

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 423

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING FOR AN ARREST WITHOUT A
WARRANT.

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

Section 1. Section 31-1-7 NMSA 1978 (being Laws 1979,
Chapter 178, Section 1, as amended) is amended to read:

"31-1-7. ARREST WITHOUT WARRANT--LIABILITY.--

A. Notwithstanding the provisions of any other law
to the contrary, a peace officer may arrest a person who is
present and take that person into custody without a warrant
when the officer [~~is at the scene of a domestic disturbance~~
~~and~~] has probable cause to believe that the person has
committed an assault against a household member or a battery
[~~upon~~] against a household member.

B. When a peace officer has probable cause to

1 believe that a person has committed an assault against a
2 household member or battery against a household member and the
3 person is not present, the peace officer may arrest the person
4 without a warrant if the arrest:

5 (1) is reasonably necessary to protect the
6 victim from further domestic abuse; and

7 (2) is made with reasonable promptness.

8 C. As used in this section, "household member"
9 means a spouse; former spouse; family member, including a
10 relative, parent, present or former stepparent, present or
11 former in-law, child or co-parent of a child; or a person with
12 whom the victim has had a continuing personal relationship.
13 Cohabitation is not necessary to be deemed a household member
14 for purposes of this section.

15 ~~[B.]~~ D. No peace officer shall be held criminally
16 or civilly liable for making an arrest pursuant to this
17 section, provided ~~[he]~~ the officer acts in good faith and
18 without malice.

19 ~~[C.]~~ E. Whether or not an arrest is made pursuant
20 to this section, a peace officer may remain with the victim and
21 assist the victim in getting to a shelter or receiving proper
22 medical attention."

23 Section 2. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2007.