**New Mexico Definitions of Violence Against Women Act Crimes**

**Stalking – NMSA 1978, § 30-3A-1 et seq., “Harassment and Stalking Act”**

* Stalking: under New Mexico law, “stalking” is defined as knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, or restraint of the individual or another individual. “Aggravated stalking” consists of stalking perpetrated by a person who knowingly violates a court order, including an order of protection, or when the person possesses a deadly weapon or when the victim is under sixteen years of age.

 “Harassment” means knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

“Stalking” means knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement, or restraint of the individual or another individual.  A “pattern of conduct” means two or more acts, on more than one occasion.

“Aggravated stalking” consists of stalking perpetrated by a person:

* who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
* in violation of a court order setting conditions of release and bond;
* when the person is in possession of a deadly weapon; or
* when the victim is less than sixteen years of age.

**Domestic Violence – NMSA 1978, § 30-3-10, et seq., “Crimes Against Household Members Act” (includes dating violence)**

* Domestic violence: under state law, domestic violence is defined as felony and misdemeanor crimes under the New Mexico Crimes Against Household Members Act.
Crimes included under the New Mexico Crimes Against Household Members Act are assault, aggravated assault, assault with intent to commit a violent felony, battery, and aggravated battery. A “household member” is a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, a co-parent of a child, or person with whom someone has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. In addition, under the New Mexico Family Violence Protection Act, violation of a court-issued order of protection granted to protect an individual who has experienced sexual violence or domestic abuse is a misdemeanor crime.
* Domestic abuse: under the Family Violence Protection Act, “domestic abuse” is defined as “an incident of stalking or sexual assault whether committed by a household member or not” resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear or bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children. Under the Family Violence Protection Act, “household members” include a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member under the Act. Violation of any provision of an order of protection issued under the Family Violence Protection Act is a misdemeanor crime and constitutes contempt of court and may result in a fine or imprisonment or both.
* Dating violence: under New Mexico’s Crimes Against Household Members Act, someone with whom a person has a dating or intimate relationship is considered to be a household member. Any of the felony and misdemeanor crimes enumerated as domestic violence in the Crimes Against Household Members Act are also crimes when committed against someone with whom the offender has a dating or intimate relationship.

 “Domestic violence” consists of assault or battery of:

* a spouse or former spouse, or
* parent, step-parent, in-law, grandparent, grandparent-in-law, co-parent of a child, or a person with whom a person has had a continuing personal relationship.
* “continuing personal relationship” means a dating or intimate relationship.
* Cohabitation is not necessary to be deemed a household member for purposes of the Crimes Against Household Members Act.

“Assault against a household member” means:

* An attempt to commit a battery against a household member; or
* Any unlawful act, threat or menacing conduct that causes a household member to reasonably believe they are in danger of receiving an immediate battery.

“Aggravated assault against a household member” means:

* Unlawfully assaulting or striking a household member with a deadly weapon; or
* Willfully and intentionally assaulting a household member with intent to commit any felony.

“Assault against a household member with intent to commit a violent felony” means any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second, or third degree, robbery, kidnapping, false imprisonment, or burglary.

“Battery against a household member” consists of the unlawful, intentional touching or application of force against a household member when done in a rude, insolent, or angry manner.

“Aggravated battery against a household member” consists of the unlawful touching or application of force against a household member with intent to injure that person or another.

**Sexual Assault – Criminal Sexual Penetration (NMSA 1978, § 30-9-11), Criminal Sexual Contact (NMSA 1978, § 30-9-12), and Criminal Sexual Contact with a Minor (NMSA 1978, § 30-9-13)**

“Criminal sexual penetration” is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio, or anal intercourse or the causing of penetration, to any extent and with any object, or the genital or anal openings of another, whether or not there is any emission.

* Criminal sexual penetration is a felony crime; the degree of the felony (first degree through fourth degree) depends on the age of the victim and the force or coercion used by the perpetrator.
* “Force or coercion” is defined in NMSA 1978, § 30-9-10(A) and means:
* the use of physical force or physical violence;
* the use of threats to use physical force or violence against the victim or another;
* the use of threats, including threats of physical punishment, kidnapping, extortion, or retaliation directed against the victim or another; or
* committing a criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep, or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act.

“Criminal sexual contact” is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one’s intimate parts.  “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast.

* Criminal sexual contact is a felony crime if perpetrated by the use of force or coercion that results in personal injury to the victim, or if the perpetrator is aided or abetted by others, or when the perpetrator is armed with a deadly weapon.
* Criminal sexual contact is a misdemeanor crime when perpetrated with the use of force or coercion.

“Criminal sexual contact with a minor” is the unlawful and intentional touching of or application of force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one’s intimate parts.  “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast.  A “minor” is a person eighteen years of age or younger

1The Violence Against Women Act (VAWA) is a federal law originally passed in 1994 and reauthorized several times by Congress, most recently in 2013.