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SENATE BILL 456

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Lisa A. Torraco

AN ACT

RELATING TO CHILDREN; CLARIFYING LANGUAGE DESCRIBING THE DUTY TO REPORT KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT AND EXPANDING THE SCOPE OF THE REPORTING REQUIREMENT TO INCLUDE ABUSE OR NEGLECT COMMITTED BY A PERSON OTHER THAN A PARENT, GUARDIAN OR CUSTODIAN.

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

SECTION 1. Section 32A-4-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT-- PENALTY.--

A. Every person [~~including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a~~

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1 ~~proceeding; a registered nurse; a visiting nurse; a~~
2 ~~schoolteacher; a school official; a social worker acting in an~~
3 ~~official capacity; or a member of the clergy who has~~
4 ~~information that is not privileged as a matter of law,] who~~
5 knows or has a reasonable suspicion that a child is an abused
6 child or a neglected child shall report the matter immediately
7 to [~~(1)~~] a local law enforcement agency [~~(2)~~] or the department
8 or [~~(3)~~] to a tribal law enforcement or social services agency
9 for any Indian child residing in Indian country. For the
10 purpose of this subsection, the terms "abused child" and
11 "neglected child" shall have the meaning prescribed by Section
12 32A-4-2 NMSA 1978, except that the alleged abuse or neglect
13 need not have been committed by a parent, guardian or
14 custodian.

15 B. A member of the clergy who has information
16 obtained via confidential communication made for the purpose of
17 seeking spiritual advice shall not be required to report that
18 information under this section. Nothing in this section
19 exempts a member of the clergy from reporting non-privileged
20 information.

21 [~~B-~~] C. A law enforcement agency receiving the
22 report shall immediately transmit the facts of the report and
23 the name, address and phone number of the reporter by telephone
24 to the department and shall transmit the same information in
25 writing within forty-eight hours. The department shall

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1 immediately transmit the facts of the report and the name,
2 address and phone number of the reporter by telephone to a
3 local law enforcement agency and shall transmit the same
4 information in writing within forty-eight hours. The written
5 report shall contain the names and addresses of the child and
6 the child's parents, guardian or custodian, the child's age,
7 the nature and extent of the child's injuries, including any
8 evidence of previous injuries, and other information that the
9 maker of the report believes might be helpful in establishing
10 the cause of the injuries and the identity of the person
11 responsible for the injuries. The written report shall be
12 submitted upon a standardized form agreed to by the law
13 enforcement agency and the department.

14 ~~[G-]~~ D. The recipient of a report under Subsection
15 A of this section shall take immediate steps to ensure prompt
16 investigation of the report. The investigation shall ensure
17 that immediate steps are taken to protect the health or welfare
18 of the alleged abused or neglected child, as well as that of
19 any other child under the same care who may be in danger of
20 abuse or neglect. A local law enforcement officer trained in
21 the investigation of child abuse and neglect is responsible for
22 investigating reports of alleged child abuse or neglect at
23 schools, daycare facilities or child care facilities.

24 ~~[D-]~~ E. If the child alleged to be abused or
25 neglected is in the care or control of or in a facility

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1 administratively connected to the department, the report shall
2 be investigated by a local law enforcement officer trained in
3 the investigation of child abuse and neglect. The
4 investigation shall ensure that immediate steps are taken to
5 protect the health or welfare of the alleged abused or
6 neglected child, as well as that of any other child under the
7 same care who may be in danger of abuse or neglect.

8 ~~[E-]~~ F. A law enforcement agency or the department
9 shall have access to any of the records pertaining to a child
10 abuse or neglect case maintained by any of the persons
11 enumerated in Subsection A of this section, except as otherwise
12 provided in the Abuse and Neglect Act.

13 ~~[F-]~~ G. A person who violates the provisions of
14 Subsection A of this section is guilty of a misdemeanor and
15 shall be sentenced pursuant to the provisions of Section
16 31-19-1 NMSA 1978."