

1 SENATE BILL 38

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;  
12 CREATING THE CRIMES OF ASSAULT AND BATTERY UPON A PUBLIC  
13 SERVICE WORKER OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;  
14 ESTABLISHING PENALTIES.

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

17 SECTION 1. A new section of the Criminal Code, Section  
18 30-3-9.3 NMSA 1978, is enacted to read:

19 "30-3-9.3. [NEW MATERIAL] ASSAULT--BATTERY--PUBLIC  
20 SERVICE WORKERS OF THE CHILDREN, YOUTH AND FAMILIES  
21 DEPARTMENT.--

22 A. As used in this section:

23 (1) "in the lawful discharge of the public  
24 service worker's duties" means engaged in the performance of  
25 the duties of a children, youth and families department public

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1 service worker; and

2 (2) "public service worker" means an employee  
3 of the children, youth and families department who works  
4 directly with children and families in either the protective  
5 services division or juvenile justice division of the children,  
6 youth and families department and includes any child protection  
7 investigator, family services worker, client service worker,  
8 permanency planning worker, placement worker, foster care  
9 worker, adoption worker, social worker, in-home services  
10 worker, youth transition coordinator, case worker, juvenile  
11 probation officer or family-centered mediator or any supervisor  
12 of any of those or any person authorized to transport clients  
13 for the department.

14 B. Assault upon a public service worker consists  
15 of:

16 (1) an attempt to commit a battery upon the  
17 person of a public service worker who is in the lawful  
18 discharge of the public service worker's duties; or

19 (2) any unlawful act, threat or menacing  
20 conduct that causes a public service worker who is in the  
21 lawful discharge of the public service worker's duties to  
22 reasonably believe that the public service worker is in danger  
23 of receiving an immediate battery.

24 Whoever commits assault upon a public service worker is  
25 guilty of a misdemeanor.

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1           C. Aggravated assault upon a public service worker  
2 consists of:

3                   (1) unlawfully assaulting or striking at a  
4 public service worker with a deadly weapon while the public  
5 service worker is in the lawful discharge of the public service  
6 worker's duties; or

7                   (2) willfully and intentionally assaulting a  
8 public service worker who is in the lawful discharge of the  
9 public service worker's duties with intent to commit any  
10 felony.

11           Whoever commits aggravated assault upon a public service  
12 worker is guilty of a third degree felony.

13           D. Battery upon a public service worker is the  
14 unlawful, intentional touching or application of force to the  
15 person of a public service worker who is in the lawful  
16 discharge of the public service worker's duties, when done in a  
17 rude, insolent or angry manner.

18           Whoever commits battery upon a public service worker is  
19 guilty of a fourth degree felony.

20           E. Aggravated battery upon a public service worker  
21 consists of the unlawful touching or application of force to  
22 the person of a public service worker with intent to injure  
23 that public service worker while the public service worker is  
24 in the lawful discharge of the public service worker's duties.

25           Whoever commits aggravated battery upon a public service

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1 worker, inflicting great bodily harm or does so with a deadly  
2 weapon or in any manner whereby great bodily harm or death can  
3 be inflicted, is guilty of a third degree felony.

4 F. A person who assists or is assisted by one or  
5 more other persons to commit a battery upon a public service  
6 worker who is in the lawful discharge of the public service  
7 worker's duties is guilty of a fourth degree felony."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2018.