

1 SENATE BILL 455

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Candace Gould

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10 AN ACT

11 RELATING TO CHILD ABUSE; LIMITING THE LIABILITY OF ANY PERSON  
12 REPORTING CHILD ABUSE.

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

15 SECTION 1. Section 32A-4-5 NMSA 1978 (being Laws 1993,  
16 Chapter 77, Section 99, as amended) is amended to read:

17 "32A-4-5. ADMISSIBILITY OF REPORT IN EVIDENCE--IMMUNITY  
18 OF REPORTING PERSON--INVESTIGATION OF REPORT.--

19 A. In any proceeding alleging neglect or abuse  
20 under the Children's Code resulting from a report required by  
21 Section 32A-4-3 NMSA 1978 or in any proceeding in which that  
22 report or any of its contents are sought to be introduced in  
23 evidence, the report or its contents or any other facts related  
24 thereto or to the condition of the child who is the subject of  
25 the report shall not be excluded on the ground that the matter

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1 is or may be the subject of a physician-patient privilege or  
2 similar privilege or rule against disclosure.

3 B. Anyone reporting an instance of alleged child  
4 neglect or abuse or participating in a judicial proceeding  
5 ~~[brought as a result of a report required by Section 32A-4-3~~  
6 ~~NMSA 1978]~~ is presumed to be acting in good faith and shall be  
7 immune from liability, civil or criminal, that might otherwise  
8 be incurred or imposed by the law, unless the person acted in  
9 bad faith or with malicious purpose.

10 C. After properly verifying the identity of the  
11 public official, any school personnel or other person who has  
12 the duty to report child abuse pursuant to Section 32A-4-3 NMSA  
13 1978 shall permit a member of a law enforcement agency,  
14 including tribal police officers, an employee of the district  
15 attorney's office, an investigative interviewer for a program  
16 described in Subsection E of this section or an employee of the  
17 department, to interview a child with respect to a report  
18 without the permission of the child's parent or guardian. Any  
19 person permitting an interview pursuant to this subsection is  
20 presumed to be acting in good faith and shall be immune from  
21 liability, civil or criminal, that might otherwise be incurred  
22 or imposed by law, unless the person acted in bad faith or with  
23 malicious purpose.

24 D. An investigation may be conducted by law  
25 enforcement, the district attorney's office, a program

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1 described in Subsection E of this section and the department.  
2 Interviews shall be conducted in a manner and place that  
3 protects the child and family from unnecessary trauma and  
4 embarrassment. The investigating entity shall conduct the  
5 investigation in a manner that will protect the privacy of the  
6 child and the family, with the paramount consideration being  
7 the safety of the child. All interactions with child victims  
8 and child witnesses shall be conducted in a child-sensitive  
9 manner, taking into consideration the special needs of the  
10 child and the child's abilities, age and intellectual maturity.  
11 The interviews shall be conducted in a place where the child  
12 feels secure and in a language that the child uses and  
13 understands.

14 E. If a community has a program for child abuse  
15 investigation that includes an investigation interview of the  
16 alleged victim or child witness, the investigation may be  
17 conducted at a site designated by the community program. The  
18 child abuse victim or child witness shall, when possible, be  
19 interviewed in an environment where the alleged abuse  
20 perpetrator will not be present.

21 F. Prior to interviewing a child, the department  
22 shall notify the parent or guardian of the child who is being  
23 interviewed, unless the department determines that notification  
24 would adversely affect the safety of the child about whom the  
25 report has been made or compromise the investigation."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.