

1 HOUSE BILL 438

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Tanya Mirabal Moya and Rod Montoya and Jenifer Jones and
5 Cathrynn N. Brown and Mark Duncan
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10 AN ACT

11 RELATING TO ABORTION; ENACTING THE PARENTAL NOTIFICATION OF
12 ABORTION ACT; REQUIRING NOTIFICATION OF A PARENT OR GUARDIAN
13 WHEN AN ABORTION IS TO BE PERFORMED ON A MINOR; REQUIRING
14 REPORTING.
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of Chapter 24 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
20 "Parental Notification of Abortion Act"."

21 SECTION 2. A new section of Chapter 24 NMSA 1978 is
22 enacted to read:

23 "[NEW MATERIAL] DEFINITIONS.--As used in the Parental
24 Notification of Abortion Act:

25 A. "abortion" means the intentional termination of

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1 the pregnancy of a female by a person who knows the female is
2 pregnant;

3 B. "department" means the children, youth and
4 families department;

5 C. "emancipated minor" means a minor who is
6 emancipated pursuant to the provisions of the Emancipation of
7 Minors Act;

8 D. "fetus" means the biological offspring of human
9 parents; and

10 E. "pregnancy" means the implantation of a
11 developing embryo in the uterus."

12 SECTION 3. A new section of Chapter 24 NMSA 1978 is
13 enacted to read:

14 "[NEW MATERIAL] ABORTION--NOTIFICATION REQUIRED FOR
15 MINORS.--

16 A. A health care provider may only perform an
17 abortion at the request of a non-emancipated minor after
18 providing notice of the planned abortion procedure to one
19 parent or guardian at least forty-eight hours prior to the
20 procedure.

21 B. Notice shall be delivered in a sealed envelope
22 addressed to a named parent or guardian by a courier or similar
23 service that requires acknowledgment of delivery by signature
24 of the named parent or guardian at that person's usual place of
25 residence or business. The cost of providing notice shall be

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1 borne by the health care or abortion facility. Alternatively,
2 the parent or guardian of a non-emancipated minor seeking an
3 abortion may sign an acknowledgment at the facility at which
4 the abortion is to be performed acknowledging that the minor is
5 seeking an abortion.

6 C. The health care provider shall keep records of
7 such notification for a period set by the vital records and
8 health statistics bureau of the department of health."

9 SECTION 4. A new section of Chapter 24 NMSA 1978 is
10 enacted to read:

11 "[NEW MATERIAL] JUDICIAL EXCEPTION TO NOTICE
12 REQUIREMENT.--

13 A. Notice shall not be required under Section 3 of
14 the Parental Notification of Abortion Act if a minor files a
15 petition in any district court for an order granting a waiver
16 of notice and participates in the proceedings on the minor's
17 own behalf. The court may appoint a guardian ad litem for the
18 minor.

19 B. The court shall issue written findings of fact
20 and conclusions of law supporting its decision and shall order
21 that a confidential record of the evidence and the judge's
22 findings and conclusion be maintained.

23 C. Filing fees in such proceedings may be waived."

24 SECTION 5. A new section of Chapter 24 NMSA 1978 is
25 enacted to read:

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1 "[NEW MATERIAL] REPORTING REQUIREMENTS.--The vital records
2 and health statistics bureau of the department of health shall
3 establish annual reporting requirements for health care
4 providers who perform abortions and shall make the reports
5 available for statistical analysis and for verification of
6 compliance with the requirements by May 1 of each year for
7 abortions performed in the preceding year. Any personal
8 identifying information in the report shall be redacted by the
9 health care provider prior to making the reports available to
10 the vital records and health statistics bureau. Each health
11 care provider shall report the following data:

12 A. the number of minors who requested the health
13 care provider to perform an abortion in the prior calendar
14 year;

15 B. the number of abortions performed on minors by
16 the health care provider in the prior calendar year;

17 C. the number of times the health care provider
18 provided notice as required under Section 3 of the Parental
19 Notification of Abortion Act;

20 D. the number of times that notice otherwise
21 required under Section 3 of the Parental Notification of
22 Abortion Act was waived by judicial order or any other
23 exception and the manner in which the health care provider
24 received proof of the waiver; and

25 E. the number of times an abortion was performed in

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1 which the fetus was viable and the reason for the abortion
2 cited by the performing health care provider is sexual abuse,
3 rape or incest. For the purpose of this subsection, "viable"
4 means the stage of human development when the fetus is
5 potentially able to live outside of the uterus with or without
6 the aid of artificial life support systems."

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