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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DOMESTIC VIOLENCE CRIMINAL OFFENSES; AMENDING
SECTIONS 30-3-12 THROUGH 30-3-14, 30-3-17 AND 30-3-18 NMSA 1978
(BEING LAWS 1995, CHAPTER 221, SECTIONS 3 THROUGH 5, LAWS 2008,
CHAPTER 16, SECTION 4 AND LAWS 2009, CHAPTER 255, SECTION 2)
AND SUBSECTIONS E AND F OF SECTION 40-13-6 NMSA 1978 (BEING
LAWS 1987, CHAPTER 286, SECTION 6, AS AMENDED); PROVIDING THAT
A PERSON CONVICTED OF AND SENTENCED FOR CRIMINAL OFFENSES
PROVIDED IN THOSE SECTIONS SHALL PARTICIPATE IN AND COMPLETE A
DOMESTIC VIOLENCE OFFENDER TREATMENT OR INTERVENTION PROGRAM
APPROVED BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;
PROVIDING THAT A PERSON WHO VIOLATES A CONDITION OF PROBATION
ORDERED PURSUANT TO A SUSPENDED OR DEFERRED SENTENCE MAY BE
SUBJECT TO ANY SENTENCE THE COURT COULD ORIGINALLY HAVE IMPOSED
AND NOT RECEIVE CREDIT FOR TIME SERVED ON PROBATION; MAKING
CONFORMING AMENDMENTS.

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

SECTION 1. Section 30-3-12 NMSA 1978 (being Laws 1995, Chapter 221, Section 3) is amended to read:

"30-3-12. ASSAULT AGAINST A HOUSEHOLD MEMBER.--

A. Assault against a household member consists of:

(1) an attempt to commit a battery against a household member; or

(2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that ~~[he]~~ the household member is in danger of receiving an immediate battery.

B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond one hundred eighty-two days but shall not exceed one year. If an offender violates a condition

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1 of probation, the court may impose any sentence that the court
2 could have imposed upon the offender's original conviction, and
3 credit shall not be given for time served by the offender on
4 probation; provided that the total period of incarceration
5 shall not exceed one hundred eighty-two days and the combined
6 period of incarceration and probation shall not exceed one
7 year."

8 SECTION 2. Section 30-3-13 NMSA 1978 (being Laws 1995,
9 Chapter 221, Section 4) is amended to read:

10 "30-3-13. AGGRAVATED ASSAULT AGAINST A HOUSEHOLD
11 MEMBER.--

12 A. Aggravated assault against a household member
13 consists of:

14 (1) unlawfully assaulting or striking at a
15 household member with a deadly weapon; or

16 (2) willfully and intentionally assaulting a
17 household member with intent to commit any felony.

18 B. Whoever commits aggravated assault against a
19 household member is guilty of a fourth degree felony.

20 C. Upon conviction pursuant to this section, an
21 offender shall be required to participate in and complete a
22 domestic violence offender treatment or intervention program
23 approved by the children, youth and families department
24 pursuant to rules promulgated by the department that define the
25 criteria for such programs.

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1 D. Notwithstanding any provision of law to the
2 contrary, if a sentence imposed pursuant to this section is
3 suspended or deferred in whole or in part and an offender
4 violates a condition of probation, the court may impose any
5 sentence that the court could have imposed upon the offender's
6 original conviction, and credit shall not be given for time
7 served by the offender on probation; provided that the combined
8 period of incarceration and probation shall not exceed the
9 maximum period of incarceration for the sentence that was
10 suspended or deferred."

11 SECTION 3. Section 30-3-14 NMSA 1978 (being Laws 1995,
12 Chapter 221, Section 5) is amended to read:

13 "30-3-14. ASSAULT AGAINST A HOUSEHOLD MEMBER WITH INTENT
14 TO COMMIT A VIOLENT FELONY.--

15 A. Assault against a household member with intent
16 to commit a violent felony consists of any person assaulting a
17 household member with intent to kill or commit any murder,
18 mayhem, criminal sexual penetration in the first, second or
19 third degree, robbery, kidnapping, false imprisonment or
20 burglary.

21 B. Whoever commits assault against a household
22 member with intent to commit a violent felony is guilty of a
23 third degree felony.

