

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 117

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO CHILD ABUSE; PROVIDING THAT EXPOSING A CHILD TO
METHAMPHETAMINE USE IS PRIMA FACIE EVIDENCE OF CHILD ABUSE.

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

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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 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. [~~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 knowingly,
19 intentionally or negligently, and without justifiable cause,
20 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.

1 E. ~~[Whoever]~~ A person who commits abuse of a child
2 that does not result in the child's death or great bodily harm
3 is, for a first offense, guilty of a third degree felony and
4 for second and subsequent offenses is guilty of a second degree
5 felony. If the abuse results in great bodily harm to the
6 child, ~~[he]~~ the person is guilty of a first degree felony.

7 F. ~~[Whoever]~~ A person who commits negligent abuse
8 of a child that results in the death of the child is guilty of
9 a first degree felony.

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

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

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

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

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1 of the child.

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

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