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HOUSE BILL 485

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO ABUSE OF A CHILD THAT INVOLVES ALLOWING A CHILD TO ENTER A BUILDING OR MOTOR VEHICLE THAT CONTAINS CHEMICALS OR EQUIPMENT USED FOR THE MANUFACTURE OF A CONTROLLED SUBSTANCE; INCREASING PENALTIES; AMENDING A SECTION OF THE NMSA 1978.

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 by Laws 2001, Chapter 31, Section 9 and by Laws 2001, Chapter 132, Section 9) 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

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1 proper parental care and control of subsistence, education,
2 medical or other care or control necessary for his well-being
3 because of the faults or habits of his parents, guardian or
4 custodian or their neglect or refusal, when able to do so, to
5 provide them; and

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

10 B. Abandonment of a child consists of the parent,
11 guardian or custodian of a child intentionally leaving or
12 abandoning the child under circumstances whereby the child may
13 or does suffer neglect. Whoever commits abandonment of a child
14 is guilty of a misdemeanor, unless the abandonment results in
15 the child's death or great bodily harm, in which case he is
16 guilty of a second degree felony.

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

21 D. Abuse of a child consists of a person knowingly,
22 intentionally or negligently, and without justifiable cause,
23 causing or permitting a child to be:

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

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

(3) exposed to the inclemency of the weather.

E. Whoever commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm or death to the child, he is guilty of a first degree felony.

F. Notwithstanding the provisions of Subsection E of this section, a person who commits abuse of a child that does not result in the child's death or great bodily harm, by allowing the child to enter or remain in a building or motor vehicle that contains chemicals or equipment used for the manufacture of a controlled substance, is guilty of a second degree felony. Upon a second or subsequent conviction, the person is guilty of a first degree felony.

~~[E.]~~ G. 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, 2004.