

HOUSE BILL 463

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL LAW; CLARIFYING AND AMENDING THE ELEMENTS  
OF ABANDONMENT OF A CHILD, RECKLESS ABUSE OF A CHILD AND  
INTENTIONAL ABUSE OF A CHILD; PROVIDING THAT ABANDONMENT OF A  
CHILD IS A LESSER INCLUDED OFFENSE OF RECKLESS ABUSE OF A CHILD  
AND INTENTIONAL ABUSE OF A CHILD BY ENDANGERMENT; ADJUSTING  
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~~] DEFINITIONS.--  
[A.] As used in [~~this section~~] Chapter 30, Article 6 NMSA 1978:

[~~(1)~~] A. "child" means a person who is [~~less~~]  
younger than eighteen years of age;

[~~(2)~~] B. "intentionally" describes acts that are

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1 done purposefully and with a conscious objective to endanger or  
2 abuse a child, even if the person did not intend the resulting  
3 harm;

4 C. "neglect" means that a child is without proper  
5 parental care and control of subsistence, education, medical or  
6 other care or control necessary for the child's well-being  
7 because of the faults or habits of the child's parents,  
8 guardian or custodian or their neglect or refusal, when able to  
9 do so, to provide them; and

10 [~~(3) "negligently"~~] D. "recklessly" refers to  
11 criminal negligence and [~~means that a~~] describes acts that  
12 disregard a substantial, foreseeable risk, where the person  
13 knew [~~or should have known~~] of the danger involved and acted  
14 with a reckless disregard for the safety or health of the  
15 child.

16 [~~B. Abandonment of a child consists of the parent,~~  
17 ~~guardian or custodian of a child intentionally leaving or~~  
18 ~~abandoning the child under circumstances whereby the child may~~  
19 ~~or does suffer neglect. A person who commits abandonment of a~~  
20 ~~child is guilty of a misdemeanor, unless the abandonment~~  
21 ~~results in the child's death or great bodily harm, in which~~  
22 ~~case the person is guilty of a second degree felony.~~

23 G. ~~A parent, guardian or custodian who leaves an~~  
24 ~~infant less than ninety days old in compliance with the Safe~~  
25 ~~Haven for Infants Act shall not be prosecuted for abandonment~~

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1 of a child.

2 D. ~~Abuse of a child consists of a person knowingly,~~  
3 ~~intentionally or negligently, and without justifiable cause,~~  
4 ~~causing or permitting a child to be:~~

5 (1) ~~placed in a situation that may endanger~~  
6 ~~the child's life or health;~~

7 (2) ~~tortured, cruelly confined or cruelly~~  
8 ~~punished; or~~

9 (3) ~~exposed to the inclemency of the weather.~~

10 E. ~~A person who commits abuse of a child that does~~  
11 ~~not result in the child's death or great bodily harm is, for a~~  
12 ~~first offense, guilty of a third degree felony and for second~~  
13 ~~and subsequent offenses is guilty of a second degree felony.~~  
14 ~~If the abuse results in great bodily harm to the child, the~~  
15 ~~person is guilty of a first degree felony.~~

16 F. ~~A person who commits negligent abuse of a child~~  
17 ~~that results in the death of the child is guilty of a first~~  
18 ~~degree felony.~~

19 G. ~~A person who commits intentional abuse of a~~  
20 ~~child twelve to eighteen years of age that results in the death~~  
21 ~~of the child is guilty of a first degree felony.~~

22 H. ~~A person who commits intentional abuse of a~~  
23 ~~child less than twelve years of age that results in the death~~  
24 ~~of the child is guilty of a first degree felony resulting in~~  
25 ~~the death of a child.~~

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1           ~~I. Evidence that demonstrates that a child has been~~  
2 ~~knowingly, intentionally or negligently allowed to enter or~~  
3 ~~remain in a motor vehicle, building or any other premises that~~  
4 ~~contains chemicals and equipment used or intended for use in~~  
5 ~~the manufacture of a controlled substance shall be deemed prima~~  
6 ~~facie evidence of abuse of the child.~~

7           ~~J. Evidence that demonstrates that a child has been~~  
8 ~~knowingly and intentionally exposed to the use of~~  
9 ~~methamphetamine shall be deemed prima facie evidence of abuse~~  
10 ~~of the child.~~

11           ~~K. A person who leaves an infant less than ninety~~  
12 ~~days old at a hospital may be prosecuted for abuse of the~~  
13 ~~infant for actions of the person occurring before the infant~~  
14 ~~was left at the hospital.]"~~

15           SECTION 2. A new Section 30-6-1.1 NMSA 1978 is enacted to  
16 read:

17           "30-6-1.1. [NEW MATERIAL] ABANDONMENT OF A CHILD.--

18           A. Abandonment of a child consists of the parent,  
19 guardian or custodian of a child knowingly or intentionally  
20 leaving or abandoning the child without an intent to return  
21 with reasonable promptness and under circumstances whereby the  
22 child is at a foreseeable risk of suffering neglect or does  
23 suffer neglect.

