

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 231

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO DOMESTIC VIOLENCE; INCREASING PENALTIES FOR BATTERY
AGAINST A HOUSEHOLD MEMBER AND AGGRAVATED BATTERY AGAINST A
HOUSEHOLD MEMBER; REQUIRING OFFENDERS TO PARTICIPATE IN AND
COMPLETE A DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAM.

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

Section 1. Section 30-3-15 NMSA 1978 (being Laws 1995,
Chapter 221, Section 6, as amended) is amended to read:

"30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Battery against a household member consists of
the unlawful, intentional touching or application of force to
the person of a household member, when done in a rude, insolent
or angry manner.

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

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underscored material = new
[bracketed material] = delete

1 C. Upon a second conviction pursuant to this
2 section, an offender shall be sentenced to a jail term of not
3 less than forty-eight hours that shall not be suspended,
4 deferred or taken under advisement.

5 D. Upon a third conviction pursuant to this
6 section, an offender shall be sentenced to a jail term of not
7 less than thirty consecutive days that shall not be suspended,
8 deferred or taken under advisement.

9 E. Upon a fourth or subsequent conviction pursuant
10 to this section, an offender is guilty of a fourth degree
11 felony and the offender shall be sentenced to a term of
12 incarceration of not less than six months that shall not be
13 suspended, deferred or taken under advisement.

14 F. Upon any conviction pursuant to this section, an
15 offender shall be required to participate in and complete a
16 domestic violence offender treatment program that includes the
17 components set forth in Subsection D of Section 31-12-12 NMSA
18 1978. The requirement imposed pursuant to this subsection
19 shall not be suspended, deferred or taken under advisement.

20 G. Notwithstanding any provision of law to the
21 contrary, if an offender's sentence was suspended or deferred
22 in whole or in part, the period of probation may extend beyond
23 three hundred sixty-four days but may not exceed three hundred
24 sixty-four days plus ninety days."

25 Section 2. Section 30-3-16 NMSA 1978 (being Laws 1995,

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1 Chapter 221, Section 7) is amended to read:

2 "30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD
3 MEMBER.--

4 A. Aggravated battery against a household member
5 consists of the unlawful touching or application of force to
6 the person of a household member with intent to injure that
7 person or another.

8 B. Whoever commits aggravated battery against a
9 household member by inflicting an injury to that person that is
10 not likely to cause death or great bodily harm, but that does
11 cause painful temporary disfigurement or temporary loss or
12 impairment of the functions of any member or organ of the body,
13 is guilty of a misdemeanor.

14 C. Whoever commits aggravated battery against a
15 household member by inflicting great bodily harm or doing so
16 with a deadly weapon or doing so in any manner whereby great
17 bodily harm or death can be inflicted is guilty of a third
18 degree felony.

19 D. Upon a second conviction pursuant to Subsection
20 B of this section, an offender shall be sentenced to a jail
21 term of not less than forty-eight hours that shall not be
22 suspended, deferred or taken under advisement.

23 E. Upon a third conviction pursuant to Subsection B
24 of this section, an offender shall be sentenced to a jail term
25 of not less than thirty consecutive days that shall not be

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1 suspended, deferred or taken under advisement.

2 F. Upon a fourth or subsequent conviction pursuant
3 to Subsection B of this section, an offender is guilty of a
4 fourth degree felony and the offender shall be sentenced to a
5 term of incarceration of not less than six months that shall
6 not be suspended, deferred or taken under advisement.

7 G. Upon any conviction pursuant to Subsection B of
8 this section, an offender shall be required to participate in
9 and complete an approved domestic violence offender treatment
10 program that includes the components set forth in Subsection D
11 of Section 31-12-12 NMSA 1978. The requirement imposed
12 pursuant to this subsection shall not be suspended, deferred or
13 taken under advisement.

14 H. Notwithstanding any provision of law to the
15 contrary, if an offender's sentence was suspended or deferred
16 in whole or in part pursuant to Subsection B of this section,
17 the period of probation may extend beyond three hundred sixty-
18 four days but may not exceed three hundred sixty-four days plus
19 ninety days."

20 Section 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2005.