

Chapter 13

DOMESTIC ASSAULT AND BATTERY

Original House Bill No. 6

AN ACT relating to crimes and offenses; creating the offenses of domestic assault and domestic battery; repealing and conforming provisions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 6-2-510 and 6-2-511 are created to read:

**6-2-510. Domestic assault.**

(a) A household member is guilty of domestic assault if, having the present ability to do so, he unlawfully attempts to cause bodily injury to another household member.

(b) Domestic assault is punishable as follows:

(i) By a fine of not more than seven hundred fifty dollars (\$750.00);

(ii) By imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both, if the person has previously been convicted of domestic assault or if the person has previously been convicted of the following or similar offense against another household member:

(A) Domestic battery under W.S. 6-2-511;

(B) Simple assault under W.S. 6-2-501(a);

(C) Battery under W.S. 6-2-501(b);

(D) Aggravated assault and battery under W.S. 6-2-502;

(E) Child abuse under W.S. 6-2-503; or

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(F) Reckless endangering under W.S. 6-2-504.

(c) If a person sentenced under paragraph (b)(ii) of this section is placed on probation, the court may, notwithstanding any other provision of law, impose a term of probation exceeding the maximum six (6) months imprisonment, provided the term or probation, including extensions, shall not exceed one (1) year.

(d) As used in this section:

(i) "Convicted" means a person has been convicted upon a plea of guilty or no contest or has been found guilty;

(ii) "Household member" means as defined in W.S. 35-21-102;

(iii) "Similar offense" means a substantially similar law of this or any other state, tribe or territory.

### **6-2-511. Domestic battery.**

(a) A household member is guilty of domestic battery if he knowingly or recklessly causes bodily injury to another household member by use of physical force.

(b) Domestic battery is punishable as follows:

(i) By imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both;

(ii) By imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both, if within the previous five (5) years, the person has been convicted of domestic battery or the following or similar offense against another household member:

(A) Domestic assault under W.S. 6-2-510;

(B) Simple assault under W.S. 6-2-501(a);

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- (C) Battery under W.S. 6-2-501(b);
- (D) Aggravated assault and battery under W.S. 6-2-502;
- (E) Child abuse under W.S. 6-2-503; or
- (F) Reckless endangering under W.S. 6-2-504.

(iii) By imprisonment for not more than five (5) years, a fine of not more than two thousand dollars (\$2,000.00), or both, if within the previous ten (10) years, the person has been convicted of domestic battery two (2) or more times or has been convicted of domestic battery and the following or similar offense against another household member:

- (A) Domestic assault under W.S. 6-2-510;
- (B) Simple assault under W.S. 6-2-501(a);
- (C) Battery under W.S. 6-2-501(b);
- (D) Aggravated assault and battery under W.S. 6-2-502;
- (E) Child abuse under W.S. 6-2-503; or
- (F) Reckless endangering under W.S. 6-2-504.

(c) If a person sentenced under paragraph (b)(ii) of this section is placed on probation, the court may, notwithstanding any other provision of law, impose a term of probation exceeding the maximum imprisonment of one (1) year, provided the term or probation, including extensions, shall not exceed two (2) years.

(d) As used in this section:

(i) "Convicted" means a person has been convicted upon a plea of guilty or no contest or has been found guilty;

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(ii) “Household member” means as defined in W.S. 35-21-102;

(iii) “Similar offense” means a substantially similar law of this or any other state, tribe or territory.

**Section 2.** W.S. 6-1-104(a)(xv)(R) and (S), 7-6-102(a)(v)(B), 7-13-301(a)(intro),7-13-1105(c),7-13-1501(a)(intro)and(ii),7-13-1502(a)(iv)(E) and 7-20-102(a) are amended to read:

### **6-1-104. Definitions.**

(a) As used in this act, unless otherwise defined:

(xv) “Pattern of criminal street gang activity” means the commission of, conviction or adjudication for or solicitation, conspiracy or attempt to commit two (2) or more of the offenses listed in this paragraph on separate occasions within a three (3) year period. Offenses that form a pattern of criminal street gang activity include:

(R) Simple assault in violation of W.S. 6-2-501(a) and domestic assault in violation of W.S. 6-2-510;

(S) Battery in violation of W.S. 6-2-501(b) and domestic battery in violation of W.S. 6-2-511.

