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SENATE BILL 80

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO DOMESTIC AFFAIRS; AMENDING THE FAMILY VIOLENCE PROTECTION ACT; CHANGING THE DEFINED TERM "DOMESTIC ABUSE" TO "ABUSE" AND EXPANDING THE DEFINITION; CLARIFYING THAT A COURT MAY PROVIDE FOR THE POSSESSION, CONTROL AND PROTECTION OF A PARTY'S ANIMAL IN AN ORDER OF PROTECTION; MAKING CONFORMING AMENDMENTS.

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

SECTION 1. Section 40-13-1.1 NMSA 1978 (being Laws 2002, Chapter 34, Section 2 and Laws 2002, Chapter 35, Section 2) is amended to read:

"40-13-1.1. LEGISLATIVE FINDINGS--STATE POLICY--DUAL ARRESTS.--The legislature finds that [domestic] abuse incidents are complex and require special training on the part of law enforcement officers to respond appropriately to [domestic]

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1 abuse incidents. The state [~~of New Mexico~~] discourages dual
2 arrests of persons involved in incidents of [~~domestic~~] abuse.
3 A law enforcement officer, in making arrests for [~~domestic~~]
4 abuse, shall seek to identify and shall consider whether one of
5 the parties acted in self defense."

6 SECTION 2. Section 40-13-2 NMSA 1978 (being Laws 1987,
7 Chapter 286, Section 2, as amended) is amended to read:

8 "40-13-2. DEFINITIONS.--As used in the Family Violence
9 Protection Act:

10 A. "abuse" means:

11 (1) an incident or pattern of stalking or
12 sexual assault, whether committed by a household member or not;
13 or

14 (2) an incident or pattern of behavior by a
15 household member against another household member consisting of
16 or resulting in:

17 (a) physical harm, including temporary
18 or permanent bodily injury;

19 (b) battery, assault or threats causing
20 fear of imminent physical harm;

21 (c) strangulation or suffocation;

22 (d) severe emotional distress, including
23 fear, depression, anxiety or loss of sleep;

24 (e) harassment or intimidation,
25 including the act of repeatedly driving by a residence or

1 workplace of another without a lawful purpose or the act of
2 following another in a public place;

3 (f) telephone harassment, internet
4 harassment or harassment through other digital or electronic
5 means;

6 (g) kidnapping, false imprisonment or
7 the restriction or prohibition of movement;

8 (h) interference with communication;

9 (i) exploitation or forced criminal
10 activity;

11 (j) criminal damage to or deprivation of
12 real or personal property of another or damage to jointly owned
13 or community property;

14 (k) harm or threatened harm to children;

15 (l) harm or threatened harm to an
16 animal;

17 (m) unauthorized distribution of
18 sensitive images;

19 (n) criminal trespass; or

20 (o) threats to disclose immigration
21 status;

22 ~~[A.]~~ B. "continuing personal relationship" means a
23 dating or intimate relationship;

24 ~~[B.]~~ C. "co-parents" means persons who have a child
25 in common, regardless of whether they have been married or have

1 lived together at any time;

2 [~~G.~~] D. "court" means the district court of the
3 judicial district where an alleged victim of [~~domestic~~] abuse
4 resides or is found;

5 [~~D. "domestic abuse":~~

6 ~~(1) means an incident of stalking or sexual~~
7 ~~assault whether committed by a household member or not;~~

8 ~~(2) means an incident by a household member~~
9 ~~against another household member consisting of or resulting in:~~

10 ~~(a) physical harm;~~

11 ~~(b) severe emotional distress;~~

12 ~~(c) bodily injury or assault;~~

13 ~~(d) a threat causing imminent fear of~~
14 ~~bodily injury by any household member;~~

