as well as to inmates who have limited reading skills.

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E. An agency shall maintain documentation of inmate participation in education sessions pursuant to this section.

F. In addition to providing education pursuant to this section, an agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks or other written formats.

SECTION 15. [NEW MATERIAL] SPECIALIZED TRAINING FOR INVESTIGATIONS.--

A. In addition to the general training provided to all employees pursuant to Section 13 of the New Mexico Prison Rape Elimination Act, an agency shall ensure that, to the extent the agency conducts sexual abuse investigations, the agency's investigators receive training in conducting the investigations in confinement settings.

B. Specialized training pursuant to Subsection A of this section shall include techniques for interviewing victims of sexual abuse, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

C. An agency shall maintain documentation that the agency's investigators have completed the specialized training in conducting sexual abuse investigations required pursuant to this section.

D. A state, local or county entity that

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investigates sexual abuse in confinement settings shall provide specialized training as provided in Subsection B of this section to the agency's agents and investigators who conduct sexual abuse investigations.

SECTION 16. [NEW MATERIAL] MEDICAL AND MENTAL HEALTH SPECIALIZED TRAINING.--

A. An agency shall ensure that all full- and part-time medical practitioners and mental health practitioners who work regularly in the agency's facilities have been trained in:

(1) how to detect and assess signs of sexual abuse and sexual harassment;

(2) how to preserve physical evidence of sexual abuse;

(3) how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and

(4) how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

B. If a medical practitioner employed by an agency conducts forensic examinations, the medical practitioner shall receive the appropriate training to conduct the examinations.

C. An agency shall maintain documentation that medical practitioners and mental health practitioners employed by the agency have received the training described in Subsection A of this section either from the agency or

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elsewhere.

D. Medical practitioners and mental health care practitioners shall receive the training mandated for employees and volunteers under Section 13 of the New Mexico Prison Rape Elimination Act, depending upon the practitioner's status at the agency.

SECTION 17. [NEW MATERIAL] INMATE SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS.--

A. Inmates shall be assessed during an intake screening and upon transfer to another facility for the inmates' risk of being sexually abused by other inmates or sexually abusive toward other inmates. The screening shall take place within seventy-two hours of arrival at the facility and shall be conducted using an objective screening instrument.

B. An intake screening shall consider the following criteria to assess an inmate for risk of sexual victimization:

(1) whether the inmate has a mental, physical or developmental disability;

(2) the age of the inmate;

(3) the physical build of the inmate;

(4) whether the inmate has previously been incarcerated;

(5) whether the inmate's criminal history is exclusively nonviolent;

(6) whether the inmate has prior convictions

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for sex offenses against an adult or a child;

(7) whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;

(8) whether the inmate has previously experienced sexual victimization;

(9) the inmate's own perception of vulnerability; and

(10) whether the inmate is detained solely for civil immigration purposes.

C. An initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as known to the agency conducting the screening, in assessing inmates for risk of being sexually abusive.

D. Within thirty days from an inmate's arrival at a facility, the facility shall reassess the inmate's risk of victimization or abusiveness based upon any additional relevant information received by the facility since the inmate's intake screening.

E. An inmate's risk level shall be reassessed when warranted due to a referral, a request, an incident of sexual abuse or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

F. An inmate shall not be disciplined for refusing

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to answer, or for not disclosing complete information in response to, questions asked pursuant to Subsection B of this section.

G. An agency shall implement appropriate controls on the dissemination within a facility operated by the agency of responses to questions asked pursuant to Subsection B of this section in order to ensure that sensitive information is not exploited to the inmate's detriment by employees or other inmates.

H. If a screening pursuant to this section indicates that a:

(1) prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical practitioner or mental health practitioner within fourteen days of the intake screening;

(2) prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within fourteen days of the intake screening; or

(3) jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate

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is offered a follow-up meeting with a medical practitioner or mental health practitioner within fourteen days of the intake screening.

I. Information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical practitioners, mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by federal, state or local law.

