

HOUSE BILL 190

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

INTRODUCED BY

Dayan Hochman-Vigil

AN ACT

RELATING TO VICTIMS OF CRIME; AMENDING THE VICTIMS OF CRIME ACT
TO INCLUDE BATTERY UPON A HEALTH CARE WORKER AND HUMAN
TRAFFICKING AS APPLICABLE CRIMINAL OFFENSES; ALLOWING A
VICTIM'S REPRESENTATIVE WHO IS AN ATTORNEY AUTHORIZED TO
PRACTICE IN NEW MEXICO TO FILE PLEADINGS AND APPEAR OR
OTHERWISE SPEAK ON BEHALF OF A VICTIM IN COURT PROCEEDINGS;
PROVIDING THAT A NOTICE PERIOD FOR A COURT PROCEEDING THAT IS
SHORTER THAN SEVEN WORKING DAYS IS ALLOWED ONLY WHEN A COURT
FINDS EXCEPTIONAL CIRCUMSTANCES; CREATING A PROCEDURE FOR A
VICTIM TO APPEAL A COURT'S DECISION TO HOLD A HEARING AFTER A
NOTICE PERIOD SHORTER THAN SEVEN WORKING DAYS; CLARIFYING THAT
A COURT SHALL PROVIDE LANGUAGE INTERPRETATION SERVICES AND
OTHER SERVICES NECESSARY FOR A VICTIM TO PARTICIPATE IN A COURT
PROCEEDING; CREATING A PRIVATE CAUSE OF ACTION FOR VIOLATIONS
OF DUTIES OR DEPRIVATION OF RIGHTS PROVIDED IN THE VICTIMS OF

.229314.1SA

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

underscored material = new
[bracketed material] = delete

1 CRIME ACT; WAIVING SOVEREIGN IMMUNITY; AUTHORIZING THE ATTORNEY
2 GENERAL TO FILE A PETITION AGAINST THE STATE OR A POLITICAL
3 SUBDIVISION OF THE STATE TO SEEK CIVIL PENALTIES FOR VIOLATIONS
4 OF THE VICTIMS OF CRIME ACT; PRESCRIBING CIVIL PENALTIES;
5 MAKING CONFORMING AMENDMENTS.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. Section 31-26-3 NMSA 1978 (being Laws 1994,
9 Chapter 144, Section 3, as amended) is amended to read:

10 "31-26-3. DEFINITIONS.--As used in the Victims of Crime
11 Act:

12 A. "court" means magistrate court, metropolitan
13 court, children's court, district court, the court of appeals
14 or the supreme court;

15 B. "criminal offense" means:

16 (1) negligent arson resulting in death or
17 bodily injury, as provided in Paragraph (1) of Subsection [B] G
18 of Section 30-17-5 NMSA 1978;

19 (2) aggravated arson, as provided in Section
20 30-17-6 NMSA 1978;

21 (3) aggravated assault, as provided in Section
22 30-3-2 NMSA 1978;

23 (4) aggravated battery, as provided in Section
24 30-3-5 NMSA 1978;

25 (5) dangerous use of explosives, as provided

.229314.1SA

1 in Section 30-7-5 NMSA 1978;

2 (6) negligent use of a deadly weapon, as
3 provided in Section 30-7-4 NMSA 1978;

4 (7) murder, as provided in Section 30-2-1 NMSA
5 1978;

6 (8) voluntary manslaughter, as provided in
7 Section 30-2-3 NMSA 1978;

8 (9) involuntary manslaughter, as provided in
9 Section 30-2-3 NMSA 1978;

10 (10) kidnapping, as provided in Section 30-4-1
11 NMSA 1978;

12 (11) criminal sexual penetration, as provided
13 in Section 30-9-11 NMSA 1978;

14 (12) criminal sexual contact of a minor, as
15 provided in Section 30-9-13 NMSA 1978;

16 (13) [~~armed~~] robbery, as provided in Section
17 30-16-2 NMSA 1978;

18 (14) homicide by vehicle, as provided in
19 Section 66-8-101 NMSA 1978;

