

HOUSE BILL 346

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL LAW; CREATING A MENTAL ILLNESS EXCEPTION
FOR ASSAULT OR BATTERY UPON A HEALTH CARE WORKER.

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

SECTION 1. Section 30-3-9.2 NMSA 1978 (being Laws 2006,
Chapter 27, Section 1) is amended to read:

"30-3-9.2. ASSAULT--BATTERY--HEALTH CARE PERSONNEL.--

A. As used in this section:

(1) "health facility" means a public or
private hospital, outpatient facility, diagnostic and treatment
center, rehabilitation center or infirmary. "Health facility"
also includes those facilities that, by federal regulation,
must be licensed by the state to obtain or maintain full or
partial, permanent or temporary federal funding, but "health
facility" does not include a skilled nursing facility, a

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1 nursing facility or other long-term residential care facility;

2 (2) "health care worker" means an employee of
3 a health facility or a licensed emergency medical technician;
4 and

5 (3) "in the lawful discharge of the health
6 care worker's duties" means engaged in the performance of the
7 duties of a health care worker.

8 B. Assault upon a health care worker consists of:

9 (1) an attempt to commit a battery upon the
10 person of a health care worker who is in the lawful discharge
11 of the health care worker's duties; or

12 (2) any unlawful act, threat or menacing
13 conduct that causes a health care worker who is in the lawful
14 discharge of the health care worker's duties to reasonably
15 believe that the health care worker is in danger of receiving
16 an immediate battery.

17 Whoever commits assault upon a health care worker is
18 guilty of a misdemeanor.

19 C. Aggravated assault upon a health care worker
20 consists of:

21 (1) unlawfully assaulting or striking at a
22 health care worker with a weapon while the health care worker
23 is in the lawful discharge of the health care worker's duties;
24 or

25 (2) willfully and intentionally assaulting a

1 health care worker who is in the lawful discharge of the health
2 care worker's duties with intent to commit any felony.

3 Whoever commits aggravated assault upon a health care
4 worker is guilty of a third degree felony.

5 D. Assault with intent to commit a violent felony
6 upon a health care worker consists of assaulting a health care
7 worker who is in the lawful discharge of the health care
8 worker's duties with intent to kill the health care worker.

9 Whoever commits assault with intent to commit a violent
10 felony upon a health care worker is guilty of a second degree
11 felony.

12 E. Battery upon a health care worker is the
13 unlawful, intentional touching or application of force to the
14 person of a health care worker who is in the lawful discharge
15 of the health care worker's duties, when done in a rude,
16 insolent or angry manner.

17 Whoever commits battery upon a health care worker is
18 guilty of a fourth degree felony.

19 F. Aggravated battery upon a health care worker
20 consists of the unlawful touching or application of force to
21 the person of a health care worker with intent to injure that
22 health care worker while the health care worker is in the
23 lawful discharge of the health care worker's duties.

24 Whoever commits aggravated battery upon a health care
25 worker, inflicting an injury to the health care worker that is

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1 not likely to cause death or great bodily harm but does cause
2 painful temporary disfigurement or temporary loss or impairment
3 of the functions of any member or organ of the body, is guilty
4 of a fourth degree felony.

5 Whoever commits aggravated battery upon a health care
6 worker, inflicting great bodily harm or does so with a deadly
7 weapon or in any manner whereby great bodily harm or death can
8 be inflicted, is guilty of a third degree felony.

9 G. A person who assists or is assisted by one or
10 more other persons to commit a battery upon a health care
11 worker who is in the lawful discharge of the health care
12 worker's duties is guilty of a fourth degree felony.

13 H. If, at the time of the alleged violation, a
14 person accused of a violation of Subsections B through G of
15 this section was suffering from a serious mental illness
16 characterized by defective or lost contact with reality, often
17 with hallucinations or delusions, the person has not committed
18 a violation of Subsections B through G of this section."

19 SECTION 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2017.

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