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HOUSE BILL 301

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Candy Spence Ezzell

AN ACT

RELATING TO CRIME; AMENDING THE CRIMINAL PROCEDURE ACT TO  
DEFINE "AT THE SCENE" FOR SITUATIONS WHERE A DOMESTIC  
DISTURBANCE HAS OCCURRED.

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

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

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

A. Notwithstanding the provisions of any other law  
to the contrary, a peace officer may arrest a person and take  
that person into custody without a warrant when the officer is  
at the scene of a domestic disturbance and has probable cause  
to believe that the person has committed an assault or a  
battery upon a household member. ~~[As used in this section:~~  
~~"household member" means a spouse; former spouse; family~~

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1 ~~member, including a relative, parent, present or former~~  
2 ~~stepparent, present or former in-law, child or co-parent of a~~  
3 ~~child; or a person with whom the victim has had a continuing~~  
4 ~~personal relationship. Cohabitation is not necessary to be~~  
5 ~~deemed a household member for purposes of this section.]~~

6 B. No peace officer shall be held criminally or  
7 civilly liable for making an arrest pursuant to this section;  
8 provided [he] that the officer acts in good faith and without  
9 malice.

10 C. Whether or not an arrest is made pursuant to  
11 this section, a peace officer may remain with the victim and  
12 assist the victim in getting to a shelter or receiving proper  
13 medical attention.

14 D. As used in this section:

15 (1) "at the scene" means:

16 (a) at the actual location of a domestic  
17 disturbance; or

18 (b) at a place other than where the  
19 domestic disturbance has occurred if: 1) an arrest has been  
20 made with reasonable promptness after the domestic disturbance;  
21 2) domestic abuse is suspected to have been a part of the  
22 domestic disturbance; and 3) the arrest is reasonably necessary  
23 to protect a household member from domestic abuse occurring  
24 after the domestic disturbance;

25 (2) "domestic abuse" means any incident by a

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1 household member against another household member resulting in:

2 (a) physical harm;

3 (b) severe emotional distress;

4 (c) threat causing imminent fear of  
5 physical harm by any household member;

6 (d) criminal trespass;

7 (e) criminal damage to property;

8 (f) stalking or aggravated stalking, as  
9 provided in Sections 30-3A-3 and 30-3A-3.1 NMSA 1978; or

10 (g) harassment, as provided in Section  
11 30-3A-2 NMSA 1978; and

12 (3) "household member" means a spouse, former  
13 spouse, family member, including a relative, parent, present or  
14 former stepparent, present or former in-law, child or co-parent  
15 of a child, or a person with whom the victim has had a  
16 continuing personal relationship. Cohabitation is not  
17 necessary to be deemed a household member for purposes of this  
18 section."