

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

**H.B. 908**  
**Apr 24, 2024**  
**HOUSE PRINCIPAL CLERK**

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**HOUSE BILL DRH40531-MLa-144A**

Short Title: Decriminalize Reproductive Health. (Public)

Sponsors: Representative Staton-Williams.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL PARTS I AND II OF SENATE BILL 20 AND REENACT THE LAWS  
3 GOVERNING ABORTION AS THEY EXISTED PRIOR TO THE ENACTMENT OF  
4 SENATE BILL 20; TO PRESERVE NORTH CAROLINA WOMEN'S ACCESS TO  
5 OUT-OF-STATE ABORTIONS; TO CRIMINALIZE THE INTERFERENCE WITH A  
6 WOMAN SEEKING AN ABORTION; TO CREATE A PRIVATE RIGHT OF ACTION  
7 AGAINST AN INDIVIDUAL WHO INTERFERES WITH A WOMAN SEEKING AN  
8 ABORTION; TO DECLARE THE RIGHT TO USE CONTRACEPTION TO PREVENT  
9 PREGNANCY SHALL NOT BE LIMITED; TO PROHIBIT THE TRACKING OF  
10 INDIVIDUALS WHO PURCHASE EMERGENCY CONTRACEPTION; TO CLARIFY  
11 THAT INDIVIDUALS WHO PROVIDE TRANSPORTATION TO ABORTIONS ARE  
12 NOT CRIMINALLY LIABLE; TO PROHIBIT GEOFENCING WITHIN A ONE-MILE  
13 RADIUS OF A HEALTHCARE FACILITY THAT PROVIDES ABORTIONS; TO  
14 CRIMINALIZE THE UNAUTHORIZED DISCLOSURE OF ABORTION DATA; TO  
15 CLARIFY THAT A FATHER DOES NOT HAVE A RIGHT OF ACTION RELATING TO  
16 THE ASSISTANCE WITH OR PERFORMANCE OF AN ABORTION; TO MAKE  
17 VARIOUS CHANGES TO THE LAWS PERTAINING TO CRISIS PREGNANCY  
18 CENTERS; TO ENSURE PROMPT ACCESS TO ABORTION IN THE CASES OF  
19 MEDICAL EMERGENCY AND LIFE-LIMITING FETAL ANOMALIES; TO REQUIRE  
20 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND  
21 IMPLEMENT MEASURES TO ENSURE THE PRIVACY OF INDIVIDUALS SEEKING  
22 REPRODUCTIVE HEALTH SERVICES; AND TO APPROPRIATE FUNDS TO THE  
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR COSTS RELATED TO  
24 IMPLEMENTING AND RAISING AWARENESS OF THE CHANGES IN THIS ACT  
25 GOVERNING REPRODUCTIVE HEALTH SERVICES.

26 The General Assembly of North Carolina enacts:

27

28 **REPEAL PARTS I AND II OF SENATE BILL 20 (S.L. 2023-14)**

29 **SECTION 1.(a)** Effective retroactively to July 1, 2023, Part I and Section 2.4 of S.L.  
30 2023-14, as amended by S.L. 2023-65, are repealed.

31 **SECTION 1.(b)** Effective retroactively to October 1, 2023, Sections 2.1 through 2.3  
32 and Section 2.5 of S.L. 2023-14, as amended by S.L. 2023-65, are repealed.

33

34 **INTERSTATE ACCESS TO ABORTION**

35 **SECTION 2.(a)** Article 1I of Chapter 90 of the General Statutes is amended by  
36 adding a new section to read:



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1 **"§ 90-21.94. Interstate access to reproductive healthcare.**

2 (a) Females in the State shall have the right to access reproductive healthcare in other  
3 states.

4 (b) Notwithstanding any other provision of law, it is lawful for any female who resides  
5 in North Carolina to obtain an abortion in another state and obtain contraception in another state.

6 (c) Notwithstanding any other provision of law, it is lawful for any individual to assist or  
7 support a female who resides in North Carolina to obtain an abortion in another state or obtain  
8 contraception in another state."

9 **SECTION 2.(b)** G.S. 90-21.88 is amended by adding a new subsection to read:

10 "(d) None of the provisions of this section shall apply to an abortion performed or initiated  
11 in another state."

12  
13 **CRIMINALIZATION OF INTERFERING WITH A WOMAN SEEKING AN**  
14 **ABORTION**

15 **SECTION 3.(a)** Article 35 of Chapter 14 of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 14-277.9. Interference with individuals seeking abortion.**

18 (a) Offense. – All of the following are unlawful:

19 (1) For any individual to obstruct, block, or otherwise interfere with another  
20 individual's access to or egress from, or from the common areas of, a  
21 healthcare facility that performs abortions.

