

1 SENATE BILL 94

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

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

10 AN ACT

11 RELATING TO DOMESTIC VIOLENCE CRIMINAL OFFENSES; AMENDING
12 SECTIONS 30-3-12 THROUGH 30-3-18 NMSA 1978 (BEING LAWS 1995,
13 CHAPTER 221, SECTIONS 3 THROUGH 7, LAWS 2008, CHAPTER 16,
14 SECTION 4 AND LAWS 2009, CHAPTER 255, SECTION 2) AND
15 SUBSECTIONS E AND F OF SECTION 40-13-6 NMSA 1978 (BEING LAWS
16 1987, CHAPTER 286, SECTION 6, AS AMENDED); PROVIDING THAT A
17 PERSON CONVICTED OF AND SENTENCED FOR CRIMINAL OFFENSES
18 PROVIDED IN THOSE SECTIONS SHALL PARTICIPATE IN AND COMPLETE A
19 DOMESTIC VIOLENCE OFFENDER TREATMENT OR INTERVENTION PROGRAM
20 APPROVED BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;
21 PROVIDING THAT A PERSON WHO VIOLATES A CONDITION OF PROBATION
22 ORDERED PURSUANT TO A SUSPENDED OR DEFERRED SENTENCE MAY BE
23 SUBJECT TO ANY SENTENCE THE COURT COULD ORIGINALLY HAVE IMPOSED
24 AND NOT RECEIVE CREDIT FOR TIME SERVED ON PROBATION; MAKING
25 CONFORMING AMENDMENTS.

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

3 SECTION 1. Section 30-3-12 NMSA 1978 (being Laws 1995,
4 Chapter 221, Section 3) is amended to read:

5 "30-3-12. ASSAULT AGAINST A HOUSEHOLD MEMBER.--

6 A. Assault against a household member consists of:

7 (1) an attempt to commit a battery against a
8 household member; or

9 (2) any unlawful act, threat or menacing
10 conduct that causes a household member to reasonably believe
11 that [he] the household member is in danger of receiving an
12 immediate battery.

13 B. Whoever commits assault against a household
14 member is guilty of a petty misdemeanor.

15 C. Upon conviction pursuant to this section, an
16 offender shall be required to participate in and complete a
17 domestic violence offender treatment or intervention program
18 approved by the children, youth and families department
19 pursuant to rules promulgated by the department that define the
20 criteria for such programs.

21 D. If a sentence imposed pursuant to this section
22 is suspended or deferred in whole or in part, the period of
23 probation may extend beyond one hundred eighty-two days but
24 shall not exceed one year. If an offender violates a condition
25 of probation, as a sanction for that violation, the court may

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1 impose any sentence that the court was authorized to impose
2 upon the offender's conviction, and credit shall not be given
3 for time served by the offender on probation; provided that the
4 total period of incarceration shall not exceed one hundred
5 eighty-two days and the combined period of incarceration and
6 probation shall not exceed one year."

7 SECTION 2. Section 30-3-13 NMSA 1978 (being Laws 1995,
8 Chapter 221, Section 4) is amended to read:

9 "30-3-13. AGGRAVATED ASSAULT AGAINST A HOUSEHOLD
10 MEMBER.--

11 A. Aggravated assault against a household member
12 consists of:

13 (1) unlawfully assaulting or striking at a
14 household member with a deadly weapon; or

15 (2) willfully and intentionally assaulting a
16 household member with intent to commit any felony.

17 B. Whoever commits aggravated assault against a
18 household member is guilty of a fourth degree felony.

19 C. Upon conviction pursuant to this section, an
20 offender shall be required to participate in and complete a
21 domestic violence offender treatment or intervention program
22 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 D. If a sentence imposed pursuant to this section

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1 is suspended or deferred in whole or in part and an offender
2 violates a condition of probation, as a sanction for that
3 violation, the court may impose any sentence that the court was
4 authorized to impose upon the offender's conviction, and credit
5 shall not be given for time served by the offender on
6 probation; provided that the combined period of incarceration
7 and probation shall not exceed the maximum period of
8 incarceration for the sentence that was suspended or deferred."

