



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2354

Introduced 2/19/2009, by Rep. Barbara Flynn Currie - Rosemary Mulligan - Naomi D. Jakobsson - Elizabeth Coulson - Sara Feigenholtz, et al.

SYNOPSIS AS INTRODUCED:

New Act
105 ILCS 110/3

from Ch. 122, par. 863

Creates the Reproductive Health 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 as a part of the Comprehensive Health Education Program established in the Critical Health Problems and Comprehensive Health Education Act. Amends the Critical Health Problems and Comprehensive Health Education Act to provide that the Comprehensive Health Education Program shall comply with the Reproductive Health and Access Act. Provides that the provisions of the Act are severable. Contains other provisions. Effective immediately.

LRB096 09274 RPM 19428 b

1 AN ACT concerning public 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 Health 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. Notwithstanding any
25 other provision of this Act or any other law, all Illinois

1 public schools shall offer medically accurate, age
2 appropriate, comprehensive sexual health education as a part of
3 the Comprehensive Health Education Program established in
4 Section 3 of the Critical Health Problems and Comprehensive
5 Health Education Act. Course material and instruction shall be
6 free of bias regarding race, color, sex, sexual orientation,
7 gender identity, religion, disability, or national or ethnic
8 origin. The Illinois Department of Public Health shall
9 promulgate and enforce regulations consistent with this
10 provision.

11 Section 35. Patient access.

12 (a) Pursuant to this Act, all individuals shall have
13 appropriate and necessary access to the full range of
14 reproductive healthcare. Notwithstanding any other provision
15 of this Act or any other law to the contrary, individual health
16 care professionals who object to providing certain
17 reproductive health care based on religion or personal
18 conscience may refuse to provide such services only under the
19 following conditions:

20 (1) the objecting health care professional provides
21 prior written notice to patients, or, where the objecting
22 professional is an employee, to his or her employer, of his
23 or her intention to refuse to provide such health care
24 services;

25 (2) the objecting health care professional or another

1 health care professional within his or her practice or
2 place of employment provides the patient with timely,
3 accurate, and complete information about the patient's
4 care options in a balanced and professional manner;

5 (3) the objecting health care professional or another
6 health care professional within his or her practice or
7 place of employment assists the patient in obtaining such
8 care in a timely fashion; and

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

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

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

17 Section 45. The Critical Health Problems and Comprehensive
18 Health Education Act is amended by changing Section 3 as
19 follows:

20 (105 ILCS 110/3) (from Ch. 122, par. 863)

21 Sec. 3. Comprehensive Health Education Program. The
22 program established under this Act shall include, but not be
23 limited to, the following major educational areas as a basis

1 for curricula in all elementary and secondary schools in this
2 State: human ecology and health, human growth and development,
3 the emotional, psychological, physiological, hygienic and
4 social responsibilities of family life, including
5 comprehensive sexual health education that complies with
6 Section 30 of Reproductive Health and Access Act ~~sexual~~
7 ~~abstinence until marriage~~, prevention and control of disease,
8 including instruction in grades 6 through 12 on the prevention,
9 transmission and spread of AIDS, sexual assault awareness in
10 secondary schools, public and environmental health, consumer
11 health, safety education and disaster survival, mental health
12 and illness, personal health habits, alcohol, drug use, and
13 abuse including the medical and legal ramifications of alcohol,
14 drug, and tobacco use, abuse during pregnancy, ~~sexual~~
15 ~~abstinence until marriage~~, tobacco, nutrition, and dental
16 health. The program shall also provide course material and
17 instruction to advise pupils of the Abandoned Newborn Infant
18 Protection Act. Notwithstanding the above educational areas,
19 the following areas may also be included as a basis for
20 curricula in all elementary and secondary schools in this
21 State: basic first aid (including, but not limited to,
22 cardiopulmonary resuscitation and the Heimlich maneuver),
23 early prevention and detection of cancer, heart disease,
24 diabetes, stroke, and the prevention of child abuse, neglect,
25 and suicide.

26 The school board of each public elementary and secondary

1 school in the State shall encourage all teachers and other
2 school personnel to acquire, develop, and maintain the
3 knowledge and skills necessary to properly administer
4 life-saving techniques, including without limitation the
5 Heimlich maneuver and rescue breathing. The training shall be
6 in accordance with standards of the American Red Cross, the
7 American Heart Association, or another nationally recognized
8 certifying organization. A school board may use the services of
9 non-governmental entities whose personnel have expertise in
10 life-saving techniques to instruct teachers and other school
11 personnel in these techniques. Each school board is encouraged
12 to have in its employ, or on its volunteer staff, at least one
13 person who is certified, by the American Red Cross or by
14 another qualified certifying agency, as qualified to
15 administer first aid and cardiopulmonary resuscitation. In
16 addition, each school board is authorized to allocate
17 appropriate portions of its institute or inservice days to
18 conduct training programs for teachers and other school
19 personnel who have expressed an interest in becoming qualified
20 to administer emergency first aid or cardiopulmonary
21 resuscitation. School boards are urged to encourage their
22 teachers and other school personnel who coach school athletic
23 programs and other extracurricular school activities to
24 acquire, develop, and maintain the knowledge and skills
25 necessary to properly administer first aid and cardiopulmonary
26 resuscitation in accordance with standards and requirements

1 established by the American Red Cross or another qualified
2 certifying agency. Subject to appropriation, the State Board of
3 Education shall establish and administer a matching grant
4 program to pay for half of the cost that a school district
5 incurs in training those teachers and other school personnel
6 who express an interest in becoming qualified to administer
7 cardiopulmonary resuscitation (which training must be in
8 accordance with standards of the American Red Cross, the
9 American Heart Association, or another nationally recognized
10 certifying organization) or in learning how to use an automated
11 external defibrillator. A school district that applies for a
12 grant must demonstrate that it has funds to pay half of the
13 cost of the training for which matching grant money is sought.
14 The State Board of Education shall award the grants on a
15 first-come, first-serve basis.

16 No pupil shall be required to take or participate in any
17 class or course on AIDS or family life instruction if his
18 parent or guardian submits written objection thereto, and
19 refusal to take or participate in the course or program shall
20 not be reason for suspension or expulsion of the pupil.

21 Curricula developed under programs established in
22 accordance with this Act in the major educational area of
23 alcohol and drug use and abuse shall include classroom
24 instruction in grades 5 through 12. The instruction, which
25 shall include matters relating to both the physical and legal
26 effects and ramifications of drug and substance abuse, shall be

1 integrated into existing curricula; and the State Board of
2 Education shall develop and make available to all elementary
3 and secondary schools in this State instructional materials and
4 guidelines which will assist the schools in incorporating the
5 instruction into their existing curricula. In addition, school
6 districts may offer, as part of existing curricula during the
7 school day or as part of an after school program, support
8 services and instruction for pupils or pupils whose parent,
9 parents, or guardians are chemically dependent.

10 (Source: P.A. 94-933, eff. 6-26-06; 95-43, eff. 1-1-08; 95-764,
11 eff. 1-1-09; revised 9-5-08.)

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.