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HOUSE BILL 334

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO CHILD ABUSE; CLARIFYING THAT EVERY PERSON WHO KNOWS
OR HAS A REASONABLE SUSPICION THAT CHILD ABUSE OR NEGLECT HAS
OCCURRED SHALL REPORT THE CHILD ABUSE OR NEGLECT,
NOTWITHSTANDING ANY OTHER PROVISION OF LAW; DECLARING AN
EMERGENCY.

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

SECTION 1. Section 32A-4-3 NMSA 1978 (being Laws 1993,
Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD
NEGLECT--RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--
PENALTY.--

A. Notwithstanding any other provision of law,
every person, without limitation, including a licensed
physician; a resident or an intern examining, attending or

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1 treating a child; a law enforcement officer; a judge presiding
2 during a proceeding; a registered nurse; a visiting nurse; a
3 schoolteacher; a school official; a social worker ~~[acting in an~~
4 ~~official capacity; or]~~; a member of the clergy ~~[who has~~
5 ~~information that is not privileged as a matter of law]~~; or an
6 attorney, who knows or has a reasonable suspicion that a child
7 is an abused or a neglected child shall report the matter
8 immediately to:

- 9 (1) a local law enforcement agency;
10 (2) the department; or
11 (3) a tribal law enforcement or social
12 services agency for any Indian child residing in Indian
13 country.

14 B. A law enforcement agency receiving the report
15 shall immediately transmit the facts of the report and the
16 name, address and phone number of the reporter by telephone to
17 the department and shall transmit the same information in
18 writing within forty-eight hours. The department shall
19 immediately transmit the facts of the report and the name,
20 address and phone number of the reporter by telephone to a
21 local law enforcement agency and shall transmit the same
22 information in writing within forty-eight hours. The written
23 report shall contain the names and addresses of the child and
24 the child's parents, guardian or custodian, the child's age,
25 the nature and extent of the child's injuries, including any

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1 evidence of previous injuries, and other information that the
2 maker of the report believes might be helpful in establishing
3 the cause of the injuries and the identity of the person
4 responsible for the injuries. The written report shall be
5 submitted upon a standardized form agreed to by the law
6 enforcement agency and the department.

7 C. The recipient of a report under Subsection A of
8 this section shall take immediate steps to ensure prompt
9 investigation of the report. The investigation shall ensure
10 that immediate steps are taken to protect the health or welfare
11 of the alleged abused or neglected child, as well as that of
12 any other child under the same care who may be in danger of
13 abuse or neglect. A local law enforcement officer trained in
14 the investigation of child abuse and neglect is responsible for
15 investigating reports of alleged child abuse or neglect at
16 schools, daycare facilities or child care facilities.

17 D. If the child alleged to be abused or neglected
18 is in the care or control of or in a facility administratively
19 connected to the department, the report shall be investigated
20 by a local law enforcement officer trained in the investigation
21 of child abuse and neglect. The investigation shall ensure
22 that immediate steps are taken to protect the health or welfare
23 of the alleged abused or neglected child, as well as that of
24 any other child under the same care who may be in danger of
25 abuse or neglect.

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E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.