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HOUSE BILL 244

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO HEALTH CARE; AUTHORIZING MEDICAL SERVICES THAT MAY BE PROVIDED; ESTABLISHING PARAMETERS FOR REGULATION; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. SHORT TITLE.--This act may be cited as the "Freedom of Choice Act".

Section 2. PURPOSE.--The purposes of the Freedom of Choice Act are to ensure that:

A. the state respect the equal and fundamental right of privacy of each individual to make personal reproductive decisions;

B. every individual may choose, unimpeded by state action, inaction, influence or regulation, to:

(1) use or refuse to use contraceptives; and

underscored material = new
[bracketed material] = delete

1 (2) have or not have an abortion, except as
2 limited by Section 30-5A-3 NMSA 1978; and

3 C. physicians, pharmacists and other health care
4 providers have, unimpeded by state action, inaction, influence
5 or regulation, the authority and ability to provide individuals
6 with reproductive services as permitted by the Freedom of
7 Choice Act and the laws of the state governing physicians,
8 pharmacists and other health care providers.

9 Section 3. DEFINITIONS.--As used in the Freedom of Choice
10 Act:

11 A. "abortion" means medical care intended to induce
12 the termination of a pregnancy that does not produce a live
13 birth;

14 B. "conceptus" means the product of conception at
15 any point between fertilization and birth;

16 C. "contraceptive" means a pharmaceutical, chemical
17 or device that prevents pregnancy;

18 D. "pharmacist" means a person licensed pursuant to
19 Chapter 61, Article 11 NMSA 1978;

20 E. "physician" means a person licensed pursuant to
21 Chapter 61, Article 6 NMSA 1978 to practice medicine;

22 F. "pregnancy" means the reproductive process
23 beginning after the implantation of a conceptus;

24 G. "state" means the state of New Mexico, its
25 agencies and its political subdivisions; and

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underscoring material = new
[bracketed material] = delete

1 H. "viability" means the point in a pregnancy when,
2 in the judgment of the treating physician on the particular
3 facts of the case before that physician, there is a reasonable
4 likelihood of the sustained survival of the conceptus outside
5 the uterus.

6 Section 4. PROVISION OF MEDICAL SERVICES.--

7 A. The state shall not deny or interfere with a
8 person's right to obtain and use contraceptives.

9 B. The state shall not deny or interfere with a
10 female's choice to have an abortion prior to viability of the
11 conceptus.

12 C. The state shall not deny or interfere with a
13 female's choice to have an abortion at any time during a
14 pregnancy if in her physician's clinical judgment it is
15 necessary to protect her life or health; except as provided by
16 Section 30-5A-3 NMSA 1978.

17 D. The state shall not discriminate against the
18 exercise of the provisions set forth in the Freedom of Choice
19 Act or in the regulation or provision of benefits, facilities,
20 services or information.

21 E. A physician or other health care provider may
22 terminate or assist in terminating a pregnancy as permitted by
23 the Freedom of Choice Act and the laws of the state governing
24 physicians and health care providers.

25 Section 5. STATE REGULATION OF MEDICAL SERVICES.--

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underscoring material = new
[bracketed material] = delete

1 Regulations adopted by the state pursuant to the Freedom of
2 Choice Act or any other act adopted by the state shall not
3 restrict or undermine the provisions or purposes of the Freedom
4 of Choice Act. A regulation adopted is valid only if:

5 A. the regulation does not interfere with the
6 ability of a female to choose freely reproductive services for
7 her individual situation;

8 B. the regulation is consistent with established
9 medical practices and protocols, the Freedom of Choice Act and
10 state law; and

11 C. the regulation is the least restrictive of the
12 available alternatives on a female's right to have an abortion,
13 a person's use of contraceptives or a physician's, pharmacist's
14 or other health care provider's ability to provide medical or
15 abortion services.

16 Section 6. REPEAL.--Sections 30-5-1 through 30-5-3 NMSA
17 1978 (being Laws 1969, Chapter 67, Sections 1 through 3) are
18 repealed.