24 C. Upon conviction pursuant to this section, an
25 offender shall be required to participate in and complete a

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1 domestic violence offender treatment or intervention program
2 approved by the children, youth and families department
3 pursuant to rules promulgated by the department that define the
4 criteria for such programs.

5 D. Notwithstanding any provision of law to the
6 contrary, if a sentence imposed pursuant to this section is
7 suspended or deferred in whole or in part and an offender
8 violates a condition of probation, the court may impose any
9 sentence that the court could have imposed upon the offender's
10 original conviction, and credit shall not be given for time
11 served by the offender on probation; provided that the combined
12 period of incarceration and probation shall not exceed the
13 maximum period of incarceration for the sentence that was
14 suspended or deferred."

15 SECTION 4. Section 30-3-17 NMSA 1978 (being Laws 2008,
16 Chapter 16, Section 4) is amended to read:

17 "30-3-17. MULTIPLE CONVICTIONS OF BATTERY OR AGGRAVATED
18 BATTERY.--

19 A. Whoever commits three offenses of battery
20 against a household member as provided in Section 30-3-15 NMSA
21 1978 or aggravated battery against a household member as
22 provided in Subsection B of Section 30-3-16 NMSA 1978, or any
23 combination thereof, when the household member is a spouse, a
24 former spouse, a co-parent of a child or a person with whom the
25 offender has had a continuing personal relationship is guilty

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1 of a fourth degree felony.

2 B. Whoever commits four or more offenses of battery
3 against a household member as provided in Section 30-3-15 NMSA
4 1978 or aggravated battery against a household member as
5 provided in Subsection B of Section 30-3-16 NMSA 1978, or any
6 combination thereof, when the household member is a spouse, a
7 former spouse, a co-parent of a child or a person with whom the
8 offender has had a continuing personal relationship is guilty
9 of a third degree felony.

10 C. For the purpose of determining the number of
11 offenses committed, each offense must have been committed after
12 conviction for the preceding offense.

13 D. Upon conviction pursuant to this section, an
14 offender shall be required to participate in and complete a
15 domestic violence offender treatment or intervention program
16 approved by the children, youth and families department
17 pursuant to rules promulgated by the department that define the
18 criteria for such programs.

19 E. Notwithstanding any provision of law to the
20 contrary, if a sentence imposed pursuant to this section is
21 suspended or deferred in whole or in part and an offender
22 violates a condition of probation, the court may impose any
23 sentence that the court could originally have imposed, and
24 credit shall not be given for time served by the offender on
25 probation; provided that the combined period of incarceration

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1 and probation shall not exceed the maximum period of
2 incarceration for the sentence that was suspended or deferred."

3 SECTION 5. Section 30-3-18 NMSA 1978 (being Laws 2009,
4 Chapter 255, Section 2) is amended to read:

5 "30-3-18. CRIMINAL DAMAGE TO PROPERTY OF HOUSEHOLD
6 MEMBER--DEPRIVATION OF PROPERTY OF HOUSEHOLD MEMBER.--

7 A. Criminal damage to the property of a household
8 member consists of intentionally damaging real, personal,
9 community or jointly owned property of a household member with
10 the intent to intimidate, threaten or harass that household
11 member.

12 B. Whoever commits criminal damage to the property
13 of a household member is guilty of a misdemeanor, except that
14 when the damage to the household member's interest in the
15 property amounts to more than one thousand dollars (\$1,000),
16 the offender is guilty of a fourth degree felony.

17 C. Deprivation of the property of a household
18 member consists of intentionally depriving a household member
19 of the use of separate, community or jointly owned personal
20 property of the household member with the intent to intimidate
21 or threaten that household member.

22 D. Whoever commits deprivation of the property of a
23 household member is guilty of a misdemeanor.

24 E. Upon conviction pursuant to this section, an
25 offender shall be required to participate in and complete a

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1 domestic violence offender treatment or intervention program
2 approved by the children, youth and families department
3 pursuant to rules promulgated by the department that define the
4 criteria for such programs.

