

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 848

Short Title: Protect Reproductive Health. (Public)

Sponsors: Senators Batch, Smith, and Grafstein (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 6, 2024

A BILL TO BE ENTITLED
AN ACT TO CODIFY ROE AND CASEY PROTECTIONS; TO PRESERVE WOMEN'S
ACCESS TO OUT-OF-STATE ABORTIONS; TO CRIMINALIZE THE INTERFERENCE
WITH A WOMAN SEEKING AN ABORTION; TO CREATE A PRIVATE RIGHT OF
ACTION AGAINST AN INDIVIDUAL WHO INTERFERES WITH A WOMAN
SEEKING AN ABORTION; TO DECLARE THE RIGHT TO USE CONTRACEPTION
TO PREVENT PREGNANCY SHALL NOT BE LIMITED; TO PROHIBIT THE
TRACKING OF INDIVIDUALS WHO PURCHASE EMERGENCY CONTRACEPTION;
TO CLARIFY THAT INDIVIDUALS WHO PROVIDE TRANSPORTATION TO
ABORTIONS ARE NOT CRIMINALLY LIABLE; AND TO PROHIBIT GEOFENCING
WITHIN A ONE-MILE RADIUS OF A HEALTHCARE FACILITY THAT PROVIDES
ABORTIONS.

The General Assembly of North Carolina enacts:

PART I. CODIFICATION OF ROE AND CASEY PROTECTIONS

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article
to read:

"Article 10.

"Codify Roe and Casey Protections.

"§ 90-21.160. Short title.

This Article shall be known and may be cited as "Codify Roe and Casey Protections."

"§ 90-21.161. Purpose.

The purpose of this Article is to codify the essential holdings of Roe v. Wade, 410 U.S. 113 (1973), and Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992).

"§ 90-21.162. Allowable requirements.

(a) Notwithstanding any other provision of law, the State shall not impose an undue burden on the ability of a woman to choose whether or not to terminate a pregnancy before fetal viability.

(b) The State may do any of the following:

(1) Restrict the ability of a woman to choose whether or not to terminate a pregnancy after fetal viability, unless such a termination is necessary to preserve the life or health of the woman.

(2) Enact laws, rules, or regulations, as applicable, to further the health or safety of a woman seeking to terminate a pregnancy.



(c) For the purposes of this section, the term "undue burden" means any burden that places a substantial obstacle in the path of a woman seeking to terminate a pregnancy prior to fetal viability.

(d) Nothing in this Article shall be construed to have any effect on laws regarding conscience protection."

PART II. INTERSTATE ACCESS TO ABORTION

SECTION 2.(a) Article 1I of Chapter 90 is amended by adding a new section to read:

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

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

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

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

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

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

PART III. CRIMINALIZATION OF INTERFERING WITH A WOMAN SEEKING AN ABORTION

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

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

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

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

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

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

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

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

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

PART IV. PRIVATE RIGHT OF ACTION

SECTION 4.(a) G.S. 99D-1 reads as rewritten:

"§ 99D-1. Interference with Civil Rights.

...

(a1) It is a violation of this Chapter for an individual to do any of the following:

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

(2) Injure or threaten to injure another individual who is seeking an abortion.

(3) Willfully harass, without any legal purpose, an individual seeking an abortion.

(4) Publish, disclose, or otherwise misuse the personal information of an individual seeking an abortion.

(a2) Notwithstanding any other provision of law, an action under subsection (a1) of this section must be commenced within the latter of 25 years of the conduct giving rise to the action or 4 years after discovery of the conduct giving rise to the action.

(b) Any person (i) whose exercise or enjoyment of a right described in subdivision (a)(1) of this section has been interfered with, or against whom an attempt has been made to interfere with the exercise or enjoyment of such a right, ~~by a violation of this Chapter or~~ (ii) who is a victim of a violation described in subsection (a1) of this section may bring a civil action. The court may restrain and enjoin such future acts, and may award compensatory and punitive damages to the plaintiff. The court may award court costs and attorneys' fees to the prevailing party. However, a prevailing defendant may be awarded reasonable attorneys' fees only upon a showing that the case is frivolous, unreasonable, or without foundation.

...."

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

PART V. RIGHT TO USE CONTRACEPTION

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

"Article 1P.

"Right to Use Contraception.

"§ 90-170. Title.

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

"§ 90-171. Legislative declaration.

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

PART VI. PROHIBIT TRACKING OF EMERGENCY CONTRACEPTION SALES

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

"Article 52.

"Emergency Contraception Financial Privacy Act.

"§ 66-520. Definitions.

The following definitions apply in this Article:

(1) Emergency contraception. – Levonorgestrel or any other drug, drug regimen, or device approved by the federal Food and Drug Administration to prevent pregnancy when administered after sexual contact, including prescription and over-the-counter hormonal emergency contraception.

(2) Payment card network. – An entity involved in facilitating or processing an electronic transfer of funds between a merchant and a customer using a payment card. This term does not include the following:

a. A bank holding federally insured deposits from individuals.

b. A credit union holding federally insured deposits from individuals.

(3) Payment code. – Any code or other indicator that identifies to a payment card network, merchant, or bank whether a purchase was made for emergency contraception.

"§ 66-521. Prohibitions.

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

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

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

PART VII. FREEDOM TO TRANSPORT

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

"§ 90-21.95. Freedom to transport.

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

PART VIII. GEOFENCING PROHIBITED

SECTION 8. Article 1I of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-21.96. Geofencing prohibited.

(a) The following definitions apply in this section:

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

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

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

(1) Identify or track individuals seeking abortions.

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

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

PART IX. APPROPRIATION

SECTION 9.(a) There is appropriated from the General Fund to the Department of Health and Human Services the sum of five hundred thousand dollars (\$500,000) in nonrecurring funds for the 2024-2025 fiscal year to implement and promote awareness of the changes in reproductive health services laws set forth in this act. These funds shall be allocated for public education campaigns, training healthcare professionals, and protecting the privacy of individuals seeking reproductive health services.

SECTION 9.(b) This section becomes effective July 1, 2024.

PART X. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 10.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

1 **SECTION 10.(b)** Except as otherwise provided, this act is effective when it becomes
2 law.