

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 390

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY
DANICE PICRAUX

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING FOR THE ISSUANCE OF EX
PARTE EMERGENCY ORDERS OF PROTECTION; AMENDING AND ENACTING
SECTIONS OF THE FAMILY VIOLENCE PROTECTION ACT.

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

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

"40-13-1. SHORT TITLE. -- ~~[This act]~~ Chapter 40, Article 13
NMSA 1978 may be cited as the "Family Violence Protection Act". "

Section 2. A new section of the Family Violence Protection
Act is enacted to read:

"[NEW MATERIAL] EX PARTE EMERGENCY ORDERS OF PROTECTION--
ISSUANCE BY THE COURT OR A DOMESTIC VIOLENCE COMMISSIONER. --

A. The court or a domestic violence commissioner may
issue an ex parte written or oral emergency order of protection

Underscored material = new
[bracketed material] = delete

1 when a law enforcement officer states to the court or
2 commissioner in person or by telephone, and the court or
3 commissioner finds that there exist reasonable grounds to
4 believe that a petitioner is in immediate danger of domestic
5 abuse involving violence based on an allegation of a recent
6 incident of domestic abuse involving violence.

7 B. A law enforcement officer who receives an oral
8 emergency order of protection shall:

9 (1) personally reduce the order to writing and
10 sign it;

11 (2) serve a signed copy on the respondent
12 forthwith;

13 (3) immediately provide the petitioner with a
14 signed copy of the order; and

15 (4) provide the original order to the court by
16 the close of business on the next judicial day.

17 C. An emergency order for protection may grant the
18 following relief:

19 (1) enjoin the respondent from threatening to
20 commit or committing acts of domestic abuse against the
21 petitioner and any designated household members;

22 (2) prohibit the respondent from harassing,
23 annoying, telephoning, contacting or otherwise communicating
24 with the petitioner, directly or indirectly;

25 (3) remove and exclude the respondent from the

1 residence of the petitioner, regardless of ownership of the
2 residence;

3 (4) order the respondent to stay away from the
4 residence, school and place of employment of the petitioner and
5 any other specified place frequented by the petitioner and any
6 designated household members;

7 (5) provide for the petitioner's possession and
8 use of an automobile and essential personal effects, regardless
9 of their ownership;

10 (6) direct the appropriate law enforcement
11 officer to accompany the petitioner to ensure that the
12 petitioner is safely restored to possession of the residence,
13 automobile and other essential personal effects, or to accompany
14 and supervise the petitioner's or respondent's removal of
15 personal belongings;

16 (7) grant temporary custody of any minor child
17 to the petitioner; and

18 (8) order other relief as deemed necessary to
19 protect and provide for the safety of the petitioner and any
20 designated household members.

21 D. A judge or a domestic violence commissioner shall
22 be available twenty-four hours a day to hear petitions for
23 emergency orders of protection.

24 E. An emergency order for protection expires
25 seventy-two hours after issuance, unless extended for a like

Underscored material = new
~~[bracketed material] = delete~~

1 period by further court order.

2 F. A domestic violence commissioner shall possess
3 the following qualifications:

4 (1) be a lawyer licensed to practice law in New
5 Mexico; and

6 (2) have at least five years of experience in
7 the practice of law."

8 - 4 -
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of New Mexico
House of Representatives

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 17, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 390

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL
390

DO PASS, and thence referred to APPROPRIATIONS AND
FINANCE COMMITTEE.

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Larranaga, Rios, Stewart

Absent: None

M \H0390

Underscored material = new
[bracketed material] = delete

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 390

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING FOR THE ISSUANCE OF EX
PARTE EMERGENCY ORDERS OF PROTECTION; AMENDING AND ENACTING
SECTIONS OF THE FAMILY VIOLENCE PROTECTION ACT.

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

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

"40-13-1. SHORT TITLE. -- ~~[This act]~~ Chapter 40, Article 13
NMSA 1978 may be cited as the "Family Violence Protection Act". "

Section 2. A new section of the Family Violence Protection
Act is enacted to read:

"[NEW MATERIAL] EX PARTE EMERGENCY ORDERS OF PROTECTION. --

A. The district court may issue an ex parte written
emergency order of protection when a law enforcement officer or
other appointed person states to the court in person, by
telephone or via facsimile upon a verified petition, and the
court finds reasonable grounds to believe, that a petitioner is
in immediate danger of domestic abuse following an incident of

1 domestic abuse by a household member.