### **7-6-102. Definitions.**

(a) As used in this act:

(v) “Serious crime” means:

(B) Any misdemeanor offense charged under W.S. 6-2-501, 6-2-510 or 6-2-511, or any other provision, a conviction of which is a “misdemeanor crime of domestic violence” as defined in 18 U.S.C. § 921(a)(33), and which may therefore result in the disqualification of the person to possess firearms pursuant to the provisions of 18 U.S.C. §§ 922(g)(9) and 924(a)(2), regardless of the determination of the judge that he intends not to impose a term of

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incarceration for the state offense.

### **7-13-301. Placing person found guilty, but not convicted, on probation.**

(a) If a person who has not previously been convicted of any felony is charged with or is found guilty of or pleads guilty or no contest to any misdemeanor except any second or subsequent violation of W.S. 31-5-233 or any similar provision of law, or any second or subsequent violation of W.S. ~~6-2-501(a) or (b)~~ by a household member as defined by W.S. 35-21-102 against any other household member ~~6-2-510(a) or 6-2-511(a)~~ or any similar provision of law, or any felony except murder, sexual assault in the first or second degree, aggravated assault and battery or arson in the first or second degree, the court may, with the consent of the defendant and the state and without entering a judgment of guilt or conviction, defer further proceedings and place the person on probation for a term not to exceed five (5) years upon terms and conditions set by the court. The terms of probation shall include that he:

### **7-13-1105. Placement of probationer in program by sentencing court.**

(c) Subject to the conditions specified in ~~subsection paragraphs~~ (a)(i) through (iv) of this section, participation in a program established under this article may be ordered for a defendant who has entered a plea of guilty or nolo contendere to or has been convicted of a violation of W.S. 6-2-510 or 6-2-511 or a violation of W.S. 6-4-404, or a violation of W.S. 6-2-501(a), (b), (e) or (f)(i) or 6-2-504(a) or (b) if the defendant and the victim are household members as defined by W.S. 35-21-102(a)(iv).

### **7-13-1501. Petition for expungement of records of conviction of misdemeanors; filing fee; notice; objections; hearing; definitions.**

(a) A person who has pleaded guilty or nolo contendere to or been convicted of a misdemeanor under W.S. 6-2-501(a), or (b), or (e), 6-2-504(a), 6-2-510(a), 6-2-511(a) or 6-6-102, or those same misdemeanors arising out of the same occurrence or related course of events, may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(ii) Other than convictions for which an expungement is sought under this section, the petitioner has not previously pleaded guilty or nolo contendere to or been convicted of a misdemeanor under W.S. 6-2-501(a), or

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(b), ~~or (e)~~, 6-2-504(a), 6-2-510(a), 6-2-511(a) or 6-6-102;

**7-13-1502. Petition for expungement of records of conviction of certain felonies; filing fee; notice; objections; hearing; definitions; restoration of rights.**

(a) A person convicted of a felony or felonies subject to expungement under this section arising out of the same occurrence or related course of events, may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(iv) Felonies subject to expungement under this section shall not include:

(E) Any offense punishable under W.S. 6-2-501(f) as in effect prior to July 1, 2014 and any offense punishable under W.S. 6-2-511(b)(iii);

**7-20-102. Arrests without warrant.**

(a) In addition to arrests specified in W.S. 7-2-102, any peace officer who has probable cause to believe that a violation of W.S. ~~6-2-501(a), (b), (e) through (g), 6-2-510(a) or 6-2-511(a)~~ has taken place within the preceding twenty-four (24) hours or is taking place or that a violation of W.S. 6-2-502(a) or 6-2-504(a) or (b) has taken place within the preceding twenty-four (24) hours or is taking place and that the person who committed or is committing the violation is a household member as defined by W.S. 35-21-102(a)(iv), may arrest the violator without a warrant for that violation, regardless of whether the violation was committed in the presence of the peace officer.

**Section 3.** W.S. 6-2-501(e) and (f) is repealed.

**Section 4.** This act is effective July 1, 2014.

Approved March 4, 2014.