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SENATE BILL 407

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

INTRODUCED BY

Lisa A. Torraco

AN ACT

RELATING TO ORDERS OF PROTECTION; AMENDING THE REQUIREMENTS  
PERTAINING TO HEARINGS AND DETERMINATIONS ON ORDERS OF  
PROTECTION; DECLARING AN EMERGENCY.

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

**SECTION 1.** Section 40-13-4 NMSA 1978 (being Laws 1987,  
Chapter 286, Section 4, as amended) is amended to read:

"40-13-4. TEMPORARY ORDER OF PROTECTION--HEARING--  
DISMISSAL.--

A. Upon the filing of a petition for order of  
protection, the court shall:

(1) immediately grant an ex parte temporary  
order of protection without bond if there is probable cause  
from the specific facts shown by the affidavit or by the  
petition to give the judge reason to believe that an act of

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1 domestic abuse has occurred; and

2 (2) cause the temporary order of protection  
3 together with notice of hearing to be served immediately on the  
4 alleged perpetrator of the domestic abuse; [~~and~~

5 ~~(3) within ten days after the granting of the~~  
6 ~~temporary order of protection, hold a hearing on the question~~  
7 ~~of continuing the order;]~~ or

8 [~~(4)~~] (3) if an ex parte order is not granted,  
9 serve notice to appear upon the parties and hold a hearing on  
10 the petition for order of protection within seventy-two hours  
11 after the filing of the petition; provided if notice of hearing  
12 cannot be served within seventy-two hours, the temporary order  
13 of protection shall be automatically extended for ten days.

14 B. If the court grants a temporary order of  
15 protection:

16 (1) it may award temporary custody and  
17 visitation of any children involved when appropriate;

18 (2) it shall hold a hearing on the question of  
19 continuing the order; and

20 (3) no later than sixty days after service of  
21 the temporary order of protection, the court shall either enter  
22 a permanent order of protection or dismiss the temporary order  
23 of protection.

24 C. Except for petitions alleging stalking or sexual  
25 assault, if the court finds that the alleged perpetrator is not

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1 a household member, the court shall dismiss the petition."

2 SECTION 2. EMERGENCY.--It is necessary for the public  
3 peace, health and safety that this act take effect immediately.

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