

1 SENATE BILL 373

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

5
6
7
8
9
10 AN ACT

11 RELATING TO MILITARY AFFAIRS; AMENDING THE ABUSE AND NEGLECT
12 ACT AND THE FAMILY VIOLENCE PROTECTION ACT TO REQUIRE NOTICE TO
13 A DESIGNATED AUTHORITY OF THE MILITARY INSTALLATION IF A PERSON
14 INVOLVED IN AN ALLEGATION OF CHILD ABUSE AND NEGLECT OR
15 DOMESTIC ABUSE IS A MEMBER OF THE UNITED STATES MILITARY AND TO
16 SEEK MEMORANDA OF UNDERSTANDING WITH UNITED STATES MILITARY
17 INSTALLATIONS IN NEW MEXICO TO FACILITATE THIS NOTICE
18 REQUIREMENT; REQUIRING THAT THE COURT ALLOW REMOTE APPEARANCES
19 IN A HEARING FOR A DOMESTIC VIOLENCE ORDER OF PROTECTION;
20 REQUIRING THAT A COPY OF A DOMESTIC VIOLENCE ORDER OF
21 PROTECTION BE SENT TO A DESIGNATED AUTHORITY OF THE MILITARY
22 INSTALLATION IF A PARTY TO THE ORDER IS A MEMBER OF THE UNITED
23 STATES MILITARY; MAKING CONFORMING AMENDMENTS.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.230035.2

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 1. Section 32A-4-3 NMSA 1978 (being Laws 1993,
2 Chapter 77, Section 97, as amended) is amended to read:

3 "32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
4 RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--
5 NOTIFICATION OF PLAN OF CARE.--

6 A. Every person, including a licensed physician; a
7 resident or an intern examining, attending or treating a child;
8 a law enforcement officer; a judge presiding during a
9 proceeding; a registered nurse; a visiting nurse; a school
10 employee; a social worker acting in an official capacity; or a
11 member of the clergy who has information that is not privileged
12 as a matter of law, who knows or has a reasonable suspicion
13 that a child is an abused or a neglected child shall report the
14 matter immediately to:

- 15 (1) a local law enforcement agency;
- 16 (2) the department; or
- 17 (3) a tribal law enforcement or social
18 services agency for any Indian child residing in Indian
19 country.

20 B. A law enforcement agency receiving the report
21 shall immediately transmit the facts of the report and the
22 name, address and phone number of the reporter by telephone to
23 the department and shall transmit the same information in
24 writing within forty-eight hours. The department shall
25 immediately transmit the facts of the report and the name,

.230035.2

1 address and phone number of the reporter by telephone to a
2 local law enforcement agency and shall transmit the same
3 information in writing within forty-eight hours. The written
4 report shall contain the names and addresses of the child and
5 the child's parents, guardian or custodian, the child's age,
6 the nature and extent of the child's injuries, including any
7 evidence of previous injuries, and other information that the
8 maker of the report believes might be helpful in establishing
9 the cause of the injuries and the identity of the person
10 responsible for the injuries. The written report shall be
11 submitted upon a standardized form agreed to by the law
12 enforcement agency and the department.

13 C. The recipient of a report under Subsection A of
14 this section shall take immediate steps to ensure prompt
15 investigation of the report. The investigation shall ensure
16 that immediate steps are taken to protect the health or welfare
17 of the alleged abused or neglected child, as well as that of
18 any other child under the same care who may be in danger of
19 abuse or neglect. A local law enforcement officer trained in
20 the investigation of child abuse and neglect is responsible for
21 investigating reports of alleged child abuse or neglect at
22 schools, daycare facilities or child care facilities.

23 D. If the child alleged to be abused or neglected
24 is in the care or control of or in a facility administratively
25 connected to the department, the report shall be investigated

.230035.2

underscoring material = new
~~[bracketed material] = delete~~

1 by a local law enforcement officer trained in the investigation
2 of child abuse and neglect. The investigation shall ensure
3 that immediate steps are taken to protect the health or welfare
4 of the alleged abused or neglected child, as well as that of
5 any other child under the same care who may be in danger of
6 abuse or neglect.

7 E. A law enforcement agency or the department shall
8 have access to any of the records pertaining to a child abuse
9 or neglect case maintained by any of the persons enumerated in
10 Subsection A of this section, except as otherwise provided in
11 the Abuse and Neglect Act.

12 F. A person who violates the provisions of
13 Subsection A of this section is guilty of a misdemeanor and
14 shall be sentenced pursuant to the provisions of Section
15 31-19-1 NMSA 1978.

