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HOUSE BILL 351

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING THAT STATE COURTS SHALL GIVE FULL FAITH AND CREDIT TO ORDERS OF PROTECTION ISSUED BY COURTS OF OTHER STATES; AMENDING A SECTION OF THE FAMILY VIOLENCE PROTECTION ACT.

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

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1 time the order was issued. The order shall be filed and
2 served without cost to the petitioner.

3 B. An order of protection granted by the court
4 involving custody or support shall be effective for a fixed
5 period of time not to exceed six months. The order may be
6 extended for good cause upon motion of the petitioner for an
7 additional period of time not to exceed six months.

8 Injunctive orders shall continue until modified or rescinded
9 upon motion by either party or until the court approves a
10 subsequent consent agreement entered into by the petitioner
11 and the respondent.

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

16 D. State courts shall give full faith and credit
17 to tribal court orders of protection and orders of protection
18 issued by courts of other states.

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

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1 taken under advisement.

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

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

12 H. The remedies provided in the Family Violence
13 Protection Act are in addition to any other civil or criminal
14 remedy available to the petitioner. "

15 Section 2. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 12, 1999

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8 Mr. Speaker:

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10 Your JUDICIARY COMMITTEE, to whom has been referred

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12 HOUSE BILL 351

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 2, line 18, after the period insert: "A
18 protection order issued by a State or tribal court against one
19 who has petitioned, filed a complaint, or otherwise filed a
20 written pleading for protection against abuse by a spouse or
intimate partner is not entitled to full faith and credit if -

21
22 (1) no cross or counter petition, complaint, or
23 other
24 written pleading was filed seeking such a protection order; or

25 (2) a cross or counter petition has been filed and

FORTY-FOURTH LEGISLATURE
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the
court did not make specific findings that each party was
entitled to such an order.”.

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Rios, T. Taylor

Absent: None

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March 8, 1999

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Mr. President:

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Your JUDICIARY COMMITTEE, to whom has been referred

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HOUSE BILL 351, as amended

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has had it under consideration and reports same WITHOUT
RECOMMENDATION.

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Respectfully submitted,

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Michael S. Sanchez, Chairman

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FIRST SESSION, 1999

1 HJC/HB 351

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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 6 For 0 Against

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Yes: 6

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No: None

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Excused: Aragon, Davis

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Absent: None

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