

1 SENATE BILL 611

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CHILD ABUSE; CLARIFYING THAT A PERSON WHO MAKES A  
12 GOOD FAITH REPORT OF CHILD NEGLECT OR ABUSE IS IMMUNE FROM  
13 CIVIL LIABILITY, WHETHER OR NOT THE ABUSE WAS COMMITTED BY A  
14 PARENT, GUARDIAN OR CUSTODIAN.

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

17 SECTION 1. Section 32A-4-5 NMSA 1978 (being Laws 1993,  
18 Chapter 77, Section 99, as amended) is amended to read:

19 "32A-4-5. ADMISSIBILITY OF REPORT IN EVIDENCE--IMMUNITY  
20 OF REPORTING PERSON--INVESTIGATION OF REPORT.--

21 A. In any proceeding alleging neglect or abuse  
22 under the Children's Code resulting from a report required by  
23 Section 32A-4-3 NMSA 1978 or in any proceeding in which that  
24 report or any of its contents are sought to be introduced in  
25 evidence, the report or its contents or any other facts related

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1 thereto or to the condition of the child who is the subject of  
2 the report shall not be excluded on the ground that the matter  
3 is or may be the subject of a physician-patient privilege or  
4 similar privilege or rule against disclosure.

5 B. Anyone reporting an instance of alleged child  
6 neglect or abuse or participating in a judicial proceeding  
7 brought ~~[as a result of a report required by Section 32A-4-3~~  
8 ~~NMSA 1978]~~ pursuant to the Abuse and Neglect Act is presumed to  
9 be acting in good faith and shall be immune from liability,  
10 civil or criminal, that might otherwise be incurred or imposed  
11 by the law, unless the person acted in bad faith or with  
12 malicious purpose. For the purpose of this subsection, the  
13 alleged abuse or neglect need not have been committed by a  
14 parent, guardian or custodian in order for the immunity to  
15 apply.

16 C. After properly verifying the identity of the  
17 public official, any school personnel or other person who has  
18 the duty to report child abuse pursuant to Section 32A-4-3 NMSA  
19 1978 shall permit a member of a law enforcement agency,  
20 including tribal police officers, an employee of the district  
21 attorney's office, an investigative interviewer for a program  
22 described in Subsection E of this section or an employee of the  
23 department, to interview a child with respect to a report  
24 without the permission of the child's parent or guardian. Any  
25 person permitting an interview pursuant to this subsection is

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1 presumed to be acting in good faith and shall be immune from  
2 liability, civil or criminal, that might otherwise be incurred  
3 or imposed by law, unless the person acted in bad faith or with  
4 malicious purpose.

5 D. An investigation may be conducted by law  
6 enforcement, the district attorney's office, a program  
7 described in Subsection E of this section and the department.  
8 Interviews shall be conducted in a manner and place that  
9 protects the child and family from unnecessary trauma and  
10 embarrassment. The investigating entity shall conduct the  
11 investigation in a manner that will protect the privacy of the  
12 child and the family, with the paramount consideration being  
13 the safety of the child. All interactions with child victims  
14 and child witnesses shall be conducted in a child-sensitive  
15 manner, taking into consideration the special needs of the  
16 child and the child's abilities, age and intellectual maturity.  
17 The interviews shall be conducted in a place where the child  
18 feels secure and in a language that the child uses and  
19 understands.

20 E. If a community has a program for child abuse  
21 investigation that includes an investigation interview of the  
22 alleged victim or child witness, the investigation may be  
23 conducted at a site designated by the community program. The  
24 child abuse victim or child witness shall, when possible, be  
25 interviewed in an environment where the alleged abuse

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1 perpetrator will not be present.

2 F. Prior to interviewing a child, the department  
3 shall notify the parent or guardian of the child who is being  
4 interviewed, unless the department determines that notification  
5 would adversely affect the safety of the child about whom the  
6 report has been made or compromise the investigation."