15 ~~(e) criminal trespass;~~

16 ~~(f) criminal damage to property;~~

17 ~~(g) repeatedly driving by a residence or~~
18 ~~work place;~~

19 ~~(h) telephone harassment;~~

20 ~~(i) harassment;~~

21 ~~(j) strangulation;~~

22 ~~(k) suffocation; or~~

23 ~~(l) harm or threatened harm to children~~
24 ~~as set forth in this paragraph; and~~

25 ~~(3) does not mean the use of force in self-~~

1 ~~defense or the defense of another;]~~

2 E. "firearm" means any weapon that will or is
3 designed to or may readily be converted to expel a projectile
4 by the action of an explosion or the frame or receiver of any
5 such weapon;

6 F. "household member" means a spouse, former
7 spouse, parent, present or former stepparent, present or former
8 parent-in-law, grandparent, grandparent-in-law, child,
9 stepchild, grandchild, co-parent of a child or a person with
10 whom the petitioner has had a continuing personal relationship.
11 Cohabitation is not necessary to be deemed a household member
12 for purposes of this section;

13 G. "law enforcement officer" means a public
14 official or public officer vested by law with a duty to
15 maintain public order or to make arrests for crime, whether
16 that duty extends to all crimes or is limited to specific
17 crimes;

18 H. "mutual order of protection" means an order of
19 protection that includes provisions that protect both parties;

20 I. "order of protection" means an injunction or a
21 restraining or other court order granted for the protection of
22 a victim of ~~[domestic]~~ abuse;

23 J. "protected party" means a person protected by an
24 order of protection;

25 K. "restrained party" means a person who is

1 restrained by an order of protection;

2 L. "strangulation" has the same meaning as set
3 forth in Section 30-3-11 NMSA 1978; and

4 M. "suffocation" has the same meaning as set forth
5 in Section 30-3-11 NMSA 1978."

6 SECTION 3. Section 40-13-3 NMSA 1978 (being Laws 1987,
7 Chapter 286, Section 3, as amended) is amended to read:

8 "40-13-3. PETITION FOR ORDER OF PROTECTION--CONTENTS--
9 STANDARD FORMS.--

10 A. A victim of [~~domestic~~] abuse may petition the
11 court under the Family Violence Protection Act for an order of
12 protection.

13 B. The petition shall be made under oath or shall
14 be accompanied by a sworn affidavit setting out specific facts
15 showing the alleged [~~domestic~~] abuse.

16 C. The petition shall state whether any other
17 domestic action is pending between the petitioner and the
18 respondent.

19 D. If any other domestic action is pending between
20 the petitioner and the respondent, the parties shall not be
21 compelled to mediate any aspect of the case arising from the
22 Family Violence Protection Act unless the court finds that
23 appropriate safeguards exist to protect each of the parties and
24 that both parties can fairly mediate with such safeguards.

25 E. An action brought under the Family Violence

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1 Protection Act is independent of any proceeding for annulment,
2 separation or divorce between the parties.

3 F. Remedies granted pursuant to the Family Violence
4 Protection Act are in addition to and shall not limit other
5 civil or criminal remedies available to the parties.

6 G. Standard simplified petition forms with
7 instructions for completion shall be available to all parties.
8 Law enforcement agencies shall keep such forms and make them
9 available upon request to alleged victims of [~~domestic~~] abuse."

10 SECTION 4. Section 40-13-3.1 NMSA 1978 (being Laws 1995,
11 Chapter 176, Section 1, as amended) is amended to read:

12 "40-13-3.1. FORBEARANCE OF COSTS ASSOCIATED WITH
13 [~~DOMESTIC~~] ABUSE OFFENSES.--

14 A. An alleged victim of [~~domestic~~] abuse shall not
15 be required to bear the cost of:

16 (1) the prosecution of a misdemeanor or felony
17 offense arising out of an incident of [~~domestic~~] abuse,
18 including costs associated with filing a criminal charge
19 against the alleged perpetrator of the abuse;

20 (2) the filing, issuance or service of a
21 warrant;

22 (3) the filing, issuance or service of a
23 witness subpoena;

24 (4) the filing, issuance or service of a
25 petition for an order of protection;

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1 (5) the filing, issuance or service of an
2 order of protection; or

3 (6) obtaining law enforcement reports or
4 photographs or copies of photographs relating to the alleged
5 abuse or pattern of abuse.

