

HOUSE BILL 303

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CRIME; PROVIDING FOR EXPOSURE OF A CHILD TO A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE TO CONSTITUTE ABUSE OF A CHILD; PROVIDING FOR TAKING NEWBORN CHILDREN INTO TEMPORARY PROTECTIVE CUSTODY UNDER CERTAIN CIRCUMSTANCES; DECLARING AN EMERGENCY.

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:

.230256.2AIC February 24, 2025 (8:54pm)

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

A. As used in this section:

(1) "child" means a person who is less 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 well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and

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

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

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

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

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

(2) tortured, cruelly confined or cruelly punished; [✗]

(3) exposed to the inclemency of the weather;

or

(4) exposed to the extent that the child tests positive at birth for either a Schedule I controlled substance pursuant to the Controlled Substances Act, including opiates, opiate derivatives, hallucinogens, stimulants and depressants that have no legitimate medical use, or a Schedule II controlled substance pursuant to the Controlled Substances Act, including any potentially addictive substance that is used or manufactured contrary to its current accepted medical use, unless the child tests positive for a Schedule II controlled substance pursuant to the Controlled Substances Act as a result of the mother's lawful intake of such substance as prescribed.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the

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person is guilty of a first degree felony.

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

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

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child. HHHC→It shall be no defense to the crime of abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child.←HHHC

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child. HHHC→It shall be no defense to the crime of

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~~abuse of a child that the defendant did not know that a child was present, a child could be found, a child resided on the premises or a vehicle contained a child.~~←HHHC

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital."

SECTION 2. A new section of the Abuse and Neglect Act is enacted to read:

"[NEW MATERIAL] TAKING NEWBORN CHILDREN INTO TEMPORARY PROTECTIVE CUSTODY.--

A. A newborn child who is in a hospital setting shall not be taken into temporary protective custody without a court order that includes findings that an emergency situation exists and that the newborn child is seriously endangered. A newborn child may be detained in a hospital by a law enforcement officer upon the recommendation of the health care authority, the children, youth and families department or a physician, registered nurse, licensed practical nurse or physician assistant while a court order is being pursued, but the newborn child must be released if a court order is denied.

B. A newborn child who is not in a hospital setting shall not be taken into temporary protective custody for a period of longer than twenty-four hours without a court order that includes findings that an emergency situation exists and

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that the newborn child is seriously endangered.

C. A newborn child may be taken into temporary protective custody without a court order in the following circumstances:

(1) when a newborn child is identified by a physician, registered nurse, licensed practical nurse or physician assistant engaged in the admission, care or treatment of patients as being affected by substance abuse or demonstrating withdrawal symptoms resulting from prenatal drug exposure; or

(2) when the newborn child is subject to an environment exposing the newborn child to a laboratory for manufacturing controlled substances.

D. The taking of a newborn child into temporary custody under this section shall not be deemed an arrest, nor shall it constitute a police record.

E. For purposes of this section, "newborn child" means a child who is less than seventy-two hours old."

**SECTION 3. EMERGENCY.--**It is necessary for the public peace, health and safety that this act take effect immediately.