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HOUSE BILL 619

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Dayan Hochman-Vigil and Georgene Louis

AN ACT

RELATING TO CHILD ABUSE; LIMITING THE LIABILITY OF ANY PERSON
REPORTING CHILD ABUSE.

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

SECTION 1. Section 32A-4-5 NMSA 1978 (being Laws 1993,
Chapter 77, Section 99, as amended) is amended to read:

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

A. In any proceeding alleging neglect or abuse
under the Children's Code resulting from a report required by
Section 32A-4-3 NMSA 1978 or in any proceeding in which that
report or any of its contents are sought to be introduced in
evidence, the report or its contents or any other facts related
thereto or to the condition of the child who is the subject of
the report shall not be excluded on the ground that the matter

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1 is or may be the subject of a physician-patient privilege or
2 similar privilege or rule against disclosure.

3 B. Anyone reporting an instance of alleged child
4 neglect or abuse committed by any adult or participating in [a]
5 any judicial proceeding [~~brought as a result of a report~~
6 ~~required by Section 32A-4-3 NMSA 1978 is presumed to be acting~~
7 ~~in good faith and~~] shall be immune from liability, civil or
8 criminal, that might otherwise be incurred or imposed by the
9 law [~~unless~~] if the person acted [~~in bad faith or~~] with
10 reasonable care and without malicious purpose.

11 C. After properly verifying the identity of the
12 public official, any school personnel or other person who has
13 the duty to report child abuse pursuant to Section 32A-4-3 NMSA
14 1978 shall permit a member of a law enforcement agency,
15 including tribal police officers, an employee of the district
16 attorney's office, an investigative interviewer for a program
17 described in Subsection E of this section or an employee of the
18 department, to interview a child with respect to a report
19 without the permission of the child's parent or guardian. Any
20 person permitting an interview pursuant to this subsection is
21 presumed to be acting in good faith and shall be immune from
22 liability, civil or criminal, that might otherwise be incurred
23 or imposed by law, unless the person acted in bad faith or with
24 malicious purpose.

25 D. An investigation may be conducted by law

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1 enforcement, the district attorney's office, a program
2 described in Subsection E of this section and the department.
3 Interviews shall be conducted in a manner and place that
4 protects the child and family from unnecessary trauma and
5 embarrassment. The investigating entity shall conduct the
6 investigation in a manner that will protect the privacy of the
7 child and the family, with the paramount consideration being
8 the safety of the child. All interactions with child victims
9 and child witnesses shall be conducted in a child-sensitive
10 manner, taking into consideration the special needs of the
11 child and the child's abilities, age and intellectual maturity.
12 The interviews shall be conducted in a place where the child
13 feels secure and in a language that the child uses and
14 understands.

15 E. If a community has a program for child abuse
16 investigation that includes an investigation interview of the
17 alleged victim or child witness, the investigation may be
18 conducted at a site designated by the community program. The
19 child abuse victim or child witness shall, when possible, be
20 interviewed in an environment where the alleged abuse
21 perpetrator will not be present.

22 F. Prior to interviewing a child, the department
23 shall notify the parent or guardian of the child who is being
24 interviewed, unless the department determines that notification
25 would adversely affect the safety of the child about whom the

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1 report has been made or compromise the investigation."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2019.

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