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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIME; ADDING THE EXPOSURE TO THE USE OF FENTANYL AS EVIDENCE OF ABUSE OF A CHILD.

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

SECTION 1. Section 30-6-1 NMSA 1978 (being Laws 1973, Chapter 360, Section 10, as amended) is amended to read:

"30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal,

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1 when able to do so, to provide them; and

2 (3) "negligently" refers to criminal
3 negligence and means that a person knew or should have known of
4 the danger involved and acted with a reckless disregard for the
5 safety or health of the child.

6 B. Abandonment of a child consists of the parent,
7 guardian or custodian of a child intentionally leaving or
8 abandoning the child under circumstances whereby the child may
9 or does suffer neglect. A person who commits abandonment of a
10 child is guilty of a misdemeanor, unless the abandonment
11 results in the child's death or great bodily harm, in which
12 case the person is guilty of a second degree felony.

13 C. A parent, guardian or custodian who leaves an
14 infant less than ninety days old in compliance with the Safe
15 Haven for Infants Act shall not be prosecuted for abandonment
16 of a child.

17 D. Abuse of a child consists of a person knowingly,
18 intentionally or negligently, and without justifiable cause,
19 causing or permitting a child to be:

20 (1) placed in a situation that may endanger
21 the child's life or health;

22 (2) tortured, cruelly confined or cruelly
23 punished; or

24 (3) exposed to the inclemency of the weather.

25 E. A person who commits abuse of a child that does

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1 not result in the child's death or great bodily harm is, for a
2 first offense, guilty of a third degree felony and for second
3 and subsequent offenses is guilty of a second degree felony.
4 If the abuse results in great bodily harm to the child, the
5 person is guilty of a first degree felony.

6 F. A person who commits negligent abuse of a child
7 that results in the death of the child is guilty of a first
8 degree felony.

9 G. A person who commits intentional abuse of a
10 child twelve to eighteen years of age that results in the death
11 of the child is guilty of a first degree felony.

12 H. A person who commits intentional abuse of a
13 child less than twelve years of age that results in the death
14 of the child is guilty of a first degree felony resulting in
15 the death of a child.

16 I. Evidence that demonstrates that a child has been
17 knowingly, intentionally or negligently allowed to enter or
18 remain in a motor vehicle, building or any other premises that
19 contains chemicals and equipment used or intended for use in
20 the manufacture of a controlled substance shall be deemed prima
21 facie evidence of abuse of the child.

22 J. Evidence that demonstrates that a child has been
23 knowingly and intentionally exposed to the use of
24 methamphetamine or fentanyl shall be deemed prima facie
25 evidence of abuse of the child.

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K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.