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HOUSE BILL 551

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

INTRODUCED BY

HENRY KIKI SAAVEDRA

AN ACT

RELATING TO CRIMES; DEFINING CRIMES INVOLVING ASSAULT OR BATTERY
AGAINST STATE EMPLOYEES; PROVIDING PENALTIES.

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

Section 1. A new Section 30-3-9.1 NMSA 1978 is enacted to
read:

"30-3-9.1. [NEW MATERIAL] ASSAULT-- BATTERY-- STATE
EMPLOYEES. --

A. Assault upon a state employee consists of:

(1) an attempt to commit a battery upon the
person of a state employee engaged in the lawful discharge of
his duties; or

(2) any unlawful act, threat or menacing
conduct that causes a state employee engaged in the lawful
discharge of his duties to reasonably believe that the employee

Underscored material = new
[bracketed material] = delete

1 is in danger of receiving an immediate battery.

2 Whoever commits assault upon a state employee is guilty of
3 a misdemeanor.

4 B. Aggravated assault upon a state employee consists
5 of:

6 (1) using a deadly weapon when assaulting or
7 striking at a state employee engaged in the lawful discharge of
8 his duties;

9 (2) wearing a mask, hood, robe or other
10 covering upon the face, head or body, or using any other
11 disguise in any manner, so as to conceal identity when
12 threatening or menacing a state employee engaged in the lawful
13 discharge of his duties; or

14 (3) assaulting with intent to commit any other
15 felony on a state employee engaged in the lawful discharge of
16 his duties.

17 Whoever commits aggravated assault upon a state employee is
18 guilty of a fourth degree felony.

19 C. Assault with intent to commit a violent felony
20 upon a state employee consists of assaulting with intent to kill
21 a state employee engaged in the lawful discharge of his duties.

22 Whoever commits assault with intent to commit a violent
23 felony upon a state employee is guilty of a second degree
24 felony.

25 D. Battery upon a state employee consists of the

Underscored material = new
[bracketed material] = delete

1 unlawful, intentional touching or application of force to the
2 person of a state employee engaged in the lawful discharge of
3 his duties, when the unlawful, intentional touching or
4 application of force is done in a rude, insolent or angry
5 manner.

6 Whoever commits battery upon a state employee is guilty of
7 a fourth degree felony.

8 E. Aggravated battery upon a state employee consists
9 of the unlawful touching or application of force with intent to
10 injure the person of a state employee engaged in the lawful
11 discharge of his duties.

12 Whoever commits aggravated battery upon a state employee
13 that is not likely to cause the death of or great bodily harm to
14 a state employee but does cause painful temporary disfigurement
15 or temporary loss or impairment of the functions of any member
16 or organ of the body of a state employee is guilty of a fourth
17 degree felony.

18 Whoever commits aggravated battery upon a state employee
19 that inflicts great bodily harm, or that is done with a deadly
20 weapon or in any manner whereby great bodily harm or death can
21 be inflicted, is guilty of a third degree felony.

22 F. Every person who assists or is assisted by one or
23 more other persons to commit a battery or aggravated battery
24 upon a state employee is guilty of fourth degree felony.

25 G. As used in this section:

Underscored material = new
[bracketed material] = delete

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(1) "lawful discharge of his duties" means any conduct that a state employee is requested, required or authorized to perform by the state as part of his employment, regardless of the time or place of performance; and

(2) "state employee" means any officer or employee of the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, whether the officer or employee is compensated or uncompensated, but does not include independent contractors."