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**SENATE BILL 366**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Manny M. Aragon**

**AN ACT**

**RELATING TO CHILDREN; ENACTING THE SAFE PLACE FOR INFANTS ACT;  
PROVIDING PROCEDURES TO ENSURE THE PHYSICAL SAFETY OF INFANTS  
WHO MIGHT OTHERWISE BE ABANDONED; PROVIDING IMMUNITY FROM  
CRIMINAL PROSECUTION AND CIVIL LIABILITY; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION;  
DECLARING AN EMERGENCY.**

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

**Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1  
through 6 of this act may be cited as the "Safe Place for  
Infants Act".**

**Section 2. [NEW MATERIAL] DEFINITIONS. --As used in the  
Safe Place for Infants Act:**

**A. "emergency medical technician" means a health  
care provider who has been licensed to practice by the primary**

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1 care and emergency medical services bureau of the public  
2 health division of the department of health;

3 B. "infant" means a child no more than six months  
4 old, as determined within a reasonable degree of medical  
5 certainty; and

6 C. "safe place" means a fire station or substation  
7 staffed by an emergency medical technician or a hospital  
8 licensed by the department of health where the hospital has an  
9 emergency department or other department that responds to the  
10 needs of the acutely sick and injured.

11 Section 3. [NEW MATERIAL] INFANTS LEFT AT SAFE PLACES. --

12 A person may leave an infant with the staff of a safe place  
13 without being subject to prosecution for abandonment if:

14 A. the infant was born within six months of being  
15 left at the safe place, as determined within a reasonable  
16 degree of medical certainty; and

17 B. the infant is left in an unharmed condition.

18 Section 4. [NEW MATERIAL] SAFE PLACE PROCEDURES. --

19 A. If the infant is presented unharmed, safe place  
20 staff shall not inquire as to the identity of the mother, the  
21 father or the person leaving the infant or contact law  
22 enforcement personnel. Safe place staff may ask the person  
23 leaving the infant about the medical history of the infant or  
24 the parents, but the person is not required to provide  
25 information.

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1           B. Safe place staff shall stabilize the infant's  
2 medical condition and provide necessary medical services.

3           C. Safe place staff may furnish the person leaving  
4 the infant with information about how to contact relevant  
5 social service agencies.

6           D. Safe place staff shall immediately inform the  
7 children, youth and families department that an infant has  
8 been left at the safe place.

9           Section 5. [NEW MATERIAL] CHILDREN, YOUTH AND FAMILIES  
10 DEPARTMENT RESPONSIBILITIES. --

11           A. Upon notification by safe place staff that an  
12 infant has been received, the children, youth and families  
13 department shall take custody of the infant only when the  
14 infant's medical condition has been stabilized and necessary  
15 medical services have been rendered.

16           B. The children, youth and families department  
17 shall initiate proceedings pursuant to the Adoption Act for  
18 placement of the infant.

19           Section 6. [NEW MATERIAL] IMMUNITY. -- Safe place staff,  
20 health care professionals or other employees of a safe place  
21 who accept an infant are immune from any criminal or civil  
22 liability that otherwise might result from that action if the  
23 safe place staff or other persons are acting in good faith in  
24 receiving the infant.

25           Section 7. Section 30-6-1 NMSA 1978 (being Laws 1973,  
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1 Chapter 360, Section 10, as amended) is amended to read:

2 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD. --

3 A. As used in this section:

4 (1) "child" means a person who is less than  
5 eighteen years of age;

6 (2) "neglect" means that a child is without  
7 proper parental care and control of subsistence, education,  
8 medical or other care or control necessary for [~~his~~] the  
9 child's well-being because of the faults or habits of [~~his~~  
10 ~~parents~~] the child's parent, guardian or custodian or [~~their~~]  
11 his neglect or refusal, when able to do so, to provide them;  
12 and

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

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

24 C. Abuse of a child consists of a person  
25 knowingly, intentionally or negligently, and without

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1 justifiable cause, causing or permitting a child to be:

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

4 (2) tortured, cruelly confined or cruelly  
5 punished; or

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

7 D. It shall be an affirmative defense to a charge  
8 of abandonment of a child that the acts complained of were in  
9 accordance with the Safe Place for Infants Act.

10 Whoever commits abuse of a child [~~which~~] that does not  
11 result in the child's death or great bodily harm is, for a  
12 first offense, guilty of a third degree felony and for second  
13 and subsequent offenses is guilty of a second degree felony.  
14 If the abuse results in great bodily harm or death to the  
15 child, he is guilty of a first degree felony. "

16 Section 8. APPROPRIATION. --Two hundred fifty thousand  
17 dollars (\$250,000) is appropriated from the general fund to  
18 the children, youth and families department in fiscal year  
19 2002 to perform public outreach functions necessary to educate  
20 the public about the Safe Place for Infants Act. Any  
21 unexpected or unencumbered balance remaining at the end of  
22 fiscal year 2002 shall revert to the general fund.

23 Section 9. EMERGENCY. --It is necessary for the public  
24 peace, health and safety that this act take effect  
25 immediately.