

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 463

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO CRIMINAL LAW; CLARIFYING AND AMENDING THE ELEMENTS
OF ABANDONMENT OF A CHILD, RECKLESS ABUSE OF A CHILD AND
INTENTIONAL ABUSE OF A CHILD; PROVIDING THAT ABANDONMENT OF A
CHILD MAY BE A LESSER INCLUDED OFFENSE OF ABUSE OF A CHILD;
ADJUSTING PENALTIES.

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~~] DEFINITIONS.--
[A.] As used in [~~this section~~] Chapter 30, Article 6 NMSA 1978:

[~~(1)~~] A. "child" means a person who is [~~less~~]
younger than eighteen years of age;

[~~(2)~~] B. "intentionally" describes acts that are
done purposefully and with a conscious objective to endanger or

1 abuse a child, even if the person did not intend the resulting
2 harm;

3 C. "neglect" means that a child is without proper
4 parental care and control of subsistence, education, medical or
5 other care or control necessary for the child's well-being
6 because of the faults or habits of the child's parents,
7 guardian or custodian or their neglect or refusal, when able to
8 do so, to provide them; and

9 [~~(3) "negligently"~~] D. "recklessly" refers to
10 criminal negligence and [~~means that a~~] describes acts that
11 disregard a substantial, foreseeable risk, where the person
12 knew [~~or should have known~~] of the danger involved and acted
13 with a reckless disregard for the safety or health of the
14 child.

15 [~~B. Abandonment of a child consists of the parent,~~
16 ~~guardian or custodian of a child intentionally leaving or~~
17 ~~abandoning the child under circumstances whereby the child may~~
18 ~~or does suffer neglect. A person who commits abandonment of a~~
19 ~~child is guilty of a misdemeanor, unless the abandonment~~
20 ~~results in the child's death or great bodily harm, in which~~
21 ~~case the person is guilty of a second degree felony.~~

22 G. ~~A parent, guardian or custodian who leaves an~~
23 ~~infant less than ninety days old in compliance with the Safe~~
24 ~~Haven for Infants Act shall not be prosecuted for abandonment~~
25 ~~of a child.~~

1 ~~D. Abuse of a child consists of a person knowingly,~~
2 ~~intentionally or negligently, and without justifiable cause,~~
3 ~~causing or permitting a child to be:~~

4 ~~(1) placed in a situation that may endanger~~
5 ~~the child's life or health;~~

6 ~~(2) tortured, cruelly confined or cruelly~~
7 ~~punished; or~~

8 ~~(3) exposed to the inclemency of the weather.~~

9 ~~E. A person who commits abuse of a child that does~~
10 ~~not result in the child's death or great bodily harm is, for a~~
11 ~~first offense, guilty of a third degree felony and for second~~
12 ~~and subsequent offenses is guilty of a second degree felony.~~
13 ~~If the abuse results in great bodily harm to the child, the~~
14 ~~person is guilty of a first degree felony.~~

15 ~~F. A person who commits negligent abuse of a child~~
16 ~~that results in the death of the child is guilty of a first~~
17 ~~degree felony.~~

18 ~~G. A person who commits intentional abuse of a~~
19 ~~child twelve to eighteen years of age that results in the death~~
20 ~~of the child is guilty of a first degree felony.~~

21 ~~H. A person who commits intentional abuse of a~~
22 ~~child less than twelve years of age that results in the death~~
23 ~~of the child is guilty of a first degree felony resulting in~~
24 ~~the death of a child.~~

25 ~~I. Evidence that demonstrates that a child has been~~

1 ~~knowingly, intentionally or negligently allowed to enter or~~
2 ~~remain in a motor vehicle, building or any other premises that~~
3 ~~contains chemicals and equipment used or intended for use in~~
4 ~~the manufacture of a controlled substance shall be deemed prima~~
5 ~~facie evidence of abuse of the child.~~

6 ~~J. Evidence that demonstrates that a child has been~~
7 ~~knowingly and intentionally exposed to the use of~~
8 ~~methamphetamine shall be deemed prima facie evidence of abuse~~
9 ~~of the child.~~

10 ~~K. A person who leaves an infant less than ninety~~
11 ~~days old at a hospital may be prosecuted for abuse of the~~
12 ~~infant for actions of the person occurring before the infant~~
13 ~~was left at the hospital.]"~~

14 SECTION 2. A new Section 30-6-1.1 NMSA 1978 is enacted to
15 read:

16 "30-6-1.1. [NEW MATERIAL] ABANDONMENT OF A CHILD.--

17 A. Abandonment of a child consists of the parent,
18 guardian or custodian of a child knowingly or intentionally
19 leaving or abandoning the child without an intent to return
20 with reasonable promptness and under circumstances whereby the
21 child is at a foreseeable risk of suffering neglect or does
22 suffer neglect.