20 (15) great bodily injury by vehicle, as
21 provided in Section 66-8-101 NMSA 1978;

22 (16) abandonment or abuse of a child, as
23 provided in Section 30-6-1 NMSA 1978;

24 (17) stalking or aggravated stalking, as
25 provided in the Harassment and Stalking Act;

.229314.1SA

underscored material = new
[bracketed material] = delete

1 (18) aggravated assault against a household
2 member, as provided in Section 30-3-13 NMSA 1978;

3 (19) assault against a household member with
4 intent to commit a violent felony, as provided in Section
5 30-3-14 NMSA 1978;

6 (20) battery against a household member, as
7 provided in Section 30-3-15 NMSA 1978; ~~[or]~~

8 (21) aggravated battery against a household
9 member, as provided in Section 30-3-16 NMSA 1978;

10 (22) battery upon a health care worker, as
11 provided in Section 30-3-9.2 NMSA 1978; or

12 (23) human trafficking, as provided in Section
13 30-52-1 NMSA 1978;

14 C. "court proceeding" means a hearing, argument or
15 other action scheduled by and held before a court;

16 D. "family member" means a spouse, child, sibling,
17 parent or grandparent;

18 E. "formally charged" means the filing of an
19 indictment, the filing of a criminal information pursuant to a
20 bind-over order, the filing of a petition or the setting of a
21 preliminary hearing;

22 F. "victim" means ~~[an individual]~~ a person against
23 whom a criminal offense is committed. "Victim" also means a
24 family member or a victim's representative when the
25 ~~[individual]~~ person against whom a criminal offense was

.229314.1SA

underscoring material = new
[bracketed material] = delete

1 committed is a minor, is incompetent or is a homicide victim;
2 and

3 G. "victim's representative" means [~~an individual~~]
4 a person designated by a victim or appointed by the court to
5 act in the best interests of the victim."

6 SECTION 2. Section 31-26-7 NMSA 1978 (being Laws 1994,
7 Chapter 144, Section 7) is amended to read:

8 "31-26-7. DESIGNATION OR APPOINTMENT OF VICTIM'S
9 REPRESENTATIVE.--

10 A. A victim may designate a victim's representative
11 to exercise all rights provided to the victim pursuant to the
12 provisions of the Victims of Crime Act. A victim may revoke
13 [~~his~~] the victim's designation of a victim's representative at
14 any time.

15 B. [~~When~~] If a victim is deceased, incompetent or
16 unable to designate a victim's representative, [~~the~~] a court
17 may appoint a victim's representative for the victim. If a
18 victim regains [~~his~~] competency, [~~he~~] the victim may revoke
19 [~~the~~] a court's appointment of a victim's representative.

20 C. [~~When the~~] If a victim is a minor, the victim's
21 parent or grandparent may exercise the victim's rights;
22 provided that when the person accused of committing the
23 criminal offense against the victim is the parent or
24 grandparent of the victim, [~~the~~] a court may appoint a victim's
25 representative for the victim.

.229314.1SA

1 D. If a victim designates or a court appoints a
2 victim's representative who is an attorney authorized to
3 practice in New Mexico, the victim's representative may file
4 pleadings or appear or otherwise speak on behalf of the victim
5 in court proceedings."

6 SECTION 3. Section 31-26-10 NMSA 1978 (being Laws 1994,
7 Chapter 144, Section 10) is amended to read:

8 "31-26-10. PROCEDURES FOR PROVIDING VICTIMS WITH NOTICE
9 OF A COURT PROCEEDING--COURTS--DISTRICT ATTORNEYS.--

10 A. A clerk of a court shall provide a district
11 attorney's office with oral or written notice no later than
12 seven working days prior to a scheduled court proceeding
13 attendant to a criminal offense, unless the court finds
14 exceptional circumstances and determines that a shorter notice
15 period is reasonable under [the] those circumstances. The
16 district attorney's office shall convey the information
17 concerning the scheduled court proceeding to the victim, as
18 provided in Subsection B of Section [9 of the Victims of Crime
19 Act] 31-26-9 NMSA 1978.

