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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

AN ACT

RELATING TO CRIMINAL LAW; SPECIFYING THAT A PERSON WHO COMMITS
CRIMINAL SEXUAL PENETRATION OR INCEST AND WHO PROCURES AN
ABORTION OF A FETUS RESULTING FROM THE CRIME WITH THE INTENT TO
DESTROY EVIDENCE OF THE CRIME IS GUILTY OF TAMPERING WITH
EVIDENCE; PROHIBITING PROSECUTION OF THE MOTHER OF THE FETUS.

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

SECTION 1. Section 30-22-5 NMSA 1978 (being Laws 1963,
Chapter 303, Section 22-5, as amended) is amended to read:

"30-22-5. TAMPERING WITH EVIDENCE.--

A. Tampering with evidence consists of destroying,
changing, hiding, placing or fabricating any physical evidence
with intent to prevent the apprehension, prosecution or
conviction of any person or to throw suspicion of the
commission of a crime upon another.

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1 B. Tampering with evidence shall include a person
2 committing criminal sexual penetration or incest procuring or
3 facilitating an abortion, or compelling or coercing another to
4 obtain an abortion, of a fetus that is the result of the
5 person's act of criminal sexual penetration or incest with the
6 intent to destroy evidence of the crime. In no circumstance
7 shall the mother of the fetus be charged under this subsection.

8 [~~B-~~] C. Whoever commits tampering with evidence
9 shall be punished as follows:

10 (1) if the highest crime for which tampering
11 with evidence is committed is a capital or first degree felony
12 or a second degree felony, the person committing tampering with
13 evidence is guilty of a third degree felony;

14 (2) if the highest crime for which tampering
15 with evidence is committed is a third degree felony or a fourth
16 degree felony, the person committing tampering with evidence is
17 guilty of a fourth degree felony;

18 (3) if the highest crime for which tampering
19 with evidence is committed is a misdemeanor or a petty
20 misdemeanor, the person committing tampering with evidence is
21 guilty of a petty misdemeanor; and

22 (4) if the highest crime for which tampering
23 with evidence is committed is indeterminate, the person
24 committing tampering with evidence is guilty of a fourth degree
25 felony."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.