



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5615

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SYNOPSIS AS INTRODUCED:

New Act

Creates the Reproductive Justice and Access Act. Provides that the State or any municipality, political subdivision, or other governmental unit or agency shall not: (1) deny or interfere with an individual's right to use or refuse contraception; (2) deny or interfere with a pregnant woman's right to bear a child; (3) deny or interfere with a pregnant woman's right to terminate a pregnancy: (i) prior to the viability of the fetus or (ii) when the termination of pregnancy is necessary to protect the life or health of the pregnant woman; or (4) require any woman to terminate pregnancy without her consent. Provides that party aggrieved by conduct that violates the Act may bring a civil lawsuit in a State circuit court or as a supplemental claim in a federal district court against the offending unit of government. Provides that the State shall ensure that individuals eligible for State medicaid assistance, or other State medical assistance, receive financial assistance for reproductive healthcare at least to the same extent as other comparable services. Provides that pregnancy terminations shall be performed in accordance with accepted standards of medical practice, by the method that, in the clinical judgment of the attending medical professional, will best serve the interests of the pregnant patient. Provides that all Illinois public schools shall offer medically accurate, age appropriate, comprehensive sexual health education. Provides that the provisions of the Act are severable. Contains other provisions. Effective immediately.

LRB095 18060 KBJ 45495 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Reproductive Justice and Access Act.

6 Section 5. Findings and policy. The General Assembly finds
7 and declares that every individual possesses a fundamental
8 right of privacy with respect to reproductive decisions.

9 It is the public policy of this State to ensure that all
10 individuals have appropriate and necessary access to the full
11 range of reproductive education, healthcare and services,
12 including but not limited to prenatal care, adoption,
13 contraceptive care including timely access to emergency
14 contraception, pregnancy termination, comprehensive sexual
15 health education, and screening and treatment for sexually
16 transmitted infections.

17 Section 10. Definitions. In this Act:

18 "Physician" means a person licensed to practice medicine in
19 all of its branches under the Medical Practice Act of 1987.

20 "Pregnancy termination" or "termination of pregnancy"
21 means any medical treatment intended to terminate a pregnancy.
22 Pregnancy termination shall not include medical treatment

1 conducted for the purpose of increasing the probability of the
2 birth of a sustainable life.

3 "Viability" means that stage of pregnancy when, in the good
4 faith medical judgment of the attending physician, based on the
5 particular medical facts of the case before the physician,
6 there is a reasonable likelihood of the sustained survival of
7 the fetus outside of the uterus without the application of
8 extraordinary medical measures.

9 Section 15. Prohibition of interference and retaliation.

10 (a) Notwithstanding any other provision of this Act or any
11 other law to the contrary, the State or any municipality,
12 political subdivision, or other governmental unit or agency
13 shall not:

14 (1) deny or interfere with an individual's right to use
15 or refuse contraception;

16 (2) deny or interfere with a pregnant woman's right to
17 bear a child;

18 (3) deny or interfere with a pregnant woman's right to
19 terminate a pregnancy: (i) prior to the viability of the
20 fetus or (ii) when the abortion is necessary to protect the
21 life or health of the pregnant woman; or

22 (4) require any woman to terminate pregnancy without
23 her consent.

24 (b) Any party aggrieved by conduct that violates
25 subsections (1) through (4) of this Section may bring a civil

1 lawsuit in a State circuit court or as a supplemental claim in
2 a federal district court, against the offending unit of
3 government. If a federal or State court finds that a violation
4 of any of subsections (1) through (4) of this Section has
5 occurred, the court may award to the plaintiff actual damages,
6 declaratory or injunctive relief, a temporary restraining
7 order, or other relief. Upon a motion, the court shall award
8 reasonable attorneys' fees and costs, including expert witness
9 and other other litigation expenses, to a plaintiff who is a
10 prevailing party, including where the plaintiff's pursuit of a
11 non-frivolous claim was the a catalyst for a unilateral change
12 in position by the opposing party relative to the relief
13 sought.

14 Section 20. Non-discrimination in funding. Notwithstanding
15 any other provision of this Act or any other law to the
16 contrary, the State shall ensure that individuals eligible for
17 State medicaid assistance, or other State medical assistance,
18 receive financial assistance for reproductive healthcare at
19 least to the same extent as other comparable services.
20 Violation of this provision shall constitute a denial or
21 interference in contravention of Section 15 of this Act.

22 Section 25. Pregnancy terminations.

23 (a) Pregnancy terminations shall be performed in
24 accordance with accepted standards of medical practice, by the

1 method that, in the clinical judgment of the attending medical
2 professional, will best serve the interests of the pregnant
3 patient. Notwithstanding any other provision of this Act or any
4 other law to the contrary, a qualified medical professional is
5 not liable for civil damages or subject to criminal penalty
6 relating to a pregnancy termination performed in good faith, in
7 accordance with the attending medical professional's good
8 faith clinical judgment and accepted standards of medical
9 practice.

10 (b) Notwithstanding any other provision of this Act or any
11 other law to the contrary, a report of each pregnancy
12 termination performed shall be made to the Illinois Department
13 of Public Health on forms prescribed by the Department. Such
14 report forms shall not identify the patient by name and shall
15 preserve the anonymity of each woman who has obtained a
16 pregnancy termination. The Department of Public Health shall
17 promulgate and enforce regulations regarding the
18 administration of these reporting requirements that secure
19 protection of patient identity and ensure the anonymity of each
20 woman who has undergone a pregnancy termination. Failure of the
21 Department to preserve confidentiality and anonymity shall
22 constitute interference in contravention of Section 15 of this
23 Act.

24 Section 30. Sexual health education. All Illinois public
25 schools shall offer medically accurate, age appropriate,

1 comprehensive sexual health education. The Illinois State
2 Board of Education shall promulgate and enforce regulations
3 consistent with this provision.

4 Section 35. Patient access.

5 (a) Pursuant to this Act, all individuals shall have
6 appropriate and necessary access to the full range of
7 reproductive healthcare. Notwithstanding any other provision
8 of this Act or any other law to the contrary, individual health
9 care professionals who object to providing certain
10 reproductive health care based on religion or personal
11 conscience may refuse to provide such services only under the
12 following conditions:

13 (1) the objecting health care professional provides
14 prior written notice to patients, or, where the objecting
15 professional is an employee, to his or her employer, of his
16 or her intention to refuse to provide such health care
17 services;

18 (2) the objecting health care professional or another
19 health care professional within his or her practice or
20 place of employment provides the patient with timely,
21 accurate, and complete information about the patient's
22 care options in a balanced and professional manner;

23 (3) the objecting health care professional or another
24 health care professional within his or her practice or
25 place of employment assists the patient in obtaining such

1 care in a timely fashion; and

2 (4) where the objecting health care professional is an
3 employee, the employer can accommodate the employee's
4 objection without undue hardship.

5 (B) Violations of this Section shall be sanctioned under
6 State licensing statutes by the appropriate State agency.

7 Section 40. Construction. This Act and the rules now or
8 hereafter applicable thereto shall be liberally construed
9 consistent with the public policies announced in this Act.

10 Section 97. Severability. If any portion of this Act or any
11 amendments thereto, or its applicability to any person or
12 circumstance is held invalid by a court, the remainder of this
13 Act or its applicability to other persons or circumstances
14 shall not be affected.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.