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HOUSE BILL 242

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Dani ce R. Pi craux

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING THAT ALLEGED VICTIMS OF CERTAIN CRIMES ARE NOT REQUIRED TO BEAR COSTS OF FILING CRIMINAL CHARGES OR FOR THE ISSUANCE OR SERVICE OF WARRANTS, WITNESS SUBPOENAS OR PROTECTION ORDERS; PROVIDING ARREST GUIDELINES FOR PEACE OFFICERS AT THE SCENE OF A DOMESTIC DISTURBANCE; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] ALLEGED VICTIMS OF DOMESTIC ABUSE, STALKING OR SEXUAL ASSAULT--FORBEARANCE OF COSTS.--

A. An alleged victim of an offense specified in Subsection B of this section is not required to bear the cost of:

underscored material = new
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- 1 (1) filing a criminal charge against an
- 2 alleged perpetrator of the offense;
- 3 (2) the issuance or service of a warrant;
- 4 (3) the issuance or service of a witness
- 5 subpoena; or
- 6 (4) the issuance or service of a protection
- 7 order.

8 B. The provisions of Subsection A of this section
9 apply to alleged victims of:

- 10 (1) sexual offenses described in Sections
- 11 30-9-11 through 30-9-14 and 30-9-14.3 NMSA 1978;
- 12 (2) crimes against household members
- 13 described in Sections 30-3-12 through 30-3-16 NMSA 1978; and
- 14 (3) harassment, stalking and aggravated
- 15 stalking described in Sections 30-3A-2 through 30-3A-3.1 NMSA
- 16 1978; and
- 17 (4) the violation of an order of protection
- 18 described in Subsection E of Section 40-13-6 NMSA 1978. "

19 Section 2. Section 31-1-7 NMSA 1978 (being Laws 1979,
20 Chapter 178, Section 1, as amended) is amended to read:

21 "31-1-7. ARREST WITHOUT WARRANT--LIABILITY.--

22 A. Notwithstanding the provisions of any other law
23 to the contrary, a peace officer may arrest a person and take
24 that person into custody without a warrant when the officer is
25 at the scene of a domestic disturbance and has probable cause

1 to believe that the person has committed an assault or a
2 battery upon a household member. If more than one person
3 claims to have been assaulted or if it appears to the officer
4 that two or more persons were involved in mutual aggression,
5 the officer is not required to arrest more than one person but
6 may arrest only the person whom the officer believes to be the
7 primary physical aggressor. In determining who is the primary
8 physical aggressor, the officer shall consider the relative
9 degree and type of injury, the weapon involved, the apparent
10 fear of the persons involved, whether one of the persons acted
11 in self-defense and any history of domestic abuse between the
12 persons if that history is known or can be reasonably
13 ascertained by the officer.

14 B. As used in this section, "household member"
15 means a spouse; former spouse; family member, including a
16 relative, parent, present or former step-parent, present or
17 former in-law, child or co-parent of a child; or a person with
18 whom the victim has had a continuing personal relationship.
19 Cohabitation is not necessary to be deemed a household member
20 for purposes of this section.

21 ~~[B.]~~ C. No peace officer shall be held criminally
22 or civilly liable for making an arrest pursuant to this
23 section, provided he acts in good faith and without malice.

24 ~~[C.]~~ D. Whether or not an arrest is made pursuant
25 to this section, a peace officer may remain with the victim

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1 and assist the victim in getting to a shelter or receiving
2 proper medical attention. "

3 Section 3. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect
5 immediately.

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