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HOUSE BILL 86

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Kelly K. Fajardo

AN ACT

RELATING TO DOMESTIC VIOLENCE; ALLOWING WARRANTLESS ARREST AT LOCATIONS OTHER THAN AT THE SCENE OF A DOMESTIC DISTURBANCE IF CERTAIN CONDITIONS ARE MET.

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

SECTION 1. Section 31-1-7 NMSA 1978 (being Laws 1979, Chapter 178, Section 1, as amended) is amended to read:

"31-1-7. ARREST WITHOUT WARRANT--LIABILITY.--

A. Notwithstanding the provisions of any other law to the contrary, a peace officer may arrest a person and take that person into custody without a warrant when:

(1) the officer ~~[is at the scene of a domestic disturbance and]~~ has probable cause to believe that the person

has committed an assault or a battery upon a household member

~~[As used in this section: "household member" means a spouse;~~

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 ~~former spouse; family member, including a relative, parent,~~
2 ~~present or former stepparent, present or former in-law, child~~
3 ~~or co-parent of a child; or a person with whom the victim has~~
4 ~~had a continuing personal relationship. Cohabitation is not~~
5 ~~necessary to be deemed a household member for purposes of this~~
6 ~~section];~~

7 (2) the arrest is reasonably necessary to
8 protect a household member from future domestic abuse; and

9 (3) the arrest occurs at the scene of a
10 domestic disturbance or at another location if the arrest is
11 made with reasonable promptness after the domestic disturbance.

12 B. No peace officer shall be held criminally or
13 civilly liable for making an arrest pursuant to this section;
14 provided ~~[he]~~ that the officer acts in good faith and without
15 malice.

16 C. Whether or not an arrest is made pursuant to
17 this section, a peace officer may remain with the victim and
18 assist the victim in getting to a shelter or receiving proper
19 medical attention.

20 D. As used in this section:

21 (1) "domestic abuse" has the same meaning as
22 used in the Family Violence Protection Act;

23 (2) "household member" means a spouse, former
24 spouse, family member, including a relative, parent, present or
25 former stepparent, present or former in-law, child or co-parent

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

1 of a child, or a person with whom the victim has had a
2 continuing personal relationship. Cohabitation is not
3 necessary to be deemed a household member for purposes of this
4 section; and

5 (3) "reasonable promptness" means occurring
6 within twenty-four hours after a peace officer is summoned to
7 the scene of the domestic disturbance in question."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2016.