9 SECTION 3. Section 30-3-14 NMSA 1978 (being Laws 1995,
10 Chapter 221, Section 5) is amended to read:

11 "30-3-14. ASSAULT AGAINST A HOUSEHOLD MEMBER WITH INTENT
12 TO COMMIT A VIOLENT FELONY.--

13 A. Assault against a household member with intent
14 to commit a violent felony consists of any person assaulting a
15 household member with intent to kill or commit any murder,
16 mayhem, criminal sexual penetration in the first, second or
17 third degree, robbery, kidnapping, false imprisonment or
18 burglary.

19 B. Whoever commits assault against a household
20 member with intent to commit a violent felony is guilty of a
21 third degree felony.

22 C. Upon conviction pursuant to this section, an
23 offender shall be required to participate in and complete a
24 domestic violence offender treatment or intervention program
25 approved by the children, youth and families department

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1 pursuant to rules promulgated by the department that define the
2 criteria for such programs.

3 D. If a sentence imposed pursuant to this section
4 is suspended or deferred in whole or in part and an offender
5 violates a condition of probation, as a sanction for that
6 violation, the court may impose any sentence that the court was
7 authorized to impose upon the offender's conviction, and credit
8 shall not be given for time served by the offender on
9 probation; provided that the combined period of incarceration
10 and probation shall not exceed the maximum period of
11 incarceration for the sentence that was suspended or deferred."

12 SECTION 4. Section 30-3-15 NMSA 1978 (being Laws 1995,
13 Chapter 221, Section 6, as amended) is amended to read:

14 "30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

15 A. Battery against a household member consists of
16 the unlawful, intentional touching or application of force to
17 the person of a household member, when done in a rude, insolent
18 or angry manner.

19 B. Whoever commits battery against a household
20 member is guilty of a misdemeanor.

21 C. Upon conviction pursuant to this section, an
22 offender shall be required to participate in and complete a
23 domestic violence offender treatment or intervention program
24 approved by the children, youth and families department
25 pursuant to rules promulgated by the department that define the

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1 criteria for such programs.

2 D. ~~[Notwithstanding any provision of law to the~~
3 ~~contrary]~~ If a sentence imposed pursuant to this section is
4 suspended or deferred in whole or in part, the period of
5 probation may extend beyond three hundred sixty-four days but
6 may not exceed two years. If an offender violates a condition
7 of probation, as a sanction for that violation, the court may
8 impose any sentence that the court ~~[could originally have~~
9 ~~imposed]~~ was authorized to impose upon the offender's
10 conviction, and credit shall not be given for time served by
11 the offender on probation; provided that the total period of
12 incarceration shall not exceed three hundred sixty-four days
13 and the combined period of incarceration and probation shall
14 not exceed two years."

15 SECTION 5. Section 30-3-16 NMSA 1978 (being Laws 1995,
16 Chapter 221, Section 7, as amended) is amended to read:

17 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD
18 MEMBER.--

19 A. Aggravated battery against a household member
20 consists of the unlawful touching or application of force to
21 the person of a household member with intent to injure that
22 person or another.

23 B. Whoever commits aggravated battery against a
24 household member is guilty of a misdemeanor if the aggravated
25 battery against a household member is committed by inflicting

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1 an injury to that person that is not likely to cause death or
2 great bodily harm, but that does cause painful temporary
3 disfigurement or temporary loss or impairment of the functions
4 of any member or organ of the body.

5 C. Whoever commits aggravated battery against a
6 household member is guilty of a third degree felony if the
7 aggravated battery against a household member is committed:

- 8 (1) by inflicting great bodily harm;
- 9 (2) with a deadly weapon;
- 10 (3) by strangulation or suffocation; or
- 11 (4) in any manner whereby great bodily harm or
12 death can be inflicted.

13 D. Upon conviction pursuant to [Subsection B of]
14 this section, an offender shall be required to participate in
15 and complete a domestic violence offender treatment or
16 intervention program approved by the children, youth and
17 families department pursuant to rules promulgated by the
18 department that define the criteria for such programs.

