

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 188
Mar 1, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10047-NB-27*

Short Title: Remove Barriers/Gain Access to Abortion Act. (Public)

Sponsors: Representatives von Haefen, Butler, Fisher, and Alston (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REMOVE BARRIERS TO GAIN ACCESS TO ABORTION ACT (RBG ACT).

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

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

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

Whereas, the impact of abortion restrictions is predominantly felt by those who already experience systemic barriers to health care, including young people, people of color and those with disabilities, individuals with low incomes, and those who live in rural areas or are undocumented. These systemic barriers to health care are exacerbated during the public health emergency of the COVID-19 pandemic; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-45.1 reads as rewritten:

"§ 14-45.1. When abortion not unlawful.

...

(a1) The Department of Health and Human Services shall annually inspect any clinic, including ambulatory surgical facilities, where abortions are performed. The Department of Health and Human Services shall publish on the Department's Web site ~~and on the State Web site established under G.S. 90-21.84~~ the results and findings of all inspections conducted on or after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are performed, including any statement of deficiencies and any notice of administrative action resulting from the inspection. No person who is less than 18 years of age shall be employed at any clinic, including ambulatory surgical facilities, where abortions are performed. The requirements of this subsection shall not apply to a hospital required to be licensed under Chapter 131E of the General Statutes.

(b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital licensed by the Department of Health and Human Services, if there is a medical ~~emergency as defined by G.S. 90-21.81(5)~~ emergency.

(b1) A qualified physician who advises, procures, or causes a miscarriage or abortion after the sixteenth week of a woman's pregnancy shall record all of the following: the method used by



1 the qualified physician to determine the probable gestational age of the unborn child at the time
2 the procedure is to be performed; the results of the methodology, including the measurements of
3 the unborn child; and an ultrasound image of the unborn child that depicts the measurements.
4 The qualified physician shall provide this information, including the ultrasound image, to the
5 Department of Health and Human Services pursuant to G.S. 14-45.1(c).

6 A qualified physician who procures or causes a miscarriage or abortion after the twentieth
7 week of a woman's pregnancy shall record the findings and analysis on which the qualified
8 physician based the determination that there existed a medical ~~emergency as defined by G.S.~~
9 ~~90-21.81(5)-emergency~~ and shall provide that information to the Department of Health and
10 Human Services pursuant to G.S. 14-45.1(c). Materials generated by the physician or provided
11 by the physician to the Department of Health and Human Services pursuant to this section shall
12 not be public records under G.S. 132-1.

13 ...

14 (g) For purposes of this section, "~~qualified physician~~" means (i) a physician person who
15 possesses, or is eligible to possess, board certification in obstetrics or gynecology, (ii) a physician
16 who possesses sufficient training based on established medical standards in safe abortion care,
17 abortion complications, and miscarriage management, or (iii) a physician who performs an
18 abortion in a medical emergency as defined by G.S. 90-21.81(5)-qualified to practice medicine
19 under Article 1 of Chapter 90 of the General Statutes, a physician assistant as defined in
20 G.S. 90-18.1, a nurse practitioner as defined in G.S. 90-18.2, or a certified nurse midwife may
21 fulfill the requirements and functions designated for a physician.

22 (h) For the purposes of this section, "medical emergency" means a condition which, in
23 reasonable medical judgment, so complicates the medical condition of the pregnant woman as to
24 necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will
25 create serious risk of substantial and irreversible physical impairment of a major bodily function,
26 not including any psychological or emotional conditions. No condition shall be deemed a medical
27 emergency if based on a claim or diagnosis that the woman will engage in conduct which would
28 result in her death or in substantial and irreversible physical impairment of a major bodily
29 function."

30 **SECTION 1.(b)** G.S. 90-21.4 is amended by adding a new subsection to read:

31 "(c) For the purposes of this section, a person who is qualified to practice medicine under
32 Article 1 of Chapter 90 of the General Statutes, a physician assistant as defined in G.S. 90-18.1,
33 a nurse practitioner as defined in G.S. 90-18.2, or a certified nurse midwife shall qualify for the
34 same limited immunity in this section that is designated for a physician."