16 G. A finding that a pregnant woman is using or
17 abusing drugs made pursuant to an interview, self-report,
18 clinical observation or routine toxicology screen shall not
19 alone form a sufficient basis to report child abuse or neglect
20 to the department pursuant to Subsection A of this section. A
21 volunteer, contractor or staff of a hospital or freestanding
22 birthing center shall not make a report based solely on that
23 finding and shall make a notification pursuant to Subsection H
24 of this section. Nothing in this subsection shall be construed
25 to prevent a person from reporting to the department a

.230035.2

underscoring material = new
[bracketed material] = delete

1 reasonable suspicion that a child is an abused or neglected
2 child based on other criteria as defined by Section 32A-4-2
3 NMSA 1978, or a combination of criteria that includes a finding
4 pursuant to this subsection.

5 H. A volunteer, contractor or staff of a hospital
6 or freestanding birthing center shall:

7 (1) complete a written plan of care for a
8 substance-exposed newborn as provided for by department rule
9 and the Children's Code; and

10 (2) provide notification to the department.

11 Notification by a health care provider pursuant to this
12 paragraph shall not be construed as a report of child abuse or
13 neglect.

14 I. When investigating a report of abuse and
15 neglect, if a local law enforcement agency or the department
16 determines that a member of the United States military is
17 involved in the underlying allegation, the agency or the
18 department shall notify a designated authority for the military
19 installation to which the person is assigned. Local law
20 enforcement agencies and the department shall seek memoranda of
21 understanding with a designated authority for each military
22 installation in the state to facilitate the requirements of
23 this section.

24 [~~I.~~] J. As used in this section, "notification"
25 means informing the department that a substance-exposed newborn

.230035.2

underscoring material = new
~~[bracketed material] = delete~~

1 was born and providing a copy of the plan of care that was
2 created for the child; provided that notification shall comply
3 with federal guidelines and shall not constitute a report of
4 child abuse or neglect.

5 ~~[J-]~~ K. As used in this section, "school employee"
6 includes employees of a school district or a public school."

7 **SECTION 2.** Section 40-13-3 NMSA 1978 (being Laws 1987,
8 Chapter 286, Section 3, as amended) is amended to read:

9 "40-13-3. PETITION FOR ORDER OF PROTECTION--CONTENTS--
10 STANDARD FORMS--HEARINGS.--

11 A. A victim of domestic abuse may petition the
12 court under the Family Violence Protection Act for an order of
13 protection.

14 B. The petition shall be made under oath or shall
15 be accompanied by a sworn affidavit setting out specific facts
16 showing the alleged domestic abuse.

17 C. The petition shall state whether any other
18 domestic action is pending between the petitioner and the
19 respondent.

20 D. If any other domestic action is pending between
21 the petitioner and the respondent, the parties shall not be
22 compelled to mediate any aspect of the case arising from the
23 Family Violence Protection Act unless the court finds that
24 appropriate safeguards exist to protect each of the parties and
25 that both parties can fairly mediate with such safeguards.

.230035.2

underscored material = new
[bracketed material] = delete

1 E. An action brought under the Family Violence
2 Protection Act is independent of any proceeding for annulment,
3 separation or divorce between the parties.

4 F. Remedies granted pursuant to the Family Violence
5 Protection Act are in addition to and shall not limit other
6 civil or criminal remedies available to the parties.

7 G. Standard simplified petition forms with
8 instructions for completion shall be available to all parties.
9 Law enforcement agencies shall keep such forms and make them
10 available upon request to alleged victims of domestic abuse.

11 H. At a hearing on a petition for any order of
12 protection provided for in the Family Violence Protection Act,
13 the court shall authorize the remote appearance by digital or
14 telephonic means for all parties if requested."

15 SECTION 3. Section 40-13-6 NMSA 1978 (being Laws 1987,
16 Chapter 286, Section 6, as amended) is amended to read:

17 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES
18 NOT EXCLUSIVE.--

19 A. An order of protection granted under the Family
20 Violence Protection Act shall be filed with the clerk of the
21 court, and a copy shall be sent by the clerk to the local law
22 enforcement agency and, if a party is a member of the United
23 States military, to a designated authority for the military
24 installation to which the party is assigned. The order shall
25 be personally served upon the restrained party, unless the

.230035.2

1 restrained party or the restrained party's attorney was present
2 at the time the order was issued. The order shall be filed and
3 served without cost to the protected party.

4 B. A local law enforcement agency receiving an
5 order of protection from the clerk of the court that was issued
6 under the Family Violence Protection Act shall have the order
7 entered in the national crime information center's order of
8 protection file within seventy-two hours of receipt. This does
9 not include temporary orders of protection entered pursuant to
10 the provisions of Section 40-13-4 NMSA 1978.

