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SENATE BILL 331

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

INTRODUCED BY

Antoinette Sedillo Lopez and Crystal Brantley

AN ACT

RELATING TO DOMESTIC VIOLENCE CRIMINAL OFFENSES; AMENDING  
SECTIONS 30-3-12 THROUGH 30-3-14, 30-3-17 AND 30-3-18 NMSA 1978  
(BEING LAWS 1995, CHAPTER 221, SECTIONS 3 THROUGH 5, LAWS 2008,  
CHAPTER 16, SECTION 4 AND LAWS 2009, CHAPTER 255, SECTION 2)  
AND SUBSECTIONS E AND F OF SECTION 40-13-6 NMSA 1978 (BEING  
LAWS 1987, CHAPTER 286, SECTION 6, AS AMENDED); PROVIDING THAT  
A PERSON CONVICTED OF AND SENTENCED FOR CRIMINAL OFFENSES  
PROVIDED IN THOSE SECTIONS SHALL PARTICIPATE IN AND COMPLETE A  
DOMESTIC VIOLENCE OFFENDER TREATMENT OR INTERVENTION PROGRAM  
APPROVED BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;  
PROVIDING THAT A PERSON WHO VIOLATES A CONDITION OF PROBATION  
ORDERED PURSUANT TO A SUSPENDED OR DEFERRED SENTENCE MAY BE  
SUBJECT TO ANY SENTENCE THE COURT COULD ORIGINALLY HAVE IMPOSED  
AND NOT RECEIVE CREDIT FOR TIME SERVED ON PROBATION; MAKING  
CONFORMING AMENDMENTS.

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

SECTION 1. Section 30-3-12 NMSA 1978 (being Laws 1995, Chapter 221, Section 3) is amended to read:

"30-3-12. ASSAULT AGAINST A HOUSEHOLD MEMBER.--

A. Assault against a household member consists of:

(1) an attempt to commit a battery against a household member; or

(2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that ~~[he]~~ the household member is in danger of receiving an immediate battery.

B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond one hundred eighty-two days but shall not exceed one year. If an offender violates a condition

1 of probation, the court may impose any sentence that the court  
2 could originally have imposed, and credit shall not be given  
3 for time served by the offender on probation; provided that the  
4 total period of incarceration shall not exceed one hundred  
5 eighty-two days and the combined period of incarceration and  
6 probation shall not exceed one year."

7 SECTION 2. Section 30-3-13 NMSA 1978 (being Laws 1995,  
8 Chapter 221, Section 4) is amended to read:

9 "30-3-13. AGGRAVATED ASSAULT AGAINST A HOUSEHOLD  
10 MEMBER.--

11 A. Aggravated assault against a household member  
12 consists of:

13 (1) unlawfully assaulting or striking at a  
14 household member with a deadly weapon; or

15 (2) willfully and intentionally assaulting a  
16 household member with intent to commit any felony.

17 B. Whoever commits aggravated assault against a  
18 household member is guilty of a fourth degree felony.

19 C. Upon conviction pursuant to this section, an  
20 offender shall be required to participate in and complete a  
21 domestic violence offender treatment or intervention program  
22 approved by the children, youth and families department  
23 pursuant to rules promulgated by the department that define the  
24 criteria for such programs.

25 D. Notwithstanding any provision of law to the

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1 contrary, if a sentence imposed pursuant to this section is  
2 suspended or deferred in whole or in part and an offender  
3 violates a condition of probation, the court may impose any  
4 sentence that the court could originally have imposed, and  
5 credit shall not be given for time served by the offender on  
6 probation; provided that the combined period of incarceration  
7 and probation shall not exceed the maximum period of  
8 incarceration for the sentence that was suspended or deferred."

