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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL LAW; INCREASING PENALTIES FOR CRIMES
COMMITTED AGAINST CHILDREN; DISTINGUISHING PENALTIES FOR
NEGLIGENT VERSUS INTENTIONAL ABUSE OF A CHILD.

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~~]
younger than eighteen years of age;

(2) "neglect" means that a child is without
proper parental care and control of subsistence, education,
medical or other care or control necessary for the child's
well-being because of the faults or habits of the child's

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1 parents, guardian or custodian or their neglect or refusal,
2 when able to do so, to provide them; and

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

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

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

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

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

23 (2) tortured, cruelly confined or cruelly
24 punished; or

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

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1 E. A person who commits negligent abuse of a child
2 that does not result in the child's death or great bodily harm
3 is, for a first offense, guilty of a third degree felony and,
4 for a second [~~and~~] or subsequent [~~offenses~~] offense, is guilty
5 of a second degree felony. If the abuse results in great
6 bodily harm to the child, the person is guilty of a first
7 degree felony.

8 F. A person who commits negligent abuse of a child
9 that results in the death of the child is guilty of a first
10 degree felony.

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

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

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

24 [~~I.~~] J. Evidence that demonstrates that a child has
25 been knowingly, intentionally or negligently allowed to enter

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1 or remain in a motor vehicle, building or any other premises
2 that contains chemicals and equipment used or intended for use
3 in the manufacture of a controlled substance shall be deemed
4 prima facie evidence of abuse of the child.

5 [J-] K. Evidence that demonstrates that a child has
6 been knowingly and intentionally exposed to the use of
7 methamphetamine shall be deemed prima facie evidence of abuse
8 of the child.

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

13 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
14 provisions of this act is July 1, 2016.