J. Medical practitioners and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of eighteen.

SECTION 18. [NEW MATERIAL] USE OF SCREENING INFORMATION.--

A. An agency shall use information from the risk screening required by Section 17 of the New Mexico Prison Rape Elimination Act to inform housing, bed, work, education and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The agency shall make individualized determinations about how to ensure the safety of

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each inmate.

B. In deciding whether to assign a transgender or an intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, an agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety and whether the placement would present management or security problems. A transgender or an intersex inmate's own views with respect to the inmate's own safety shall be given serious consideration.

C. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

D. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

E. An agency shall not place lesbian, gay, bisexual, transgender or intersex inmates in dedicated facilities, units or wings solely on the basis of lesbian, gay, bisexual, transgender or intersex identification or status, unless the placement is in a dedicated facility, unit or wing established in connection with a consent decree, legal settlement or legal judgment for the purpose of protecting the inmates.

F. Nothing in the New Mexico Prison Rape

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Elimination Act shall be construed to limit, narrow or modify the Restricted Housing Act.

SECTION 19. [NEW MATERIAL] PROTECTIVE CUSTODY.--

A. An inmate who is at high risk for sexual victimization shall not be placed in restricted housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for up to twenty-four hours while completing the assessment.

B. An inmate placed in restricted housing pursuant to this section shall have access to programs, privileges, education and work opportunities to the extent possible. If a facility restricts access to programs, privileges, education or work opportunities pursuant to this section, the facility shall document:

(1) the opportunities that have been limited;

(2) the duration of the limitation; and

(3) the reasons for the limitation.

C. A facility shall assign inmates to restricted housing pursuant to this section only until an alternative means of separation from likely abusers can be arranged, and the assignment shall not ordinarily exceed a period of thirty days.

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D. If a restricted housing assignment is made pursuant to Subsection A of this section, the facility making the assignment shall clearly document:

(1) the basis for the facility's concern for the inmate's safety; and

(2) the reason why no alternative means of separation can be arranged.

E. Every thirty days, a facility shall afford each inmate housed pursuant to this section a review to determine whether there is a continuing need for separation from the general population.

F. Nothing in the New Mexico Prison Rape Elimination Act shall be construed to limit, narrow or modify the Restricted Housing Act.

SECTION 20. [NEW MATERIAL] INMATE REPORTING.--

A. An agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment and staff neglect or violation of responsibilities that may have contributed to such incidents.

B. An agency shall provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward inmate reports of

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sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the United States department of homeland security.

C. Employees shall accept reports made verbally, in writing, anonymously and from third parties and shall promptly document any verbal reports.

D. An agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

SECTION 21. [NEW MATERIAL] EXHAUSTION OF ADMINISTRATIVE REMEDIES.--

A. An agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. An agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.

B. An agency shall not require an inmate to use an informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

C. An agency shall ensure that:

(1) an inmate who alleges sexual abuse may submit a complaint without submitting it to an employee who is the subject of the complaint; and

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(2) the complaint is not referred to an employee who is the subject of the complaint.

D. An agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within ninety days of the initial filing of the grievance. Computation of the ninety-day time period shall not include time consumed by inmates in preparing any administrative appeal. The agency may claim an extension of time to respond, of up to seventy days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

E. At all levels of the administrative process, if an inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

F. Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and shall also be permitted to file such requests on behalf of inmates. If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request

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filed on the alleged victim's behalf and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on the inmate's behalf, the agency shall document the inmate's decision.

G. An agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, to a level of review at which immediate corrective action may be taken, shall provide an initial response within forty-eight hours and shall issue a final agency decision within five calendar days. The initial response and final agency decision shall document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

H. An agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the investigation finds that the allegation is unfounded and the agency demonstrates, by evidence other than an anonymous source, that the inmate purposefully lied about facts

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underlying the grievance and filed the grievance in bad faith. The agency shall not discipline an inmate for filing a grievance under the New Mexico Prison Rape Elimination Act about conduct that the inmate reasonably believed to be a violation of the New Mexico Prison Rape Elimination Act but that was determined not to violate the New Mexico Prison Rape Elimination Act.

I. Nothing in this section shall restrict an agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

SECTION 22. [NEW MATERIAL] INMATE ACCESS TO OUTSIDE SUPPORT SERVICES.--

A. A facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state or national victim advocacy or rape crisis organizations and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential of a manner as possible.

