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HOUSE BILL 696

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO INSURANCE; INCLUDING DOMESTIC PARTNERS AS SUBJECT
TO COVERAGE; 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 the New Mexico Insurance
Code, Section 59A-18-3.1 NMSA 1978, is enacted to read:

"59A-18-3.1. [NEW MATERIAL] "DOMESTIC PARTNER" DEFINED. --

As used in the Insurance Code, "domestic partner" means a
person in a same-sex relationship in which the partners are
eighteen years of age or older, cohabitating, emotionally
interdependent and intending to reside together indefinitely; a
"domestic partner" is a family member and domestic partners
constitute a family; the dependent child of either domestic
partner may be included as a family member at the election of
the insured domestic partner; a "domestic partner" is included

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1 in the term "spouse". "

2 Section 2. Section 59A-18-4 NMSA 1978 (being Laws 1984,
3 Chapter 127, Section 334) is amended to read:

4 "59A-18-4. INSURABLE INTEREST--PERSONAL INSURANCE. --

5 A. Any individual of competent legal capacity may
6 procure or effect an insurance contract upon his own life or
7 body for the benefit of any person. No person shall procure or
8 cause to be procured any insurance contract upon the life or
9 body of another individual unless the benefits under such
10 contract are payable to the individual insured or his personal
11 representatives, or to a person having, at the time such
12 contract was made, an insurable interest in the individual
13 insured.

14 B. If the beneficiary, assignee or other payee
15 under any contract made in violation of this section receives
16 from the insurer any benefits thereunder accruing upon the
17 death, disablement or injury of the individual insured, the
18 individual insured or personal representative may maintain an
19 action to recover such benefits from the person so receiving
20 them.

21 C. As used in this section, "insurable" interest as
22 to such personal insurance means that every person has an
23 insurable interest in the life, body and health of himself, if
24 an individual, and in the life, body and health of other
25 individuals as follows:

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1 (1) in the case of individuals related closely
2 by blood or by law or in the case of domestic partners, a
3 substantial interest engendered by love and affection; and

4 (2) in the case of other persons, a lawful and
5 substantial economic interest in having the life, health or
6 bodily safety of the insured individual continue, as
7 distinguished from an interest which would arise only, or would
8 be enhanced in value, by the death, disablement or injury of
9 the individual insured.

10 D. An individual party to a contract or option for
11 purchase or sale of an interest in a business partnership or
12 firm, or of shares of stock of a corporation or of an interest
13 in such shares, has an insurable interest in the life, body and
14 health of each individual party to such contract and for the
15 purposes of such contract only, in addition to any insurable
16 interest which may otherwise exist as to such individual.

17 E. An insurer shall be entitled to rely upon all
18 statements, declarations and representations made by an
19 applicant for insurance relative to the insurable interest of
20 the applicant in the insured; and no insurer shall incur legal
21 liability, except as set forth in the policy, by virtue of any
22 untrue statements, declarations or representations so relied
23 upon in good faith by the insurer. "

24 Section 3. Section 59A-18-8 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 338) is amended to read:

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1 "59A-18-8. CONSENT OF INSURED--LIFE, HEALTH INSURANCE.--

2 No life or health insurance contract upon an individual, except
3 a contract of group life insurance or of group or blanket
4 health insurance, shall be made or effectuated unless at the
5 time of the making of the contract, such individual applies
6 therefor or has consented thereto in writing, except in the
7 following cases:

8 A. a spouse may effectuate such insurance upon the
9 other spouse;

10 B. any person having an insurable interest in the
11 life of a minor, or any person upon whom a minor is dependent
12 for support and maintenance, may effectuate insurance upon the
13 life of or pertaining to such minor; and

14 C. family policies may be issued insuring any two
15 [~~(2)~~] or more members of a family on an application signed by
16 either parent, a stepparent, a guardian, a domestic partner or
17 by a husband or wife."