23 B. A person who commits abandonment of a child is
24 guilty of a fourth degree felony, unless the abandonment
25 results in the child's death or great bodily harm, in which

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1 case the person is guilty of a second degree felony.

2 C. Abandonment of a child may be a lesser included
3 offense of abuse of a child."

4 SECTION 3. A new Section 30-6-1.2 NMSA 1978 is enacted to
5 read:

6 "30-6-1.2. [NEW MATERIAL] RECKLESS ABUSE OF A CHILD.--

7 A. Reckless abuse of a child consists of a person
8 recklessly, and without justifiable cause, causing or
9 permitting a child to be placed in a situation knowing that it
10 may endanger the child's life or health, thereby creating or
11 disregarding a substantial and foreseeable risk of significant
12 harm to the child.

13 B. A person who commits reckless abuse of a child
14 that does not result in physical injury to the child is guilty
15 of a misdemeanor.

16 C. A person who commits reckless abuse of a child
17 that results in physical injury to the child that does not
18 constitute great bodily harm is guilty of a fourth degree
19 felony.

20 D. A person who commits reckless abuse of a child
21 that results in great bodily harm to the child if the child is:

22 (1) under the age of thirteen is guilty of a
23 second degree felony; and

24 (2) thirteen to eighteen years of age is
25 guilty of a third degree felony.

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1 E. A person who commits reckless abuse of a child
2 that results in the death of the child if the child is:

3 (1) under the age of thirteen is guilty of a
4 first degree felony; and

5 (2) thirteen to eighteen years of age is
6 guilty of a second degree felony resulting in the death of a
7 human being."

8 SECTION 4. A new Section 30-6-1.3 NMSA 1978 is enacted to
9 read:

10 "30-6-1.3. [NEW MATERIAL] INTENTIONAL ABUSE OF A CHILD.--

11 A. Intentional abuse of a child consists of a
12 person knowingly and intentionally, and without justifiable
13 cause, causing a child to be:

14 (1) placed in a situation that endangers the
15 child's life or health, intending such endangerment; or

16 (2) tortured, cruelly confined or cruelly
17 punished.

18 B. A person who commits intentional abuse of a
19 child that does not result in physical injury to the child is
20 guilty of a fourth degree felony.

21 C. A person who commits intentional abuse of a
22 child that results in physical injury to the child that does
23 not constitute great bodily harm is guilty of a third degree
24 felony.

25 D. A person who commits intentional abuse of a

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1 child that results in great bodily harm to the child if the
2 child is:

3 (1) under the age of thirteen is guilty of a
4 second degree felony; and

5 (2) thirteen to eighteen years of age is
6 guilty of a third degree felony and, notwithstanding the
7 provisions of Section 31-18-15 NMSA 1978, the basic sentence of
8 imprisonment is six years.

9 E. A person who commits intentional abuse of a
10 child that results in the death of the child if the child is:

11 (1) under the age of thirteen is guilty of a
12 first degree felony resulting in the death of a child; and

13 (2) thirteen to eighteen years of age is
14 guilty of a first degree felony.

15 F. A person who commits intentional abuse of a
16 child with intent to kill the child and that results in the
17 death of the child is guilty of a first degree felony resulting
18 in the death of a child."

19 SECTION 5. A new Section 30-6-1.4 NMSA 1978 is enacted to
20 read:

21 "30-6-1.4. [NEW MATERIAL] PROSECUTION OF ABANDONMENT OR
22 ABUSE OF A CHILD.--

23 A. Evidence that demonstrates that a child has been
24 recklessly or intentionally exposed to the inclemency of the
25 weather that presents a substantial and foreseeable risk of

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1 harm to the child's life or health shall be deemed prima facie
2 evidence of abuse of the child.

3 B. Evidence that demonstrates that a person has
4 knowingly and intentionally exposed a child to the use or
5 consumption of methamphetamine shall be deemed prima facie
6 evidence of abuse of the child.

7 C. A parent, guardian or custodian who leaves an
8 infant ninety days of age or less in compliance with the Safe
9 Haven for Infants Act shall not be prosecuted for abandonment
10 of a child."

11 SECTION 6. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2017.

underscoring material = new
~~[bracketed material]~~ = delete