

<b>LFC Requester:</b>	<b>Klundt, Kelly</b>
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**AGENCY BILL ANALYSIS  
2014 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{Include the Bill no. in the email subject line, e.g., HB2, and only attach one Bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original Bill, amendment, substitute or a correction of a previous Bill}*

*Check all that apply:*

**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date** January 31, 2014  
**Bill No:** HB265-305 Feb 4

**Sponsor:** Rep. Gail Chasey  
**Short**        Duty to report child abuse and  
**Title:**        neglect

**Reviewing**        Attorney General's Office  
**Person Writing**        MBaber  
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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis: This Bill intends to provide a legislative remedy for the ruling in St. v Strauch, New Mexico Court of Appeals, No. 32,425, October 28, 2013.

NMSA 32A-4-3, Section A requires every person, including medical professionals, law enforcement, judges, nurses, teachers, school officials, social workers acting in official capacity, and clergy who have information not privileged as a matter of law, to report child abuse and neglect.

Second Judicial District Judge J. Flores ruled, and the New Mexico Court of Appeals affirmed that every person is NOT every person and certain persons, in this case a social worker, are not required to report child abuse.

AG Gary King opposed the ruling, as did COA Judge Miles Hanisee, who wrote a strong dissent. Governor Martinez publicly criticized the majority ruling.

**SIGNIFICANT LEGAL ISSUES**

Child abuse continues to be a significant health and safety issue in the United States, and in New Mexico. In 1993, the NM Legislature enacted the child abuse reporting act, NMSA 32A-4-3, with specific “mandated” reporters. The intent is to protect children.

There is a misdemeanor penalty for failure to report child abuse. Though “every person” is required to report “a reasonable suspicion” of child abuse or neglect, the practical effect is that only designated persons listed in the statute are considered “mandated reporters.”

This Bill intends to reaffirm that “every person” should report child abuse.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

A criminal penalty for failure to report suspected child abuse is likely ineffective against any person except persons who are listed in the specified list.

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

This Bill does not add any additional crimes, or subject any additional persons to the criminal penalties.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS  
INTRODUCED THIS SESSION**

**TECHNICAL ISSUES OR DRAFTING ERROR**

**OTHER SUBSTANTIVE LEGAL ISSUES**

**ALTERNATIVES TO ENACTING THIS BILL**

See amendments below

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

There will continue to be confusion about who is legally required to report child abuse and/or neglect.

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

Clarify the circumstances in which social workers and other professionals who work with children should report suspected child abuse. Clarify any exceptions such as legal privileges in NMRA 11-501 through 514.