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SENATE BILL 87

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO CHILDREN; PROVIDING THAT FOR THE PURPOSES OF REPORTING ABUSE AND NEGLECT, "ABUSED CHILD" INCLUDES ABUSE COMMITTED BY A PERSON WHO IS NOT THE CHILD'S 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 proceeding; a registered nurse; a visiting nurse; a

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1 schoolteacher; a school official; a social worker acting in an  
2 official capacity; or a member of the clergy who has  
3 information that is not privileged as a matter of law, who  
4 knows or has a reasonable suspicion that a child is an abused  
5 or a neglected child shall report the matter immediately to:

- 6 (1) a local law enforcement agency;
- 7 (2) the department; or
- 8 (3) a tribal law enforcement or social  
9 services agency for any Indian child residing in Indian  
10 country.

11 B. A law enforcement agency receiving the report  
12 shall immediately transmit the facts of the report and the  
13 name, address and phone number of the reporter by telephone to  
14 the department and shall transmit the same information in  
15 writing within forty-eight hours. The department shall  
16 immediately transmit the facts of the report and the name,  
17 address and phone number of the reporter by telephone to a  
18 local law enforcement agency and shall transmit the same  
19 information in writing within forty-eight hours. The written  
20 report shall contain the names and addresses of the child and  
21 the child's parents, guardian or custodian, the child's age,  
22 the nature and extent of the child's injuries, including any  
23 evidence of previous injuries, and other information that the  
24 maker of the report believes might be helpful in establishing  
25 the cause of the injuries and the identity of the person

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1 responsible for the injuries. The written report shall be  
2 submitted upon a standardized form agreed to by the law  
3 enforcement agency and the department.

4 C. The recipient of a report under Subsection A of  
5 this section shall take immediate steps to ensure prompt  
6 investigation of the report. The investigation shall ensure  
7 that immediate steps are taken to protect the health or welfare  
8 of the alleged abused or neglected child, as well as that of  
9 any other child under the same care who may be in danger of  
10 abuse or neglect. A local law enforcement officer trained in  
11 the investigation of child abuse and neglect is responsible for  
12 investigating reports of alleged child abuse or neglect at  
13 schools, daycare facilities or child care facilities.

14 D. If the child alleged to be abused or neglected  
15 is in the care or control of or in a facility administratively  
16 connected to the department, the report shall be investigated  
17 by a local law enforcement officer trained in the investigation  
18 of child abuse and neglect. The investigation shall ensure  
19 that immediate steps are taken to protect the health or welfare  
20 of the alleged abused or neglected child, as well as that of  
21 any other child under the same care who may be in danger of  
22 abuse or neglect.

23 E. A law enforcement agency or the department  
24 shall have access to any of the records pertaining to a child  
25 abuse or neglect case maintained by any of the persons

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1 enumerated in Subsection A of this section, except as otherwise  
2 provided in the Abuse and Neglect Act.

3 F. A person who violates the provisions of  
4 Subsection A of this section is guilty of a misdemeanor and  
5 shall be sentenced pursuant to the provisions of Section  
6 31-19-1 NMSA 1978.

7 G. For the purposes of this section, "abused  
8 child" means a child:

9 (1) who has suffered or who is at risk of  
10 suffering serious harm because of the action or inaction of the  
11 child's parent, guardian or custodian;

12 (2) who has suffered physical abuse, emotional  
13 abuse or psychological abuse inflicted or caused by any person;

14 (3) who has suffered sexual abuse or sexual  
15 exploitation inflicted by any person;

16 (4) who was knowingly, intentionally or  
17 negligently placed, by any person, in a situation that may  
18 endanger the child's life or health; or

19 (5) who was knowingly or intentionally  
20 tortured, cruelly confined or cruelly punished by any person."

21 SECTION 2. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2018.