

1 SENATE BILL 85

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

10 AN ACT

11 RELATING TO MILITARY AFFAIRS; AMENDING THE ABUSE AND NEGLECT  
12 ACT AND THE FAMILY VIOLENCE PROTECTION ACT TO REQUIRE NOTICE TO  
13 A DESIGNATED AUTHORITY OF THE MILITARY INSTALLATION IF A PERSON  
14 INVOLVED IN AN ALLEGATION OF CHILD ABUSE AND NEGLECT OR  
15 DOMESTIC ABUSE IS A MEMBER OF THE UNITED STATES MILITARY AND TO  
16 SEEK MEMORANDA OF UNDERSTANDING WITH UNITED STATES MILITARY  
17 INSTALLATIONS IN NEW MEXICO TO FACILITATE THIS NOTICE  
18 REQUIREMENT; REQUIRING THAT THE COURT ALLOW REMOTE APPEARANCES  
19 IN A HEARING FOR A DOMESTIC VIOLENCE ORDER OF PROTECTION;  
20 REQUIRING THAT A COPY OF A DOMESTIC VIOLENCE ORDER OF  
21 PROTECTION BE SENT TO A DESIGNATED AUTHORITY OF THE MILITARY  
22 INSTALLATION IF A PARTY TO THE ORDER IS A MEMBER OF THE UNITED  
23 STATES MILITARY; MAKING CONFORMING AMENDMENTS.

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

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1                   SECTION 1. Section 32A-4-3 NMSA 1978 (being Laws 1993,  
2 Chapter 77, Section 97, as amended) is amended to read:

3                   "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD  
4 NEGLECT--RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--  
5 PENALTY--NOTIFICATION OF PLAN OF SAFE CARE.--

6                   A. Every person, including a licensed physician; a  
7 resident or an intern examining, attending or treating a child;  
8 a law enforcement officer; a judge presiding during a  
9 proceeding; a registered nurse; a visiting nurse; a school  
10 employee; a social worker acting in an official capacity; or a  
11 member of the clergy who has information that is not privileged  
12 as a matter of law, who knows or has a reasonable suspicion  
13 that a child is an abused or a neglected child shall report the  
14 matter immediately to:

15                   (1) a local law enforcement agency;  
16                   (2) the department; or  
17                   (3) a tribal law enforcement or social  
18 services agency for any Indian child residing in Indian  
19 country.

20                   B. A law enforcement agency receiving the report  
21 shall immediately transmit the facts of the report and the  
22 name, address and phone number of the reporter by telephone to  
23 the department and shall transmit the same information in  
24 writing within forty-eight hours. The department shall  
25 immediately transmit the facts of the report and the name,

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1 address and phone number of the reporter by telephone to a  
2 local law enforcement agency and shall transmit the same  
3 information in writing within forty-eight hours. The written  
4 report shall contain the names and addresses of the child and  
5 the child's parents, guardian or custodian, the child's age,  
6 the nature and extent of the child's injuries, including any  
7 evidence of previous injuries, and other information that the  
8 maker of the report believes might be helpful in establishing  
9 the cause of the injuries and the identity of the person  
10 responsible for the injuries. The written report shall be  
11 submitted upon a standardized form agreed to by the law  
12 enforcement agency and the department.

13                   C. The recipient of a report under Subsection A of  
14 this section shall take immediate steps to ensure prompt  
15 investigation of the report. The investigation shall ensure  
16 that immediate steps are taken to protect the health or welfare  
17 of the alleged abused or neglected child, as well as that of  
18 any other child under the same care who may be in danger of  
19 abuse or neglect. A local law enforcement officer trained in  
20 the investigation of child abuse and neglect is responsible for  
21 investigating reports of alleged child abuse or neglect at  
22 schools, daycare facilities or child care facilities.

23                   D. If the child alleged to be abused or neglected  
24 is in the care or control of or in a facility administratively  
25 connected to the department, the report shall be investigated

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1 by a local law enforcement officer trained in the investigation  
2 of child abuse and neglect. The investigation shall ensure  
3 that immediate steps are taken to protect the health or welfare  
4 of the alleged abused or neglected child, as well as that of  
5 any other child under the same care who may be in danger of  
6 abuse or neglect.

7                   E. A law enforcement agency or the department shall  
8 have access to any of the records pertaining to a child abuse  
9 or neglect case maintained by any of the persons enumerated in  
10 Subsection A of this section, except as otherwise provided in  
11 the Abuse and Neglect Act.

12                   F. A person who violates the provisions of  
13 Subsection A of this section is guilty of a misdemeanor and  
14 shall be sentenced pursuant to the provisions of Section  
15 31-19-1 NMSA 1978.

