



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4146

Introduced 10/19/2021, by Rep. Kelly M. Cassidy, Joyce Mason, Katie Stuart, Ann M. Williams, Anne Stava-Murray, et al.

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.935 new
30 ILCS 105/6z-127 new

Creates the TExAS Act-The Expanding Abortion Services Act. Provides that any person, other than an officer or employee of the State or a unit of local government, may bring a civil action against any person who: commits an act of sexual assault or domestic abuse or causes an unintended pregnancy, regardless of circumstances; knowingly engages in conduct that aids or abets a sexual assault or domestic abuse or causes an unintended pregnancy, regardless of circumstances; or intends to engage in that act or conduct. Provides that if the plaintiff prevails in an action brought under the Act, the court shall award: (1) injunctive relief sufficient to prevent the defendant from committing or engaging in acts that aid or abet sexual assault or domestic abuse or causing an unintended pregnancy; (2) statutory damages in an amount of not less than \$10,000 for each act of sexual assault or domestic abuse or action that causes an unintended pregnancy the defendant committed or aided or abetted, of which not less than \$5,000 shall be awarded to the plaintiff and \$5,000 shall be placed in a special fund in the State treasury, known as the State Abortion Freedom Expansion Fund, to be used by the Department of Healthcare and Family Services, to pay the costs of abortions for pregnant persons who travel to Illinois from states that prohibit abortions for the purpose of obtaining access to abortions in Illinois; and (3) costs and attorney's fees. Establishes defenses and specifies venue. Defines "abortion", "domestic abuse", "pregnancy", and "sexual assault". Amends the State Finance Act to make conforming changes. Contains a severability provision.

LRB102 20070 RLC 28945 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning expanding abortion services.

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 TExAS
5 Act-The Expanding Abortion Services Act.

6 Section 5. Definitions. In this Act:

7 "Abortion" has the meaning ascribed to it in Section 1-10
8 of the Reproductive Health Act.

9 "Domestic abuse" means domestic violence as defined in
10 Section 103 of the Illinois Domestic Violence Act of 1986.

11 "Pregnancy" has the meaning ascribed to it in Section 1-10
12 of the Reproductive Health Act.

13 "Sexual assault" has the meaning ascribed to it in Section
14 1a of the Sexual Assault Survivors Emergency Treatment Act.

15 Section 10. Civil liability for aiding or abetting sexual
16 or domestic abuse or causing an unintended pregnancy.

17 (a) Any person, other than an officer or employee of the
18 State or a unit of local government, may bring a civil action
19 against any person who:

20 (1) commits an act of sexual assault or domestic
21 abuse;

22 (2) knowingly engages in conduct that aids or abets a

1 sexual assault or domestic abuse;

2 (3) causes a person to have an unintended pregnancy,
3 regardless of circumstances; or

4 (4) intends to engage in the act or conduct described
5 in paragraph (1), (2), or (3) of this subsection.

6 (a-5) If the court finds by a preponderance of evidence
7 that the defendant is a person described in subsection (a), it
8 shall enter a judgment in favor of the plaintiff and award the
9 plaintiff the relief provided in subsection (b).

10 (b) If the plaintiff prevails in an action brought under
11 this Section, the court shall award:

12 (1) injunctive relief sufficient to prevent the
13 defendant from committing or engaging in acts that aid or
14 abet sexual assault or domestic abuse or causing an
15 unintended pregnancy;

16 (2) statutory damages in an amount of not less than
17 \$10,000 for each act of sexual assault or domestic abuse
18 or act that causes an unintended pregnancy the defendant
19 committed or aided or abetted, of which not less than
20 \$5,000 shall be awarded to the plaintiff and \$5,000 shall
21 be placed in a special fund in the State treasury, known as
22 the State Abortion Freedom Expansion Fund, to be used by
23 the Department of Healthcare and Family Services, to pay
24 the costs of abortions for pregnant persons who travel to
25 Illinois from states that prohibit abortions for the
26 purpose of obtaining access to abortions in Illinois; and

1 (3) costs and attorney's fees.

