

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 1119
May 26, 2022
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40733-NBa-182

Short Title: Reproductive Freedom Act.

(Public)

Sponsors: Representative Morey.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY ROE V. WADE AND PLANNED PARENTHOOD V. CASEY IN
3 STATE LAW, TO REPEAL VARIOUS PROHIBITIONS AND RESTRICTIONS ON
4 ABORTION SERVICES, AND TO APPROPRIATE FUNDS TO ASSIST IN
5 IMPLEMENTING THE PROVISIONS OF THE REPRODUCTIVE FREEDOM ACT.

6 Whereas, the ability to access safe and legal abortion is a critical component of a
7 patient's health and dignity, as well as independence, freedom, and equality; and

8 Whereas, throughout pregnancy, patients must be able to make their own health care
9 decisions with the advice of health care professionals they trust and without government
10 interference; and

11 Whereas, since 1973, the U.S. Supreme Court repeatedly has recognized the
12 constitutional right to terminate a pregnancy before fetal viability, and to terminate a pregnancy
13 after fetal viability where it is necessary, in the good-faith medical judgment of the treating health
14 care professional, for the preservation of the life or health of the person who is pregnant; and

15 Whereas, over the last 10 years, North Carolina has limited access to abortion services
16 by enacting a growing number of hurdles, restrictions, and requirements that serve no medical
17 purpose and are intended to make it more difficult for patients to access health care; and

18 Whereas, the impact of abortion restrictions is predominantly felt by those who
19 already experience systemic barriers to health care, including young people, people of color and
20 those with disabilities, individuals with low incomes, and those who live in rural areas or are
21 undocumented. These systemic barriers to health care are exacerbated during the public health
22 emergency of the COVID-19 pandemic; and

23 Whereas, every individual has the right to make their own decisions about having
24 children regardless of their circumstances. Reproductive freedom is a human right that can and
25 will be achieved when all people, regardless of actual or perceived race, color, national origin,
26 immigration status, sex (including gender identity, sex stereotyping, or sexual orientation), age,
27 or disability status have the economic, social, and political power and resources to define and
28 make decisions about their bodies, health, sexuality, families, and communities in all areas of
29 their lives, with dignity and self-determination. Abortion-specific restrictions are a tool of gender
30 oppression, as they target health care services that are used primarily by women. These
31 restrictions rely on and reinforce harmful stereotypes about gender roles, women's decision
32 making, and women's need for protection instead of support, undermining their ability to control
33 their own lives and well-being. These restrictions harm the basic autonomy, dignity, and equality
34 of women and their ability to participate in the social and economic life of the State; Now,
35 therefore,

36 The General Assembly of North Carolina enacts:



* D R H 4 0 7 3 3 - N B A - 1 8 2 *

1 SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article
2 to read:

3 "Article 1M.

4 "Reproductive Freedom Act.

5 **"§ 90-21.140. Short title.**

6 This Article may be cited as the "Reproductive Freedom Act."

7 **"§ 90-21.141. Purpose.**

8 The purpose of this Article is to do all of the following:

- 9 (1) To permit health care providers to provide abortion services without
10 limitations or requirements that single out the provision of abortion services
11 for restrictions that are more burdensome than those restrictions imposed on
12 medically comparable procedures, do not significantly advance reproductive
13 health or the safety of abortion services, and make abortion services more
14 difficult to access.
15 (2) To promote access to abortion services and women's ability to participate
16 equally in the economic and social life of the United States.

17 **"§ 90-21.142. Definitions.**

18 The following definitions apply in this Article:

- 19 (1) Abortion services. – An abortion and any medical or nonmedical services
20 related to and provided in conjunction with an abortion, including services not
21 performed on the same day as an abortion.
22 (2) Health care provider. – A person who provides maternal health care.
23 (3) Medical emergency. – A condition which, in reasonable medical judgment, so
24 complicates the medical condition of the pregnant woman as to necessitate the
25 immediate abortion of her pregnancy to avert her death or for which a delay
26 will create serious risk of substantial and irreversible physical impairment of
27 a major bodily function, not including any psychological or emotional
28 conditions.
29 (4) Medically comparable procedure. – A medical procedure that is similar in
30 terms of health and safety risks to the patient, complexity, or the clinical
31 setting that is indicated.
32 (5) Pregnancy. – The period of the human reproductive process beginning with
33 the implantation of a fertilized egg.
34 (6) Viability. – The point in a pregnancy at which, in the good-faith medical
35 judgment of the treating health care provider, based on the particular facts of
36 the case before the health care provider, there is a reasonable likelihood of
37 sustained fetal survival outside the uterus with or without artificial support.
38 (7) Woman or women. – A person who is capable of being pregnant, whether or
39 not the person is an adult.