6 B. No witness fee shall be charged where prohibited
7 by federal law."

8 SECTION 5. Section 40-13-3.2 NMSA 1978 (being Laws 1999,
9 Chapter 142, Section 2, as amended) is amended to read:

10 "40-13-3.2. EX PARTE EMERGENCY ORDERS OF PROTECTION.--

11 A. The district court may issue an ex parte written
12 emergency order of protection when a law enforcement officer
13 states to the court in person, by telephone or via facsimile
14 and files a sworn written statement, setting forth the need for
15 an emergency order of protection, and the court finds
16 reasonable grounds to believe that the alleged victim or the
17 alleged victim's child is in immediate danger of [domestic]
18 abuse following an incident of [domestic] abuse. The written
19 statement shall include the location and telephone number of
20 the alleged perpetrator, if known.

21 B. A law enforcement officer who receives an
22 emergency order of protection, whether in writing, by telephone
23 or by facsimile transmission, from the court shall:

24 (1) if necessary, pursuant to the judge's oral
25 approval, write and sign the order on an approved form;

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1 (2) if possible, immediately serve a signed
2 copy of the order on the restrained party and complete the
3 appropriate affidavit of service;

4 (3) immediately provide the protected party
5 with a signed copy of the order; and

6 (4) provide the original order to the court by
7 the close of business on the next judicial day.

8 C. The court may grant the following relief in an
9 emergency order of protection upon a probable cause finding
10 that [~~domestic~~] abuse has occurred:

11 (1) enjoin the restrained party from
12 threatening to commit or committing acts of [~~domestic~~] abuse
13 against the protected party or any designated household
14 members;

15 (2) enjoin the restrained party from any
16 contact with the protected party, including harassing,
17 telephoning, contacting or otherwise communicating with the
18 protected party; and

19 (3) grant temporary custody of any minor child
20 in common with the parties to the protected party, if
21 necessary.

22 D. A district judge shall be available as
23 determined by each judicial district to hear petitions for
24 emergency orders of protection.

25 E. An emergency order of protection expires

1 seventy-two hours after issuance or at the end of the next
2 judicial day, whichever time is latest. The expiration date
3 shall be clearly stated on the emergency order of protection.

4 F. A person may appeal the issuance of an emergency
5 order of protection to the court that issued the order. An
6 appeal may be heard as soon as the judicial day following the
7 issuance of the order.

8 G. Upon a proper petition, a district court may
9 issue a temporary order of protection that is based upon the
10 same incident of [~~domestic~~] abuse that was alleged in an
11 emergency order of protection.

12 H. Emergency orders of protection are enforceable
13 in the same manner as other orders of protection issued
14 pursuant to the provisions of the Family Violence Protection
15 Act."

16 SECTION 6. Section 40-13-4 NMSA 1978 (being Laws 1987,
17 Chapter 286, Section 4, as amended) is amended to read:

18 "40-13-4. TEMPORARY ORDER OF PROTECTION--HEARING--
19 DISMISSAL.--

20 A. Upon the filing of a petition for order of
21 protection, the court shall:

22 (1) immediately grant an ex parte temporary
23 order of protection without bond if there is probable cause
24 from the specific facts shown by the affidavit or by the
25 petition to give the judge reason to believe that an act of

1 ~~[domestic]~~ abuse has occurred and:

2 ~~[(2)]~~ (a) cause the temporary order of
3 protection together with notice of hearing to be served
4 immediately on the alleged perpetrator of the ~~[domestic]~~ abuse;
5 and

6 ~~[(3)]~~ (b) within ten days after the
7 granting of the temporary order of protection, hold a hearing
8 on the question of continuing the order; or

9 ~~[(4)]~~ (2) if an ex parte order is not granted,
10 serve notice to appear upon the parties and hold a hearing on
11 the petition for order of protection within seventy-two hours
12 after the filing of the petition; provided if notice of hearing
13 cannot be served within seventy-two hours, the temporary order
14 of protection shall be automatically extended for ten days.