22 (2) For any individual to injure or threaten to injure another individual who is  
23 seeking an abortion.

24 (3) For an individual to willfully harass, without any legal purpose, an individual  
25 seeking an abortion.

26 (4) For an individual to publish, disclose, or otherwise misuse the personal  
27 information of an individual seeking an abortion.

28 (b) Punishment. – An individual who violates this section shall be guilty of a Class H  
29 felony."

30 **SECTION 3.(b)** This section becomes effective December 1, 2024, and applies to  
31 offenses committed on or after that date.

32  
33 **PRIVATE RIGHT OF ACTION**

34 **SECTION 4.(a)** G.S. 99D-1 is amended by adding two new subsections to read:

35 "(d) All of the following are violations of this Chapter:

36 (1) For any individual to obstruct, block, or otherwise interfere with another  
37 individual's access to or egress from, or from the common areas of, a  
38 healthcare facility that performs abortions.

39 (2) For any individual to injure or threaten to injure another individual who is  
40 seeking an abortion.

41 (3) For an individual to willfully harass, without any legal purpose, an individual  
42 seeking an abortion.

43 (4) For an individual to publish, disclose, or otherwise misuse the personal  
44 information of an individual seeking an abortion.

45 (e) Any individual who is the victim of a violation described in subsection (d) of this  
46 section may bring a civil action. The court may restrain and enjoin such future acts and may  
47 award compensatory and punitive damages to the plaintiff. The court may award court costs and  
48 attorneys' fees to the prevailing party. However, a prevailing defendant may be awarded  
49 reasonable attorneys' fees only upon a showing that the case is frivolous, unreasonable, or without  
50 foundation. Notwithstanding any other provision of law, an action under this section must be

1 commenced within the latter of 25 years of the conduct giving rise to the action or four years  
2 after discovery of the conduct giving rise to the action."

3 **SECTION 4.(b)** This section becomes effective October 1, 2024, and applies to  
4 violations committed on or after that date.

## 6 **RIGHT TO USE CONTRACEPTION**

7 **SECTION 5.** Chapter 90 of the General Statutes is amended by adding a new Article  
8 to read:

9 "Article 44.

10 "Right to Use Contraception.

### 11 **"§ 90-751.1. Title.**

12 This Article may be cited as the "Right to Use Contraception Act."

### 13 **"§ 90-751.2. Legislative declaration.**

14 The right to use contraception implicates the fundamental liberty to prevent pregnancy. It is  
15 the policy of the State of North Carolina that this State has no legitimate governmental interest  
16 in limiting the freedom to use contraception to prevent pregnancy."

## 18 **PROHIBIT TRACKING OF EMERGENCY CONTRACEPTION SALES**

19 **SECTION 6.** Chapter 66 of the General Statutes is amended by adding a new Article  
20 to read:

21 "Article 52.

22 "Emergency Contraception Financial Privacy Act.

### 23 **"§ 66-520. Definitions.**

24 The following definitions apply in this Article:

- 25 (1) Emergency contraception. – Levonorgestrel or any other drug, drug regimen,  
26 or device approved by the federal Food and Drug Administration to prevent  
27 pregnancy when administered after sexual contact, including prescription and  
28 over-the-counter hormonal emergency contraception.
- 29 (2) Payment card network. – An entity involved in facilitating or processing an  
30 electronic transfer of funds between a merchant and a customer using a  
31 payment card. This term does not include the following:
- 32 a. A bank holding federally insured deposits from individuals.  
33 b. A credit union holding federally insured deposits from individuals.
- 34 (3) Payment code. – Any code or other indicator that identifies to a payment card  
35 network, merchant, or bank whether a purchase was made for emergency  
36 contraception.

### 37 **"§ 66-521. Prohibitions.**

38 (a) No merchant, payment card network, bank, or retailer in this State may assign a  
39 payment code or any other code which may identify that a purchase or transaction was made for  
40 emergency contraception.

41 (b) No merchant, payment card network, bank, or retailer in this State may knowingly  
42 maintain a record of individuals in this State who have purchased emergency contraception.

43 (c) No merchant, payment card network, bank, or retailer in this State may knowingly  
44 maintain information which may disclose the identity of any individual who has purchased  
45 emergency contraception."