40 **"§ 90-21.143. Permitted services.**

41 (a) Prohibition of Requirements and Limitations. – A health care provider has a statutory
42 right to provide abortion services in accordance with this Article. A health care provider may
43 provide abortion services to a patient, and the patient has a statutory right to receive those
44 abortion services, without any of the following limitations or requirements:

- 45 (1) A requirement that a health care provider perform specific tests or medical
46 procedures in connection with the provision of abortion services, unless
47 generally required for the provision of medically comparable services.
48 (2) A requirement that the same health care provider who provides abortion
49 services also perform specified tests, services, or procedures prior to or
50 subsequent to the abortion.

- 1 (3) A requirement that a health care provider offer or provide the patient seeking
2 abortion services medically inaccurate information in advance of or during
3 abortion services.
- 4 (4) A limitation on a health care provider's ability to prescribe or dispense drugs
5 based on current evidence-based regimens or the provider's good-faith
6 medical judgment, other than a limitation generally applicable to the medical
7 profession.
- 8 (5) A limitation on a health care provider's ability to provide abortion services via
9 telemedicine or telehealth, other than a limitation generally applicable to a
10 health care provider's ability to provide medical or health care services via
11 telemedicine or telehealth generally as applied to each health care provider's
12 scope of practice.
- 13 (6) A requirement or limitation concerning the physical plant, equipment,
14 staffing, or hospital transfer arrangements of facilities where abortion services
15 are provided, or the credentials or hospital privileges or status of personnel at
16 those facilities, that is not imposed on facilities or the personnel of facilities
17 where medically comparable procedures are performed.
- 18 (7) A requirement a patient make one or more medically unnecessary in-person
19 visits to a health care provider providing abortion services or to any individual
20 or entity that does not provide abortion services, prior to obtaining an abortion.
- 21 (8) A prohibition or restriction on abortion at any point or points in time prior to
22 fetal viability, including a prohibition or restriction on a particular type of
23 abortion procedure.
- 24 (9) A prohibition on abortion after fetal viability when, in the good-faith medical
25 judgment of the treating health care provider, continuation of the pregnancy
26 would pose a risk to the pregnant patient's life or health or there is a medical
27 emergency.
- 28 (10) A limitation on a health care provider's ability to provide immediate abortion
29 services when that health care provider believes, based on the good-faith
30 medical judgment of the health care provider, delay of abortion services would
31 pose a risk to the patient's health.
- 32 (11) A requirement a patient seeking abortion services at any point or points in
33 time prior to fetal viability disclose the patient's reason or reasons for seeking
34 abortion services, or a limitation on the provision or obtaining of abortion
35 services at any point or points in time prior to fetal viability based on any
36 actual, perceived, or potential reason or reasons of the patient for obtaining
37 abortion services, regardless of whether the limitation is based on a health care
38 provider's degree of actual or constructive knowledge of such reason or
39 reasons.
- 40 (b) Limitations. – The statutory right for abortion services in accordance with subsection
41 (a) of this section shall not be limited or otherwise infringed through any limitation or
42 requirement which does any of the following:
- 43 (1) Expressly, effectively, implicitly, or as implemented singles out the provision
44 of abortion services, health care providers who provide those abortion
45 services, or facilities in which abortion services are provided.
- 46 (2) Impedes access to abortion services in accordance with subsection (c) of this
47 section.
- 48 (3) Is the same as or similar to one or more of the limitations or requirements as
49 described in subsection (a) of this section.
- 50 (c) Consideration Factors. – Factors a court of law may consider in determining whether
51 a limitation or requirement impedes access to abortion services shall include all of the following:

- 1 (1) Whether the limitation or requirement, in a health care provider's good-faith
 2 medical judgment, interferes with a health care provider's ability to provide
 3 care and render services, or poses a risk to the patient's health or safety.
 4 (2) Whether the limitation or requirement is reasonably likely to delay or deter
 5 some patients in accessing abortion services.
 6 (3) Whether the limitation or requirement is reasonably likely to, directly or
 7 indirectly, increase the cost of providing abortion services or the cost for
 8 obtaining abortion services, including costs associated with travel, child care,
 9 or time off work.
 10 (4) Whether the limitation or requirement is reasonably likely to have the effect
 11 of necessitating a trip or virtual visit to the offices of a health care provider
 12 that would not otherwise be required.
 13 (5) Whether the limitation or requirement is reasonably likely to result in a
 14 decrease in the availability of abortion services in the State or a geographic
 15 region.
 16 (6) Whether the limitation or requirement imposes penalties that are not imposed
 17 on other health care providers for comparable conduct or failure to act, or are
 18 more severe than penalties imposed on other health care providers for
 19 comparable conduct or failure to act.
 20 (7) The cumulative impact of the limitation or requirement combined with other
 21 new or existing limitations or requirements.

