

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 908

Short Title: Decriminalize Reproductive Health. (Public)

Sponsors: Representative Staton-Williams.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 25, 2024

A BILL TO BE ENTITLED

AN ACT TO REPEAL PARTS I AND II OF SENATE BILL 20 AND REENACT THE LAWS GOVERNING ABORTION AS THEY EXISTED PRIOR TO THE ENACTMENT OF SENATE BILL 20; TO PRESERVE NORTH CAROLINA 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; TO PROHIBIT GEOFENCING WITHIN A ONE-MILE RADIUS OF A HEALTHCARE FACILITY THAT PROVIDES ABORTIONS; TO CRIMINALIZE THE UNAUTHORIZED DISCLOSURE OF ABORTION DATA; TO CLARIFY THAT A FATHER DOES NOT HAVE A RIGHT OF ACTION RELATING TO THE ASSISTANCE WITH OR PERFORMANCE OF AN ABORTION; TO MAKE VARIOUS CHANGES TO THE LAWS PERTAINING TO CRISIS PREGNANCY CENTERS; TO ENSURE PROMPT ACCESS TO ABORTION IN THE CASES OF MEDICAL EMERGENCY AND LIFE-LIMITING FETAL ANOMALIES; TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND IMPLEMENT MEASURES TO ENSURE THE PRIVACY OF INDIVIDUALS SEEKING REPRODUCTIVE HEALTH SERVICES; AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR COSTS RELATED TO IMPLEMENTING AND RAISING AWARENESS OF THE CHANGES IN THIS ACT GOVERNING REPRODUCTIVE HEALTH SERVICES.

The General Assembly of North Carolina enacts:

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

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1.(a) Effective retroactively to July 1, 2023, Part I and Section 2.4 of S.L. 2023-14, as amended by S.L. 2023-65, are repealed.

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to October 1, 2023, Sections 2.1 through 2.3 and Section 2.5 of S.L. 2023-14, as amended by S.L. 2023-65, are repealed.

INTERSTATE ACCESS TO ABORTION



1 **SECTION 2.(a)** Article 11 of Chapter 90 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 90-21.94. Interstate access to reproductive healthcare.**

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

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

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

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

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

14
15 **CRIMINALIZATION OF INTERFERING WITH A WOMAN SEEKING AN**
16 **ABORTION**

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

19 **"§ 14-277.9. Interference with individuals seeking abortion.**

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

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

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

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

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

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

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

34
35 **PRIVATE RIGHT OF ACTION**

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

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

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

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

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

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

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

1 foundation. Notwithstanding any other provision of law, an action under this section must be
2 commenced within the latter of 25 years of the conduct giving rise to the action or four years
3 after discovery of the conduct giving rise to the action."

4 **SECTION 4.(b)** This section becomes effective October 1, 2024, and applies to
5 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."

17 **PROHIBIT TRACKING OF EMERGENCY CONTRACEPTION SALES**

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

20 "Article 52.

21 "Emergency Contraception Financial Privacy Act.

22 **"§ 66-520. Definitions.**

23 The following definitions apply in this Article:

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

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

31 a. A bank holding federally insured deposits from individuals.

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

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

36 **"§ 66-521. Prohibitions.**

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

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

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

45 **FREEDOM TO TRANSPORT**

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

48 **"§ 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 1I 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 because of the medical emergency.~~ As soon as
24 feasible, the physician shall document in writing the medical indications upon which the
25 physician relied and shall cause the original of the writing to be maintained in the woman's
26 medical records and a copy given to her. Notwithstanding the provisions of G.S. 90-21.82,
27 90-21.83A, and 90-21.83C, an abortion performed because of a medical emergency or
28 life-limiting anomaly may be performed as soon as the physician diagnosing the anomaly deems
29 it reasonable to do so."

30
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.