9 SECTION 3. Section 30-3-14 NMSA 1978 (being Laws 1995,  
10 Chapter 221, Section 5) is amended to read:

11 "30-3-14. ASSAULT AGAINST A HOUSEHOLD MEMBER WITH INTENT  
12 TO COMMIT A VIOLENT FELONY.--

13 A. Assault against a household member with intent  
14 to commit a violent felony consists of any person assaulting a  
15 household member with intent to kill or commit any murder,  
16 mayhem, criminal sexual penetration in the first, second or  
17 third degree, robbery, kidnapping, false imprisonment or  
18 burglary.

19 B. Whoever commits assault against a household  
20 member with intent to commit a violent felony is guilty of a  
21 third degree felony.

22 C. Upon conviction pursuant to this section, an  
23 offender shall be required to participate in and complete a  
24 domestic violence offender treatment or intervention program  
25 approved by the children, youth and families department

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1 pursuant to rules promulgated by the department that define the  
2 criteria for such programs.

3 D. Notwithstanding any provision of law to the  
4 contrary, if a sentence imposed pursuant to this section is  
5 suspended or deferred in whole or in part and an offender  
6 violates a condition of probation, the court may impose any  
7 sentence that the court could originally have imposed, and  
8 credit shall not be given for time served by the offender on  
9 probation; provided that the combined period of incarceration  
10 and probation shall not exceed the maximum period of  
11 incarceration for the sentence that was suspended or deferred."

12 SECTION 4. Section 30-3-17 NMSA 1978 (being Laws 2008,  
13 Chapter 16, Section 4) is amended to read:

14 "30-3-17. MULTIPLE CONVICTIONS OF BATTERY OR AGGRAVATED  
15 BATTERY.--

16 A. Whoever commits three offenses of battery  
17 against a household member as provided in Section 30-3-15 NMSA  
18 1978 or aggravated battery against a household member as  
19 provided in Subsection B of Section 30-3-16 NMSA 1978, or any  
20 combination thereof, when the household member is a spouse, a  
21 former spouse, a co-parent of a child or a person with whom the  
22 offender has had a continuing personal relationship is guilty  
23 of a fourth degree felony.

24 B. Whoever commits four or more offenses of battery  
25 against a household member as provided in Section 30-3-15 NMSA

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1 1978 or aggravated battery against a household member as  
2 provided in Subsection B of Section 30-3-16 NMSA 1978, or any  
3 combination thereof, when the household member is a spouse, a  
4 former spouse, a co-parent of a child or a person with whom the  
5 offender has had a continuing personal relationship is guilty  
6 of a third degree felony.

7 C. For the purpose of determining the number of  
8 offenses committed, each offense must have been committed after  
9 conviction for the preceding offense.

10 D. Upon conviction pursuant to this section, an  
11 offender shall be required to participate in and complete a  
12 domestic violence offender treatment or intervention program  
13 approved by the children, youth and families department  
14 pursuant to rules promulgated by the department that define the  
15 criteria for such programs.

16 E. Notwithstanding any provision of law to the  
17 contrary, if a sentence imposed pursuant to this section is  
18 suspended or deferred in whole or in part and an offender  
19 violates a condition of probation, the court may impose any  
20 sentence that the court could originally have imposed, and  
21 credit shall not be given for time served by the offender on  
22 probation; provided that the combined period of incarceration  
23 and probation shall not exceed the maximum period of  
24 incarceration for the sentence that was suspended or deferred."

25 SECTION 5. Section 30-3-18 NMSA 1978 (being Laws 2009,

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1 Chapter 255, Section 2) is amended to read:

2 "30-3-18. CRIMINAL DAMAGE TO PROPERTY OF HOUSEHOLD  
3 MEMBER--DEPRIVATION OF PROPERTY OF HOUSEHOLD MEMBER.--

4 A. Criminal damage to the property of a household  
5 member consists of intentionally damaging real, personal,  
6 community or jointly owned property of a household member with  
7 the intent to intimidate, threaten or harass that household  
8 member.

