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HOUSE BILL 658

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Bill B. O'Neill

AN ACT

RELATING TO CRIMINAL LAW; CREATING NEW CRIMES OF ASSAULT AND BATTERY COMMITTED UPON FIREFIGHTERS AS CURRENTLY PROVIDED FOR HEALTH CARE WORKERS; AMENDING A SECTION OF THE CRIMINAL CODE.

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

Section 1. Section 30-3-9.2 NMSA 1978 (being Laws 2006, Chapter 27, Section 1) is amended to read:

"30-3-9.2. ASSAULT--BATTERY--HEALTH CARE PERSONNEL--
FIREFIGHTERS.--

A. As used in this section:

(1) "firefighter" means a person who is employed as a full-time non-volunteer firefighter by the state or by a local governmental entity and who has taken the oath prescribed for firefighters;

~~(1)}~~ (2) "health facility" means a public or

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1 private hospital, outpatient facility, diagnostic and treatment
2 center, rehabilitation center or infirmary. "Health facility"
3 also includes those facilities that, by federal regulation,
4 must be licensed by the state to obtain or maintain full or
5 partial, permanent or temporary federal funding, but "health
6 facility" does not include a skilled nursing facility, a
7 nursing facility or other long-term residential care facility;

8 [~~(2)~~] (3) "health care worker" means an
9 employee of a health facility or a licensed emergency medical
10 technician; and

11 [~~(3)~~] (4) "in the lawful discharge of [~~the~~
12 ~~health care worker's~~] duties" means engaged in the performance
13 of the duties of a health care worker in the case of a health
14 care worker or engaged in the performance of the duties of a
15 firefighter in the case of a firefighter.

16 B. Assault upon a health care worker or firefighter
17 consists of:

18 (1) an attempt to commit a battery upon the
19 person of a health care worker or firefighter who is in the
20 lawful discharge of [~~the health care worker's~~] duties; or

21 (2) any unlawful act, threat or menacing
22 conduct that causes a health care worker or firefighter who is
23 in the lawful discharge of [~~the health care worker's~~] duties to
24 reasonably believe that the health care worker or firefighter
25 is in danger of receiving an immediate battery.

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1 C. Whoever commits assault upon a health care
2 worker or firefighter is guilty of a misdemeanor.

3 ~~[G.]~~ D. Aggravated assault upon a health care
4 worker or firefighter consists of:

5 (1) unlawfully assaulting or striking at a
6 health care worker or firefighter with a weapon while the
7 health care worker or firefighter is in the lawful discharge of
8 ~~[the health care worker's]~~ duties; or

9 (2) willfully and intentionally assaulting a
10 health care worker or firefighter who is in the lawful
11 discharge of ~~[the health care worker's]~~ duties with intent to
12 commit any felony.

13 E. Whoever commits aggravated assault upon a health
14 care worker or firefighter is guilty of a third degree felony.

15 ~~[D.]~~ F. Assault with intent to commit a violent
16 felony upon a health care worker or firefighter consists of
17 assaulting a health care worker or firefighter who is in the
18 lawful discharge of ~~[the health care worker's]~~ duties with
19 intent to kill the health care worker or firefighter.

20 G. Whoever commits assault with intent to commit a
21 violent felony upon a health care worker or firefighter is
22 guilty of a second degree felony.

23 ~~[E.]~~ H. Battery upon a health care worker or
24 firefighter is the unlawful, intentional touching or
25 application of force to the person of a health care worker or

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1 firefighter who is in the lawful discharge of [~~the health care~~
2 ~~worker's~~] duties, when done in a rude, insolent or angry
3 manner.

4 I. Whoever commits battery upon a health care
5 worker or firefighter is guilty of a fourth degree felony.

6 [~~F.~~] J. Aggravated battery upon a health care
7 worker or firefighter consists of the unlawful touching or
8 application of force to the person of a health care worker or
9 firefighter with intent to injure that health care worker or
10 firefighter while the health care worker or firefighter is in
11 the lawful discharge of [~~the health care worker's~~] duties.

12 K. Whoever commits aggravated battery upon a health
13 care worker or firefighter, inflicting an injury to the health
14 care worker or firefighter that is not likely to cause death or
15 great bodily harm but does cause painful temporary
16 disfigurement or temporary loss or impairment of the functions
17 of any member or organ of the body, is guilty of a fourth
18 degree felony.

19 L. Whoever commits aggravated battery upon a health
20 care worker or firefighter, inflicting great bodily harm, or
21 does so with a deadly weapon or in any manner whereby great
22 bodily harm or death can be inflicted, is guilty of a third
23 degree felony.

24 [~~G.~~] M. A person who assists or is assisted by one
25 or more other persons to commit a battery upon a health care

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1 worker or firefighter who is in the lawful discharge of [~~the~~
2 ~~health care worker's~~] duties is guilty of a fourth degree
3 felony."

4 Section 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2009.

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