2 B. A law enforcement officer who receives an
3 emergency order of protection, whether in writing or by
4 facsimile transmission, from the court shall:

5 (1) if possible, immediately serve a signed
6 copy of the order on the respondent and complete the appropriate
7 affidavit of service;

8 (2) immediately provide the petitioner with a
9 signed copy of the order; and

10 (3) when necessary, provide the original order
11 to the court by the close of business on the next judicial day.

12 C. The court may grant the following relief in an
13 emergency order for protection upon a probable cause finding
14 that domestic abuse has occurred:

15 (1) enjoin the respondent from threatening to
16 commit or committing acts of domestic abuse against the
17 petitioner or any designated household members;

18 (2) enjoin the respondent from any contact with
19 the petitioner, including harassing, telephoning, contacting or
20 otherwise communicating with the petitioner;

21 (3) temporarily remove and exclude the
22 respondent from the residence of the petitioner, regardless of
23 ownership of the residence;

24 (4) enjoin the respondent from contacting the
25 petitioner or any household member at the residence, school and
place of employment of the petitioner and any other specified
place frequented by the petitioner and any designated household
members;

1 (5) order temporary possession or use of the
2 parties' automobile or other personal effects, as enumerated by the
3 court, regardless of their ownership, and direct the appropriate
4 law enforcement officer to accompany the petitioner at a specified
5 time to safely obtain these items or to accompany and supervise the
6 petitioner's or respondent's removal of personal belongings;

7 (6) grant temporary legal or physical custody of
8 any minor child to the petitioner, if necessary; and

9 (7) order other relief as deemed necessary to
10 protect and provide for the safety of the petitioner and any
11 designated household members.

12 D. Any designated judicial officer with authority to
13 issue an order for protection shall be available for emergency
14 matters as determined by each judicial district.

15 E. An emergency order for protection expires seventy-
16 two hours after issuance, unless extended after a hearing has been
17 held. "

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

February 27, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom
has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL
390

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 2, line 1, strike "verified petition" and insert in
lieu thereof "sworn statement made by a person petitioning for an
emergency order of protection".

2. On page 2, line 2, strike "a" and insert in lieu thereof
"the".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HAF C/HJC/HB 390, aa

Page 11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Respectfully submitted,

Max Coll, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Buffett, Marquardt, Saavedra, Salazar, Taylor, J. P.

Absent: None

. 117839. 1

M \ H0390

. 116567. 2

Underscored material = new
~~[bracketed material] = delete~~

1 HJC/HB 390

2
3
4
5 FORTY-THIRD LEGISLATURE HJC/HB 390/a
6 FIRST SESSION
7

8
9 March 17, 1997

10
11 Mr. President:

12 Your JUDICIARY COMMITTEE, to whom has been referred

13
14
15 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
16 HOUSE BILL 390, as amended

17
18
19 has had it under consideration and reports same with
20 recommendation that it DO PASS, amended as follows:

- 21 1. On page 1, line 25, strike "other appointed person" and
22 insert in lieu thereof "the officer's designee".
23
24 2. On page 2, line 4, after the period insert "The statement
25 shall include the location and telephone number of the respondent,
if known."

. 116567.2

1
2 FORTY-THIRD LEGISLATURE
3 FIRST SESSION

4 SJC/HJC/HB 390

Page 13

5 Respectfully submitted,
6

7
8 _____
9 Fernando R. Macias, Chairman

10
11
12 Adopted _____ Not Adopted _____
13 (Chief Clerk) (Chief Clerk)

14
15
16 Date _____

17
18
19 The roll call vote was 7 For 0 Against

20 Yes: 7

21 No: 0

22 Excused: Sanchez

23 Absent: 0
24
25

Underscored material = new
[bracketed material] = delete

Underscored material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HJC/HB 390

FORTY-THIRD LEGISLATURE
FIRST SESSION

SJC/HJC/HB 390

Page 14

H0390JU1

. 119050. 1

FORTY-THIRD LEGISLATURE
FIRST SESSION

SJC/HJC/HB 390

Page 15

Underscored material = new
~~[bracketed material] = delete~~

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25