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HOUSE BILL 497

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO DOMESTIC VIOLENCE; RECONCILING DIFFERENCES IN THE
DEFINITION OF "HOUSEHOLD MEMBER" IN THE CRIMES AGAINST
HOUSEHOLD MEMBERS ACT, THE FAMILY VIOLENCE PROTECTION ACT AND
THE CRIMINAL PROCEDURE ACT.

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

SECTION 1. Section 30-3-11 NMSA 1978 (being Laws 1995,
Chapter 221, Section 2, as amended) is amended to read:

"30-3-11. DEFINITIONS.--As used in the Crimes Against
Household Members Act:

A. "household member" means a spouse, former
spouse, parent, present or former stepparent, present or former
~~[parent-in-law]~~ parent-in-law, grandparent, grandparent-in-law,
a co-parent of a child or a person with whom a person has had a
continuing personal relationship. Cohabitation is not

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1 necessary to be deemed a household member for the purposes of
2 the Crimes Against Household Members Act; and

3 B. "continuing personal relationship" means a
4 dating or intimate relationship."

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

7 "31-1-7. ARREST WITHOUT WARRANT--LIABILITY.--

8 A. Notwithstanding the provisions of any other law
9 to the contrary, a peace officer may arrest a person and take
10 that person into custody without a warrant when the officer is
11 at the scene of a domestic disturbance and has probable cause
12 to believe that the person has committed an assault or a
13 battery upon a household member. As used in this section:
14 "household member" means a spouse, former spouse, [~~family~~
15 ~~member, including a relative~~] parent, present or former
16 stepparent, present or former [~~in-law, child or~~] parent-in-law,
17 grandparent, grandparent-in-law, co-parent of a child or a
18 person with whom the victim has had a continuing personal
19 relationship. Cohabitation is not necessary to be deemed a
20 household member for purposes of this section.

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

25 C. Whether or not an arrest is made pursuant to

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1 this section, a peace officer may remain with the victim and
2 assist the victim in getting to a shelter or receiving proper
3 medical attention."

4 SECTION 3. Section 40-13-2 NMSA 1978 (being Laws 1987,
5 Chapter 286, Section 2, as amended) is amended to read:

6 "40-13-2. DEFINITIONS.--As used in the Family Violence
7 Protection Act:

8 A. "continuing personal relationship" means a
9 dating or intimate relationship;

10 B. "co-parents" means persons who have a child in
11 common, regardless of whether they have been married or have
12 lived together at any time;

13 C. "court" means the district court of the judicial
14 district where an alleged victim of domestic abuse resides or
15 is found;

16 D. "domestic abuse":

17 (1) means an incident of stalking or sexual
18 assault whether committed by a household member or not;

19 (2) means an incident by a household member
20 against another household member consisting of or resulting in:

21 (a) physical harm;

22 (b) severe emotional distress;

23 (c) bodily injury or assault;

24 (d) a threat causing imminent fear of

25 bodily injury by any household member;

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- 1 (e) criminal trespass;
2 (f) criminal damage to property;
3 (g) repeatedly driving by a residence or
4 work place;
5 (h) telephone harassment;
6 (i) harassment; or
7 (j) harm or threatened harm to children
8 as set forth in this paragraph; and

9 (3) does not mean the use of force in self-
10 defense or the defense of another;

11 E. "household member" means a spouse, former
12 spouse, parent, present or former stepparent, present or former
13 ~~[parent-in-law]~~ parent-in-law, grandparent, grandparent-in-law,
14 ~~[child, stepchild, grandchild]~~ co-parent of a child or a person
15 with whom the petitioner has had a continuing personal
16 relationship. Cohabitation is not necessary to be deemed a
17 household member for purposes of this section;

18 F. "mutual order of protection" means an order of
19 protection that includes provisions that protect both parties;

20 G. "order of protection" means an injunction or a
21 restraining or other court order granted for the protection of
22 a victim of domestic abuse;

23 H. "protected party" means a person protected by an
24 order of protection; and

25 I. "restrained party" means a person who is

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1 restrained by an order of protection."

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