

SENATE BILL 87

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Howie C. Morales

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO CHILDREN; PROVIDING THAT FOR THE PURPOSES OF REPORTING ABUSE AND NEGLECT, "ABUSED CHILD" INCLUDES ABUSE COMMITTED BY A PERSON WHO IS NOT THE CHILD'S PARENT, GUARDIAN OR CUSTODIAN.

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--

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PENALTY.--

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- (1) a local law enforcement agency;
- (2) the department; or
- (3) a tribal law enforcement or social

services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and

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the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities. SPAC→**The department is responsible for investigating reports of abuse or neglect by a parent, guardian or custodian that are made pursuant to the Abuse and Neglect Act.**←SPAC

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation .209174.2

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of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

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.

SPAC→~~G. For the purposes of this section, "abused child" means a child:~~

~~(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;~~

~~(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by any person;~~

~~(3) who has suffered sexual abuse or sexual exploitation inflicted by any person;~~

~~(4) who was knowingly, intentionally or negligently placed, by any person, in a situation that may~~

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~~endanger the child's life or health; or~~

~~(5) who was knowingly or intentionally
tortured, cruelly confined or cruelly punished by any
person."~~←SPAC

SPAC→G. The duty established in Subsection A of
this section applies to knowledge or reasonable suspicion that
a child:

(1) has suffered or is at risk of suffering
serious harm because of the action or inaction of the child's
parent, guardian or custodian;

(2) has suffered physical abuse, emotional
abuse or psychological abuse inflicted or caused by any person;

(3) has suffered sexual abuse or sexual
exploitation inflicted by any person;

(4) was knowingly, intentionally or
negligently placed, by any person, in a situation that did or
may endanger the child's life or health; or

(5) was knowingly or intentionally tortured,
cruelly confined or cruelly punished by any person."

←SPAC

SECTION 2. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2018.