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HOUSE BILL 640

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JERRY LEE ALWIN

AN ACT

RELATING TO DOMESTIC AFFAIRS; CLARIFYING THE LEGAL EFFECT OF MARRIAGE; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 40, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SAME-SEX MARRIAGES PROHIBITED. --A marriage between persons of the same sex is prohibited and expressly against the public policy of this state."

Section 2. A new section of Chapter 40, Article 1 NMSA is enacted to read:

"[NEW MATERIAL] "MARRIAGE" DEFINED. --In determining the meaning of any statute, or of any ruling, regulation or interpretation of any agency or instrumentality of the state or

Underscored material = new  
[bracketed material] = delete

Underscored material = new  
[bracketed material] = delete

1 any political subdivision:

2 A. "marriage" means a legal union between one man  
3 and one woman as husband and wife, respectively; and

4 B. "spouse" means a party to a marriage of the  
5 opposite sex from the other party."

6 Section 3. Section 40-1-1 NMSA 1978 (being Laws 1862-1863,  
7 p. 64, as amended) is amended to read:

8 "40-1-1. CIVIL CONTRACT. -- [~~Section 1.~~]

9 A. Marriage is contemplated by the law as a civil  
10 contract for which the consent of the contracting parties,  
11 capable in law of contracting, is essential.

12 B. The contracting parties to a marriage are one man  
13 and one woman."

14 Section 4. Section 40-1-4 NMSA 1978 (being Laws 1862-1863,  
15 p. 64, as amended) is amended to read:

16 "40-1-4. FOREIGN MARRIAGES RECOGNIZED. -- [~~Sec. 5.~~] All  
17 marriages celebrated beyond the [~~limits~~] borders of this state  
18 [~~which~~] that are valid according to the laws of the [~~country~~  
19 ~~wherein~~] jurisdiction in which they were celebrated or  
20 contracted shall be [~~likewise~~] valid in this state and shall  
21 have the same force as if they had been celebrated in accordance  
22 with the laws [~~in force in~~] of this state; provided that no  
23 marriage between persons of the same sex, or right or claim  
24 arising from such relationship, shall be valid, binding or  
25 enforceable in this state, even if valid, binding or enforceable

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1 in another jurisdiction. "

2 Section 5. Section 40-1-8 NMSA 1978 (being Laws 1876,  
3 Chapter 31, Section 3, as amended) is amended to read:

4 "40-1-8. PENALTIES. -- [~~Sec. 8.~~] If any person prohibited  
5 from contracting marriage by [~~the foregoing sections, shall~~  
6 ~~violate~~] Sections 40-1-1 through 40-1-7 NMSA 1978 violates the  
7 provisions [~~thereof~~] of those sections by contracting marriage  
8 contrary to the provisions of [~~said~~] those sections, he [~~or~~  
9 ~~they~~] shall be punished by fine [~~on~~] upon conviction [~~thereof~~]  
10 in any sum not less than fifty dollars (\$50.00) [~~and~~]. Every  
11 person authorized under the laws of this state to celebrate  
12 marriages who [~~shall unite~~] unites in wedlock any of the persons  
13 whose marriage is declared invalid by [~~the previous~~] those  
14 sections [~~of this chapter on~~] upon conviction [~~thereof~~] shall be  
15 fined in any sum not less than fifty dollars (\$50.00). "

16 Section 6. EFFECTIVE DATE. -- The effective date of the  
17 provisions of this act is July 1, 1997.

**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

**March 11, 1997**

**Mr. Speaker:**

**Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
whom has been referred**

**HOUSE BILL 640**

**has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
JUDICIARY COMMITTEE.**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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Respectfully submitted,

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Gary King, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Rios, Vigil, Trujillo

Absent: None

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[bracketed material] = delete