24           B. A person who commits abandonment of a child is  
25 guilty of a fourth degree felony, unless the abandonment

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

3 C. Abandonment of a child is a lesser included  
4 offense of reckless abuse of a child and intentional abuse of a  
5 child by endangerment."

6 SECTION 3. A new Section 30-6-1.2 NMSA 1978 is enacted to  
7 read:

8 "30-6-1.2. [NEW MATERIAL] RECKLESS ABUSE OF A CHILD.--

9 A. Reckless abuse of a child consists of a person  
10 recklessly, and without justifiable cause, causing a child to  
11 be placed in a situation knowing that it may endanger the  
12 child's life or health, thereby creating or disregarding a  
13 substantial and foreseeable risk of significant harm to the  
14 child.

15 B. A person who commits reckless abuse of a child  
16 that does not result in the child's death or great bodily harm  
17 is guilty of a misdemeanor.

18 C. A person who commits reckless abuse of a child  
19 that results in physical injury not constituting great bodily  
20 harm is guilty of a fourth degree felony.

21 D. A person who commits reckless abuse of a child  
22 that results in great bodily harm to a child:

23 (1) under the age of thirteen is guilty of a  
24 second degree felony; and

25 (2) thirteen to eighteen years of age is

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1 guilty of a third degree felony.

2 E. A person who commits reckless abuse of a child  
3 that results in the death of a child:

4 (1) under the age of thirteen is guilty of a  
5 first degree felony; and

6 (2) thirteen to eighteen years of age is  
7 guilty of a second degree felony resulting in the death of a  
8 human being."

9 SECTION 4. A new Section 30-6-1.3 NMSA 1978 is enacted to  
10 read:

11 "30-6-1.3. [NEW MATERIAL] INTENTIONAL ABUSE OF A CHILD.--

12 A. Intentional abuse of a child consists of a  
13 person knowingly and intentionally, and without justifiable  
14 cause, causing a child to be:

15 (1) placed in a situation that endangers the  
16 child's life or health, intending such endangerment; or

17 (2) tortured, cruelly confined or cruelly  
18 punished.

19 B. A person who commits intentional abuse of a  
20 child that does not result in the child's death or great bodily  
21 harm is guilty of a fourth degree felony.

22 C. A person who commits intentional abuse of a  
23 child that results in great bodily harm to a child:

24 (1) under the age of thirteen is guilty of a  
25 second degree felony; and

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1                   (2) thirteen to eighteen years of age is  
2 guilty of a third degree felony and, notwithstanding the  
3 provisions of Section 31-18-15 NMSA 1978, the basic sentence of  
4 imprisonment is six years.

5                   D. A person who commits intentional abuse of a  
6 child that results in the death of a child:

7                   (1) under the age of thirteen is guilty of a  
8 first degree felony resulting in the death of a child; and

9                   (2) thirteen to eighteen years of age is  
10 guilty of a first degree felony.

11                  E. A person who commits intentional abuse of a  
12 child with intent to kill the child and that results in the  
13 death of the child is guilty of a first degree felony resulting  
14 in the death of a child."

15                  SECTION 5. A new Section 30-6-1.4 NMSA 1978 is enacted to  
16 read:

17                  "30-6-1.4. [NEW MATERIAL] PROSECUTION OF ABANDONMENT OR  
18 ABUSE OF A CHILD.--

19                  A. Evidence that demonstrates that a child has been  
20 recklessly or intentionally exposed to the inclemency of the  
21 weather that presents a substantial and foreseeable risk of  
22 harm to the child's life or health shall be deemed prima facie  
23 evidence of abuse of the child.

24                  B. Evidence that demonstrates that a person has  
25 knowingly and intentionally exposed a child to the use or

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1 consumption of methamphetamine shall be deemed prima facie  
2 evidence of abuse of the child.

3 C. A parent, guardian or custodian who leaves an  
4 infant younger 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 SECTION 6. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2017.

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