2 (c) Notwithstanding the provisions of subsection (b), a
3 court may not award relief under this Section in response to a
4 violation of paragraph (1), (2), or (3) of subsection (a) if
5 the defendant demonstrates that the defendant previously paid
6 the full amount of statutory damages under paragraph (2) of
7 subsection (b) in a previous action for that particular act of
8 sexual assault or domestic abuse, or for the particular
9 conduct that aided or abetted sexual assault or domestic abuse
10 or caused an unintended pregnancy.

11 (d) Notwithstanding the provisions of any other law to the
12 contrary, a person may bring an action under this Section not
13 later than 5 years after the date the cause of action accrued.

14 (e) This Section may not be construed to impose liability
15 on any speech or conduct protected by the First Amendment of
16 the United States Constitution, as made applicable to the
17 states through the United States Supreme Court's
18 interpretation of the Fourteenth Amendment of the United
19 States Constitution, or by Section 4 of Article I of the
20 Illinois Constitution.

21 (f) Notwithstanding any other law to the contrary, this
22 State, a State official, or a State's Attorney may not
23 intervene in an action brought under this Section. This
24 subsection does not prohibit a person described by this
25 subsection from filing an amicus curiae brief in the action.

26 (g) Notwithstanding any other law to the contrary, a court

1 may not award costs or attorney's fees to a defendant in an
2 action brought under this Section.

3 (h) Notwithstanding any other law to the contrary, a civil
4 action under this Section may not be brought by a person who
5 committed the sexual assault or act of domestic abuse or
6 caused an unintended pregnancy.

7 (i) Nothing in this Section shall in any way limit or
8 preclude a defendant from asserting the defendant's personal
9 constitutional rights as a defense to liability under this
10 Section, and a court may not award relief under this Section if
11 the conduct for which the defendant has been sued was an
12 exercise of State or federal constitutional rights that
13 personally belong to the defendant.

14 Section 15. Venue.

15 (a) Notwithstanding any other law to the contrary,
16 including Sections 2-101 and 2-102 of the Code of Civil
17 Procedure, a civil action under Section 10 shall be brought
18 in:

19 (1) the county in which all or a substantial part of
20 the events or omissions giving rise to the claim occurred;

21 (2) the county of residence of any of the natural
22 person defendants at the time the cause of action accrued;

23 (3) the county of the principal office in this State
24 of any one of the defendants that is not a natural person;

25 or

1 (4) the county of residence of the claimant if the
2 claimant is a natural person residing in this State.

3 (b) If a civil action is brought under Section 10 in any
4 one of the venues described in subsection (a), the action may
5 not be transferred to a different venue without the written
6 consent of all parties.

7 Section 105. The State Finance Act is amended by adding
8 Sections 5.935 and 6z-127 as follows:

9 (30 ILCS 105/5.935 new)

10 Sec. 5.935. The State Abortion Freedom Expansion Fund.

11 (30 ILCS 105/6z-127 new)

12 Sec. 6z-127. State Abortion Freedom Expansion Fund.

13 (a) The State Abortion Freedom Expansion Fund is created
14 as a special fund in the State treasury. Subject to
15 appropriation, available moneys in the Fund shall be used by
16 the Department of Healthcare and Family Services to pay the
17 costs of abortions for pregnant persons who travel to Illinois
18 from states that prohibit abortions for the purpose of
19 obtaining access to abortions in Illinois.

20 (b) Upon the entry of a judgment under Section 10 of the
21 TEXAS Act-The Expanding Abortion Services Act, the clerk of
22 the circuit court of the county in which the judgment was
23 entered shall, within 30 days after the entry of the judgment,

1 transmit \$5,000 of the judgment to the State Treasurer for
2 deposit into the State Abortion Freedom Expansion Fund.

3 (c) The Department of Healthcare and Family Services shall
4 make direct payments for the costs of abortion to pregnant
5 persons who travel to Illinois from states that prohibit
6 abortions for the purpose of obtaining access to abortions in
7 Illinois.

8 (d) The State Abortion Freedom Expansion Fund shall not be
9 subject to sweeps, administrative charges, or chargebacks that
10 would in any way result in the transfer of any funds from this
11 Fund to any other fund of this State or in having any such
12 funds utilized for any purpose other than the express purposes
13 set forth in this Section and the TExAS Act-The Expanding
14 Abortion Services Act.

15 (e) Subsections (b) and (c) of Section 5 of this Act do not
16 apply to the State Abortion Freedom Expansion Fund.

17 Section 997. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.