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SENATE BILL 411

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

John C. Ryan

AN ACT

RELATING TO CHILDREN; REQUIRING REPORTING OF SUSPECTED CHILD
ABANDONMENT OR ABUSE BY ALL PERSONS.

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,

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 shall be deemed prima facie evidence of abuse
25 of the child.

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

5 L. Every person, including a licensed physician; a
6 resident or an intern examining, attending or treating a child;
7 a law enforcement officer; a judge presiding during a
8 proceeding; a registered nurse; a visiting nurse; a school
9 official; a social worker acting in an official capacity; or a
10 member of the clergy who has information that is not privileged
11 as a matter of law, who knows or has a reasonable suspicion
12 that a child has been abandoned or abused as provided in this
13 section shall report the matter immediately to:

14 (1) a local law enforcement agency;

15 (2) the children, youth and families
16 department if the abandonment or abuse is perpetrated by a
17 parent, guardian or custodian; or

18 (3) a tribal law enforcement or social
19 services agency if the report relates to an Indian child
20 residing in Indian country.

21 M. The recipient of a report made pursuant to this
22 section shall take immediate steps to ensure prompt
23 investigation of the report. The investigation shall ensure
24 that immediate steps are taken to protect the health and
25 welfare of the alleged abandoned or abused child, as well as

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1 that of any other child under the same care or exposed to the
2 same circumstances who may be in danger of abandonment or
3 abuse. A local law enforcement officer trained in the
4 investigation of child abandonment, abuse and neglect is
5 responsible for investigating reports of alleged child
6 abandonment or abuse at schools, universities, daycare
7 facilities or child care facilities.

8 N. A law enforcement agency or the children, youth
9 and families department shall have access to any of the records
10 pertaining to a child abandonment or abuse case maintained by
11 any of the persons named in this section, except as otherwise
12 provided by law.

13 O. A person who in good faith makes a report of
14 alleged child abandonment or abuse pursuant to this section or
15 who participates in a judicial proceeding brought as a result
16 of a report made pursuant to this section shall not be subject
17 to civil or criminal liability in connection with the person's
18 report or participation unless the person acted in bad faith or
19 with malice."

20 **SECTION 2. EFFECTIVE DATE.--**The effective date of the
21 provisions of this act is July 1, 2013.