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HOUSE BILL 485

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Marsha Atkin

AN ACT

**RELATING TO PARENTAL RIGHTS; CREATING THE CRIME OF DEPRIVATION
OF A PARENT'S RIGHT TO ESTABLISH PARENTAL RELATIONSHIP WITH A
CHILD; PROVIDING DEFENSES; PROVIDING A PENALTY.**

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

**Section 1. A new section of Chapter 30, Article 4 NMSA
1978 is enacted to read:**

**" [NEW MATERIAL] DEPRIVATION OF A PARENT'S RIGHT TO
ESTABLISH A PARENTAL RELATIONSHIP WITH A CHILD-- DEFENSES--
PENALTY. --**

**A. Deprivation of a parent's right to establish a
parental relationship with a child consists of a person
maliciously withholding from a biological parent of a child,
during the period from birth until the child is six months
old, the fact of the birth of the child, the existence of the**

underscored material = new
[bracketed material] = delete

1 child or the whereabouts of the child in the absence of the
2 order of a court of competent jurisdiction authorizing or
3 ordering the person to withhold the pertinent information.
4 Whoever commits the crime of deprivation of a parent's right
5 to establish a parental relationship with a child is guilty of
6 a misdemeanor.

7 B. It is a defense to the crime of deprivation of
8 a parent's right to establish a parental relationship with a
9 child if the defendant establishes that:

10 (1) the identity or the whereabouts, or both,
11 of the parent claiming deprivation of the right was unknown to
12 the defendant; and

13 (2) the defendant made reasonable search and
14 inquiry to establish the identity or whereabouts, or both, of
15 the parent, and either gave adequate written notice to that
16 person by mail of the birth, existence and whereabouts of the
17 child, or based on an affidavit of the defendant setting forth
18 the efforts made to identify and give actual notice, the
19 defendant proves that legal notice was given by publication in
20 the manner required by Rule 1-004 NMRA 2001, for service by
21 publication.

22 C. The provisions of Subsection A of this section
23 apply only in the case of a child born as the result of
24 voluntary natural insemination and do not apply to births
25 resulting from rape, incest or from fertilization accomplished

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without the mother knowing the identity of the biological
father. "