19 E. [Notwithstanding any provision of law to the
20 contrary] If [a] an offender is convicted of a misdemeanor
21 pursuant to this section and the sentence imposed [pursuant to
22 the provisions of Subsection B of this section] is suspended or
23 deferred in whole or in part, the period of probation may
24 extend beyond three hundred sixty-four days but may not exceed
25 two years; provided that if an offender violates a condition of

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1 probation, the court may impose any sentence that the court
2 [could originally have imposed] was authorized to impose upon
3 the offender's conviction, and credit shall not be given for
4 time served by the offender on probation; and provided further
5 that the total period of incarceration shall not exceed three
6 hundred sixty-four days and the combined period of
7 incarceration and probation shall not exceed two years.

8 F. If an offender is convicted of a felony pursuant
9 to this section and the sentence imposed is suspended or
10 deferred in whole or in part and the offender violates a
11 condition of probation, as a sanction for that violation, the
12 court may impose any sentence that the court was authorized to
13 impose upon the offender's conviction, and credit shall not be
14 given for time served by the offender on probation; provided
15 that the combined period of incarceration and probation shall
16 not exceed the maximum period of incarceration for the sentence
17 that was suspended or deferred."

18 SECTION 6. Section 30-3-17 NMSA 1978 (being Laws 2008,
19 Chapter 16, Section 4) is amended to read:

20 "30-3-17. MULTIPLE CONVICTIONS OF BATTERY OR AGGRAVATED
21 BATTERY.--

22 A. Whoever commits three offenses of battery
23 against a household member as provided in Section 30-3-15 NMSA
24 1978 or aggravated battery against a household member as
25 provided in Subsection B of Section 30-3-16 NMSA 1978, or any

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1 combination thereof, when the household member is a spouse, a
2 former spouse, a co-parent of a child or a person with whom the
3 offender has had a continuing personal relationship is guilty
4 of a fourth degree felony.

5 B. Whoever commits four or more offenses of battery
6 against a household member as provided in Section 30-3-15 NMSA
7 1978 or aggravated battery against a household member as
8 provided in Subsection B of Section 30-3-16 NMSA 1978, or any
9 combination thereof, when the household member is a spouse, a
10 former spouse, a co-parent of a child or a person with whom the
11 offender has had a continuing personal relationship is guilty
12 of a third degree felony.

13 C. For the purpose of determining the number of
14 offenses committed, each offense must have been committed after
15 conviction for the preceding offense.

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

22 E. If a sentence imposed pursuant to this section
23 is suspended or deferred in whole or in part and an offender
24 violates a condition of probation, as a sanction for that
25 violation, the court may impose any sentence that the court was

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1 authorized to impose upon the offender's conviction, and credit
2 shall not be given for time served by the offender on
3 probation; provided that the combined period of incarceration
4 and probation shall not exceed the maximum period of
5 incarceration for the sentence that was suspended or deferred."

6 SECTION 7. Section 30-3-18 NMSA 1978 (being Laws 2009,
7 Chapter 255, Section 2) is amended to read:

8 "30-3-18. CRIMINAL DAMAGE TO PROPERTY OF HOUSEHOLD
9 MEMBER--DEPRIVATION OF PROPERTY OF HOUSEHOLD MEMBER.--

10 A. Criminal damage to the property of a household
11 member consists of intentionally damaging real, personal,
12 community or jointly owned property of a household member with
13 the intent to intimidate, threaten or harass that household
14 member.

15 B. Whoever commits criminal damage to the property
16 of a household member is guilty of a misdemeanor, except that
17 when the damage to the household member's interest in the
18 property amounts to more than one thousand dollars (\$1,000),
19 the offender is guilty of a fourth degree felony.

20 C. Deprivation of the property of a household
21 member consists of intentionally depriving a household member
22 of the use of separate, community or jointly owned personal
23 property of the household member with the intent to intimidate
24 or threaten that household member.

25 D. Whoever commits deprivation of the property of a

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1 household member is guilty of a misdemeanor.

