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HOUSE BILL 198

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Kelly K. Fajardo

AN ACT

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

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

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

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

A. As used in this section:

(1) "in the lawful discharge of the public
service worker's duties" means engaged in the performance of
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 public service workers or any person authorized
13 to transport clients 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, 2019.