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SENATE BILL 393

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO DOMESTIC VIOLENCE; INCREASING PENALTIES FOR BATTERY AGAINST A HOUSEHOLD MEMBER AND AGGRAVATED BATTERY AGAINST A HOUSEHOLD MEMBER; REQUIRING OFFENDERS TO PARTICIPATE IN AND COMPLETE A DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAM.

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

Section 1. Section 30-3-15 NMSA 1978 (being Laws 1995, Chapter 221, Section 6, as amended) is amended to read:

"30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

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:

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1                   (1) for a first offense, guilty of a  
2 misdemeanor;

3                   (2) for a second offense, guilty of a  
4 misdemeanor and, as part of the sentence, shall be imprisoned  
5 for a term of at least forty-eight hours that shall not be  
6 suspended, deferred or taken under advisement;

7                   (3) for a third offense, guilty of a  
8 misdemeanor and, as part of the sentence, shall be imprisoned  
9 for a term of at least thirty days that shall not be suspended,  
10 deferred or taken under advisement; or

11                   (4) for a fourth or subsequent offense, guilty  
12 of a fourth degree felony and, as part of the sentence, shall  
13 be imprisoned for a term of at least six months that shall not  
14 be suspended, deferred or taken under advisement.

15                   C. Upon conviction pursuant to this section, an  
16 offender shall be required to participate in and complete a  
17 domestic violence offender treatment program that includes the  
18 components set forth in Subsection D of Section 31-12-12 NMSA  
19 1978. The requirement imposed pursuant to this subsection  
20 shall not be suspended, deferred or taken under advisement.

21                   D. Notwithstanding any provision of law to the  
22 contrary, if an offender's sentence was suspended or deferred  
23 in whole or in part, the period of probation may extend beyond  
24 three hundred sixty-four days but may not exceed three hundred  
25 sixty-four days plus ninety days."

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1 Section 2. Section 30-3-16 NMSA 1978 (being Laws 1995,  
2 Chapter 221, Section 7) is amended to read:

3 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD  
4 MEMBER.--

5 A. Aggravated battery against a household member  
6 consists of the unlawful touching or application of force to  
7 the person of a household member with intent to injure that  
8 person or another.

9 B. Whoever commits aggravated battery against a  
10 household member by inflicting an injury to that person that is  
11 not likely to cause death or great bodily harm, but that does  
12 cause painful temporary disfigurement or temporary loss or  
13 impairment of the functions of any member or organ of the body,  
14 is:

15 (1) for a first offense, guilty of a  
16 misdemeanor;

17 (2) for a second offense, guilty of a  
18 misdemeanor and, as part of the sentence, shall be imprisoned  
19 for a term of at least forty-eight hours that shall not be  
20 suspended, deferred or taken under advisement;

21 (3) for a third offense, guilty of a  
22 misdemeanor and, as part of the sentence, shall be imprisoned  
23 for a term of at least thirty days that shall not be suspended,  
24 deferred or taken under advisement; or

25 (4) for a fourth or subsequent offense, guilty

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underscoring material = new  
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1 of a fourth degree felony and, as part of the sentence, shall  
2 be imprisoned for a term of at least six months that shall not  
3 be suspended, deferred or taken under advisement.

4 C. Whoever commits aggravated battery against a  
5 household member by inflicting great bodily harm or doing so  
6 with a deadly weapon or doing so in any manner whereby great  
7 bodily harm or death can be inflicted is guilty of a third  
8 degree felony.

9 D. Upon conviction pursuant to Subsection B of this  
10 section, an offender shall be required to participate in and  
11 complete an approved domestic violence offender treatment  
12 program that includes the components set forth in Subsection D  
13 of Section 31-12-12 NMSA 1978. The requirement imposed  
14 pursuant to this subsection shall not be suspended, deferred or  
15 taken under advisement.

16 E. Notwithstanding any provision of law to the  
17 contrary, if a sentence imposed pursuant to Subsection B of  
18 this section is suspended or deferred in whole or in part, the  
19 period of probation may extend beyond three hundred sixty-four  
20 days but may not exceed three hundred sixty-four days plus  
21 ninety days."

22 Section 3. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2006.