## 47 **FREEDOM TO TRANSPORT**

48 **SECTION 7.** Article 1I of Chapter 90 of the General Statutes is amended by adding  
49 a new section to read:

### 50 **"§ 90-21.95. Freedom to transport.**

1 Notwithstanding any other provision of law, no individual who provides transportation to a  
2 woman to a healthcare facility where an abortion is performed on that woman shall be criminally  
3 liable for the sole reason of providing transportation."  
4

## 5 **GEOFENCING PROHIBITED**

6 **SECTION 8.** Article 11 of Chapter 90 of the General Statutes is amended by adding  
7 a new section to read:

### 8 **"§ 90-21.96. Geofencing prohibited.**

9 (a) The following definitions apply in this section:

10 (1) Consumer health information. – Personal information that is linked or  
11 reasonably linkable to an individual and that identifies the individual's past,  
12 present, or future health status.

13 (2) Geofence. – Technology that uses global positioning coordinates, cell tower  
14 connectivity, cellular data, radio frequency identification, Wi-Fi data, or any  
15 other form of spatial or location detection to establish a virtual boundary  
16 around a specific physical location or to locate a consumer within a virtual  
17 boundary.

18 (b) It is unlawful for any individual or entity to implement a geofence within a 1-mile  
19 radius of any healthcare facility that performs abortions if the geofence is used to:

20 (1) Identify or track individuals seeking abortions.

21 (2) Collect consumer health information from individuals seeking abortions.

22 (3) Send notifications, messages, or advertisements to individuals related to their  
23 consumer health information."  
24

## 25 **ABORTION DATA PRIVACY ACT**

26 **SECTION 9.(a)** Article 11 of Chapter 14 of the General Statutes is amended by  
27 adding a new section to read:

### 28 **"§ 14-44.2. Unauthorized disclosure of abortion data.**

29 (a) Definitions. – The following definitions apply in this section:

30 (1) Covered entity. – Any internet service provider, the affiliates or subsidiaries  
31 of an internet service provider, search engine, cloud service provider, website,  
32 social media provider, internet website, web application, or internet  
33 advertising network.

34 (2) Protected information. – An individual's internet search history, nonpublic  
35 social media posts, emails, nonpublic internet communications, internet  
36 browsing history, or any other means of searching for information online.

37 (b) Offense. – No covered entity in the State shall disclose protected information related  
38 to an individual's decision to obtain an abortion, information about abortion, or abortion providers  
39 to a third party or law enforcement agency.

40 (c) Punishment. – An individual or organization who violates this section commits an  
41 infraction as defined in G.S. 14-3.1 and is subject to a fine of five thousand dollars (\$5,000) per  
42 violation.

43 (d) Exceptions. – A covered entity may disclose the protected information described in  
44 this section if ordered to by a court of competent jurisdiction or if the information is subject to a  
45 validly obtained search warrant."

46 **SECTION 9.(b)** This section becomes effective December 1, 2024, and applies to  
47 offenses committed on or after that date.  
48

## 49 **CLARIFICATION THAT FATHERS DO NOT HAVE A RIGHT OF ACTION**

50 **SECTION 10.** G.S. 90-21.88 is amended by adding a new subsection to read:

1        "(e) No father of an unborn child aborted under this Article, or husband of a woman who  
2 had an abortion under this Article, may bring an action against any of the following:

3            (1) The woman who had the abortion.

4            (2) Any individuals who paid for or assisted in paying for the abortion.

5            (3) Any healthcare providers who performed or assisted in performing the  
6 abortion.

7            (4) The healthcare facility where the abortion was performed.

8            (5) Any individuals or entities responsible for transportation of the woman to the  
9 healthcare facility where the abortion was performed.

10           (6) Any other individual or entity who supported the woman who had the abortion  
11 in any way."

## 12 **CRISIS PREGNANCY CENTER CHANGES**

13            **SECTION 11.** Article 16 of Chapter 131E of the General Statutes is amended by  
14 adding two new sections to read:

### 15 **"§ 131E-269.5. Certification of crisis pregnancy centers.**

16            (a) No person shall operate a crisis pregnancy center without obtaining certification from  
17 the Department as a facility suitable for the provision of crisis pregnancy services. As used in  
18 this section, "crisis pregnancy center" means a nonprofit organization, other than a hospital,  
19 ambulatory surgical facility, or clinic that performs abortions, that holds itself out as a facility  
20 that provides care for pregnant women, including pregnancy counseling services, pregnancy  
21 testing, and other nonmedical pregnancy services.

