

1 SENATE BILL

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

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

10 AN ACT

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

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "40-13-1.1. LEGISLATIVE FINDINGS--STATE POLICY--DUAL  
23 ARRESTS.--The legislature finds that [domestic] abuse incidents  
24 are complex and require special training on the part of law  
25 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

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lived together at any time;

[C.] D. "court" means the district court of the judicial district where an alleged victim of [domestic] abuse resides or is found;

[D.] "domestic abuse":

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

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

(a) physical harm;

(b) severe emotional distress;

(c) bodily injury or assault;

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

(e) criminal trespass;

(f) criminal damage to property;

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

(h) telephone harassment;

(i) harassment;

(j) strangulation;

(k) suffocation; or

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

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. An emergency order of protection expires

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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

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[domestic] abuse has occurred and:

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

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

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

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

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

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

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

A. Upon finding that [domestic] abuse has occurred

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

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."

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