

HOUSE BILL 7

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO HEALTH; PROTECTING ACCESS TO REPRODUCTIVE AND
GENDER-AFFIRMING HEALTH CARE; PROVIDING FOR ENFORCEMENT;
IMPOSING PENALTIES; PRESCRIBING RELIEF.

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

SECTION 1. A new section of Chapter 24 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Reproductive and Gender-Affirming Health Care Freedom Act"."

SECTION 2. A new section of Chapter 24 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Reproductive
and Gender-Affirming Health Care Freedom Act:

A. "gender-affirming health care" means
psychological, behavioral, surgical, pharmaceutical and medical

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1 care, services and supplies provided to support a person's
2 gender identity;

3 B. "public body" means a state or local government,
4 an advisory board, a commission, an agency or an entity created
5 by the constitution of New Mexico or any branch of government
6 that receives public funding, including political subdivisions,
7 special tax districts, school districts and institutions of
8 higher education; and

9 C. "reproductive health care" means psychological,
10 behavioral, surgical, pharmaceutical and medical care, services
11 and supplies that relate to the human reproductive system,
12 including services related to:

- 13 (1) preventing a pregnancy;
- 14 (2) abortion;
- 15 (3) managing a pregnancy loss;
- 16 (4) prenatal, birth, perinatal and postpartum
17 health;
- 18 (5) managing perimenopause and menopause;
- 19 (6) managing fertility;
- 20 (7) treating cancers of the reproductive
21 system; or
- 22 (8) preventing or treating sexually
23 transmitted infections."

24 SECTION 3. A new section of Chapter 24 NMSA 1978 is
25 enacted to read:

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1 "[NEW MATERIAL] PUBLIC BODY PROHIBITED ACTION.--

2 A. A public body or agent of a public body shall
3 not discriminate against a person based on that person's use of
4 or refusal to use reproductive health care services.

5 B. A public body or agent of a public body shall
6 not, directly or indirectly, deny, restrict or interfere with a
7 person's ability to access or provide reproductive health care
8 or gender-affirming health care within the medical standard of
9 care.

10 C. A public body or agent of a public body shall
11 not, directly or indirectly, deprive, through prosecution,
12 punishment or other means, a person's right to act or refrain
13 from acting during the persons's pregnancy based on the
14 potential, actual or perceived effect on the pregnancy.

15 D. A public body or agent of a public body shall
16 not impose or continue in effect any law, ordinance, policy or
17 regulation that violates or conflicts with the provisions of
18 the Reproductive and Gender-Affirming Health Care Freedom Act."

19 SECTION 4. A new section of Chapter 24 NMSA 1978 is
20 enacted to read:

21 "[NEW MATERIAL] ENFORCEMENT--PENALTIES.--

22 A. The attorney general or a district attorney may
23 institute a civil action in district court if the attorney
24 general or district attorney has reasonable cause to believe
25 that a violation has occurred or to prevent a violation of the

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1 Reproductive and Gender-Affirming Health Care Freedom Act from
2 occurring.

3 B. In any action brought under Subsection A of this
4 section, the court may award appropriate relief, including
5 temporary, preliminary or permanent injunctive relief,
6 compensatory damages, punitive damages, costs of suit or
7 reasonable attorney fees. The damages provided in this
8 subsection are not exclusive and shall be in addition to other
9 types of relief available under other law.

10 C. The court may assess a civil penalty for a
11 violation of the Reproductive and Gender-Affirming Health Care
12 Freedom Act in the amount of five thousand dollars (\$5,000) or
13 actual damages resulting from each violation, whichever is
14 greater."

15 SECTION 5. A new section of Chapter 24 NMSA 1978 is
16 enacted to read:

17 "[NEW MATERIAL] PRIVATE RIGHT OF ACTION.--

18 A. A person claiming to be aggrieved by a violation
19 of the Reproductive and Gender-Affirming Health Care Freedom
20 Act may maintain an action in district court for appropriate
21 relief, including temporary, preliminary or permanent
22 injunctive relief, compensatory damages or punitive damages.
23 The damages provided in this section are in addition to other
24 types of relief available under other law.

25 B. In any action brought pursuant to Subsection A

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1 of this section, the court shall award a prevailing plaintiff
2 reasonable attorney fees and costs to be paid by the defendant.

3 C. In any action brought pursuant to Subsection A
4 of this section, the court may assess a civil penalty for a
5 violation of the Reproductive and Gender-Affirming Health Care
6 Freedom Act in the amount of five thousand dollars (\$5,000) or
7 actual damages resulting from each violation, whichever is
8 greater."

9 SECTION 6. SEVERABILITY.--If any part or application of
10 the Reproductive and Gender-Affirming Health Care Freedom Act
11 is held invalid, the remainder or its application to other
12 situations or persons shall not be affected.