

N. M. S. A. 1978, § 32A-4-3



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West's New Mexico Statutes Annotated [Currentness](#)

[Chapter 32A](#). Children's Code ([Refs & Annos](#))

[Article 4](#). Abuse and Neglect Act ([Refs & Annos](#))

→§ **32A-4-3. Duty to report child abuse and child neglect**; responsibility to investigate **child abuse** or neglect; penalty

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- (1) a local law enforcement agency;
- (2) the department; or
- (3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of **child abuse** and neglect is responsible for investigating **reports** of alleged **child abuse** or neglect at schools, daycare facilities or **child** care facilities.

D. If the **child** alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the **report** shall be investigated by a local law enforcement officer trained in the investigation of **child abuse** and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

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F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of [Section 31-19-1 NMSA 1978](#).

[L. 1993, Ch. 77, § 97; L. 1997, Ch. 34, § 2, eff. July 1, 1997; L. 2003, Ch. 189, § 1, eff. July 1, 2003; L. 2005, Ch. 189, § 38, eff. June 17, 2005.](#)

HISTORICAL AND STATUTORY NOTES

L. 2003, Ch. 189, § 1, added provisions clarifying the duty of a member of the clergy to **report child abuse**.

L. 2005, Ch. 189, § 38, rewrote the section, which formerly read:

"A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

"(1) a local law enforcement agency;

"(2) the department office in the county where the child resides; or

"(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

"B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department office in the county where the child resides and shall transmit the same information in writing within forty-eight hours. A department office receiving a report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

"C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement agency is responsible for investigating **reports** of alleged **child abuse** or neglect at schools, daycare facilities or **child** care facilities.

"D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by local law enforcement. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

"E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

"F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of [Section 31-19-1 NMSA 1978](#)."

CROSS REFERENCES

Accessories, aiding or abetting a crime, see [§ 30-1-13](#).

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Child abuse or neglect in child-care facilities, see [§ 24-1-5](#).

Domestic Relations Mediation Act programs, see NMRA, Rule 1-125.

Sentences for misdemeanors and petty misdemeanors, see [§ 31-19-1](#).

LIBRARY REFERENCES

Infants  13.5, 17.

Westlaw Key Number Searches: 211k13.5; 211k17.

[C.J.S. Infants § § 8 to 9](#).

NOTES OF DECISIONS

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[1](#). Due process

Statute which requires Human Services Department's consultation with day-care facility before determination as to danger to child articulates no substantive requirements beyond requirement of consultation, does not define scope of consultation, does not place substantive limits on official discretion, and, therefore, does not give day-care operator liberty interest in being consulted before decision to suspend funds and remove state-subsidized children from day-care facility. NMSA 1978, § 32-1-15, subd. D; [U.S.C.A. Const.Amend. 5, 14](#). [Rice v. Vigil, 1986, 642 F.Supp. 212](#), affirmed [854 F.2d 1323](#). Constitutional Law  278.7(3)

[2](#). Sufficiency of evidence

Substantial evidence supported decision of State Personnel Board to dismiss two employees from Human Services Department; evidence indicated that both employees negligently permitted foster group home to be licensed as substitute care facility and placed **children** there despite previous **reports** of **child abuse**, and failed to notify district attorney and parents of foster **child** of alleged sexual **abuse**. [NMSA 1978, § 10-9-18](#), subd. E. [Perkins v. Department of Human Services, 1987, 106 N.M. 651, 748 P.2d 24](#). Officers And Public Employees  72.63

[3](#). Review

Decision of State Personnel Board to dismiss two employees of Human Services Department for negligently placing **child** in foster group home and failing to **report** alleged **abuse** of **child** was not arbitrary, capricious or **abuse** of discretion. [NMSA 1978, § 10-9-18](#), subd. G. [Perkins v. Department of Human Services, 1987, 106 N.M. 651, 748 P.2d 24](#). Officers And Public Employees  72.16(1)

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Current through Chapter 351 (End) of the First Regular Session of the 47th Legislature (2005) (including Constitutional Amendments 1 and 2)

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