

SENATE BILL 836

Veto

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1995

INTRODUCED BY



## AN ACT

RELATING TO CHILDREN; REQUIRING THE DILIGENT VERIFICATION OF  
CHILD ABUSE REPORTS; AMENDING SECTIONS OF THE ABUSE AND  
NEGLECT ACT.

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

Section 1. Section 32A-4-4 NMSA 1978 (being Laws 1993,  
Chapter 77, Section 98) is amended to read:

"32A-4-4. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY.--

A. Complaints alleging neglect or abuse shall be  
referred to the department, which shall conduct an  
investigation to determine the best interests of the child  
with regard to any action to be taken. The department shall  
make a diligent effort to determine the validity of the  
complaint.

B. During the investigation of a complaint alleging

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1 neglect or abuse, the matter may be referred to another  
2 appropriate agency and conferences may be conducted for the  
3 purpose of effecting adjustments or agreements that will  
4 obviate the necessity for filing a petition. At the  
5 commencement of the investigation, the parties shall be  
6 advised of their basic rights and no party may be compelled to  
7 appear at any conference, to produce any papers or to visit  
8 any place. The investigation shall be completed within a  
9 reasonable period of time from the date the complaint was  
10 made.

11 C. After completion of the investigation on a  
12 neglect or abuse complaint, the department shall either  
13 recommend or refuse to recommend the filing of a petition.

14 D. The department shall file a petition within two  
15 days after the date that the child is taken into custody.  
16 When a petition is not filed in a timely manner, the child  
17 shall be released to the child's parent, guardian or  
18 custodian."

19 Section 2. Section 32A-4-5 NMSA 1978 (being Laws 1993,  
20 Chapter 77, Section 99) is amended to read:

21 "32A-4-5. ADMISSIBILITY OF REPORT IN EVIDENCE--IMMUNITY  
22 OF REPORTING PERSON.--

23 A. In any proceeding alleging neglect or abuse  
24 under the Children's Code resulting from a report required by  
25 Section [~~32-4-3~~] 32A-4-3 NMSA 1978 or in any proceeding in

1 which that report or any of its contents are sought to be  
2 introduced in evidence, the report or its contents or any  
3 other facts related thereto or to the condition of the child  
4 who is the subject of the report shall not be excluded on the  
5 ground that the matter is or may be the subject of a  
6 physician-patient privilege or similar privilege or rule  
7 against disclosure.

8 B. Anyone reporting an instance of alleged child  
9 neglect or abuse or participating in a judicial proceeding  
10 brought as a result of a report required by Section [~~32-4-3~~]  
11 32A-4-3 NMSA 1978 is presumed to be acting in good faith and  
12 shall be immune from liability, civil or criminal, that might  
13 otherwise be incurred or imposed by the law, unless the person  
14 acted in bad faith or with malicious purpose.

15 C. After properly verifying the identity of the  
16 public official, any school personnel or other person who has  
17 the duty to report child abuse pursuant to Section [~~32-4-3~~]  
18 32A-4-3 NMSA 1978 shall permit a member of a law enforcement  
19 agency, including tribal police officers or an employee of the  
20 department, to interview the child with respect to a report  
21 without the permission of the child's parent, guardian or  
22 custodian. Any person permitting an interview pursuant to  
23 this subsection is presumed to be acting in good faith and  
24 shall be immune from liability, civil or criminal, that might  
25 otherwise be incurred or imposed by law, unless the person

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1 acted in bad faith or with malicious purpose.

2 D. All law enforcement personnel and all employees  
3 of the department shall conduct interviews in a manner and  
4 place that protects the child and family from unnecessary  
5 trauma and embarrassment.

6 E. All law enforcement personnel and all employees  
7 of the department shall make a diligent effort to verify that  
8 a report was not filed in error or in retaliation against a  
9 parent, guardian or custodian of a child."

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State of New Mexico  
Senate

FORTY-SECOND LEGISLATURE  
FIRST SESSION, 1995

February 22, 1995

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 836

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 24, after the period insert "All law enforcement personnel and all employees of the department shall make a diligent effort to verify that a report was not filed in error or in retaliation against a parent, guardian or custodian of a child."

Respectfully submitted,

  
Janice D. Paster, Chairman

Adopted

  
(Chief Clerk)

Not Adopted

(Chief Clerk)

Date

2/23/95

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