22            (b) Applications for certification shall be available from the Department, and each  
23 application filed with the Department shall contain all necessary and reasonable information that  
24 the Department may by rule require. The Department shall grant certification to the applicant  
25 upon a determination by the Department that the applicant has complied with this section and  
26 any rules adopted under this section. The Department shall charge the applicant a nonrefundable  
27 annual certification fee in the amount of nine hundred dollars (\$900.00).

28            (c) Each certification shall be issued only for the premises and persons named in the  
29 application and shall not be transferable or assignable except with the written approval of the  
30 Department.

31            (d) Certifications shall be posted in a conspicuous place on the certified premises.

32            (e) The Department shall adopt rules pertaining to the certification of crisis pregnancy  
33 centers. The Department is authorized to apply any relevant requirement for the certification of  
34 clinics that perform abortions to the standards applicable to crisis pregnancy centers certified by  
35 the Department as suitable for the provision of crisis pregnancy services. The rules shall ensure  
36 that standards for crisis pregnancy centers certified by the Department address patient care at the  
37 center, protect patient privacy, provide quality assurance, and ensure that patients experiencing  
38 pregnancy complications receive a referral for any necessary medical attention.

39            (f) The Department shall make or cause to be made inspections of crisis pregnancy  
40 centers on an annual basis. The Department is authorized to delegate to a State officer, agent,  
41 board, bureau, or division of State government the authority to make inspections according to the  
42 rules adopted by the Department. The Department may revoke this delegated authority in its  
43 discretion.

44            (g) Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to  
45 the confidentiality of communications between physician and patient, the representatives of the  
46 Department who make these inspections may review any writing or other record in any recording  
47 medium that pertains to the admission, discharge, medication, treatment, medical condition, or  
48 history of persons who are or have been patients of the facility being inspected unless that patient  
49 objects, in writing, to review of that patient's records. Physicians, psychologists, psychiatrists,  
50 nurses, and anyone else involved in giving treatment at or through a facility who may be  
51

1 interviewed by representatives of the Department may disclose to these representatives  
2 information related to an inquiry, notwithstanding the existence of the physician-patient privilege  
3 in G.S. 8-53 or any other rule of law; provided, however, that the patient has not made written  
4 objection to this disclosure. The facility, its employees, and any person interviewed during these  
5 inspections shall be immune from liability for damages resulting from the disclosure of any  
6 information to the Department. Any confidential or privileged information received from review  
7 of records or interviews shall be kept confidential by the Department and not disclosed without  
8 written authorization of the patient or legal representative or unless disclosure is ordered by a  
9 court of competent jurisdiction. The Department shall institute appropriate policies and  
10 procedures to ensure that this information is not disclosed without authorization or court order.  
11 The Department shall not disclose the name of anyone who has furnished information concerning  
12 a facility without the consent of that person. Neither the names of persons furnishing information  
13 nor any confidential or privileged information obtained from records or interviews shall be  
14 considered "public records" within the meaning of G.S. 132-1. Prior to releasing any information  
15 or allowing any inspections referred to in this section, the patient must be advised in writing by  
16 the facility that the patient has the right to object, in writing, to this release of information or  
17 review of the records and that by objecting, in writing, the patient may prohibit the inspection or  
18 release of the records.

19 (h) The Department shall publish the results of the inspections described in subsection (f)  
20 of this section on its website and the website established under Article II of Chapter 90 of the  
21 General Statutes.

22 (i) No crisis pregnancy center may provide medical advice to its patients, nor perform  
23 any medical procedures on them, unless the advice or procedure is provided by a healthcare  
24 professional licensed under Chapter 90 of the General Statutes acting within the scope of the  
25 healthcare professional's license. For purposes of this subsection, "medical procedure" will  
26 include any procedure used or intended to diagnose a pregnancy, including an ultrasound.

27 (j) The Department shall enforce the rules adopted for the certification of crisis  
28 pregnancy centers.

29 **"§ 131E-269.6. Funding for crisis pregnancy centers.**

30 (a) No crisis pregnancy center shall receive State funding unless it discloses to its patients  
31 that there are alternatives to continuing a pregnancy, including abortion.

32 (b) If a crisis pregnancy center that receives State funds provides information concerning  
33 abortion to a patient, the information provided must be medically accurate, or the funding will  
34 be revoked. The Department shall adopt rules determining what qualifies as medically accurate  
35 information for abortion.

36 (c) A crisis pregnancy center receiving State funds must report annually on what  
37 information concerning abortion it provides to patients or otherwise publishes. If the information  
38 provided or published is not medically accurate as determined by the rules adopted by the  
39 Department under subsection (b) of this section, State funding may be revoked.