2 E. Upon conviction pursuant to this section, an
3 offender shall be required to participate in and complete a
4 domestic violence offender treatment or intervention program
5 approved by the children, youth and families department
6 pursuant to rules promulgated by the department that define the
7 criteria for such programs.

8 F. If an offender is convicted of a misdemeanor
9 pursuant to this section and the sentence imposed is suspended
10 or deferred in whole or in part, the period of probation may
11 extend beyond three hundred sixty-four days but shall not
12 exceed two years; provided that if the offender violates a
13 condition of probation, as a sanction for that violation, the
14 court may impose any sentence that the court was authorized to
15 impose upon the offender's conviction, and credit shall not be
16 given for time served by the offender on probation; and
17 provided further that the total period of incarceration shall
18 not exceed three hundred sixty-four days and the combined
19 period of incarceration and probation shall not exceed two
20 years.

21 G. If an offender is convicted of a felony pursuant
22 to this section and the sentence imposed is suspended or
23 deferred in whole or in part and the offender violates a
24 condition of probation, as a sanction for that violation, the
25 court may impose any sentence that the court was authorized to

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1 impose upon the offender's conviction, and credit shall not be
2 given for time served by the offender on probation; provided
3 that the combined period of incarceration and probation shall
4 not exceed the maximum period of incarceration for the sentence
5 that was suspended or deferred."

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

8 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES
9 NOT EXCLUSIVE.--

10 A. An order of protection granted under the Family
11 Violence Protection Act shall be filed with the clerk of the
12 court, and a copy shall be sent by the clerk to the local law
13 enforcement agency. The order shall be personally served upon
14 the restrained party, unless the restrained party or the
15 restrained party's attorney was present at the time the order
16 was issued. The order shall be filed and served without cost
17 to the protected party.

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

25 C. An order of protection granted by the court

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1 involving custody or support shall be effective for a fixed
2 period of time not to exceed six months. The order may be
3 extended for good cause upon motion of the protected party for
4 an additional period of time not to exceed six months.

5 Injunctive orders shall continue until modified or rescinded
6 upon motion by either party or until the court approves a
7 subsequent consent agreement entered into by the parties.

8 D. A peace officer may arrest without a warrant and
9 take into custody a restrained party [whom] who the peace
10 officer has probable cause to believe has violated an order of
11 protection that is issued pursuant to the Family Violence
12 Protection Act or entitled to full faith and credit.

13 E. A restrained party convicted of violating an
14 order of protection granted by a court under the Family
15 Violence Protection Act is guilty of a misdemeanor and shall be
16 sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a
17 second or subsequent conviction, an offender shall be sentenced
18 to a jail term of not less than seventy-two consecutive hours
19 that shall not be suspended, deferred or taken under
20 advisement. If a sentence imposed pursuant to this subsection
is suspended or deferred in whole or in part, the period of
probation may extend beyond three hundred sixty-four days but
shall not exceed two years; provided that if an offender
violates a condition of probation, as a sanction for that
violation, the court may impose any sentence that the court was

1 authorized to impose upon the offender's conviction, and credit
2 shall not be given for time served by the offender on
3 probation; and provided further that the total period of
4 incarceration shall not exceed three hundred sixty-four days
5 and the combined period of incarceration and probation shall
6 not exceed two years.

7 F. In addition to any other punishment provided in
8 the Family Violence Protection Act, the court shall order a
9 person convicted to make full restitution to the party injured
10 by the violation of an order of protection and shall order the
11 person convicted to participate in and complete a [program of
12 professional counseling, at the person's own expense, if
13 possible] domestic violence offender treatment or intervention
14 program approved by the children, youth and families department
15 pursuant to rules promulgated by the department that define the
16 criteria for such programs.

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. TEMPORARY PROVISION.**--If the children, youth
25 and families department has not promulgated the rules required

1 by this act by the effective date of this act, the department
2 shall promulgate the rules on or before July 1, 2026.

3 **SECTION 10. APPLICABILITY.--**The provisions of Sections 1
4 through 8 of this act apply to sentences imposed for crimes
5 committed on or after July 1, 2026.

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