20 B. If a court finds exceptional circumstances and
21 schedules a court proceeding within a notice period shorter
22 than seven working days and holds the hearing without a victim
23 present, the victim may appeal the court's decision to hold the
24 hearing. An appeal shall be taken de novo, and if the
25 appellate court finds that exceptional circumstances did not

.229314.1SA

underscoring material = new
[bracketed material] = delete

1 exist and a notice period shorter than seven working days was
2 not required, the court proceeding below and the outcome of
3 that court proceeding shall be vacated and the court shall be
4 ordered to reschedule the court proceeding with at least seven
5 working days' notice."

6 SECTION 4. Section 31-26-10.1 NMSA 1978 (being Laws 2005,
7 Chapter 283, Section 1) is amended to read:

8 "31-26-10.1. CRIME VICTIM PRESENCE AT COURT PROCEEDINGS--
9 PLEA AGREEMENT NOTIFICATION.--

10 A. A victim has a right to be present and make a
11 statement, personally or through the victim's representative,
12 at all scheduled court proceedings. If a victim requires
13 language interpretation services or other services necessary
14 for the victim to observe or participate in a court proceeding,
15 those services shall be provided by the court.

16 [~~A.~~] B. At any scheduled court proceeding, the
17 court shall inquire on the record whether a victim is present
18 for the purpose of making an oral statement or submitting a
19 written statement respecting the victim's rights enumerated in
20 Section 31-26-4 NMSA 1978. If the victim is not present, the
21 court shall inquire on the record whether an attempt has been
22 made to notify the victim of the scheduled court proceeding.
23 If the district attorney cannot verify that an attempt has been
24 made:

25 (1) the court [~~shall~~] may:

.229314.1SA

underscored material = new
[bracketed material] = delete

1 [~~(1)~~] (a) reschedule the [~~hearing~~] court
2 proceeding; or

3 [~~(2)~~] (b) continue with the [~~hearing~~]
4 court proceeding but reserve ruling until the victim has been
5 notified and given an opportunity to make a statement; and

6 [~~(3)~~] (2) the court shall order the district
7 attorney to notify the victim of the [~~rescheduled hearing~~]
8 court's ruling and the victim's options under the Victims of
9 Crime Act.

10 [~~B.~~] C. The provisions of this section shall not
11 limit the district attorney's ability to exercise prosecutorial
12 discretion on behalf of the state in a criminal case.

13 [~~C.~~] D. The provisions of this section and Section
14 31-26-10 NMSA 1978 shall not require the court to continue or
15 reschedule [~~any proceedings~~] a court proceeding if it would
16 result in a violation of a jurisdictional rule."

17 SECTION 5. Section 31-26-13 NMSA 1978 (being Laws 1994,
18 Chapter 144, Section 13) is amended to read:

19 "31-26-13. DISCLAIMER.--~~[Nothing in the Victims of Crime~~
20 ~~Act creates a cause of action on behalf of a person against a~~
21 ~~public employer, public employee, public agency, the state or~~
22 ~~any agency responsible for the enforcement of rights or~~
23 ~~provision of services set forth in that act.]~~

24 A. A victim may bring an action against the state
25 or a political subdivision of the state for a violation of

.229314.1SA

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

1 duties or deprivation of rights provided for in the Victims of
2 Crime Act and may recover actual damages and be awarded
3 equitable or injunctive relief. Sovereign immunity shall not
4 be a defense to an action brought pursuant to this subsection.

5 B. The attorney general may file a petition against
6 the state or a political subdivision of the state to seek a
7 civil penalty for a violation of the Victims of Crime Act. A
8 civil penalty awarded pursuant to this subsection shall not
9 exceed five hundred dollars (\$500) per violation or five
10 hundred dollars (\$500) per day for an ongoing violation."

11 SECTION 6. REPEAL.--Section 31-26-5 NMSA 1978 (being Laws
12 1994, Chapter 144, Section 5) is repealed.