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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE PENALTY FOR
INTENTIONAL ABUSE OF A CHILD TWELVE TO EIGHTEEN YEARS OF AGE
THAT RESULTS IN THE DEATH OF THE CHILD TO A FIRST DEGREE FELONY
RESULTING IN THE DEATH OF A CHILD.

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~~
younger 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

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

1 well-being because of the faults or habits of the child's
2 parents, guardian or custodian or their neglect or refusal,
3 when able to do so, to provide them; and

4 (3) "negligently" refers to criminal
5 negligence and means that a person knew or should have known of
6 the danger involved and acted with a reckless disregard for the
7 safety or health of the child.

8 B. Abandonment of a child consists of the parent,
9 guardian or custodian of a child intentionally leaving or
10 abandoning the child under circumstances whereby the child may
11 or does suffer neglect. A person who commits abandonment of a
12 child is guilty of a misdemeanor, unless the abandonment
13 results in the child's death or great bodily harm, in which
14 case the person is guilty of a second degree felony.

15 C. A parent, guardian or custodian who leaves an
16 infant [~~less~~] younger than ninety days old in compliance with
17 the Safe Haven for Infants Act shall not be prosecuted for
18 abandonment of a child.

19 D. Abuse of a child consists of a person knowingly,
20 intentionally or negligently, and without justifiable cause,
21 causing or permitting a child to be:

22 (1) placed in a situation that may endanger
23 the child's life or health;

24 (2) tortured, cruelly confined or cruelly
25 punished; or

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1 (3) exposed to the inclemency of the weather.

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

9 F. A person who commits negligent abuse of a child
10 that results in the death of the child is guilty of a first
11 degree felony.

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

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

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

25 ~~[J.]~~ I. Evidence that demonstrates that a child has

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

1 been knowingly and intentionally exposed to the use of
2 methamphetamine shall be deemed prima facie evidence of abuse
3 of the child.

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

8 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
9 provisions of this act is July 1, 2016.