11 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 protected party for
15 an additional period of time not to exceed six months.
16 Injunctive orders shall continue until modified or rescinded
17 upon motion by either party or until the court approves a
18 subsequent consent agreement entered into by the parties.

19 D. A peace officer may arrest without a warrant and
20 take into custody a restrained party ~~[whom]~~ who the peace
21 officer has probable cause to believe has violated an order of
22 protection that is issued pursuant to the Family Violence
23 Protection Act or entitled to full faith and credit.

24 E. A restrained party convicted of violating an
25 order of protection granted by a court under the Family

underscoring material = new
~~[bracketed material] = delete~~

1 Violence Protection Act is guilty of a misdemeanor and shall be
2 sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a
3 second or subsequent conviction, an offender shall be sentenced
4 to a jail term of not less than seventy-two consecutive hours
5 that shall not be suspended, deferred or taken under
6 advisement.

7 F. In addition to any other punishment provided in
8 the Family Violence Protection Act, the court shall order a
9 person convicted to make full restitution to the party injured
10 by the violation of an order of protection and shall order the
11 person convicted to participate in and complete a program of
12 professional counseling, at the person's own expense, if
13 possible.

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

18 H. The remedies provided in the Family Violence
19 Protection Act are in addition to any other civil or criminal
20 remedy available to the protected party or the state."

21 SECTION 4. Section 40-13-7 NMSA 1978 (being Laws 1987,
22 Chapter 286, Section 7, as amended) is amended to read:

23 "40-13-7. LAW ENFORCEMENT OFFICERS--EMERGENCY
24 ASSISTANCE--LIMITED LIABILITY--PROVIDING NOTIFICATION TO
25 VICTIMS WHEN AN ALLEGED PERPETRATOR IS RELEASED FROM

.230035.2

underscoring material = new
~~[bracketed material] = delete~~

1 DETENTION--STATEMENT IN JUDGMENT AND SENTENCE DOCUMENT.--

2 A. A person who allegedly has been a victim of
3 domestic abuse may request the assistance of a local law
4 enforcement agency.

5 B. A local law enforcement officer responding to
6 the request for assistance shall be required to take whatever
7 steps are reasonably necessary to protect the victim from
8 further domestic abuse, including:

9 (1) advising the victim of the remedies
10 available under the Family Violence Protection Act; the right
11 to file a written statement, a criminal complaint and a request
12 for an arrest warrant; and the availability of domestic
13 violence shelters, medical care, counseling and other services;

14 (2) upon the request of the victim, providing
15 or arranging for transportation of the victim to a medical
16 facility or place of shelter;

17 (3) upon the request of the victim,
18 accompanying the victim to the victim's residence to obtain the
19 victim's clothing and personal effects required for immediate
20 needs and the clothing and personal effects of any children
21 then in the care of the victim;

22 (4) upon the request of the victim, assist in
23 placing the victim in possession of the dwelling or premises or
24 otherwise assist in execution, enforcement or service of an
25 order of protection;

.230035.2

1 (5) arresting the alleged perpetrator when
2 appropriate and including a written statement in the attendant
3 police report to indicate that the arrest of the alleged
4 perpetrator was, in whole or in part, premised upon probable
5 cause to believe that the alleged perpetrator committed
6 domestic abuse against the victim and, when appropriate,
7 indicate that the party arrested was the predominant aggressor;
8 and

9 (6) advising the victim when appropriate of
10 the procedure for initiating proceedings under the Family
11 Violence Protection Act or criminal proceedings and of the
12 importance of preserving evidence.

13 C. The jail or detention center shall make a
14 reasonable attempt to notify the arresting law enforcement
15 agency or officer when the alleged perpetrator is released from
16 custody. The arresting law enforcement agency shall make a
17 reasonable attempt to notify the victim that the alleged
18 perpetrator is released from custody.

19 D. Any law enforcement officer responding to a
20 request for assistance under the Family Violence Protection Act
21 is immune from civil liability to the extent allowed by law.
22 Any jail, detention center or law enforcement agency that makes
23 a reasonable attempt to provide notification that an alleged
24 perpetrator is released from custody is immune from civil
25 liability to the extent allowed by law.

1 E. A statement shall be included in a judgment and
2 sentence document to indicate when a conviction results from
3 the commission of domestic abuse.

4 F. If a law enforcement officer responding to a
5 request for assistance determines that a member of the United
6 States military is involved in the underlying allegation, the
7 officer shall notify a designated authority for the military
8 installation to which the person is assigned. Local law
9 enforcement agencies shall seek memoranda of understanding with
10 a designated authority for each military installation in the
11 state to facilitate the requirements of this section."

underscoring material = new
[bracketed material] = delete