15 B. If the court grants a temporary order of
16 protection, it may award temporary custody and visitation of
17 any children involved when appropriate.

18 C. Except for petitions alleging stalking or sexual
19 assault, if the court finds that the alleged perpetrator is not
20 a household member, the court shall dismiss the petition."

21 SECTION 7. Section 40-13-5 NMSA 1978 (being Laws 1987,
22 Chapter 286, Section 5, as amended) is amended to read:

23 "40-13-5. ORDER OF PROTECTION--CONTENTS--REMEDIES--TITLE
24 TO PROPERTY NOT AFFECTED--MUTUAL ORDER OF PROTECTION.--

25 A. Upon finding that ~~[domestic]~~ abuse has occurred

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1 or upon stipulation of the parties, the court shall enter an
2 order of protection ordering the restrained party to:

3 (1) refrain from abusing the protected party
4 or any other household member; and

5 (2) if the order is issued pursuant to this
6 section and if the court also determines that the restrained
7 party presents a credible threat to the physical safety of the
8 household member after the restrained party has received notice
9 and had an opportunity to be heard or by stipulation of the
10 parties, to:

11 (a) deliver any firearm in the
12 restrained party's possession, care, custody or control to a
13 law enforcement agency, law enforcement officer or federal
14 firearms licensee while the order of protection is in effect;
15 and

16 (b) refrain from purchasing, receiving,
17 or possessing or attempting to purchase, receive or possess any
18 firearm while the order of protection is in effect.

19 B. In an order of protection entered pursuant to
20 Subsection A of this section, the court shall specifically
21 describe the acts the court has ordered the restrained party to
22 do or refrain from doing. As a part of any order of
23 protection, the court may:

24 (1) grant sole possession of the residence or
25 household to the protected party during the period the order of

1 protection is effective or order the restrained party to
2 provide temporary suitable alternative housing for the
3 protected party and any children to whom the restrained party
4 owes a legal obligation of support;

5 (2) award temporary custody of any children
6 involved when appropriate and provide for visitation rights,
7 child support and temporary support for the protected party on
8 a basis that gives primary consideration to the safety of the
9 protected party and the children;

10 (3) order that the restrained party shall not
11 initiate contact with the protected party;

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

19 (5) grant a party exclusive or shared
20 possession and control of an animal kept, owned or leased by
21 either party or by a child residing with either party or
22 prohibit a party from interacting with, taking, transferring,
23 concealing, mistreating, harming or disposing of the animal;

24 [~~5~~] (6) order the restrained party to
25 reimburse the protected party or any other household member for

1 expenses reasonably related to the occurrence of [~~domestic~~]
2 abuse, including medical expenses, counseling expenses, the
3 expense of seeking temporary shelter, expenses for the
4 replacement or repair of damaged property or the expense of
5 lost wages;

6 [~~(6)~~] (7) order the restrained party to
7 participate in, at the restrained party's expense, professional
8 counseling programs deemed appropriate by the court, including
9 counseling programs for perpetrators of [~~domestic~~] abuse,
10 alcohol abuse or abuse of controlled substances; and

11 [~~(7)~~] (8) order other injunctive relief as the
12 court deems necessary for the protection of a party, including
13 orders to law enforcement agencies as provided by this section.

14 C. The order of protection shall contain notice
15 that violation of any provision of the order of protection is a
16 violation of state law and that federal law, 18 U.S.C. 922, et
17 seq., prohibits possession of firearms by certain persons.

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

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1 transferred to the court that has or continues to have
2 jurisdiction over the pending or prior custody or support
3 action.

