

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 693

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

AN ACT

RELATING TO HEALTH CARE; CREATING THE CRIMES OF OBSTRUCTING
ACCESS TO A HEALTH FACILITY, OBSTRUCTING ACCESS TO A RELIGIOUS
INSTITUTION AND INTENTIONALLY DAMAGING OR DESTROYING A HEALTH
FACILITY OR RELIGIOUS INSTITUTION; ENACTING THE HEALTH CARE
AND RELIGIOUS INSTITUTION OBSTRUCTION ACT; PROVIDING CRIMINAL
PENALTIES; PROVIDING CIVIL REMEDIES.

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

Section 1. SHORT TITLE. -- This act may be cited as the
"Health Care and Religious Institution Obstruction Act".

Section 2. DEFINITIONS. -- As used in the Health Care and
Religious Institution Obstruction Act:

A. "health facility" means a building, structure
or place at which licensed, certified or otherwise legally
authorized persons provide reproductive health care services;

1 B. "obstruct" means to physically hinder,
2 restrain, impede, hit, shove, grab, kick or otherwise subject
3 a person to unwanted physical contact or threat of unwanted
4 physical contact or an attempt to perform any of those acts;

5 C. "religious institution" means a church,
6 synagogue, mosque, temple, shrine or other place of religious
7 worship and affiliated structure or buildings; and

8 D. "reproductive health care service" means
9 counseling, diagnosis or referral services related to the
10 human reproductive system or examination or treatment of the
11 human reproductive system.

12 Section 3. OFFENSES. --

13 A. Obstructing access to a health facility
14 consists of a person, with the intent to prevent another from
15 obtaining or rendering, or assisting in obtaining or
16 rendering, a reproductive health care service, who:

17 (1) physically obstructs another from
18 entering or exiting from the entrance or exit of a health
19 facility or the premises on or in which a health facility is
20 located;

21 (2) harasses, in or about a public place,
22 another who has entered or exited a health facility; or

23 (3) engages in a course of conduct or
24 repeatedly commits acts that place another person in
25 reasonable fear of physical harm.

1 B. Obstructing access to a religious institution
2 consists of a person obstructing another from lawfully
3 exercising or seeking to exercise the first amendment right of
4 religious freedom.

5 C. Intentionally damaging or destroying a health
6 facility or religious institution consists of damaging or
7 destroying, or attempting to damage or destroy, the real or
8 personal property in or on the premises of a health facility
9 or damaging or destroying the real or personal property of a
10 religious institution.

11 D. A parent or legal guardian of a child under the
12 age sixteen years shall not be subject to penalties pursuant
13 to the Health Care and Religious Institution Obstruction Act
14 for committing obstructing access to a health care facility
15 identified in Subsection A of this section; provided, however,
16 that the actions are directed exclusively at that child to
17 prevent the child from entering a health facility or receiving
18 reproductive health care services.

19 E. A person who commits obstructing access to a
20 health facility, obstructing access to a religious institution
21 or intentionally damaging or destroying a health facility or
22 religious institution is guilty of a misdemeanor and shall be
23 sentenced pursuant to Section 31-19-1 NMSA 1978.

24 Section 4. CIVIL CAUSE OF ACTION. --

25 A. A person whose ability to obtain or render, or

underscored material = new
[bracketed material] = delete

1 assist in obtaining or rendering, reproductive health care
2 services, a person whose ability to exercise a first amendment
3 right to religious freedom at the religious institution or a
4 person who has been subject to any of the actions in
5 Subsections A, B or C of Section 3 of the Health Care and
6 Religious Institution Obstruction Act may bring a civil cause
7 of action in state district court in the district in which the
8 offense occurred, for the following remedies:

9 (1) injunctive relief;

10 (2) actual damages suffered as a result of
11 the commission of the offense, including, where applicable,
12 damages for pain and suffering and emotional distress; and

13 (3) attorney fees and court costs.

14 B. If it is found, in an action brought pursuant
15 to the provisions of the Health Care and Religious Institution
16 Obstruction Act, that two or more of the named defendants
17 acted in concert pursuant to a common plan or design to
18 violate a provision of Section 3 of that act, the defendants
19 shall be held jointly and severally liable for any fine or
20 penalties imposed or damages awarded.

21 Section 5. CONSTRUCTION-- OTHER PENALTIES OR REMEDIES--
22 FIRST AMENDMENT EXPRESSION. --

23 A. No provision of the Health Care and Religious
24 Institution Obstruction Act shall be construed or interpreted
25 to limit the right of a person or entity to seek other

1 available criminal penalties or civil remedies. The
2 penalties and remedies included in that act are cumulative and
3 not exclusive.

4 B. No provision of the Health Care and Religious
5 Institution Obstruction Act shall be construed or interpreted
6 to prohibit expression protected by the first amendment of the
7 constitution of the United States or Article 2, Section 17 of
8 the constitution of New Mexico.

underscored material = new
[bracketed material] = delete