

COEA Caregivers Exemption Discussion

Misdemeanor Convictions that cannot be Considered for Background Check Eligibility under the COEA

Title of Crime	Citation	Definition
Enticement of a Child	NMSA 1978 § 30-9-1	Enticement of child consists of: A. enticing, persuading or attempting to persuade a child under the age of sixteen years to enter any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 of the Criminal Code*; or B. having possession of a child under the age of sixteen years in any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 of the Criminal Code. ... Whoever commits enticement of child is guilty of a misdemeanor. * Article 9 of the Criminal Code covers sexual criminal offenses, including criminal sexual penetration (NMSA 1978 § 30-9-11), criminal sexual contact of a minor (NMSA 1978 § 30-9-13), criminal sexual contact (NMSA 1978 § 30-9-12), and aggravated indecent exposure (NMSA 1978 § 30-9-14).
Cruelty to Animals	NMSA 1978 § 30-18-1	A. As used in this section, “animal” does not include insects or reptiles. B. Cruelty to animals consists of a person: (1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or (2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control. D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.
Misdemeanor Aggravated Battery Against a Household Member	NMSA 1978 § 30-3-16	A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another. B. Whoever commits aggravated battery against a household member is guilty of a misdemeanor if the aggravated battery against a household member is committed by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body.
Battery against a Household Member	NMSA 1978 § 30-3-15	A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner. B. Whoever commits battery against a household member is guilty of a misdemeanor.
Misdemeanor Abandonment of Child	NMSA 1978 § 30-6-1(B)	“Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor...”
Stalking	NMSA 1978 § 30-3A-3	A. Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual. ... C. Whoever commits stalking is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.
Obstruction of reporting or investigation of child abuse or neglect	NMSA 1978 § 30-6-4	Obstruction of reporting or investigation of child abuse or neglect consists of: A. knowingly inhibiting, preventing, obstructing or intimidating another from reporting, pursuant to Section 32A-4-3 NMSA 1978, child abuse or neglect, including child sexual abuse; or B. knowingly obstructing, delaying, interfering with or denying access to a law enforcement officer or child protective services social worker in the investigation of a report of child abuse or sexual abuse. Whoever commits obstruction of reporting or investigation of child abuse or neglect is guilty of a misdemeanor.

Dog fighting and Cockfighting	NMSA 1978 § 30-18-9	<p>A. It is unlawful for any person to cause, sponsor, arrange, hold or participate in a fight between dogs or cocks for the purpose of monetary gain or entertainment. Participation in a fight between dogs or cocks for the purpose of monetary gain or entertainment consists of an adult knowingly:</p> <p>(1) being present at a dog fight without attempting to interfere with or stop the contest; or</p> <p>(2) owning or equipping one of the participating dogs or cocks with knowledge of the contest.</p> <p>D. Any person violating the provisions of Subsection A or B of this section as it pertains to cocks:</p> <p>(1) upon a first conviction, is guilty of a petty misdemeanor;</p> <p>(2) upon a second conviction, is guilty of a misdemeanor...</p>
Negligent Use of a Deadly Weapon	NMSA 1978 § 30-7-4	<p>A. Negligent use of a deadly weapon consists of:</p> <p>(1) discharging a firearm into any building or vehicle or so as to knowingly endanger a person or his property;</p> <p>(2) carrying a firearm while under the influence of an intoxicant or narcotic;</p> <p>(3) endangering the safety of another by handling or using a firearm or other deadly weapon in a negligent manner; or</p> <p>(4) discharging a firearm within one hundred fifty yards of a dwelling or building, not including abandoned or vacated buildings on public lands during hunting seasons, without the permission of the owner or lessees thereof.</p> <p>...</p> <p>Whoever commits negligent use of a deadly weapon is guilty of a petty misdemeanor.</p>
Negligent Use of Explosives	NMSA 1978 § 30-7-6	<p>Negligent use of explosives consists of negligently exploding, attempting to explode or placing any explosive in such a manner as to result in injury to another or to property of another, or in the probability of such injury.</p> <p>Whoever commits negligent use of explosives is guilty of a petty misdemeanor.</p>
Indecent Exposure (Indecent exposure to a child is a felony-aggravated).	NMSA 1978 § 30-9-14	<p>A. Indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view.</p> <p>B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.</p> <p>C. Whoever commits indecent exposure is guilty of a misdemeanor.</p>
Voyeurism	NMSA 1978 § 30-9-20	<p>A. Voyeurism consists of intentionally using the unaided eye to view or intentionally using an instrumentality to view, photograph, videotape, film, webcast or record the intimate areas of another person without the knowledge and consent of that person:</p> <p>(1) while the person is in the interior of a bedroom, bathroom, changing room, fitting room, dressing room or tanning booth or the interior of any other area in which the person has a reasonable expectation of privacy; or</p> <p>(2) under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.</p> <p>B. Whoever commits voyeurism is guilty of a misdemeanor, except if the victim is less than eighteen years of age, the offender is guilty of a fourth degree felony.</p>
Assault Against a Household Member	NMSA 1978 § 30-3-12	<p>A. Assault against a household member consists of:</p> <p>(1) an attempt to commit a battery against a household member; or</p> <p>(2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.</p> <p>B. Whoever commits assault against a household member is guilty of a petty misdemeanor.</p>
Assault upon a School Employee	NMSA 1978 § 30-3-9	<p>B. Assault upon a school employee consists of:</p> <p>(1) an attempt to commit a battery upon the person of a school employee while he is in the lawful discharge of his duties; or</p> <p>(2) any unlawful act, threat or menacing conduct which causes a school employee while he is in the lawful discharge of his duties to reasonably believe that he is in danger of receiving an immediate battery.</p> <p>Whoever commits assault upon a school employee is guilty of a misdemeanor.</p>
Misdemeanor Aggravated Battery	NMSA 1978 § 30-3-5	<p>A. Aggravated battery consists of the unlawful touching or application of force to the person of another with intent to injure that person or another.</p> <p>B. Whoever commits aggravated battery, inflicting an injury to the person which is not likely to cause death or great bodily harm, but does cause painful temporary disfigurement</p>

		or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.
Misdemeanor Battery	NMSA 1978 § 30-3-4	Battery is the unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner. Whoever commits battery is guilty of a petty misdemeanor.
Misdemeanor Assault	NMSA 1978 § 30-3-1	Assault consists of either: A. an attempt to commit a battery upon the person of another; B. any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he is in danger of receiving an immediate battery; or C. the use of insulting language toward another impugning his honor, delicacy or reputation. Whoever commits assault is guilty of a petty misdemeanor.
Harassment	NMSA 1978 § 30-3A-2	A. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress. B. Whoever commits harassment is guilty of a misdemeanor.