9 B. Whoever commits criminal damage to the property  
10 of a household member is guilty of a misdemeanor, except that  
11 when the damage to the household member's interest in the  
12 property amounts to more than one thousand dollars (\$1,000),  
13 the offender is guilty of a fourth degree felony.

14 C. Deprivation of the property of a household  
15 member consists of intentionally depriving a household member  
16 of the use of separate, community or jointly owned personal  
17 property of the household member with the intent to intimidate  
18 or threaten that household member.

19 D. Whoever commits deprivation of the property of a  
20 household member is guilty of a misdemeanor.

21 E. Upon conviction pursuant to this section, an  
22 offender shall be required to participate in and complete a  
23 domestic violence offender treatment or intervention program  
24 approved by the children, youth and families department  
25 pursuant to rules promulgated by the department that define the

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1 criteria for such programs.

2 F. Notwithstanding any provision of law to the  
3 contrary:

4 (1) if an offender is convicted of a  
5 misdemeanor pursuant to this section and the sentence imposed  
6 is suspended or deferred in whole or in part, the period of  
7 probation may extend beyond three hundred sixty-four days but  
8 shall not exceed two years; provided that if the offender  
9 violates a condition of probation, the court may impose any  
10 sentence that the court could originally have imposed, and  
11 credit shall not be given for time served by the offender on  
12 probation; and provided further that the total period of  
13 incarceration shall not exceed three hundred sixty-four days  
14 and the combined period of incarceration and probation shall  
15 not exceed two years; and

16 (2) if an offender is convicted of a felony  
17 pursuant to this section and the sentence imposed is suspended  
18 or deferred in whole or in part and the offender violates a  
19 condition of probation, the court may impose any sentence that  
20 the court could originally have imposed, and credit shall not  
21 be given for time served by the offender on probation; provided  
22 that the combined period of incarceration and probation shall  
23 not exceed the maximum period of incarceration for the sentence  
24 that was suspended or deferred."

25 SECTION 6. Section 40-13-6 NMSA 1978 (being Laws 1987,

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1 Chapter 286, Section 6, as amended) is amended to read:

2 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES  
3 NOT EXCLUSIVE.--

4 A. An order of protection granted under the Family  
5 Violence Protection Act shall be filed with the clerk of the  
6 court, and a copy shall be sent by the clerk to the local law  
7 enforcement agency. The order shall be personally served upon  
8 the restrained party, unless the restrained party or the  
9 restrained party's attorney was present at the time the order  
10 was issued. The order shall be filed and served without cost  
11 to the protected party.

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

19 C. An order of protection granted by the court  
20 involving custody or support shall be effective for a fixed  
21 period of time not to exceed six months. The order may be  
22 extended for good cause upon motion of the protected party for  
23 an additional period of time not to exceed six months.  
24 Injunctive orders shall continue until modified or rescinded  
25 upon motion by either party or until the court approves a

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1 subsequent consent agreement entered into by the parties.

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

7 E. A restrained party convicted of violating an  
8 order of protection granted by a court under the Family  
9 Violence Protection Act is guilty of a misdemeanor and shall be  
10 sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a  
11 second or subsequent conviction, an offender shall be sentenced  
12 to a jail term of not less than seventy-two consecutive hours  
13 that shall not be suspended, deferred or taken under  
14 advisement. Notwithstanding any provision of law to the  
15 contrary, if a sentence imposed pursuant to this subsection is  
16 suspended or deferred in whole or in part, the period of  
17 probation may extend beyond three hundred sixty-four days but  
18 shall not exceed two years; provided that if an offender  
19 violates a condition of probation, the court may impose any  
20 sentence that the court could originally have imposed, and  
21 credit shall not be given for time served by the offender on  
22 probation; and provided further that the total period of  
23 incarceration shall not exceed three hundred sixty-four days  
24 and the combined period of incarceration and probation shall  
25 not exceed two years.

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