4 E. A mutual order of protection shall be issued
5 only in cases where both parties have petitioned the court and
6 the court makes detailed findings of fact indicating that both
7 parties acted primarily as aggressors and that neither party
8 acted primarily in self-defense.

9 F. No order issued under the Family Violence
10 Protection Act shall affect title to any property or allow a
11 party to transfer, conceal, encumber or otherwise dispose of
12 another party's property or the joint or community property of
13 the parties.

14 G. Either party may request a review hearing to
15 amend an order of protection. An order of protection involving
16 child custody or support may be modified without proof of a
17 substantial or material change of circumstances.

18 H. An order of protection shall not be issued
19 unless a petition or a counter petition has been filed."

20 SECTION 8. Section 40-13-6 NMSA 1978 (being Laws 1987,
21 Chapter 286, Section 6, as amended) is amended to read:

22 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES
23 NOT EXCLUSIVE.--

24 A. An order of protection granted under the Family
25 Violence Protection Act shall be filed with the clerk of the

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1 court, and a copy shall be sent by the clerk to the local law
2 enforcement agency. The order shall be personally served upon
3 the restrained party, unless the restrained party or the
4 restrained party's attorney was present at the time the order
5 was issued. The order shall be filed and served without cost
6 to the protected party.

7 B. A local law enforcement agency receiving an
8 order of protection from the clerk of the court that was issued
9 under the Family Violence Protection Act shall have the order
10 entered in the national crime information center's order of
11 protection file within seventy-two hours of receipt. This does
12 not include temporary orders of protection entered pursuant to
13 the provisions of Section 40-13-4 NMSA 1978.

14 C. An order of protection granted by the court
15 involving custody or support shall be effective for a fixed
16 period of time not to exceed six months. The order may be
17 extended for good cause upon motion of the protected party for
18 an additional period of time not to exceed six months.
19 Injunctive orders shall continue until modified or rescinded
20 upon motion by either party or until the court approves a
21 subsequent consent agreement entered into by the parties.

22 D. A peace officer may arrest without a warrant and
23 take into custody a restrained party ~~[whom]~~ who the peace
24 officer has probable cause to believe has violated an order of
25 protection that is issued pursuant to the Family Violence

1 Protection Act or entitled to full faith and credit.

2 E. A restrained party convicted of violating an
3 order of protection granted by a court under the Family
4 Violence Protection Act is guilty of a misdemeanor and shall be
5 sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a
6 second or subsequent conviction, an offender shall be sentenced
7 to a jail term of not less than seventy-two consecutive hours
8 that shall not be suspended, deferred or taken under
9 advisement.

10 F. In addition to any other punishment provided in
11 the Family Violence Protection Act, the court shall order a
12 person convicted to make full restitution to the party injured
13 by the violation of an order of protection and shall order the
14 person convicted to participate in and complete a program of
15 professional counseling, at the person's own expense, if
16 possible.

17 G. In addition to charging the person with
18 violating an order of protection, a peace officer shall file
19 all other possible criminal charges arising from an incident of
20 [~~domestic~~] abuse when probable cause exists.

21 H. The remedies provided in the Family Violence
22 Protection Act are in addition to any other civil or criminal
23 remedy available to the protected party or the state."

24 SECTION 9. Section 40-13-7 NMSA 1978 (being Laws 1987,
25 Chapter 286, Section 7, as amended) is amended to read:

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1 "40-13-7. LAW ENFORCEMENT OFFICERS--EMERGENCY
2 ASSISTANCE--LIMITED LIABILITY--PROVIDING NOTIFICATION TO
3 VICTIMS WHEN AN ALLEGED PERPETRATOR IS RELEASED FROM
4 DETENTION--STATEMENT IN JUDGMENT AND SENTENCE DOCUMENT.--

5 A. A person who allegedly has been a victim of
6 [~~domestic~~] abuse may request the assistance of a local law
7 enforcement agency.

