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HOUSE BILL 60

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Ray Begaye

AN ACT

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

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

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

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

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

B. Whoever commits aggravated battery inflicting an injury to the person [~~which~~] that is not likely to cause death or great bodily harm but does cause painful temporary disfigurement or temporary loss or impairment of the functions 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 of or application of pressure to a person's  
11 neck or throat that obstructs the person's blood flow or  
12 ability to 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 of or application of pressure to a person's  
6 neck or throat that obstructs the person's blood flow or  
7 ability to breathe."