

## [HB 7 Reproductive & Gender-Affirming Health Care](#)

### **Parental Rights Violated as Follows**

This leaves an open door for minors on school grounds to receive these medical procedures without parental notification or approval. Several attempts to clarify language by modifying the bill were defeated. **See below.**

Section 3. B. states: *A public body or entity or individual...shall not deny, restrict, or interfere with a person's ability to access or provide reproductive health care or gender-affirming health care...*

### **Defining a Person to Exclude Minors**

On February 21, 2023, Rep Ryan Lane attempted to clarify that the "person" should not include minors through an amendment on the house floor. This amendment to protect children and preserve parental rights was voted down.

This law provides no age requirement to limit abortion or gender-altering treatments and no allowance for parents to be aware of these dangerous procedures being applied to their children.

The amendment reads: Page 2, between lines 2 and 3, insert the following new subsection: *B. "person" means an individual who is eighteen years of age or older or an emancipated minor.*

### **Requiring a Standard of Care**

On February 21, 2023 Rep Rod Montoya introduced an amendment to assure a standard of care for those undergoing these newly protected healthcare procedures. It was voted down, leaving these women and children undergoing abortion or transgender procedures vulnerable to being treated with no standard of care. It reads as follows:

SECTION 6. A new section of Chapter 24 NMSA 1978 is enacted to read: Formatting issues through this whole section. Numbers 1-3 make no sense as to application.

*"[NEW MATERIAL] STANDARDS OF CARE FOR ABORTIONS. –*

- A. A facility that provides abortions shall adhere to the same standards of care that are applied to other types of surgical clinics.
- B. A healthcare provider who performs abortions shall maintain the same level of malpractice insurance as healthcare providers who work at facilities that provide obstetrics and gynecology services. A facility that provides abortions shall have:
  - 1. Emergency care staff and equipment on site.
  - 2. Admitting privileges at a nearby hospital.

### **Requiring Parental Consent and Defining a Minor**

On March 7, 2023, Senator Crystal Diamond also proposed an amendment requiring parental consent. This amendment was also voted down.

The amendment reads: Page 1, line 13, after "RELIEF," insert "Requiring parental consent for minors seeking gender-affirming health care or abortion care."

Then below to add: *Any health care provider that provides gender-affirming health care or abortion care to a minor shall first obtain informed written consent that has been signed by:*

- a. Both minor's parents

- b. One of the minor's parents...
  - c. The person or persons who have legal custody of the minor...
- (Term defined in 1. B. (3) "minor" means any person who has not reached eighteen years of age and has not been emancipated...

### **What All This Means**

Some legislators attempted to clarify language in these bills. They were seeking to exclude minors and support parental rights for children seeking abortion or transgender procedures while on school grounds or other publicly funded properties.

This bill passed easily through both chambers and was signed into law by the Governor with little concern for the welfare of children and the preservation of parental rights. As it stands, children of any age can make life-altering medical decisions without parental consent.

See how your [Representatives](#) and [Senators](#) voted on these laws, and read them for yourself to see what we're fighting.

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### **Read on for further information on this destructive bill.**

Be aware of the changes in "Definitions" within the law. These definitions will be used in courts and in "official" publications.

#### **Sec 2. Definitions**

A. "Gender-Affirming Health Care" means psychological, behavioral, surgical, pharmaceutical, and medical care, services and supplies provided to support a person's gender identity.

B. "*public body*" means a state or local government, an advisory board, a commission, an agency, or an entity created by the constitution of New Mexico or any branch of government that *receives public funding*, including political subdivisions, special tax districts, school districts and institutions of higher education; and

C. "reproductive health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system including services related to: (1) preventing a pregnancy; (2) abortion; (3) managing a pregnancy loss; postpartum health; (5) managing perimenopause and menopause; (6) managing fertility; (7) treating cancers of the reproductive system; or (8) preventing or treating sexually transmitted infections."

**Sec 3.** A new section of Chapter 24 NMSA 1978 is enacted to read:

"Public Body Prohibited Action

The vague language in the law provides no definition of deny, restrict or interfere which leads the courts to legislate from the bench. The law is broad and overreaching with no guidelines or restrictions on age. During debate on the floor no clarification of age was provided by sponsors and proposed amendments on age were rejected.

A. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not discriminate against a person based on that person's use of or refusal to use reproductive health care or gender-affirming health care services. **Teachers, nurses, counselors, administrators, and other individuals acting on behalf of or within the scope of a public body will be required to affirm abortion and/or gender-affirming health care. Health care decisions and treatments are between health care providers and patients. They are subject to HIPPA laws and the release of medical information without consent from a legal agent, such as a parent is prohibited.**

B. A public body or an entity or individual action on behalf of or within the scope of the authority of a public body *shall not deny, restrict, or interfere with a person's ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.* **This law restricts freedom of speech, freedom of religion and conscience protections by the *shall not deny, restrict, or interfere* language pertaining to access of abortion or gender-affirming health care.**

**There are no provisions made to include parents therefore violating Parents rights. Part of medical standards includes *Informed Consent*. Minors are not capable of giving informed consent either legally or ethically.**

**The shall not ... "restrict" language opens the door for a public body to provide transportation to a minor without consent. This is considered child kidnapping, the kidnapping of a minor, often without the element of force or fraud.**

C. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deprive, through prosecution, punishment or other means, a person's ability to act or refrain from acting during the person's pregnancy based on the potential, actual or perceived effect on the pregnancy. **This language means if an infant is born alive and allowed to die, there can be no prosecution or punishment for the death of that infant.**

D. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not impose or continue in effect any law, ordinance, policy or regulation that violates or conflicts with the provisions of the Reproductive and Gender-Affirming Health Care Freedom Act. **The law prohibits state or local governments from creating or enforcing any law, ordinance, policy, or regulation that violates conflicts with the bill. This is intended to stop those communities that have chosen to be sanctuary cities or counties.**

**Sec 4.** A new section of Chapter 24 NMSA 1978 is enacted to read:

**"Enforcement – Penalties**

A. The attorney general or a district attorney may institute a civil action in district court if the attorney general or district attorney has reasonable cause to believe that a violation has occurred or to prevent a violation of the Reproductive and Gender-Affirming Health Care Freedom Act from occurring. **The law prohibits state or local governments from creating or enforcing any law, ordinance, policy, or regulation that violates or conflicts with the law. This was intended to stop those communities that have chosen to be sanctuary cities or counties. It is**

noted that the New Mexico Constitution Article IV Sec 34 [Change of rights or procedure in pending cases]. No act of the legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure, in any pending case.

**Sec 5.** A new section of Chapter 24 NMSA 1978 is enacted to read:

“Private Right of Action

A. A person claiming to be *aggrieved* by a violation of the Reproductive and Gender-Affirming Health Care Freedom Act may maintain an action in district court for appropriate relief, including temporary, preliminary, or permanent injunctive relief, compensatory damages or punitive damages, or the sum of five thousand dollars (\$5,000) for each violation of the Reproductive and Gender-Affirming Health Care Freedom Act, whichever is greater. **This section provides only for the aggrieved. Where is the language for protecting those that are falsely accused?**

B. In any action brought pursuant to Subsection A of this section, the court shall award a prevailing plaintiff reasonable attorney fees and costs to be paid by the defendant. **Why is only the prevailing plaintiff awarded attorney’s fees? It should state prevailing parties.**