

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 283

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
DEFINING "DISABILITY"; CREATING THE CRIME OF ABANDONMENT OF A
CHILD WITH A DISABILITY; CREATING THE CRIME OF ABUSE OF A CHILD
WITH A DISABILITY; CREATING A PRESUMPTION OF KNOWLEDGE OF A
CHILD'S DISABILITY FOR A PARENT, GUARDIAN, CARETAKER OR PERSON
CHARGED WITH THE CARE OF A CHILD; PROVIDING PENALTIES.

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:

"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) "disability" means that a child has a

1 physical or mental disability that substantially limits one or
2 more of that child's physical or mental functions, such as
3 caring for oneself, performing manual tasks, walking, seeing,
4 hearing, speaking, breathing, learning or working. A formal
5 medical diagnosis is not necessary to establish the existence
6 of a child's disability;

7 [~~2~~] (3) "neglect" means that a child is
8 without proper parental care and control of subsistence,
9 education, medical or other care or control necessary for the
10 child's well-being because of the faults or habits of the
11 child's parents, guardian or custodian or their neglect or
12 refusal, when able to do so, to provide them; and

13 [~~3~~] (4) "negligently" refers to criminal
14 negligence and means that a person knew or should have known of
15 the danger involved and acted with a reckless disregard for the
16 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. A person who 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 the person is guilty of a second degree felony. A person
24 who commits abandonment of a child with a disability is guilty
25 of a fourth degree felony, unless the abandonment results in

1 the child's death or great bodily harm, in which case the
2 person is guilty of a first degree felony.

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

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

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

12 (2) tortured, cruelly confined or cruelly
13 punished; or

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

15 E. A person who commits abuse of a child that does
16 not result in the child's death or great bodily harm is, for a
17 first offense, guilty of a third degree felony and for second
18 and subsequent offenses is guilty of a second degree felony.
19 If the abuse results in great bodily harm to the child, the
20 person is guilty of a first degree felony. A person who
21 commits abuse of a child that does not result in the child's
22 death or great bodily harm against a child with a disability
23 is, for a first offense, guilty of a second degree felony and
24 for second or subsequent offenses is guilty of a first degree
25 felony.

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

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

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

11 I. Evidence that demonstrates that a child has been
12 knowingly, intentionally or negligently allowed to enter or
13 remain in a motor vehicle, building or any other premises that
14 contains chemicals and equipment used or intended for use in
15 the manufacture of a controlled substance shall be deemed prima
16 facie evidence of abuse of the child.

17 J. Evidence that demonstrates that a child has been
18 knowingly and intentionally exposed to the use of
19 methamphetamine shall be deemed prima facie evidence of abuse
20 of the child.

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

25 L. A parent, guardian, caretaker or person charged

1 with the care of a child is presumed to know if that child
2 suffers from a disability. This presumption can be rebutted by
3 evidence that the parent, guardian, caretaker or person charged
4 with the care of a child did not know, or should not have
5 known, that the child in the person's care suffered from a
6 disability."

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underscored material = new
[bracketed material] = delete