

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 262

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR THE CRIMES OF  
AGGRAVATED BATTERY BY STRANGULATION AND SUFFOCATION AND MAKING  
THOSE CRIMES THIRD DEGREE FELONIES; PROVIDING FOR THE CRIMES OF  
AGGRAVATED BATTERY AGAINST A HOUSEHOLD MEMBER BY STRANGULATION  
AND SUFFOCATION AND MAKING THOSE CRIMES THIRD DEGREE FELONIES.

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

**SECTION 1.** Section 30-3-5 NMSA 1978 (being Laws 1963,  
Chapter 303, Section 3-5, as amended) is amended to read:

"30-3-5. AGGRAVATED BATTERY.--

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.

B. Whoever commits aggravated battery inflicting an  
injury to the person ~~which~~ that is not likely to cause death

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underscored material = new  
[bracketed material] = delete

1 or great bodily harm but does cause painful temporary  
2 disfigurement or temporary loss or impairment of the functions  
3 of any member or organ of the body, is guilty of a misdemeanor.

4 C. Whoever commits aggravated battery is guilty of  
5 a third degree felony if the aggravated battery is committed:

6 (1) by inflicting great bodily harm [~~or does~~  
7 ~~so~~];

8 (2) with a deadly weapon [~~or does so~~];

9 (3) by strangulation or suffocation; or

10 (4) in any manner whereby great bodily harm or  
11 death can be inflicted [~~is guilty of a third degree felony~~].

12 D. As used in this section:

13 (1) "strangulation" means knowingly or  
14 intentionally touching or applying non-consensual force to  
15 another person's neck or throat, the result of which impedes  
16 the person's normal breathing or blood circulation; and

17 (2) "suffocation" means knowingly or  
18 intentionally touching or applying non-consensual force that  
19 blocks the nose or mouth of another person, the result of which  
20 impedes the person's normal breathing or blood circulation."

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

23 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD  
24 MEMBER.--

25 A. Aggravated battery against a household member

1 consists of the unlawful touching or application of force to  
2 the person of a household member with intent to injure that  
3 person or another.

4 B. Whoever commits aggravated battery against a  
5 household member by inflicting an injury to that person that is  
6 not likely to cause death or great bodily harm, but that does  
7 cause painful temporary disfigurement or temporary loss or  
8 impairment of the functions of any member or organ of the body,  
9 is guilty of a misdemeanor.

10 C. Whoever commits aggravated battery against a  
11 household member is guilty of a third degree felony if the  
12 aggravated battery is against a household member is committed:

13 (1) by inflicting great bodily harm [~~or doing~~  
14 ~~so~~];

15 (2) with a deadly weapon [~~or doing so~~];

16 (3) by strangulation or suffocation; or

17 (4) in any manner whereby great bodily harm or  
18 death can be inflicted [~~is guilty of a third degree felony~~].

19 D. Upon conviction pursuant to Subsection B of this  
20 section, an offender shall be required to participate in and  
21 complete a domestic violence offender treatment or intervention  
22 program approved by the children, youth and families department  
23 pursuant to rules promulgated by the department that define the  
24 criteria for such programs.

25 E. Notwithstanding any provision of law to the

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1 contrary, if a sentence imposed pursuant to the provisions of  
2 Subsection B of this section is suspended or deferred in whole  
3 or in part, the period of probation may extend beyond three  
4 hundred sixty-four days but may not exceed two years. If an  
5 offender violates a condition of probation, the court may  
6 impose any sentence that the court could originally have  
7 imposed and credit shall not be given for time served by the  
8 offender on probation; provided that the total period of  
9 incarceration shall not exceed three hundred sixty-four days  
10 and the combined period of incarceration and probation shall  
11 not exceed two years.

12 F. As used in this section:

13 (1) "strangulation" means knowingly or  
14 intentionally touching or applying non-consensual force to  
15 another person's neck or throat, the result of which impedes  
16 the person's normal breathing or blood circulation; and

17 (2) "suffocation" means knowingly or  
18 intentionally touching or applying non-consensual force that  
19 blocks the nose or mouth of another person, the result of which  
20 impedes the person's normal breathing or blood circulation."

21 **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
22 provisions of this act is July 1, 2013.