

New Mexico SAG Involvement in Detention Reform

Process of SAG inclusion:

1. SAG identifies Detention Reform as a Priority in the Three Year Plan.
2. SAG seeks an independent nonprofit advocacy agency to develop a broad based Task Force to study the current code and existing codes from other states to determine possible best practices. SAG members should be formal members of the Task Force.
3. Town hall meeting should be conducted at pertinent sites throughout the state for input by all stake-holder professions and groups. SAG members from those sites are encouraged to host the meetings. Participants are encouraged to sign up for committees and subcommittees or on a “interested persons” respondents e-mail list. (All drafts are e-mailed to everyone in the process.) Each committee and subcommittee should be represented by a SAG member.
4. Task Force including the SAG members makes informed consensus’ on issues to be drafted as proposed legislation.
5. Task Force reviews final draft.
6. Task Force members receive electronic copies of the legislation and are updated on its progress.
7. If appropriate SAG members serve as invited “expert witnesses” during the legislative process.

Partial listing of detention reform items accomplished by the SAG through this process in New Mexico.

- Mandatory development of a scientifically based risk assessment instrument (RAI)
- A child may not be placed into detention absent a court order unless the RAI is completed.
- Criteria for detention modified to: prohibit unless Substantial Risk of harm to self or others, or has Demonstrated he or she may leave the court’s jurisdiction.
- Adds the child’s home or residence to the list of places to which a juvenile can be released pending court
- Makes clear that a youthful offender may be detained in any other suitable place that meets standards for detention facilities.
- Detention Hearing require within 24 hours and child to be represented by counsel.
- Petition must be filed within one working day instead of two.
- If not released , release decision can be reviewed by the court in conjunction with a pretrial conference
- If no placement within 10 days of disposition hearing, child may be released if not a flight risk or substantial risk of harm to self or others.
- Makes clear that a child has right to petition for writ of habeas corpus.
- A child under the age of eleven shall not be held in detention.