22 **"§ 90-21.144. Limitations.**

23 (a) Exception; Violation. – A party defending against a claim alleging a violation of this
 24 Article must demonstrate the measure, rule, or law subject to the claim either (i) significantly
 25 advances the safety of abortion services or health of patients or (ii) cannot be achieved through
 26 less restrictive means or action.

27 (b) Limitation. – The provisions of this act do not apply to the extent this Article is in
 28 conflict with laws of any of the following:

- 29 (1) Physical access to a clinic entrance.
 30 (2) Insurance or medical assistance coverage of abortion services.
 31 (3) State contract law.
 32 (4) The provisions of 18 U.S.C. § 1531.

33 **"§ 90-21.145. Applicability.**

34 Nothing in this Article shall be construed to authorize any State agency to interfere with a
 35 person's ability to terminate a pregnancy, diminish or in any way negatively affect a person's
 36 constitutional right to terminate a pregnancy, or to displace any other remedy for a violation of
 37 the constitutional right to terminate a pregnancy.

38 **"§ 90-21.146. Severability.**

39 This Article shall be liberally construed to effectuate the purposes of this Article. If any
 40 provision of this Article, or its application to any person, entity, government, or circumstance, is
 41 held to be unconstitutional, the remainder of this Article shall not be affected."

42 **SECTION 2.(a)** Articles 1I and 1K of Chapter 90 of the General Statutes are
 43 repealed.

44 **SECTION 2.(b)** G.S. 58-61-63 is repealed.

45 **SECTION 2.(c)** G.S. 143C-6-5.5 is repealed.

46 **SECTION 3.(a)** G.S. 135-48.50 reads as rewritten:

47 **"§ 135-48.50. Coverage mandates.**

48 The Plan shall provide coverage subject to the following coverage mandates:

- 49 (1) Abortion coverage. – ~~The Plan shall not provide coverage for abortions for~~
 50 ~~which State funds could not be used under G.S. 143C-6-5.5. The Plan shall,~~

1 however, shall provide coverage for subsequent complications or related
2 charges arising from an ~~abortion not covered under this subdivision.~~ abortion.

3 "

4 **SECTION 3.(b)** This section is effective 30 days after it becomes law and applies to
5 contracts entered into, amended, or renewed on or after that date.

6 **SECTION 4.(a)** G.S. 153A-92(d) reads as rewritten:

7 "(d) A county may purchase life insurance or health insurance or both for the benefit of
8 all or any class of county officers and employees as a part of their compensation. A county may
9 provide other fringe benefits for county officers and employees. ~~In providing health insurance to
10 county officers and employees, a county shall not provide abortion coverage greater than that
11 provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter
12 135 of the General Statutes."~~

13 **SECTION 4.(b)** G.S. 160A-162(b) reads as rewritten:

14 "(b) The council may purchase life, health, and any other forms of insurance for the benefit
15 of all or any class of city employees and their dependents, and may provide other fringe benefits
16 for city employees. ~~In providing health insurance to city employees, the council shall not provide
17 abortion coverage greater than that provided by the State Health Plan for Teachers and State
18 Employees under Article 3B of Chapter 135 of the General Statutes."~~

19 **SECTION 5.(a)** G.S. 14-44 is repealed.

20 **SECTION 5.(b)** G.S. 14-45 is repealed.

21 **SECTION 5.(c)** G.S. 14-45.1 is repealed.

22 **SECTION 6.** There is appropriated from the General Fund to the Department of
23 Health and Human Services the recurring sum of two million dollars (\$2,000,000) for the
24 2022-2023 fiscal year to provide grant funding to federally qualified community health centers,
25 local health departments, and hospitals to provide all FDA-approved methods of birth control,
26 reproductive medical care, and long-acting, reversible contraceptives to underserved, uninsured,
27 or medically indigent patients.

28 **SECTION 7.** This act is effective when it becomes law.