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HOUSE BILL 110

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

John Block

AN ACT

RELATING TO ABORTION; LIMITING THE PERFORMANCE OF CERTAIN
ABORTIONS BY HEALTH CARE PROVIDERS; IMPOSING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code is enacted
to read:

"[NEW MATERIAL] PROHIBITION ON CERTAIN ABORTIONS.--

A. A health care provider who knowingly performs an
abortion and thereby kills a human fetus without determining,
according to standard medical practice, whether the fetus has a
detectable heartbeat; without informing the pregnant woman of
the results of that determination; or after determining,
according to standard medical practice, that the fetus has a
heartbeat is guilty of a third degree felony resulting in the
death of a human fetus.

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1 B. A health care provider who fails to follow the
2 procedures pursuant to Subsection A of this section shall be
3 deemed to have breached the duty of care to the patient.

4 C. Nothing in this section shall prevent the
5 patient from exhausting any other available remedies.

6 D. Nothing in this section shall be construed to
7 allow the prosecution of a woman who receives an abortion."

8 SECTION 2. Section 31-18-15 NMSA 1978 (being Laws 1977,
9 Chapter 216, Section 4, as amended) is amended to read:

10 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
11 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
12 DEDUCTIONS.--

13 A. As used in a statute that establishes a
14 noncapital felony, the following defined felony classifications
15 and associated basic sentences of imprisonment are as follows:

16	FELONY CLASSIFICATION	BASIC SENTENCE
17	first degree felony	
18	resulting in the death	
19	of a child	life imprisonment
20	first degree felony for	
21	aggravated criminal sexual	
22	penetration	life imprisonment
23	first degree felony	eighteen years imprisonment
24	second degree felony	
25	resulting in the death of	

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1 a human being fifteen years imprisonment
2 second degree felony for a
3 sexual offense against a
4 child fifteen years imprisonment
5 second degree felony for
6 sexual exploitation of
7 children twelve years imprisonment
8 second degree felony nine years imprisonment
9 third degree felony resulting
10 in the death of a human fetus five years imprisonment
11 third degree felony resulting
12 in the death of a human being six years imprisonment
13 third degree felony for a
14 sexual offense against a
15 child six years imprisonment
16 third degree felony for sexual
17 exploitation of children eleven years imprisonment
18 third degree felony three years imprisonment
19 fourth degree felony for
20 sexual exploitation of
21 children ten years imprisonment
22 fourth degree felony eighteen months imprisonment.

23 B. The appropriate basic sentence of imprisonment
24 shall be imposed upon a person convicted and sentenced pursuant
25 to Subsection A of this section, unless the court alters the

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1 sentence pursuant to the provisions of the Criminal Sentencing
2 Act.

3 C. A period of parole shall be imposed only for
4 felony convictions wherein a person is sentenced to
5 imprisonment of more than one year, unless the parties to a
6 proceeding agree that a period of parole should be imposed. If
7 a period of parole is imposed, the court shall include in the
8 judgment and sentence of each person convicted and sentenced to
9 imprisonment in a corrections facility designated by the
10 corrections department authority for a period of parole to be
11 served in accordance with the provisions of Section 31-21-10
12 NMSA 1978 after the completion of any actual time of
13 imprisonment and authority to require, as a condition of
14 parole, the payment of the costs of parole services and
15 reimbursement to a law enforcement agency or local crime
16 stopper program in accordance with the provisions of that
17 section. If imposed, the period of parole shall be deemed to
18 be part of the sentence of the convicted person in addition to
19 the basic sentence imposed pursuant to Subsection A of this
20 section together with alterations, if any, pursuant to the
21 provisions of the Criminal Sentencing Act.

22 D. When a court imposes a sentence of imprisonment
23 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
24 31-18-17 NMSA 1978 and suspends or defers the basic sentence of
25 imprisonment provided pursuant to the provisions of Subsection
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1 A of this section, the period of parole shall be served in
2 accordance with the provisions of Section 31-21-10 NMSA 1978
3 for the degree of felony for the basic sentence for which the
4 inmate was convicted. For the purpose of designating a period
5 of parole, a court shall not consider that the basic sentence
6 of imprisonment was suspended or deferred and that the inmate
7 served a period of imprisonment pursuant to the provisions of
8 the Criminal Sentencing Act.

9 E. The court may, in addition to the imposition of
10 a basic sentence of imprisonment, impose a fine not to exceed:

11 (1) for a first degree felony resulting in the
12 death of a child, seventeen thousand five hundred dollars
13 (\$17,500);

14 (2) for a first degree felony for aggravated
15 criminal sexual penetration, seventeen thousand five hundred
16 dollars (\$17,500);

17 (3) for a first degree felony, fifteen
18 thousand dollars (\$15,000);

19 (4) for a second degree felony resulting in
20 the death of a human being, twelve thousand five hundred
21 dollars (\$12,500);

22 (5) for a second degree felony for a sexual
23 offense against a child, twelve thousand five hundred dollars
24 (\$12,500);

25 (6) for a second degree felony for sexual

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1 exploitation of children, five thousand dollars (\$5,000);

2 (7) for a second degree felony, ten thousand
3 dollars (\$10,000);

4 (8) for a third degree felony resulting in the
5 death of a human being, five thousand dollars (\$5,000);

6 (9) for a third degree felony for a sexual
7 offense against a child, five thousand dollars (\$5,000);

8 (10) for a third degree felony for sexual
9 exploitation of children, five thousand dollars (\$5,000);

10 (11) for a third or fourth degree felony, five
11 thousand dollars (\$5,000); or

12 (12) for a fourth degree felony for sexual
13 exploitation of children, five thousand dollars (\$5,000).

14 F. When the court imposes a sentence of
15 imprisonment for a felony offense, the court shall indicate
16 whether or not the offense is a serious violent offense as
17 defined in Section 33-2-34 NMSA 1978. The court shall inform
18 an offender that the offender's sentence of imprisonment is
19 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
20 and 33-2-38 NMSA 1978. If the court fails to inform an
21 offender that the offender's sentence is subject to those
22 provisions or if the court provides the offender with erroneous
23 information regarding those provisions, the failure to inform
24 or the error shall not provide a basis for a writ of habeas
25 corpus.

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G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."