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HOUSE BILL 103

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Stefani Lord and Harlan Vincent

AN ACT

RELATING TO CRIME; PROVIDING FOR EXPOSURE OF A CHILD TO A
SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE TO CONSTITUTE
CHILD ABUSE; PROVIDING FOR TAKING NEWBORN CHILDREN INTO
TEMPORARY PROTECTIVE CUSTODY UNDER CERTAIN CIRCUMSTANCES;
MAKING APPROPRIATIONS.

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) "neglect" means that a child is without
proper parental care and control of subsistence, education,

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1 medical or other care or control necessary for the child's
2 well-being because of the faults or habits of the child's
3 parents, guardian or custodian or their neglect or refusal,
4 when able to do so, to provide them; and

5 (3) "negligently" refers to criminal
6 negligence and means that a person knew or should have known of
7 the danger involved and acted with a reckless disregard for the
8 safety or health of the child.

9 B. Abandonment of a child consists of the parent,
10 guardian or custodian of a child intentionally leaving or
11 abandoning the child under circumstances whereby the child may
12 or does suffer neglect. A person who commits abandonment of a
13 child is guilty of a misdemeanor, unless the abandonment
14 results in the child's death or great bodily harm, in which
15 case the person is guilty of a second degree felony.

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

20 D. Abuse of a child consists of a person knowingly,
21 intentionally or negligently, and without justifiable cause,
22 causing or permitting a child to be:

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

25 (2) tortured, cruelly confined or cruelly

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1 punished; ~~[or]~~

2 (3) exposed to the inclemency of the weather;

3 or

4 (4) exposed to the extent that the child tests
5 positive at birth for either a Schedule I controlled substance
6 pursuant to the Controlled Substances Act, including opiates,
7 opiate derivatives, hallucinogens, stimulants and depressants
8 that have no legitimate medical use, or a Schedule II
9 controlled substance pursuant to the Controlled Substances Act,
10 including any potentially addictive substance that is used or
11 manufactured contrary to its current accepted medical use,
12 unless the child tests positive for a Schedule II controlled
13 substance pursuant to the Controlled Substances Act as a result
14 of the mother's lawful intake of such substance as prescribed.

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

21 F. A person who commits negligent abuse of a child
22 that results in the death of the child is guilty of a first
23 degree felony.

24 G. A person who commits intentional abuse of a
25 child twelve to eighteen years of age that results in the death

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1 of the child is guilty of a first degree felony.

2 H. A person who commits intentional abuse of a
3 child less than twelve years of age that results in the death
4 of the child is guilty of a first degree felony resulting in
5 the death of a child.

6 I. Evidence that demonstrates that a child has been
7 knowingly, intentionally or negligently allowed to enter or
8 remain in a motor vehicle, building or any other premises that
9 contains chemicals and equipment used or intended for use in
10 the manufacture of a controlled substance shall be deemed prima
11 facie evidence of abuse of the child. It shall be no defense
12 to the crime of child abuse that the defendant did not know
13 that a child was present, a child could be found, a child
14 resided on the premises or a vehicle contained a child.

15 J. Evidence that demonstrates that a child has been
16 knowingly and intentionally exposed to the use of
17 methamphetamine shall be deemed prima facie evidence of abuse
18 of the child. It shall be no defense to the crime of child
19 abuse that the defendant did not know that a child was present,
20 a child could be found, a child resided on the premises or a
21 vehicle contained a child.

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

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1 SECTION 2. A new section of the Abuse and Neglect Act is
2 enacted to read:

3 "[NEW MATERIAL] TAKING NEWBORN CHILDREN INTO TEMPORARY
4 PROTECTIVE CUSTODY.--

5 A. A newborn child who is in a hospital setting
6 shall not be taken into temporary protective custody without a
7 court order that includes findings that an emergency situation
8 exists and that the newborn child is seriously endangered. A
9 newborn child may be detained in a hospital by a law
10 enforcement officer upon the recommendation of the health care
11 authority department, the children, youth and families
12 department or a physician, a registered nurse, a licensed
13 practical nurse or a physician assistant while a court order is
14 being pursued, but the newborn child must be released if a
15 court order is denied.

16 B. A newborn child who is not in a hospital setting
17 shall not be taken into temporary protective custody for a
18 period of longer than twenty-four hours without a court order
19 that includes findings that an emergency situation exists and
20 that the newborn child is seriously endangered.

21 C. A newborn child may be taken into temporary
22 protective custody without a court order in the following
23 circumstances:

24 (1) when a newborn child is identified by a
25 physician, registered nurse, licensed practical nurse or

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1 physician assistant engaged in the admission, care or treatment
2 of patients as being affected by substance abuse or
3 demonstrating withdrawal symptoms resulting from prenatal drug
4 exposure; or

5 (2) when the newborn child is subject to an
6 environment exposing the newborn child to a laboratory for
7 manufacturing controlled substances.

8 D. The taking of a newborn child into temporary
9 custody under this section shall not be deemed an arrest, nor
10 shall it constitute a police record.

11 E. For purposes of this section, "newborn child"
12 means a child who is less than seventy-two hours old."

13 **SECTION 3. APPROPRIATIONS.--**

14 A. The following amounts are appropriated from the
15 general fund:

16 (1) three million dollars (\$3,000,000) to the
17 children, youth and families department for expenditure in
18 fiscal year 2025 to carry out the purposes of this act;

19 (2) three million dollars (\$3,000,000) to the
20 administrative office of the courts for expenditure in fiscal
21 year 2025 to carry out the purposes of this act; and

22 (3) one million dollars (\$1,000,000) to the
23 corrections department for expenditure in fiscal year 2025 to
24 carry out the purposes of this act.

25 B. Any unexpended or unencumbered balance remaining

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from the items funded in Subsection A of this section at the
end of fiscal year 2025 shall revert to the general fund.

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