HOUSE BILL 582

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO CHILD ABUSE; ESTABLISHING THAT A SEPARATE CHARGE MAY BE IMPOSED FOR EACH CHILD ABANDONED OR ABUSED.

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 [his] the child's well-being because of the faults or habits of [his] the child's parents, guardian or custodian or their neglect or

.165426.1

1   refusal, 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

4   of the danger involved and acted with a reckless disregard for

5   the 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.   [Whoever] A person who commits

10   abandonment of a child is guilty of a misdemeanor, unless the

11   abandonment results in the child's death or great bodily harm,

12   in which case [he] the person is guilty of a second degree

13   felony.

14   C.   A parent, guardian or custodian who leaves an

15   infant less than ninety days old in compliance with the Safe

16   Haven for Infants Act shall not be prosecuted for abandonment

17   of a child.

18   D.   Abuse of a child consists of a person

19   knowingly, intentionally or negligently, and without

20   justifiable cause, causing or permitting a child to be:

21   (1)   placed in a situation that may endanger

22   the child's life or health;

23   (2)   tortured, cruelly confined or cruelly

24   punished; or

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

.165426.1

E.   [Whoever] A person who 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 to

the child, [he] the person is guilty of a first degree felony.

F.   [Whoever] A person who commits negligent abuse

of a child that results in the death of the child is guilty of

a first degree felony.

G.   [Whoever] A person who commits intentional

abuse of a child twelve to eighteen years of age that results

in the death of the child is guilty of a first degree felony.

H.   [Whoever] A person who commits intentional

abuse of a child less than twelve years of age that results in

the death of the child is guilty of a first degree felony

resulting in the death of a child.

I.   Evidence that demonstrates that a child has

been knowingly, intentionally or negligently allowed to enter

or remain in a motor vehicle, building or any other premises

that contains chemicals and equipment used or intended for use

in the manufacture of a controlled substance shall be deemed

prima facie evidence of abuse of the child.

J.   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

.165426.1

1   was left at the hospital.

2   K.   For purposes of this section, where more than

3   one child is abandoned or abused, a separate charge,

4   conviction and punishment may be imposed for each child, even

5   if the abandonment or abuse constitutes one continuous act."

6   - 4 -

.165426.1