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FISCAL IMPACT REPORT

SPONSOR Ferrary/Soules ORIGINAL DATE 1/26/18
LAST UPDATED _____ HB 16
SHORT TITLE Abortion Decriminalization SB _____
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates 2017 House Bill 273

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children Youth and Families Department (CYFD)

Office of the Attorney General (NMAG)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 16 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 almost 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, AOC notes that “Section 30-5-3 NMSA 1978 would come into play if someone did, for example, provide abortions by non-doctors out of their garage in unsanitary conditions. The law provides a fourth degree felony penalty for the crime of criminal abortion and a second degree felony penalty for criminal abortion that results in the death of the woman.”

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

CONFLICT with House Bills 56, 75, and 76, each of which further regulates abortion.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As stated by the Office of the Attorney General, “NM law may be in conflict with federal law.”

LAC/jle/al