35 **SECTION 1.(c)** G.S. 90-21.9 reads as rewritten:

36 "**§ 90-21.9. Medical emergency exception.**

37 (a) The requirements of parental consent prescribed by G.S. 90-21.7(a) shall not apply
38 when, in the best medical judgment of the physician based on the facts of the case before the
39 physician, a medical emergency exists that so complicates the pregnancy as to require an
40 immediate abortion, or when the conditions prescribed by G.S. 90-21.1(4) are met.

41 (b) For the purposes of this section and G.S. 90-21.7, a person who is qualified to practice
42 medicine under Article 1 of Chapter 90 of the General Statutes, a physician assistant as defined
43 in G.S. 90-18.1, a nurse practitioner as defined in G.S. 90-18.2, or a certified nurse midwife may
44 fulfill the requirements and functions designated for a physician."

45 **SECTION 1.(d)** G.S. 90-21.120 reads as rewritten:

46 "**§ 90-21.120. Definitions.**

47 The following definitions apply in this Article:

48 (1) Abortion. – As defined in G.S. 90-21.81(1)-The use or prescription of any
49 instrument, medicine, drug, or other substance or device intentionally to
50 terminate the pregnancy of a woman known to be pregnant with an intention
51 other than to do any of the following:

- 1 a. Increase the probability of a live birth.
 2 b. Preserve the life or health of the child.
 3 c. Remove a dead, unborn child who died as the result of (i) natural
 4 causes in utero, (ii) accidental trauma, or (iii) a criminal assault on the
 5 pregnant woman or her unborn child which causes the premature
 6 termination of the pregnancy.

7 (2) Attempt to perform an abortion. – As defined in G.S. 90-21.81(2)-An act, or
 8 an omission of a statutorily required act, that, under the circumstances as the
 9 actor believes them to be, constitutes a substantial step in a course of conduct
 10 planned to culminate in the performance of an abortion in violation of this
 11 Article.

12 (3) Woman. – As defined in G.S. 90-21.81(11)-A female human, whether or not
 13 she is an adult."

14 **SECTION 1.(e)** G.S. 90-21.121 is amended by adding a new subsection to read:

15 "**(c)** For the purposes of this section, a person who is qualified to practice medicine under
 16 Article 1 of Chapter 90 of the General Statutes, a physician assistant as defined in G.S. 90-18.1,
 17 a nurse practitioner as defined in G.S. 90-18.2, or a certified nurse midwife may fulfill the
 18 requirements and functions designated for a physician."

19 **SECTION 1.(f)** Article 1I of Chapter 90 of the General Statutes is repealed.

20 **SECTION 1.(g)** This section is effective 30 days after it becomes law and applies to
 21 acts on or after that date.

22 **SECTION 2.(a)** G.S. 143C-6-5.5 is repealed.

23 **SECTION 2.(b)** G.S. 135-48.50 reads as rewritten:

24 "**§ 135-48.50. Coverage mandates.**

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

- 26 (1) Abortion coverage. – ~~The Plan shall not provide coverage for abortions for~~
 27 ~~which State funds could not be used under G.S. 143C-6-5.5. The Plan shall,~~
 28 ~~however,~~ shall provide coverage for subsequent complications or related
 29 ~~charges arising from an abortion not covered under this subdivision-abortion.~~
 30 "

31 **SECTION 3.(a)** G.S. 58-51-63 is repealed.

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

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

35 "(d) A county may purchase life insurance or health insurance or both for the benefit of
 36 all or any class of county officers and employees as a part of their compensation. A county may
 37 provide other fringe benefits for county officers and employees. ~~In providing health insurance to~~
 38 ~~county officers and employees, a county shall not provide abortion coverage greater than that~~
 39 ~~provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter~~
 40 ~~135 of the General Statutes."~~

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

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

47 **SECTION 5.** Except where otherwise provided, this act is effective 30 days after it
 48 becomes law.