

1 HOUSE BILL 324

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Al Park

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10 AN ACT

11 RELATING TO CRIMINAL LAW; PROVIDING THAT THE CRIME OF THIRD
12 DEGREE AGGRAVATED BATTERY INCLUDES STRANGULATION.

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

15 SECTION 1. Section 30-3-5 NMSA 1978 (being Laws 1963,
16 Chapter 303, Section 3-5, as amended) is amended to read:

17 "30-3-5. AGGRAVATED BATTERY.--

18 A. Aggravated battery consists of the unlawful
19 touching or application of force to the person of another with
20 intent to injure that person or another.

21 B. Whoever commits aggravated battery inflicting an
22 injury to the person [~~which~~] that is not likely to cause death
23 or great bodily harm but does cause painful temporary
24 disfigurement or temporary loss or impairment of the functions
25 of any member or organ of the body, is guilty of a misdemeanor.

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1 C. Whoever commits aggravated battery is guilty of
2 a third degree felony if the aggravated battery is committed:

3 (1) by inflicting great bodily harm; [or does
4 so]

5 (2) with a deadly weapon; [or does so]

6 (3) by strangulation; or

7 (4) in any manner whereby great bodily harm or
8 death can be inflicted [is guilty of a third degree felony].

9 D. As used in this section, "strangulation" means
10 the compression or application of pressure to a person's neck
11 or throat that obstructs the person's blood flow or ability to
12 breathe."

13 SECTION 2. Section 30-3-16 NMSA 1978 (being Laws 1995,
14 Chapter 221, Section 7, as amended) is amended to read:

15 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD
16 MEMBER.--

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

21 B. Whoever commits aggravated battery against a
22 household member by inflicting an injury to that person that is
23 not likely to cause death or great bodily harm, but that does
24 cause painful temporary disfigurement or temporary loss or
25 impairment of the functions of any member or organ of the body,

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1 is guilty of a misdemeanor.

2 C. Whoever commits aggravated battery against a
3 household member is guilty of a third degree felony if the
4 aggravated battery is committed:

5 (1) by inflicting great bodily harm; [~~or doing~~
6 ~~so~~]

7 (2) with a deadly weapon; [~~or doing so~~]

8 (3) by strangulation; or

9 (4) in any manner whereby great bodily harm or
10 death can be inflicted [~~is guilty of a third degree felony~~].

11 D. Upon conviction pursuant to Subsection B of this
12 section, an offender shall be required to participate in and
13 complete a 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 E. Notwithstanding any provision of law to the
18 contrary, if a sentence imposed pursuant to the provisions of
19 Subsection B of this section is suspended or deferred in whole
20 or in part, the period of probation may extend beyond three
21 hundred sixty-four days but may not exceed two years. If an
22 offender violates a condition of probation, the court may
23 impose any sentence that the court could originally have
24 imposed and credit shall not be given for time served by the
25 offender on probation; provided that the total period of

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1 incarceration shall not exceed three hundred sixty-four days
2 and the combined period of incarceration and probation shall
3 not exceed two years.

4 F. As used in this section, "strangulation" means
5 the compression or application of pressure to a person's neck
6 or throat that obstructs the person's blood flow or ability to
7 breathe."

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