B. A facility shall inform inmates, prior to giving the inmates access, of the extent to which communications pursuant to Subsection A of this section will be monitored and

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the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

C. An agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency shall maintain copies of the agreements or documentation showing attempts to enter into the agreements.

D. An agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.

SECTION 23. [NEW MATERIAL] EMPLOYEE AND AGENCY REPORTING DUTIES.--

A. An agency shall require the agency's employees to report immediately and according to agency policy any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency, retaliation against inmates or staff who reported such an incident and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

B. Employees shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment,

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investigation and other security and management decisions.

C. Unless otherwise precluded by law, a medical practitioner and a mental health practitioner shall be required to report sexual abuse pursuant to Subsection A of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

D. If an alleged victim of sexual abuse or sexual harassment is under the age of eighteen or considered a vulnerable adult, the agency shall report the allegation to the designated agency under applicable mandatory reporting laws.

E. A facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

F. When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall take immediate action to protect the inmate.

SECTION 24. [NEW MATERIAL] REPORTING TO OTHER CONFINEMENT FACILITIES.--

A. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. The notification shall be provided as soon as possible, but no later than seventy-two hours after

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receiving the allegation.

B. An agency or facility shall document that the agency or facility has provided a notification pursuant to Subsection A of this section.

C. A facility head or an agency office that receives a notification pursuant to Subsection A of this section shall ensure that the allegation is investigated in accordance with the provisions of the New Mexico Prison Rape Elimination Act.

SECTION 25. [NEW MATERIAL] EMPLOYEE FIRST RESPONDER DUTIES.--

A. Upon learning of an allegation that an inmate was sexually abused, the first security employee to respond to the report shall:

(1) separate the alleged victim and abuser;

(2) preserve and protect any crime scene until appropriate steps can be taken to collect evidence;

(3) if the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating; and

(4) if the abuse occurred within a time period that still allows for the collection of physical evidence,

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ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

B. If the first staff responder to an allegation that an inmate has been sexually abused is not a security employee, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

C. A facility shall develop a written institutional plan to coordinate actions taken in response to an alleged incident of sexual abuse among staff first responders, medical practitioners, mental health practitioners, investigators and facility leadership.

SECTION 26. [NEW MATERIAL] COLLECTIVE BARGAINING AGREEMENTS--PRESERVATION OF ABILITY TO PROTECT INMATES FROM CONTACT WITH ABUSERS AND RETALIATION.--

A. An agency or a governmental entity responsible for collective bargaining on the agency's or governmental entity's behalf shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency's or governmental entity's ability to remove alleged staff sexual abusers from contact with inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

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B. Nothing in this section shall restrict the entering into or renewal of an agreement that governs:

(1) the conduct of the disciplinary process, as long as the agreement is not inconsistent with the provisions of the New Mexico Prison Rape Elimination Act; or

(2) whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in an employee's personnel file following a determination that the allegation of sexual abuse is not substantiated.

C. An agency shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff and shall designate which employees or departments are charged with monitoring retaliation.

D. An agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with sexual abuse or sexual harassment investigations.

E. For at least ninety days following a report of sexual abuse, an agency shall monitor the conduct and treatment

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of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff and shall act promptly to remedy any such retaliation. Items the agency should monitor include inmate disciplinary reports, housing or program changes or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond ninety days if the initial monitoring indicates a continuing need. In the case of inmates, the monitoring shall also include periodic status checks.

F. If any other individual who cooperates with a sexual abuse or sexual harassment investigation expresses fear of retaliation, an agency shall take appropriate measures to protect that individual against retaliation.

G. An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

SECTION 27. [NEW MATERIAL] CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS.--

A. If an agency conducts its own investigations into allegations of sexual abuse and sexual harassment, the agency shall do so promptly, thoroughly and objectively for all allegations, including third-party and anonymous reports.

B. If sexual abuse is alleged, an agency shall use

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investigators who have received special training in sexual abuse investigations.

C. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and deoxyribonucleic acid evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

D. If the quality of evidence appears to support criminal prosecution, an agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

E. The credibility of an alleged victim, a suspect or a witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. An agency shall not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of the allegation.

F. An administrative investigation shall include an effort to determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility

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assessments and investigative facts and findings.

G. A criminal investigation shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and attaches copies of all documentary evidence where feasible.

H. Substantiated allegations of conduct by staff or contractors that appears to be criminal shall be referred for prosecution. Substantiated allegations of conduct by or exclusively between inmates that appears to be criminal shall be referred for prosecution, except that a victim of the criminal conduct shall be allowed to request that the matter not be referred for prosecution. This section shall not be construed to limit an agency's own investigation requirements as to an allegation.

I. An agency shall retain all written reports pursuant to this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

J. The departure of an alleged abuser or victim from the employment or control of a facility or an agency shall not provide a basis for terminating an investigation.

K. A state, local or county entity that conducts such investigations shall do so pursuant to the requirements of this section.

L. A facility shall cooperate with outside investigators.

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M. An agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

SECTION 28. [NEW MATERIAL] REPORTING TO INMATES.--

A. Following an investigation into an inmate's allegation that the inmate suffered sexual abuse in an agency's facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.

B. If an agency did not conduct an investigation, the agency shall request the relevant information from the investigative authority responsible for conducting the investigation in order to inform the inmate.

C. Following an inmate's allegation that an employee has committed sexual abuse against the inmate, an agency shall subsequently inform the inmate, unless the agency has determined that the allegation is unfounded, whenever:

(1) the employee is no longer posted within the inmate's unit;

(2) the employee is no longer employed at the inmate's facility;

(3) the agency learns that the employee has been indicted on a charge related to sexual abuse within the facility; or

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(4) the agency learns that the employee has been convicted on a charge related to sexual abuse within the facility.

D. Following an inmate's allegation that the inmate has been sexually abused by another inmate, an agency shall subsequently inform the alleged victim whenever:

(1) the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

E. All notifications or attempted notifications pursuant to this section shall be documented.

F. An agency's obligation to report pursuant to this section shall terminate if the inmate is released from the agency's custody.

SECTION 29. [NEW MATERIAL] EMPLOYEE DISCIPLINE AND CORRECTIVE ACTIONS FOR CONTRACTORS AND VOLUNTEERS.--

A. An employee of an agency shall be subject to disciplinary sanctions up to and including termination for violating the agency's sexual abuse or sexual harassment policies.

B. Termination shall be the presumptive disciplinary sanction for an employee who has engaged in sexual

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abuse.

C. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment, other than actually engaging in sexual abuse, shall be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history and the sanctions imposed for comparable offenses by other employees with similar histories.

D. Terminations for violations of an agency's sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

E. A contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

F. A facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of an agency's sexual abuse or sexual harassment policies by a contractor or volunteer.

SECTION 30. [NEW MATERIAL] DISCIPLINARY SANCTIONS FOR INMATES.--

A. An inmate shall be subject to disciplinary

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sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

B. Sanctions pursuant to Subsection A of this section shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories.

C. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to the inmate's behavior when determining what type of sanction, if any, should be imposed.

D. If a facility offers therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for sexual abuse, the facility shall consider whether to require an offending inmate to participate in the interventions as a condition of access to programming or other benefits.

E. An agency may discipline an inmate for sexual contact with an employee only upon a finding that the employee did not consent to such contact.

F. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct:

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(1) occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation; or

(2) violated the New Mexico Prison Rape Elimination Act shall not constitute falsely reporting an incident or lying, even if an investigation determines that the conduct did not constitute a violation.

G. An agency may, in the agency's discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency shall not deem such activity to constitute sexual abuse if the agency determines that the activity is not coerced.

SECTION 31. [NEW MATERIAL] ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES--ONGOING SERVICES.--

A. An inmate victim of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical practitioners and mental health practitioners according to the practitioners' professional judgment.

B. If no qualified medical practitioners or qualified mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall

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immediately notify the appropriate medical practitioners and mental health practitioners.

C. An inmate victim of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infection prophylaxis in accordance with professionally accepted standards of care, where medically appropriate.