18 Section 4. Section 59A-22-2 NMSA 1978 (being Laws 1984,
19 Chapter 127, Section 423) is amended to read:

20 "59A-22-2. FORM AND CONTENT OF POLICY.--No policy of
21 individual health insurance shall be delivered or issued for
22 delivery in this state unless:

23 A. the entire money and other considerations
24 therefor are expressed therein; [~~and~~]

25 B. the time at which insurance takes effect and

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1 terminates is expressed therein; ~~and~~

2 C. it purports to insure only one person, except as
3 provided in Chapter 59A, Article 23 ~~[of the Insurance Code]~~
4 NMSA 1978, and except that a policy or contract may be issued
5 upon application of the head of a family, who shall be deemed
6 the policyholder, covering members of any one family, including
7 husband, wife, domestic partner, dependent children or any
8 children under the age of nineteen ~~[(19)]~~ and other dependents
9 living with the family; ~~and~~

10 D. every printed portion of the text matter and of
11 any endorsements or attached papers shall be printed in uniform
12 type of which the face shall be not less than ten ~~[(10)]~~ point
13 (the "text" shall include all printed matter except the name
14 and address of the insurer, name and title of the policy,
15 captions, subcaptions and form numbers), but notwithstanding
16 any provision of this law, the superintendent shall not
17 disapprove any such policy on the ground that every printed
18 portion of its text matter or of any endorsement or attached
19 paper is not printed in uniform type if it shall be shown that
20 the type used is required to conform to the laws of another
21 state in which the insurer is authorized; ~~and~~

22 E. the exceptions and reductions of indemnity are
23 adequately captioned and clearly set forth in the policy or
24 contract; ~~and~~

25 F. each such form, including riders and

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1 endorsements, shall be identified by a form number in the lower
2 left-hand corner of the first page thereof; and

3 G. if any policy is issued by an insurer domiciled
4 in this state for delivery to a person residing in another
5 state, and if the official having responsibility for the
6 administration of insurance laws of such other state shall have
7 advised the superintendent that any such policy is not subject
8 to approval or disapproval by such official, the superintendent
9 may by ruling require that such policy meet the standards set
10 forth in Sections [~~424 through 446 of this article~~] 59A-22-3
11 through 59A-22-25 NMSA 1978. "

12 Section 5. A new section of Chapter 59A, Article 23 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] DOMESTIC PARTNER COVERAGE OPTIONAL TO
15 GROUP. --

16 A. Health care coverage may be offered to a
17 domestic partner or the dependent child of a domestic partner
18 of an insured in blanket or group health insurance coverage by
19 a group. If a group chooses to offer coverage to the domestic
20 partner or a dependent child of a domestic partner of an
21 insured under a blanket or group health insurance policy, the
22 insurer shall not deny the enrollment of a domestic partner or
23 the dependent child of a domestic partner based on the status
24 of the person or child as a domestic partner or the child of a
25 domestic partner of an insured. Whether a domestic partner or

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1 a child of a domestic partner is insurable shall be determined
2 by the insurer according to the same criteria used to determine
3 if a spouse or a biological child of an insured may be covered.

4 B. As used in Chapter 59A, Article 23 NMSA 1978,
5 "group" means a special group described in Section 59A-23-2
6 NMSA 1978 or a group as described in Section 59A-23-3 NMSA
7 1978. "

8 Section 6. A new section of Chapter 59A, Article 23C NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] COVERAGE FOR DOMESTIC PARTNERS OPTIONAL TO
11 SMALL EMPLOYER. --Health insurance coverage may be offered to a
12 domestic partner or the dependent child of a domestic partner
13 of an employee of a small employer. If a small employer
14 chooses to offer coverage to the domestic partner or a
15 dependent child of a domestic partner of an employee under a
16 health insurance plan offered by the small employer, the
17 insurer shall not deny the enrollment of a domestic partner or
18 the dependent child of a domestic partner based on the status
19 of the person as a domestic partner or the child as the child
20 of a domestic partner of an employee. Whether a domestic
21 partner or a child of a domestic partner is insurable shall be
22 determined by the insurer according to the same criteria used
23 to determine if a spouse or a biological child of an employee
24 of a small employer may be covered. "