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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO CRIME; CREATING THE CRIME OF ABANDONMENT OF A CHILD WITH A DISABILITY; CREATING THE CRIME OF ABUSE OF A CHILD WITH A DISABILITY; CREATING A PRESUMPTION OF KNOWLEDGE OF A CHILD'S DISABILITY FOR A PARENT, GUARDIAN, CARETAKER OR PERSON CHARGED WITH THE CARE OF A CHILD; PROVIDING 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.--

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "disability" means that a child has a physical or mental disability that substantially limits one or

1 more of that child's physical or mental functions, such as
2 caring for oneself, performing manual tasks, walking, seeing,
3 hearing, speaking, breathing, learning or working. A formal
4 medical diagnosis is not necessary to establish the existence
5 of a child's disability;

6 [~~(2)~~] (3) "neglect" means that a child is
7 without proper parental care and control of subsistence,
8 education, medical or other care or control necessary for the
9 child's well-being because of the faults or habits of the
10 child's parents, guardian or custodian or their neglect or
11 refusal, when able to do so, to provide them; and

12 [~~(3)~~] (4) "negligently" refers to criminal
13 negligence and means that a person knew or should have known of
14 the danger involved and acted with a reckless disregard for the
15 safety or health of the 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. A person
23 who commits abandonment of a child with a disability is guilty
24 of a fourth degree felony, unless the abandonment results in
25 the child's death or great bodily harm, in which case the

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1 person is guilty of a first degree felony.

2 C. A parent, guardian or custodian who leaves an
3 infant less than ninety days old in compliance with the Safe
4 Haven for Infants Act shall not be prosecuted for abandonment
5 of a child.

6 D. Abuse of a child consists of a person knowingly,
7 intentionally or negligently, and without justifiable cause,
8 causing or permitting a child to be:

9 (1) placed in a situation that may endanger
10 the child's life or health;

11 (2) tortured, cruelly confined or cruelly
12 punished; or

13 (3) exposed to the inclemency of the weather.

14 E. A person who commits abuse of a child that does
15 not result in the child's death or great bodily harm is, for a
16 first offense, guilty of a third degree felony and for second
17 and subsequent offenses is guilty of a second degree felony.
18 If the abuse results in great bodily harm to the child, the
19 person is guilty of a first degree felony. A person who
20 commits abuse of a child that does not result in the child's
21 death or great bodily harm against a child with a disability
22 is, for a first offense, guilty of a second degree felony and
23 for second or subsequent offenses is guilty of a first degree
24 felony.

25 F. A person who commits negligent abuse of a child

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1 that results in the death of the child is guilty of a first
2 degree felony.

3 G. A person who commits intentional abuse of a
4 child twelve to eighteen years of age that results in the death
5 of the child is guilty of a first degree felony.

6 H. A person who commits intentional abuse of a
7 child less than twelve years of age that results in the death
8 of the child is guilty of a first degree felony resulting in
9 the death of a child.

10 I. Evidence that demonstrates that a child has been
11 knowingly, intentionally or negligently allowed to enter or
12 remain in a motor vehicle, building or any other premises that
13 contains chemicals and equipment used or intended for use in
14 the manufacture of a controlled substance shall be deemed prima
15 facie evidence of abuse of the child.

16 J. Evidence that demonstrates that a child has been
17 knowingly and intentionally exposed to the use of
18 methamphetamine shall be deemed prima facie evidence of abuse
19 of the child.

20 K. A person who leaves an infant less than ninety
21 days old at a hospital may be prosecuted for abuse of the
22 infant for actions of the person occurring before the infant
23 was left at the hospital.

24 L. A parent, guardian, caretaker or person charged
25 with the care of a child is presumed to know if that child

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1 suffers from a disability. This presumption can be rebutted by
2 evidence that the parent, guardian, caretaker or person charged
3 with the care of a child did not know, or should not have
4 known, that the child in the person's care suffered from a
5 disability."

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