

<b>LFC Requester:</b>	<b>Klundt, Kelly</b>
-----------------------	----------------------

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2/15/25 *Check all that apply:*  
**Bill Number:** SB 371 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. William E. Sharer **Agency Name and Code** AOC  
**Short Title:** Safety Requirements for Abortions **Number:** 218  
**Person Writing** Kathleen Sabo  
**Phone:** 505-470-3214 **Email** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 236 and SB 404, also addressing reproductive health care.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: SB 371 enacts a new section of the Public Health Act, Section 24-1-1 NMSA 1978, to provide the following requirements:

- Except for a medication abortion, an abortion shall only be provided by a licensed physician in a health facility license by the Health Care Authority;
- A drug used to induce a medication abortion shall only be prescribed by a licensed physician and dispensed by a pharmacy licensed pursuant to the Pharmacy Act.

SB 371 provides that a person found to have knowingly and willfully violated this section is subject to a civil penalty of up to \$5,000. “Medication abortion” is defined to mean the use or prescription of any drug for the purpose of inducing an abortion.

SB 371 also amends Section 24-34-3(B) NMSA 1978, within the Reproductive and Gender-Affirming Health Care Freedom Act, to provide that, for the purposes of this subsection, an abortion is only within the medical standard of care if the abortion is provided by a licensed physician in a health facility licensed by the HCA.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced actions seeking imposition of a civil penalty and appeals from such imposition, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

#### **SIGNIFICANT ISSUES**

- 1) According to Ballotpedia, following the U.S. Supreme Court’s June 2022 ruling in *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. \_\_ (2022), states gained a wide latitude to pass laws regulating access to abortion. See *Abortion regulations by state*, Ballotpedia, [https://ballotpedia.org/Abortion\\_regulations\\_by\\_state#:~:text=As%20of%20January%203%2C%202025%2C%2041%20states%20restricted%20abortions%20after,abortion%20in%20the%20third%20trimester](https://ballotpedia.org/Abortion_regulations_by_state#:~:text=As%20of%20January%203%2C%202025%2C%2041%20states%20restricted%20abortions%20after,abortion%20in%20the%20third%20trimester) .

The majority of states require that a licensed physician be the provider performing an abortion procedure. See *Abortion Provider Qualifications*, Law Atlas, <https://lawatlas.org/datasets/abortion-provider-qualifications?g0=3094&g3=3100>, *Regulations on Facilities and Clinicians Providing Abortions*, KFF, September 2024, <https://www.kff.org/womens-health-policy/state-indicator/regulations-on-facilities-and-clinicians-providing-abortions/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> and *Targeted Regulation of Abortion Providers*, Guttmacher Institute, August 2023, <https://www.guttmacher.org/state-policy/explore/targeted->

[regulation-abortion-providers#:~:text=23%20states%20have%20laws%20or,on%20clinicians%20that%20perform%20abortions.](#)

In 15 states, statutory restrictions on medication abortion tend to focus on limiting who can prescribe medication abortion pills or how pills can be provided. All 15 states require medication abortion to be provided by a physician. See *Medication Abortion Within and Outside the Formal U.S. Health Care System: What You Need to Know*, Guttmacher Institute, February 2024, <https://www.guttmacher.org/2024/02/medication-abortion-within-and-outside-formal-us-health-care-system-what-you-need-know#:~:text=In%20the%20other%2015%20states,added%20convenience%20and%20flexible%20scheduling> (including specific information on state restrictions on medication abortion, in effect as of December 2023). See also *Medication Abortion: New Litigation May Affect Access*, Congressional Research Service, August 2023, <https://crsreports.congress.gov/product/pdf/LSB/LSB10919>.

- 2) It can be anticipated that there may be challenges to the law, as a violation of a woman’s right to privacy under the Fourteenth Amendment’s Due Process Clause, and based on a claim that the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. 301 et. seq, preempts state restrictions on medication abortion. See, for example, *Bryant v. Stein* (1:23-cv-00077), District Court, M.D. North Carolina at <https://www.courtlistener.com/docket/66756666/bryant-v-stein/>. See also *Medication Abortion Access Remains Unchanged as Supreme Court Rejects Legal Challenge on Standing Grounds*, Congressional Research Service, June 2024, <https://crsreports.congress.gov/product/pdf/LSB/LSB11183#:~:text=In%20a%20unanimous%20decision%20authored,standing%20advanced%20by%20the%20plaintiffs>.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB 236 and SB 404, also addressing reproductive health care.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**