40 (d) All crisis pregnancy centers must include the following information on all  
41 public-facing communications, including signs, websites, and advertisements: "Abortion is not  
42 provided here. For information about abortion services, please access information provided by  
43 the Department of Health and Human Services at  
44 <https://www.ncdhs.gov/assistance/north-carolina-reproductive-health-services>," or any similar  
45 website provided by the Department.

46 (e) For purposes of this section, "crisis pregnancy center" shall be defined as in  
47 G.S. 131E-269.5."

48  
49 **PROMPT ABORTION ACCESS DURING MEDICAL EMERGENCIES AND FOR**  
50 **LIFE-LIMITING FETAL ANOMALIES**

51 SECTION 12.(a) G.S. 90-21.81 reads as rewritten:

1 **"§ 90-21.81. Definitions.**

2 The following definitions apply in this Article:

3 ...

4 (5) Medical emergency. – A condition which, in reasonable medical judgment, so  
5 complicates the medical condition of the pregnant woman as to necessitate the  
6 ~~immediate abortion of her pregnancy to avert her death or for which a delay~~  
7 ~~will create serious risk of substantial and irreversible physical impairment of~~  
8 ~~a major bodily function, not including any psychological or emotional~~  
9 ~~conditions. For purposes of this definition, no condition shall be deemed a~~  
10 ~~medical emergency if based on a claim or diagnosis that the woman will~~  
11 ~~engage in conduct which would result in her death or in substantial and~~  
12 ~~irreversible physical impairment of a major bodily function.~~  
13 person as to  
14 necessitate the immediate termination of the pregnancy to avert her death or  
15 for which a delay will create serious risk of substantial and/or irreversible  
16 physical impairment, including any psychological or emotional conditions.

16 ...."

17 **SECTION 12.(b)** G.S. 90-21.86 reads as rewritten:

18 **"§ 90-21.86. Procedure in case of medical emergency.**

19 When a medical emergency compels the performance of an abortion, the physician shall  
20 inform the woman, before the abortion if possible, of the medical indications supporting the  
21 physician's judgment that an abortion is necessary ~~to avert her death or that a 72-hour delay will~~  
22 ~~create a serious risk of substantial and irreversible impairment of a major bodily function, not~~  
23 ~~including psychological or emotional conditions.~~  
24 because of the medical emergency. As soon as  
25 feasible, the physician shall document in writing the medical indications upon which the  
26 physician relied and shall cause the original of the writing to be maintained in the woman's  
27 medical records and a copy given to ~~her~~her. Notwithstanding the provisions of G.S. 90-21.82,  
28 90-21.83A, and 90-21.83C, an abortion performed because of a medical emergency or  
29 life-limiting anomaly may be performed as soon as the physician diagnosing the anomaly deems  
30 it reasonable to do so."

31 **PRIVACY PROTECTIONS FOR INDIVIDUALS SEEKING REPRODUCTIVE**  
32 **HEALTH SERVICES**

33 **SECTION 13.** Article 1I of Chapter 90 of the General Statutes is amended by adding  
34 a new section to read:

35 **"§ 90-21.97. Privacy of individuals seeking reproductive health services.**

36 (a) The Department shall establish and implement measures to ensure the privacy of  
37 individuals seeking reproductive health services, including, but not limited to, abortion services.

38 (b) Any records related to the provision or seeking of reproductive health services,  
39 including abortion services, shall be treated with the utmost confidentiality, in accordance with  
40 applicable State and federal laws."

41  
42 **APPROPRIATION**

43 **SECTION 14.(a)** There is appropriated from the General Fund to the Department of  
44 Health and Human Services the sum of one million dollars (\$1,000,000) in nonrecurring funds  
45 for the 2024-2025 fiscal year to implement and promote awareness of the changes in reproductive  
46 health services laws set forth in this act. These funds shall be allocated for public education  
47 campaigns, training healthcare professionals, ensuring access to safe and legal abortion services,  
48 and protecting the privacy of individuals seeking reproductive health services.

49 **SECTION 14.(b)** This section becomes effective July 1, 2024.

50  
51 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

1           **SECTION 15.(a)** If any provision of this act or its application is held invalid, the  
2   invalidity does not affect other provisions or applications of this act that can be given effect  
3   without the invalid provisions or application and, to this end, the provisions of this act are  
4   severable.

5           **SECTION 15.(b)** Except as otherwise provided, this act is effective when it becomes  
6   law.