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SENATE BILL 117

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

INTRODUCED BY

Candace Gould

AN ACT

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

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

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

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

A. In any proceeding alleging neglect or abuse under the Children's Code resulting from a report required by Section 32A-4-3 NMSA 1978 or in any proceeding in which that report or any of its contents are sought to be introduced in evidence, the report or its contents or any other facts related thereto or to the condition of the child who is the subject of 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, 2018.