8 B. A local law enforcement officer responding to
9 the request for assistance shall be required to take whatever
10 steps are reasonably necessary to protect the victim from
11 further [~~domestic~~] abuse, including:

12 (1) advising the victim of the remedies
13 available under the Family Violence Protection Act; the right
14 to file a written statement, a criminal complaint and a request
15 for an arrest warrant; and the availability of domestic
16 violence shelters, medical care, counseling and other services;

17 (2) upon the request of the victim, providing
18 or arranging for transportation of the victim to a medical
19 facility or place of shelter;

20 (3) upon the request of the victim,
21 accompanying the victim to the victim's residence to obtain the
22 victim's clothing and personal effects required for immediate
23 needs and the clothing and personal effects of any children
24 then in the care of the victim;

25 (4) upon the request of the victim, assist in

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1 placing the victim in possession of the dwelling or premises or
2 otherwise assist in execution, enforcement or service of an
3 order of protection;

4 (5) arresting the alleged perpetrator when
5 appropriate and including a written statement in the attendant
6 police report to indicate that the arrest of the alleged
7 perpetrator was, in whole or in part, premised upon probable
8 cause to believe that the alleged perpetrator committed
9 [domestic] abuse against the victim and, when appropriate,
10 indicate that the party arrested was the predominant aggressor;
11 and

12 (6) advising the victim when appropriate of
13 the procedure for initiating proceedings under the Family
14 Violence Protection Act or criminal proceedings and of the
15 importance of preserving evidence.

16 C. The jail or detention center shall make a
17 reasonable attempt to notify the arresting law enforcement
18 agency or officer when the alleged perpetrator is released from
19 custody. The arresting law enforcement agency shall make a
20 reasonable attempt to notify the victim that the alleged
21 perpetrator is released from custody.

22 D. Any law enforcement officer responding to a
23 request for assistance under the Family Violence Protection Act
24 is immune from civil liability to the extent allowed by law.
25 Any jail, detention center or law enforcement agency that makes

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1 a reasonable attempt to provide notification that an alleged
2 perpetrator is released from custody is immune from civil
3 liability to the extent allowed by law.

4 E. A statement shall be included in a judgment and
5 sentence document to indicate when a conviction results from
6 the commission of [~~domestic~~] abuse."

7 SECTION 10. Section 40-13-7.1 NMSA 1978 (being Laws
8 2005, Chapter 281, Section 1) is amended to read:

9 "40-13-7.1. MEDICAL PERSONNEL--DOCUMENTATION OF
10 [~~DOMESTIC~~] ABUSE.--

11 A. When medical personnel who are interviewing,
12 examining, attending or treating a person:

13 (1) receive a report from the person of an act
14 of [~~domestic~~] abuse, the medical personnel shall document the
15 nature of the abuse and the name of the alleged perpetrator of
16 the abuse in the person's medical file and shall provide the
17 person with information and referral to services for victims of
18 [~~domestic~~] abuse; or

19 (2) may have reason to believe or suspect that
20 the person is a victim of [~~domestic~~] abuse, the medical
21 personnel shall provide the person with information and
22 referral to services for victims of [~~domestic~~] abuse.

23 B. Medical and other health-care-related
24 information or communications concerning [~~domestic~~] abuse of a
25 person obtained by or from medical personnel during the course

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1 of an interview, examination, diagnosis or treatment are
2 confidential communications unless released:

3 (1) with the prior written consent of the
4 person;

5 (2) pursuant to a court order; or

6 (3) when necessary to provide treatment,
7 payment and operations in accordance with the federal Health
8 Insurance Portability and Accountability Act.

9 C. As used in this section, "medical personnel"
10 means:

11 (1) licensed health care practitioners;

12 (2) licensed emergency medical technicians;

13 (3) health care practitioners who interview,
14 examine, attend or treat a person and who are under the
15 guidance or supervision of licensed health care practitioners;
16 and

17 (4) residents and interns."