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HOUSE BILL 389

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

GAIL C. BEAM

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING FOR FILING OF ORDERS OF PROTECTION WITHOUT COST.

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

Section 1. 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 enforcement agency. The order shall be personally served upon the respondent, unless he or his attorney was present at the time the order was issued. The order shall be filed and served without cost to the petitioner.

Underscored material = new
[bracketed material] = delete

1 B. An order of protection granted by the court
2 involving custody or support shall be effective for a fixed
3 period of time not to exceed six months. The order may be
4 extended for good cause upon motion of the petitioner for an
5 additional period of time not to exceed six months. Injunctive
6 orders shall continue until modified or rescinded upon motion by
7 either party or until the court approves a subsequent consent
8 agreement entered into by the petitioner and the respondent.

9 C. A peace officer shall arrest without a warrant
10 and take into custody a person whom the peace officer has
11 probable cause to believe has violated an order pursuant to this
12 section.

13 D. State courts shall give full faith and credit to
14 tribal court orders of protection.

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

22 F. In addition to any other punishment provided in
23 the Family Violence Protection Act, the court shall order a
24 person convicted to make full restitution to the party injured
25 by the violation of an order of protection and order the person

1 convicted to participate in and complete a program of
2 professional counseling, at his own expense, if possible.

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

7 H. The remedies provided in the Family Violence
8 Protection Act are in addition to any other civil or criminal
9 remedy available to the petitioner."

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 14, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 389

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: King, Rios, Sanchez

Absent: None

M \H0389

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 27, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred

HOUSE BILL 389

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Max Coll, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Garcia, M H. , Watchman

Absent: None

M \H0389

Underscored material = new
[bracketed material] = delete

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

HB 389/a

3
4 March 16, 1997

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9 HOUSE BILL 389

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. On page 1, line 25, strike the period and insert
15 "unless otherwise ordered by the court."

16 Respectfully submitted,

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20 _____
21 Fernando R. Macias, Chairman

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24 Adopted _____ Not Adopted _____

25 (Chief Clerk)

(Chief Clerk)

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Date _____

The roll call vote was 4 For 3 Against

Yes: 4

No: Lopez, Tsosie, McSorley

Excused: Sanchez

Absent: None

H0389JU1

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~~[bracketed material] = delete~~

FORTY-THIRD LEGISLATURE

FIRST SESSION

March 17, 1997

SENATE FLOOR AMENDMENT number _____ to HOUSE BILL 389, as amended

Amendment sponsored by Senator Linda M Lopez

1. Strike Senate Judiciary Committee Amendment 1.

Linda M Lopez

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

119066.1

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FORTY-THIRD LEGISLATURE
FIRST SESSION

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HB 389, aa

Page 11

Date _____

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