

1 SENATE BILL 311

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Larry R. Scott

10 AN ACT

11 RELATING TO CRIME; INCREASING THE PENALTIES FOR ASSAULT,
12 BATTERY AND AGGRAVATED BATTERY INFILCTING GREAT BODILY HARM ON
13 A SCHOOL EMPLOYEE; CREATING THE CRIMES OF ASSAULT, AGGRAVATED
14 ASSAULT, BATTERY AND AGGRAVATED BATTERY ON A SCHOOL CAMPUS;
15 AMENDING THE DEFINITION OF "SERIOUS YOUTHFUL OFFENDER" IN THE
16 DELINQUENCY ACT.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 **SECTION 1.** Section 30-3-9 NMSA 1978 (being Laws 1989,
20 Chapter 344, Section 1) is amended to read:

21 "30-3-9. ASSAULT--BATTERY--SCHOOL PERSONNEL.--

22 A. As used in this section:

23 (1) "in the lawful discharge of [his] the
24 school employee's duties" means engaged in the performance of
25 the duties of a school employee; and

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(2) "school employee" includes a member of a local public school board and public school administrators, teachers and other employees of that board.

B. Assault upon a school employee consists of:

(1) an attempt to commit a battery upon the person of a school employee while [he] the employee is in the lawful discharge of [his] the school employee's duties; or

(2) any unlawful act, threat or menacing conduct [which] that causes a school employee while [he] the employee is in the lawful discharge of [his] the school employee's duties to reasonably believe that [he] the employee is in danger of receiving an immediate battery.

[Whoever] C. A person who commits assault upon a school employee is guilty of a [misdemeanor] third degree felony.

[E.] D. Aggravated assault upon a school employee
consists of:

(1) unlawfully assaulting or striking at a school employee with a deadly weapon while [he] the employee is in the lawful discharge of [his] the school employee's duties;

(2) committing assault by threatening or menacing a school employee who is engaged in the lawful discharge of [his] the school employee's duties by a person wearing a mask, hood, robe or other covering upon the face, head or body, or while disguised in any manner so as to con-

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1 identity; or

2 (3) willfully and intentionally assaulting a
3 school employee while [he] the employee is in the lawful
4 discharge of [his] the school employee's duties with intent to
5 commit any felony.

6 [Whoever] E. A person who commits aggravated
7 assault upon a school employee is guilty of a [third] second
8 degree felony.

9 [D.] F. Assault with intent to commit a violent
10 felony upon a school employee consists of any person assaulting
11 a school employee while [he] the employee is in the lawful
12 discharge of [his] the school employee's duties with intent to
13 kill the school employee.

14 [Whoever] G. A person who commits assault with
15 intent to commit a violent felony upon a school employee is
16 guilty of a second degree felony.

17 [E.] H. Battery upon a school employee is the
18 unlawful, intentional touching or application of force to the
19 person of a school employee while [he] the employee is in the
20 lawful discharge of [his] the school employee's duties, when
21 done in a rude, insolent or angry manner.

22 [Whoever] I. A person who commits battery upon a
23 school employee is guilty of a [fourth] third degree felony.

24 [F.] J. Aggravated battery upon a school employee
25 consists of the unlawful touching or application of force to

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1 the person of a school employee with intent to injure that
2 school employee while [he] the employee is in the lawful
3 discharge of [his] the school employee's duties.

4 [Whoever] K. A person who commits aggravated
5 battery upon a school employee, inflicting an injury to the
6 school employee [which] that is not likely to cause death or
7 great bodily harm but does cause painful temporary
8 disfigurement or temporary loss or impairment of the functions
9 of any member or organ of the body, is guilty of a fourth
10 degree felony.

11 [Whoever] L. A person who commits aggravated
12 battery upon a school employee, inflicting great bodily harm or
13 [does] doing so with a deadly weapon or in any manner whereby
14 great bodily harm or death can be inflicted, is guilty of a
15 [third] second degree felony.

16 [G.] M. Every person who assists or is assisted by
17 one or more other persons to commit a battery upon any school
18 employee while [he] the employee is in the lawful discharge of
19 [his] the school employee's duties is guilty of a fourth degree
20 felony."

21 SECTION 2. A new section of the Criminal Code, Section
22 30-3-9.3 NMSA 1978, is enacted to read:

23 "30-3-9.3. [NEW MATERIAL] ASSAULT ON A SCHOOL CAMPUS--
24 AGGRAVATED ASSAULT ON A SCHOOL CAMPUS--

25 A. Assault on a school campus consists of:

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(1) an attempt to commit battery upon the person of another;

(2) an unlawful act, threat or menacing conduct that causes another person to reasonably believe that the person is in danger of receiving an immediate battery; or

(3) the use of insulting language toward another impugning the person's honor, delicacy or reputation.

B. A person who commits assault on a school campus is guilty of a fourth degree felony.

C. Aggravated assault on a school campus consists of a person:

(1) assaulting or striking another person with a deadly weapon;

(2) committing assault by threatening or menacing another while wearing a mask, hood, robe or other covering upon the face, head or body, or while disguised in any manner so as to conceal identity; or

(3) willfully and intentionally assaulting another with the intent to commit a felony.

D. A person who commits aggravated assault on a school campus is guilty of a third degree felony."

SECTION 3. A new section of the Criminal Code, Section 30-3-9.4 NMSA 1978, is enacted to read:

"30-3-9.4. [NEW MATERIAL] BATTERY ON A SCHOOL CAMPUS--
AGGRAVATED BATTERY ON A SCHOOL CAMPUS.--

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1 A. Battery on a school campus is the intentional
2 touching or application of force to the person of another, when
3 done in a rude, insolent or angry manner.

