

HOUSE BILL 470

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 CHILDREN; REVISING THE DEFINITION OF "NEGLECTED CHILD" IN THE ABUSE AND NEGLECT ACT TO INCLUDE CIRCUMSTANCES WHEN A CHILD HAS UNSUPERVISED ACCESS TO A FIREARM HCPAC → **OR DEADLY WEAPON** ← HCPAC .

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

SECTION 1. Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

.230707.1AIC March 1, 2025 (8:37pm)

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"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has

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knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

(4) had parental rights over a sibling of the child terminated involuntarily;

HCPAC → D. "deadly weapon" means an object, instrument, substance or device:

(1) that is likely to and that is used by a person with the intention to cause great bodily harm or death;

or

(2) with which the death of a person can be easily and readily produced; ← HCPAC

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[D-] HCPAC→E.←HCPAC HCPAC→D.←HCPAC "educational decision maker" means an individual appointed by the children's court to attend school meetings and to make decisions about the child's education that a parent could make under law, including decisions about the child's educational setting, and the development and implementation of an individual education plan for the child;

[E-] HCPAC→F.←HCPAC HCPAC→E.←HCPAC "fictive kin" means a person not related by birth, adoption or marriage with whom a child has an emotionally significant relationship;

HCPAC→G.←HCPAC HCPAC→F.←HCPAC "firearm" means a weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; and includes a handgun, rifle or shotgun;

[F-] HCPAC→H.←HCPAC HCPAC→G.←HCPAC "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;

[G-] HCPAC→I.←HCPAC HCPAC→H.←HCPAC "neglected child" means a child:

- (1) who has been abandoned by the child's parent, guardian or custodian;
- (2) who is without proper parental care and

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control or 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 parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; [or]

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code; or

(6) whose parent, guardian or custodian negligently allows HCPAC →a←HCPAC HCPAC →the←HCPAC child to

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have access to a firearm HCPAC→~~or other deadly weapon~~←HCPAC while the child is not under the supervision of the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian;

[H-] HCPAC→J.←HCPAC HCPAC→I.←HCPAC "physical abuse" includes any case in which the child suffers strangulation or suffocation and any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for the death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;

[F-] HCPAC→K.←HCPAC HCPAC→J.←HCPAC "relative" means a person related to another person by birth, adoption or marriage within the fifth degree of consanguinity;

[J-] HCPAC→L.←HCPAC HCPAC→K.←HCPAC "sexual abuse" includes criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;

[K-] HCPAC→M.←HCPAC HCPAC→L.←HCPAC "sexual

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exploitation" includes:

- (1) allowing, permitting or encouraging a child to engage in prostitution;
- (2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing; or
- (3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law;

[H.] HCPAC → N. ← HCPAC HCPAC → M. ← HCPAC "sibling" means a brother or sister having one or both parents in common by birth or adoption;

[M.] HCPAC → O. ← HCPAC HCPAC → N. ← HCPAC "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978;

[N.] HCPAC → P. ← HCPAC HCPAC → O. ← HCPAC "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

[O.] HCPAC → O. ← HCPAC HCPAC → P. ← HCPAC "transition plan" means an individualized written plan for a child, based on the unique needs of the child, that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation."