

1 SENATE BILL 69

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

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

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

18 SECTION 1. Section 30-6-1 NMSA 1978 (being Laws 1973,  
19 Chapter 360, Section 10, as amended) is amended to read:

20 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

21 A. As used in this section:

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

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

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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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