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## FISCAL IMPACT REPORT

Ferrary/Egolf/  
 Armstrong, D/Garcia, H/ **ORIGINAL DATE** 3/02/17  
**SPONSOR** Trujillo, CH **LAST UPDATED** 3/08/17 **HB** 473  
**SHORT TITLE** Decriminalize Abortion **SB** \_\_\_\_\_  
**ANALYST** Chilton

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal-within Agency Operating Budget	Minimal-within Agency Operating Budget	Minimal-within Agency Operating Budget	Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bills 37, 220 221, and 464 and Senate Bills 183, 282, and 361.

#### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (OAG)  
 Administrative Office of the Courts (ACO)  
 Children, Youth and Families Department (CYFD)

#### SUMMARY

##### Synopsis of Bill

House Bill 473 repeals all language regarding the criminalization of abortion in state statute, 30-5-1 through 30-5-3 NMSA 1978. The sections to be removed state the following:

1. Section 30-5-1: Defines terms, including “justified medical termination” (in cases of rape or incest, continuing the pregnancy will result in death or grave mental health impairment of the mother, severe mental or physical defects in the fetus) and “special hospital board.”
2. Section 30-5-2: Neither hospitals nor persons are to be required to participate in any abortion procedure if against their moral or religious beliefs.
3. Section 30-5-3: Defines criminal abortion as causing the termination of pregnancy when a pregnancy is terminated when it is not a “justified medical termination.” Prescribes

penalties for abortion providers.

Annotations in the text of the compiled statutes point out that much of the language has been considered unconstitutional in the wake of the *Roe v. Wade* US Supreme Court decision of 1973.

## **FISCAL IMPLICATIONS**

No appropriation is made. AOC notes that there could be a minimal positive fiscal impact by diminishing the number of prosecutions for abortion-related offenses.

## **SIGNIFICANT ISSUES**

The bill would appear to decriminalize all forms of abortion, whether provided in a medical facility or not and by a physician or layman and whether performed in sterile or unsanitary conditions. However, it appears that the statutes that cover the “practice of medicine” (defined in Section 61-6-6 NMSA 1978) and criminalize all practice of medicine by those not licensed to do so (Section 61-6-20 NMSA 1978) would avoid this sort of “back-yard abortion” practice.

The bill leaves intact Section 30-5A, the Partial Birth Abortion Ban, which defines and criminalizes that (very rarely performed) form of abortion.

AOC points out that 47 states and the District of Columbia have enacted “conscience clauses,” allowing medical facilities and individuals to refuse to perform or take part in abortions. Although House Bill 473 would remove that clause from New Mexico law (Section 30-5-2), federal law, according to AOC, would continue to allow such refusal on the part of institutions and of individuals: “Congress enacted the Church Amendment, 42 U.S.C. § 300a-7, which provides that health care entities receiving certain federal funds may ‘refuse to provide abortion or sterilization if such services are contrary to their religious or moral beliefs.’”

**RELATIONSHIP** with the following bills, which also deal with abortion:

- House Bill 37, which would require medical providers to give life-saving support and transfer to all fetuses delivered at greater than 20 weeks gestation;
- House Bill 220 and Senate Bill 183, duplicate bills which would add “late-term abortion” to the prohibitions in the Partial Abortion Act;
- House Bill 221, and Senate Bill 361, similar bills requiring an abortion provider to notify the parent or guardian of a minor (defined differently in the two bills) requesting an abortion,
- Senate Bill 282, which would require all hospitals to provide all reproductive health measures necessary to save the life or health of a woman.

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

In certain circumstances, abortion would continue to be illegal in New Mexico.

LAC/jle/sb/jle