D. Treatment services pursuant to this section shall be provided to a victim of sexual abuse without financial cost and regardless of whether the victim names the victim's abuser or cooperates with any investigation arising out of the incident.

E. A facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in a prison, jail, lockup or juvenile facility.

F. The evaluation and treatment of a victim of sexual abuse pursuant to this section shall include, as appropriate, follow-up services, treatment plans and, when necessary, referrals for continued care following the victim's transfer to, or placement in, release from custody.

G. A facility shall provide a victim of sexual abuse pursuant to this section with medical and mental health services consistent with the community level of care.

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H. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

I. If pregnancy results from the conduct described in Subsection H of this section, the victim of the conduct shall receive timely and comprehensive information about and timely access to all pregnancy-related medical services that are lawful in the state, including the option to terminate the pregnancy.

J. Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

K. Treatment services pursuant to this section shall be provided to a victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

L. A prison shall attempt to conduct a mental health evaluation of a known inmate-on-inmate abuser within sixty days of learning of the abuser's abuse history and offer treatment when deemed appropriate by mental health practitioners.

SECTION 32. [NEW MATERIAL] SEXUAL ABUSE INCIDENT REVIEWS.--

A. A facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation,

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including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review shall occur within thirty days of the conclusion of the investigation.

B. A review team shall include upper-level management officials, with input from line supervisors, investigators and medical practitioners or mental health practitioners.

C. A review team shall:

(1) consider whether the allegation or investigation under review indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;

(2) consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender or intersex identification, status or perceived status or gang affiliation or was motivated or otherwise caused by other group dynamics at the facility;

(3) examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) assess the adequacy of staffing levels in the area during different shifts;

(5) assess whether monitoring technology should be deployed or augmented to supplement supervision by employees; and

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(6) prepare a report of the review team's findings and any recommendations for improvement and submit the report to the facility head and the facility's New Mexico Prison Rape Elimination Act compliance manager.

D. A facility shall implement the review team's recommendations for improvement or shall document the facility's reasons for not doing so.

SECTION 33. [NEW MATERIAL] DATA COLLECTION.--

A. An agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under the agency's direct control using a standardized instrument and set of definitions.

B. An agency shall aggregate the incident-based sexual abuse data collected pursuant to this section at least annually.

C. The incident-based data collected pursuant to this section shall include the data necessary to answer all questions from the most recent version of the survey of sexual violence conducted by the United States department of justice or a similarly comprehensive and authoritative survey.

D. An agency shall maintain, review and collect data pursuant to this section as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews.

E. An agency shall obtain incident-based and

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aggregated data pursuant to this section from every private facility with which it contracts for the confinement of its inmates.

SECTION 34. [NEW MATERIAL] DATA REVIEW FOR CORRECTIVE ACTION.--

A. An agency shall review data collected and aggregated pursuant to Section 33 of the New Mexico Prison Rape Elimination Act in order to assess and improve the effectiveness of the agency's sexual abuse prevention, detection and response policies, practices and training, including by:

(1) identifying problem areas;

(2) taking corrective action on an ongoing basis; and

(3) preparing an annual report of the agency's findings and corrective actions for each facility as well as the agency as a whole.

B. Reports pursuant to this section shall include a comparison of the current year's data and corrective actions with data and corrective actions from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

C. An agency's report shall be approved by the agency head and made readily available to the public on the agency's website, or if the agency does not have a website, by

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other means.

D. An agency may redact specific material from the agency's reports when publication would present a clear and specific threat to the safety and security of a facility but shall indicate the nature of the material redacted.

E. An agency shall ensure that data collected pursuant to this section are securely retained.

F. An agency shall make all aggregated sexual abuse data, from facilities under the agency's direct control and private facilities with which the agency contracts, readily available to the public at least annually through the agency's website or, if the agency does not have a website, through other means.

G. Prior to making aggregated sexual abuse data publicly available, an agency shall remove all personal identifiers.

H. An agency shall maintain sexual abuse data collected pursuant to Section 33 of the New Mexico Prison Rape Elimination Act for at least ten years after the date of the initial collection unless federal, state or local law requires otherwise.

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