

HOUSE BILL 467

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

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AN ACT

RELATING TO DOMESTIC AFFAIRS; AMENDING THE FAMILY VIOLENCE PROTECTION ACT; REQUIRING THAT ORDERS OF PROTECTION ISSUED BY THE COURT BE ENTERED IN A DATABASE.

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~~ the respondent or ~~his~~ the respondent's attorney was present at the time the order was

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

3 B. The local law enforcement agency receiving an
4 order of protection from the clerk of the court that was issued
5 under the Family Violence Protection Act shall have the order
6 entered in the national crime information center's order of
7 protection file. If the order of protection does not meet the
8 criteria for entry with the national crime information center,
9 it shall be entered into a local database that is accessible on
10 a twenty-four-hour basis.

11 [~~B.~~] C. An order of protection granted by the court
12 involving custody or support shall be effective for a fixed
13 period of time not to exceed six months. The order may be
14 extended for good cause upon motion of the petitioner for an
15 additional period of time not to exceed six months. Injunctive
16 orders shall continue until modified or rescinded upon motion
17 by either party or until the court approves a subsequent
18 consent agreement entered into by the petitioner and the
19 respondent.

20 [~~C.~~] D. A peace officer shall arrest without a
21 warrant and take into custody a person whom the peace officer
22 has probable cause to believe has violated an order pursuant to
23 this section.

24 [~~D.~~] E. State courts shall give full faith and
25 credit to tribal court orders of protection and orders of

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1 protection issued by courts of other states. A protection
2 order issued by a state or tribal court against one who has
3 petitioned, filed a complaint or otherwise filed a written
4 pleading for protection against abuse by a spouse or intimate
5 partner is not entitled to full faith and credit if:

6 (1) no cross or counter petition, complaint or
7 other written pleading was filed seeking such a protection
8 order; or

9 (2) a cross or counter petition has been filed
10 and the court did not make specific findings that each party
11 was entitled to such an order.

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

20 [~~F.~~] G. In addition to any other punishment
21 provided in the Family Violence Protection Act, the court shall
22 order a person convicted to make full restitution to the party
23 injured by the violation of an order of protection and order
24 the person convicted to participate in and complete a program
25 of professional counseling, at [~~his~~] the person's own expense,

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if possible.

~~[G.]~~ H. 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.]~~ I. The remedies provided in the Family Violence Protection Act are in addition to any other civil or criminal remedy available to the petitioner."