

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 242

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

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; CLARIFYING POLICY REGARDING DUAL ARRESTS IN DOMESTIC ABUSE INCIDENTS; PROVIDING FOR TRAINING FOR POLICE OFFICERS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; 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

1 of:

2 (1) filing a criminal charge against an
3 alleged perpetrator of the offense;

4 (2) the issuance or service of a warrant;

5 (3) the issuance or service of a witness
6 subpoena; or

7 (4) the issuance or service of a protection
8 order.

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

11 (1) sexual offenses described in Sections
12 30-9-11 through 30-9-14 and 30-9-14.3 NMSA 1978;

13 (2) crimes against household members
14 described in Sections 30-3-12 through 30-3-16 NMSA 1978;

15 (3) harassment, as provided in Section
16 30-3A-2 NMSA 1978, but only if the alleged victim is also an
17 alleged victim of domestic abuse, as provided in Section
18 40-13-2 NMSA 1978;

19 (4) stalking or aggravated stalking, as
20 provided in Sections 30-3A-3 and 30-3A-3.1 NMSA 1978; and

21 (5) the violation of an order of protection,
22 as provided in Subsection E of Section 40-13-6 NMSA 1978."

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

25 "31-1-7. LEGISLATIVE FINDINGS--STATE POLICY--DUAL

. 141254. 1

1 ARRESTS--ARREST WITHOUT WARRANT--LIABILITY.--

2 A. The legislature finds that domestic abuse
3 incidents are complex and require special training on the part
4 of law enforcement officers to respond appropriately to
5 domestic abuse incidents. The state of New Mexico discourages
6 dual arrests of persons involved in incidents of domestic
7 abuse. A law enforcement officer, when making arrests for
8 domestic abuse, shall seek to identify and shall consider
9 whether one of the parties acted in self-defense.

10 [~~A.~~] B. Notwithstanding the provisions of any
11 other law to the contrary, a peace officer may arrest a person
12 and take that person into custody without a warrant when the
13 officer is at the scene of a domestic disturbance and has
14 probable cause to believe that the person has committed an
15 assault or a battery upon a household member.

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

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

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underscored material = new
[bracketed material] = delete

