

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 330

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO CHILDREN; ENACTING THE CURFEW ENFORCEMENT ACT;
PROVIDING MUNICIPALITIES AND COUNTIES WITH AUTHORITY TO ENACT
CURFEW ORDINANCES; ENACTING NEW SECTIONS OF THE CHILDREN'S
CODE.

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

Section 1. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Curfew Enforcement Act"."

Section 2. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] DEFINITION.--As used in the Curfew
Enforcement Act, "neglected child" means a child:

A. who has been abandoned by the child's parent,

1 guardian or custodian;

2 B. who is without proper parental care and control
3 or subsistence, education, medical or other care or control
4 necessary for the child's well-being because of the faults or
5 habits of the child's parent, guardian or custodian or the
6 failure or refusal of the parent, guardian or custodian, when
7 able to do so, to provide them;

8 C. who has been physically or sexually abused, when
9 the child's parent, guardian or custodian knew or should have
10 known of the abuse and failed to take reasonable steps to
11 protect the child from further harm; or

12 D. whose parent, guardian or custodian is unable to
13 discharge his responsibilities to and for the child because of
14 incarceration, hospitalization or physical or mental disorder
15 or incapacity."

16 Section 3. A new section of the Children's Code is
17 enacted to read:

18 "[NEW MATERIAL] PURPOSE.--The purpose of the Curfew
19 Enforcement Act is to:

20 A. protect children from dangerous circumstances as
21 a result of being without proper supervision during the hours
22 between 12:00 a.m. and 5:00 a.m.; and

23 B. provide for the general protection of children
24 and the community."

25 Section 4. A new section of the Children's Code is

.151196.1

1 enacted to read:

2 "[NEW MATERIAL] AUTHORITY TO ENACT CURFEW ORDINANCES.--A
3 municipality or county may enact a curfew ordinance if:

4 A. the curfew applies only to children less than
5 sixteen years of age;

6 B. the curfew applies only to the time period
7 between 12:00 a.m. and 5:00 a.m.; and

8 C. the municipality or county has established a
9 family education program that provides information about the
10 purposes of the curfew ordinance and the availability of
11 community services."

12 Section 5. A new section of the Children's Code is
13 enacted to read:

14 "[NEW MATERIAL] EXCEPTIONS.--A municipal or county curfew
15 ordinance shall include exceptions for:

16 A. activities authorized by a school, church or
17 community organization;

18 B. verified employment, including a work-related
19 errand;

20 C. instances when a child's parent, legal guardian
21 or custodian has provided the child with permission to be out
22 between the hours of 12:00 a.m. and 5:00 a.m; and

23 D. an emergency."

24 Section 6. A new section of the Children's Code is
25 enacted to read:

.151196.1

underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] ENFORCEMENT.--

2 A. A municipal or county curfew ordinance shall
3 provide for enforcement of the ordinance in the following
4 manner. Upon a second violation, a law enforcement officer
5 shall issue a citation to the child. The citation shall
6 include a notice of the child's right to appeal the citation to
7 a hearing officer appointed by the department. The citation
8 shall also include a notice that, unless the citation is
9 appealed, the child and the child's parents or legal guardians
10 are required to attend a family education program no later than
11 thirty days after issuance of the citation. Upon issuing a
12 second citation, the law enforcement officer shall contact the
13 department's juvenile justice call center and attempt to
14 contact the child's parents or legal guardians.

15 B. If the child and the child's parents or legal
16 guardians fail to attend a family education program and the
17 parents or legal guardians of the child received actual notice
18 of the requirement to attend the family education program, the
19 child shall be referred to the department for an assessment of
20 whether the child is a victim of abuse or a neglected child.

21 C. Upon a third violation of a curfew ordinance,
22 the child shall be referred to the department for an assessment
23 of whether the child is a victim of abuse or a neglected
24 child."

25 Section 7. A new section of the Children's Code is

.151196.1

1 enacted to read:

2 "[NEW MATERIAL] DATA--RULES.--The department shall adopt
3 rules regarding collection of data from municipalities and
4 counties that enact a curfew ordinance. The department shall
5 provide the legislature with an annual report regarding data
6 collected from the municipalities and counties."

7 Section 8. DELAYED REPEAL.--The provisions of the Curfew
8 Enforcement Act are repealed effective July 1, 2007.

9 Section 9. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2004.