5 F. Notwithstanding any provision of law to the
6 contrary:

7 (1) if an offender is convicted of a
8 misdemeanor pursuant to this section and the sentence imposed
9 is suspended or deferred in whole or in part, the period of
10 probation may extend beyond three hundred sixty-four days but
11 shall not exceed two years; provided that if the offender
12 violates a condition of probation, the court may impose any
13 sentence that the court could originally have imposed, and
14 credit shall not be given for time served by the offender on
15 probation; and provided further that the total period of
16 incarceration shall not exceed three hundred sixty-four days
17 and the combined period of incarceration and probation shall
18 not exceed two years; and

19 (2) if an offender is convicted of a felony
20 pursuant to this section and the sentence imposed is suspended
21 or deferred in whole or in part and the offender violates a
22 condition of probation, the court may impose any sentence that
23 the court could originally have imposed, and credit shall not
24 be given for time served by the offender on probation; provided
25 that the combined period of incarceration and probation shall

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1 not exceed the maximum period of incarceration for the sentence
2 that was suspended or deferred."

3 SECTION 6. Section 40-13-6 NMSA 1978 (being Laws 1987,
4 Chapter 286, Section 6, as amended) is amended to read:

5 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES
6 NOT EXCLUSIVE.--

7 A. An order of protection granted under the Family
8 Violence Protection Act shall be filed with the clerk of the
9 court, and a copy shall be sent by the clerk to the local law
10 enforcement agency. The order shall be personally served upon
11 the restrained party, unless the restrained party or the
12 restrained party's attorney was present at the time the order
13 was issued. The order shall be filed and served without cost
14 to the protected party.

15 B. A local law enforcement agency receiving an
16 order of protection from the clerk of the court that was issued
17 under the Family Violence Protection Act shall have the order
18 entered in the national crime information center's order of
19 protection file within seventy-two hours of receipt. This does
20 not include temporary orders of protection entered pursuant to
21 the provisions of Section 40-13-4 NMSA 1978.

22 C. An order of protection granted by the court
23 involving custody or support shall be effective for a fixed
24 period of time not to exceed six months. The order may be
25 extended for good cause upon motion of the protected party for

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1 an additional period of time not to exceed six months.
2 Injunctive orders shall continue until modified or rescinded
3 upon motion by either party or until the court approves a
4 subsequent consent agreement entered into by the parties.

5 D. A peace officer may arrest without a warrant and
6 take into custody a restrained party [~~whom~~] who the peace
7 officer has probable cause to believe has violated an order of
8 protection that is issued pursuant to the Family Violence
9 Protection Act or entitled to full faith and credit.

10 E. A restrained party convicted of violating an
11 order of protection granted by a court under the Family
12 Violence Protection Act is guilty of a misdemeanor and shall be
13 sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a
14 second or subsequent conviction, an offender shall be sentenced
15 to a jail term of not less than seventy-two consecutive hours
16 that shall not be suspended, deferred or taken under
17 advisement. Notwithstanding any provision of law to the
18 contrary, if a sentence imposed pursuant to this subsection is
19 suspended or deferred in whole or in part, the period of
20 probation may extend beyond three hundred sixty-four days but
21 shall not exceed two years; provided that if an offender
22 violates a condition of probation, the court may impose any
23 sentence that the court could originally have imposed, and
24 credit shall not be given for time served by the offender on
25 probation; and provided further that the total period of

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1 incarceration shall not exceed three hundred sixty-four days
2 and the combined period of incarceration and probation shall
3 not exceed two years.

4 F. In addition to any other punishment provided in
5 the Family Violence Protection Act, the court shall order a
6 person convicted to make full restitution to the party injured
7 by the violation of an order of protection and shall order the
8 person convicted to participate in and complete a [~~program of~~
9 ~~professional counseling, at the person's own expense, if~~
10 ~~possible~~] domestic violence offender treatment or intervention
11 program approved by the children, youth and families department
12 pursuant to rules promulgated by the department that define the
13 criteria for such programs.

14 G. In addition to charging the person with
15 violating an order of protection, a peace officer shall file
16 all other possible criminal charges arising from an incident of
17 domestic abuse when probable cause exists.

18 H. The remedies provided in the Family Violence
19 Protection Act are in addition to any other civil or criminal
20 remedy available to the protected party or the state."

21 SECTION 7. TEMPORARY PROVISION.--If the children, youth
22 and families department has not promulgated the rules required
23 by this act, the department shall promulgate the rules on or
24 before July 1, 2026.

25 SECTION 8. APPLICABILITY.--The provisions of Sections 1

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1 through 6 of this act apply to sentences imposed for crimes
2 committed after July 1, 2026.

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