4 B. A person who commits battery on a school campus
5 is guilty of a fourth degree felony.

6 C. Aggravated battery on a school campus consists
7 of a person touching or applying force to the person of another
8 with the intent to injure that person or another.

9 D. A person who commits aggravated battery on a
10 school campus, inflicting an injury to the person that is not
11 likely to cause death or great bodily harm, but that does cause
12 painful temporary disfigurement or temporary loss or impairment
13 of the functions of any member or organ of the body, is guilty
14 of a third degree felony.

15 E. A person who commits aggravated battery on a
16 school campus is guilty of a second degree felony."

17 **SECTION 4.** Section 32A-2-3 NMSA 1978 (being Laws 1993,
18 Chapter 77, Section 32, as amended) is amended to read:

19 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

20 A. "delinquent act" means an act committed by a
21 child that would be designated as a crime under the law if
22 committed by an adult, not including a violation of Section
23 30-9-2 NMSA 1978, including the following offenses:

24 (1) any of the following offenses pursuant to
25 municipal traffic codes or the Motor Vehicle Code:

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- (a) driving while under the influence of intoxicating liquor or drugs;
- (b) failure to stop in the event of an accident causing death, personal injury or damage to property;
- (c) unlawful taking of a vehicle or motor vehicle;
- (d) receiving or transferring of a stolen vehicle or motor vehicle;
- (e) homicide by vehicle;
- (f) injuring or tampering with a vehicle;
- (g) altering or changing of an engine number or other vehicle identification numbers;
- (h) altering or forging of a driver's license or permit or any making of a fictitious license or permit;
- (i) reckless driving;
- (j) driving with a suspended or revoked license; or
- (k) an offense punishable as a felony;

(2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child's parent, guardian, custodian or

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adult spouse. As used in this paragraph, "restaurant" means an establishment where meals are prepared and served primarily for on-premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include an establishment, as defined in regulations promulgated by the director of the special investigations unit of the department of public safety, that serves only hamburgers, sandwiches, salads and other fast foods;

(3) a violation of Section 30-29-2 NMSA 1978, regarding the illegal use of a glue, aerosol spray product or other chemical substance;

(4) a violation of the Controlled Substances Act;

(5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;

(6) a violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property;

(7) a violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act; or

(8) trafficking cannabis as provided in Section 26-2C-28 NMSA 1978;

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1 B. "delinquent child" means a child who has
2 committed a delinquent act;

3 C. "delinquent offender" means a delinquent child
4 who is subject to juvenile sanctions only and who is not a
5 youthful offender or a serious youthful offender;

6 D. "detention facility" means a place where a child
7 may be detained under the Children's Code pending a court
8 hearing and does not include a facility for the care and
9 rehabilitation of an adjudicated delinquent child;

10 E. "felony" means an act that would be a felony if
11 committed by an adult;

12 F. "misdemeanor" means an act that would be a
13 misdemeanor or petty misdemeanor if committed by an adult;

14 G. "restitution" means financial reimbursement by
15 the child to the victim or community service imposed by the
16 court and is limited to easily ascertainable damages for injury
17 to or loss of property, actual expenses incurred for medical,
18 psychiatric and psychological treatment for injury to a person
19 and lost wages resulting from physical injury, which are a
20 direct and proximate result of a delinquent act. "Restitution"
21 does not include reimbursement for damages for mental anguish,
22 pain and suffering or other intangible losses. As used in this
23 subsection, "victim" means a person who is injured or suffers
24 damage of any kind by an act that is the subject of a complaint
25 or referral to law enforcement officers or juvenile probation

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authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. "serious youthful offender" means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for ~~trial for first degree murder. A "serious youthful offender" is not a delinquent child as defined pursuant to the provisions of this section] at least one of the following crimes:~~

(1) murder in the first degree;
(2) assault or aggravated assault on a school campus, as provided in Section 30-3-9.3 NMSA 1978; or
(3) battery or aggravated battery on a school campus, as provided in Section 30-3-9.4 NMSA 1978;

I. "supervised release" means the release of a juvenile, whose term of commitment has not expired, from a facility for the care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the term of commitment has expired and may be returned to custody for violating conditions of release; and

J. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section

(d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(e) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;

(f) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(g) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(h) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(i) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(j) robbery, as provided in Section

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1 30-16-2 NMSA 1978;

2 (k) aggravated burglary, as provided in

3 Section 30-16-4 NMSA 1978;

4 (l) aggravated arson, as provided in

5 Section 30-17-6 NMSA 1978; or

6 (m) abuse of a child that results in

7 great bodily harm or death to the child, as provided in Section

8 30-6-1 NMSA 1978;

9 (2) fourteen to eighteen years of age at the

10 time of the offense, who is adjudicated for any felony offense

11 and who has had three prior, separate felony adjudications

12 within a three-year time period immediately preceding the

13 instant offense. The felony adjudications relied upon as prior

14 adjudications shall not have arisen out of the same transaction

15 or occurrence or series of events related in time and location.

16 Successful completion of consent decrees is not considered a

17 prior adjudication for the purposes of this paragraph; or

18 (3) fourteen years of age and who is

19 adjudicated for first degree murder, as provided in Section

20 30-2-1 NMSA 1978."

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