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HOUSE BILL 470

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Pamelya Herndon

AN ACT

RELATING TO CHILDREN; REVISING THE DEFINITION OF "NEGLECTED CHILD" IN THE ABUSE AND NEGLECT ACT TO INCLUDE CIRCUMSTANCES WHEN A CHILD HAS UNSUPERVISED ACCESS TO A FIREARM OR DEADLY WEAPON.

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

SECTION 1. Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the

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1 other parent or an agency, without provision for support and  
2 without communication for a period of:

3 (a) three months if the child was under  
4 six years of age at the commencement of the three-month period;  
5 or

6 (b) six months if the child was over six  
7 years of age at the commencement of the six-month period;

8 B. "abused 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 the child's  
14 parent, guardian or custodian;

15 (3) who has suffered sexual abuse or sexual  
16 exploitation inflicted by the child's parent, guardian or  
17 custodian;

18 (4) whose parent, guardian or custodian has  
19 knowingly, intentionally or negligently placed the child in a  
20 situation that may endanger the child's life or health; or

21 (5) whose parent, guardian or custodian has  
22 knowingly or intentionally tortured, cruelly confined or  
23 cruelly punished the child;

24 C. "aggravated circumstances" includes those  
25 circumstances in which the parent, guardian or custodian has:

1 (1) attempted, conspired to cause or caused  
2 great bodily harm to the child or great bodily harm or death to  
3 the child's sibling;

4 (2) attempted, conspired to cause or caused  
5 great bodily harm or death to another parent, guardian or  
6 custodian of the child;

7 (3) attempted, conspired to subject or has  
8 subjected the child to torture, chronic abuse or sexual abuse;  
9 or

10 (4) had parental rights over a sibling of the  
11 child terminated involuntarily;

12 D. "deadly weapon" means an object, instrument,  
13 substance or device:

14 (1) that is likely to and that is used by a  
15 person with the intention to cause great bodily harm or death;  
16 or

17 (2) with which the death of a person can be  
18 easily and readily produced;

19 [~~D.~~] E. "educational decision maker" means an  
20 individual appointed by the children's court to attend school  
21 meetings and to make decisions about the child's education that  
22 a parent could make under law, including decisions about the  
23 child's educational setting, and the development and  
24 implementation of an individual education plan for the child;

25 [~~E.~~] F. "fictive kin" means a person not related by

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1 birth, adoption or marriage with whom a child has an  
2 emotionally significant relationship;

3 G. "firearm" means a weapon that will or is  
4 designed to or may readily be converted to expel a projectile  
5 by the action of an explosion; the frame or receiver of any  
6 such weapon; or any firearm muffler or firearm silencer; and  
7 includes a handgun, rifle or shotgun;

8 ~~[F-]~~ H. "great bodily harm" means an injury to a  
9 person that creates a high probability of death, that causes  
10 serious disfigurement or that results in permanent or  
11 protracted loss or impairment of the function of a member or  
12 organ of the body;

13 ~~[G-]~~ I. "neglected child" means a child:

14 (1) who has been abandoned by the child's  
15 parent, guardian or custodian;

16 (2) who is without proper parental care and  
17 control or subsistence, education, medical or other care or  
18 control necessary for the child's well-being because of the  
19 faults or habits of the child's parent, guardian or custodian  
20 or the failure or refusal of the parent, guardian or custodian,  
21 when able to do so, to provide them;

22 (3) who has been physically or sexually  
23 abused, when the child's parent, guardian or custodian knew or  
24 should have known of the abuse and failed to take reasonable  
25 steps to protect the child from further harm;

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1 (4) whose parent, guardian or custodian is  
2 unable to discharge that person's responsibilities to and for  
3 the child because of incarceration, hospitalization or physical  
4 or mental disorder or incapacity; [~~or~~]

5 (5) who has been placed for care or adoption  
6 in violation of the law; provided that nothing in the  
7 Children's Code shall be construed to imply that a child who is  
8 being provided with treatment by spiritual means alone through  
9 prayer, in accordance with the tenets and practices of a  
10 recognized church or religious denomination, by a duly  
11 accredited practitioner thereof is for that reason alone a  
12 neglected child within the meaning of the Children's Code; and  
13 further provided that no child shall be denied the protection  
14 afforded to all children under the Children's Code; or

15 (6) whose parent, guardian or custodian  
16 negligently allows a child to have access to a firearm or other  
17 deadly weapon while the child is not under the supervision of  
18 the child's parent, guardian or custodian or an adult  
19 authorized by the child's parent, guardian or custodian;

20 [~~H-~~] J. "physical abuse" includes any case in which  
21 the child suffers strangulation or suffocation and any case in  
22 which the child exhibits evidence of skin bruising, bleeding,  
23 malnutrition, failure to thrive, burns, fracture of any bone,  
24 subdural hematoma, soft tissue swelling or death and:

25 (1) there is not a justifiable explanation for

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1 the condition or death;

2 (2) the explanation given for the condition is  
3 at variance with the degree or nature of the condition;

4 (3) the explanation given for the death is at  
5 variance with the nature of the death; or

6 (4) circumstances indicate that the condition  
7 or death may not be the product of an accidental occurrence;

8 [~~F.~~] K. "relative" means a person related to  
9 another person by birth, adoption or marriage within the fifth  
10 degree of consanguinity;

11 [~~J.~~] L. "sexual abuse" includes criminal sexual  
12 contact, incest or criminal sexual penetration, as those acts  
13 are defined by state law;

14 [~~K.~~] M. "sexual exploitation" includes:

15 (1) allowing, permitting or encouraging a  
16 child to engage in prostitution;

17 (2) allowing, permitting, encouraging or  
18 engaging a child in obscene or pornographic photographing; or

19 (3) filming or depicting a child for obscene  
20 or pornographic commercial purposes, as those acts are defined  
21 by state law;

22 [~~L.~~] N. "sibling" means a brother or sister having  
23 one or both parents in common by birth or adoption;

24 [~~M.~~] O. "strangulation" has the same meaning as set  
25 forth in Section 30-3-11 NMSA 1978;

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