16                   G. A finding that a pregnant [woman] person is  
17 using or abusing drugs made pursuant to an interview, self-  
18 report, clinical observation or routine toxicology screen shall  
19 not alone form a sufficient basis to report child abuse or  
20 neglect to the department pursuant to Subsection A of this  
21 section. A volunteer, contractor or staff of a hospital or  
22 freestanding birthing center shall not make a report based  
23 solely on that finding and shall make a notification pursuant  
24 to Subsection H of this section. Nothing in this subsection  
25 shall be construed to prevent a person from reporting to the

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1 department a reasonable suspicion that a child is an abused or  
2 neglected child based on other criteria as defined by Section  
3 32A-4-2 NMSA 1978, or a combination of criteria that includes a  
4 finding pursuant to this subsection.

5 H. A contractor or staff of a hospital,  
6 freestanding birthing center or clinic that provides prenatal  
7 or perinatal care shall:

8 (1) complete a written plan of safe care for a  
9 substance-exposed newborn or a pregnant person who agrees to  
10 creating a plan of safe care, as provided for by department  
11 rule and the Children's Code; and

12 (2) provide notification to the health care  
13 authority. Notification by a health care provider pursuant to  
14 this paragraph shall not be construed as a report of child  
15 abuse or neglect.

16 I. When investigating a report of abuse or  
17 neglect, if a local law enforcement agency or the department  
18 determines that a member of the United States military is  
19 involved in the underlying allegation, the agency or the  
20 department shall notify a designated authority for the military  
21 installation to which the member is assigned. Local law  
22 enforcement agencies and the department shall seek memoranda of  
23 understanding with a designated authority for each military  
24 installation in the state to facilitate the requirements of  
25 this section.

1                   [~~I.~~] J. As used in this section, "notification"  
2 means informing the health care authority that a substance-  
3 exposed newborn was born and providing a copy of the plan of  
4 safe care that was created for the child; provided that  
5 notification shall comply with federal guidelines and shall not  
6 constitute a report of child abuse or neglect. The health care  
7 authority shall be responsible for ensuring compliance with  
8 federal reporting requirements related to plans of safe care.

9                   [~~J.~~] K. As used in this section, "school employee"  
10 includes employees of a school district or a public school."

11                  **SECTION 2.** Section 40-13-3 NMSA 1978 (being Laws 1987,  
12 Chapter 286, Section 3, as amended) is amended to read:

13                  "40-13-3. PETITION FOR ORDER OF PROTECTION--CONTENTS--  
14 STANDARD FORMS--HEARINGS--

15                  A. A victim of domestic abuse may petition the  
16 court under the Family Violence Protection Act for an order of  
17 protection.

18                  B. The petition shall be made under oath or shall  
19 be accompanied by a sworn affidavit setting out specific facts  
20 showing the alleged domestic abuse.

21                  C. The petition shall state whether any other  
22 domestic action is pending between the petitioner and the  
23 respondent.

24                  D. If any other domestic action is pending between  
25 the petitioner and the respondent, the parties shall not be

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compelled to mediate any aspect of the case arising from the Family Violence Protection Act unless the court finds that appropriate safeguards exist to protect each of the parties and that both parties can fairly mediate with such safeguards.

E. An action brought under the Family Violence Protection Act is independent of any proceeding for annulment, separation or divorce between the parties.

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

G. Standard simplified petition forms with instructions for completion shall be available to all parties. Law enforcement agencies shall keep such forms and make them available upon request to alleged victims of domestic abuse.

H. At a hearing on a petition for any order of protection provided for in the Family Violence Protection Act, the court shall authorize the remote appearance by digital or telephonic means for all parties if requested."

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

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

A. An order of protection granted under the Family Violence Protection Act shall be filed with the clerk of the court, and a copy shall be sent by the clerk to the local law

1 enforcement agency and, if a party is a member of the United  
2 States military, to a designated authority for the military  
3 installation to which the party is assigned. The order shall  
4 be personally served upon the restrained party, unless the  
5 restrained party or the restrained party's attorney was present  
6 at the time the order was issued. The order shall be filed and  
7 served without cost to the protected party.

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

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

23 D. A peace officer may arrest without a warrant and  
24 take into custody a restrained party [whom] who the peace  
25 officer has probable cause to believe has violated an order of

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protection that is issued pursuant to the Family Violence Protection Act or entitled to full faith and credit.

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

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

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

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

SECTION 4. Section 40-13-7 NMSA 1978 (being Laws 1987,

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1 Chapter 286, Section 7, as amended) is amended to read:

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

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

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

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

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

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

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(4) upon the request of the victim, assist in placing the victim in possession of the dwelling or premises or otherwise assist in execution, enforcement or service of an order of protection;

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

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

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

D. Any law enforcement officer responding to a request for assistance under the Family Violence Protection Act is immune from civil liability to the extent allowed by law.

1 Any jail, detention center or law enforcement agency that makes  
2 a reasonable attempt to provide notification that an alleged  
3 perpetrator is released from custody is immune from civil  
4 liability to the extent allowed by law.

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

8 F. If a law enforcement officer responding to a  
9 request for assistance determines that a member of the United  
10 States military is involved in the underlying allegation, the  
11 officer shall notify a designated authority for the military  
12 installation to which the member is assigned. Local law  
13 enforcement agencies shall seek memoranda of understanding with  
14 a designated authority for each military installation in the  
15 state to facilitate the requirements of this section."

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