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HOUSE BILL 201

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Lisa Lutz

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 1978 is enacted to read:

" [NEW MATERIAL] "MARRIAGE" DEFINED. -- In determining the meaning of a statute or rule or any interpretation of a statute or rule by an agency or instrumentality of the state

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1 or a political subdivision of the state:

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

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

6 Section 3. Section 40-1-1 NMSA 1978 (being Laws 1862-
7 1863, 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
13 man and one woman. "

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

16 "40-1-4. FOREIGN MARRIAGES RECOGNIZED. -- [~~Sec. 5.~~]

17 A. All marriages celebrated beyond the limits of
18 this state which are valid according to the laws of the
19 country [wherein] in which they were celebrated or contracted
20 shall be [likewise] valid in this state and shall have the
21 same force as if they had been celebrated in accordance with
22 the laws in force in this state.

23 B. Notwithstanding the provisions of Subsection A
24 of this section, a marriage between persons of the same sex,
25 or any right or claim arising from their relationship, shall

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1 not be valid, binding or enforceable in New Mexico even if the
2 marriage or any right or claim is valid, binding or
3 enforceable in another jurisdiction. "

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

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

19 Section 6. EFFECTIVE DATE. -- The effective date of the
20 provisions of this act is July 1, 1999.