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**HOUSE BILL 130**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Mimi Stewart**

**FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE**

**AN ACT**

**RELATING TO DOMESTIC ABUSE; PROVIDING FINANCIAL REMEDIES FOR  
VICTIMS OF DOMESTIC ABUSE; AMENDING A SECTION OF THE FAMILY  
VIOLENCE PROTECTION ACT.**

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

**Section 1. Section 40-13-5 NMSA 1978 (being Laws 1987,  
Chapter 286, Section 5, as amended) is amended to read:**

**"40-13-5. ORDER OF PROTECTION-- CONTENTS-- REMEDIES-- TITLE  
TO PROPERTY NOT AFFECTED. --**

**A. Upon finding that domestic abuse has occurred,  
the court shall enter an order of protection ordering the  
respondent to refrain from abusing the petitioner or any other  
household member. The court shall specifically describe the  
acts the court has ordered the respondent to do or refrain  
from doing. As a part of any order of protection, the court**

1 may:

2 (1) grant sole possession of the residence or  
3 household to the petitioner during the period the order of  
4 protection is effective or order the respondent to provide  
5 temporary suitable alternative housing for the petitioner and  
6 any children to whom the respondent owes a legal obligation of  
7 support;

8 (2) award temporary custody of any children  
9 involved when appropriate and provide for visitation rights,  
10 child support and temporary support for the petitioner on a  
11 basis that gives primary consideration to the safety of the  
12 victim and the children;

13 (3) order that the respondent shall not  
14 initiate contact with the petitioner;

15 (4) restrain the parties from transferring,  
16 concealing, encumbering or otherwise disposing of the  
17 petitioner's property or the joint property of the parties  
18 except in the usual course of business or for the necessities  
19 of life and require the parties to account to the court for  
20 all such transferences, encumbrances and expenditures made  
21 after the order is served or communicated to the party  
22 restrained in court; [and]

23 (5) order the respondent to reimburse the  
24 petitioner or any other person for expenses reasonably related  
25 to the occurrence of domestic abuse, including medical

underscored material = new  
[bracketed material] = delete

1 expenses, counseling expenses, the expense of seeking  
2 temporary shelter, expenses for the replacement or repair of  
3 damaged property or the expense of lost wages;

4 (6) order the respondent to participate in,  
5 at the respondent's expense, professional counseling programs  
6 deemed appropriate by the court, including counseling programs  
7 for perpetrators of domestic abuse, alcohol abuse or abuse of  
8 controlled substances; and

9 [~~(5)~~] (7) order other injunctive relief as  
10 the court deems necessary for the protection of the  
11 petitioner, including orders to law enforcement agencies as  
12 provided by this section.

13 B. The order shall contain a notice that violation  
14 of any provision of the order constitutes contempt of court  
15 and may result in a fine or imprisonment or both.

16 C. If the order supersedes or alters prior orders  
17 of the court pertaining to domestic matters between the  
18 parties, the order shall say so on its face. If an action  
19 relating to child custody or child support is pending or has  
20 concluded with entry of an order at the time the petition for  
21 an order of protection was filed, the court may enter an  
22 initial order of protection, but the portion of the order  
23 dealing with child custody or child support will then be  
24 transferred to the court that has or continues to have  
25 jurisdiction over the pending or prior custody or support

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[bracketed material] = delete

1 action.

2 D. No order issued under the Family Violence  
3 Protection Act shall affect title to any property or allow the  
4 petitioner to transfer, conceal, encumber or otherwise dispose  
5 of the respondent's property or the joint property of the  
6 parties.

7 E. Either party may request a review hearing to  
8 amend the order. An order of protection involving child  
9 custody or support may be modified without proof of a  
10 substantial or material change of circumstances. "

11 Section 2. EFFECTIVE DATE. --The effective date of the  
12 provisions of this act is July 1, 2001.

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