

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

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**HOUSE BILL 1119**

Short Title:    Reproductive Freedom Act. (Public)

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Sponsors:     Representatives Morey, Cunningham, and von Haefen (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

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

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May 31, 2022

A BILL TO BE ENTITLED  
AN ACT TO CODIFY ROE V. WADE AND PLANNED PARENTHOOD V. CASEY IN  
STATE LAW, TO REPEAL VARIOUS PROHIBITIONS AND RESTRICTIONS ON  
ABORTION SERVICES, AND TO APPROPRIATE FUNDS TO ASSIST IN  
IMPLEMENTING THE PROVISIONS OF THE REPRODUCTIVE FREEDOM ACT.

Whereas, the ability to access safe and legal abortion is a critical component of a patient's health and dignity, as well as independence, freedom, and equality; and

Whereas, throughout pregnancy, patients must be able to make their own health care decisions with the advice of health care professionals they trust and without government interference; and

Whereas, since 1973, the U.S. Supreme Court repeatedly has recognized the constitutional right to terminate a pregnancy before fetal viability, and to terminate a pregnancy after fetal viability where it is necessary, in the good-faith medical judgment of the treating health care professional, for the preservation of the life or health of the person who is pregnant; and

Whereas, over the last 10 years, North Carolina has limited access to abortion services by enacting a growing number of hurdles, restrictions, and requirements that serve no medical purpose and are intended to make it more difficult for patients to access health care; and

Whereas, the impact of abortion restrictions is predominantly felt by those who already experience systemic barriers to health care, including young people, people of color and those with disabilities, individuals with low incomes, and those who live in rural areas or are undocumented. These systemic barriers to health care are exacerbated during the public health emergency of the COVID-19 pandemic; and

Whereas, every individual has the right to make their own decisions about having children regardless of their circumstances. Reproductive freedom is a human right that can and will be achieved when all people, regardless of actual or perceived race, color, national origin, immigration status, sex (including gender identity, sex stereotyping, or sexual orientation), age, or disability status have the economic, social, and political power and resources to define and make decisions about their bodies, health, sexuality, families, and communities in all areas of their lives, with dignity and self-determination. Abortion-specific restrictions are a tool of gender oppression, as they target health care services that are used primarily by women. These restrictions rely on and reinforce harmful stereotypes about gender roles, women's decision making, and women's need for protection instead of support, undermining their ability to control their own lives and well-being. These restrictions harm the basic autonomy, dignity, and equality of women and their ability to participate in the social and economic life of the State; Now, therefore,



1 The General Assembly of North Carolina enacts:

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

4                                           "Article 1M.

5                                           "Reproductive Freedom Act.

6 **"§ 90-21.140. Short title.**

7           This Article may be cited as the "Reproductive Freedom Act."

8 **"§ 90-21.141. Purpose.**

9           The purpose of this Article is to do all of the following:

- 10           (1) To permit health care providers to provide abortion services without  
11 limitations or requirements that single out the provision of abortion services  
12 for restrictions that are more burdensome than those restrictions imposed on  
13 medically comparable procedures, do not significantly advance reproductive  
14 health or the safety of abortion services, and make abortion services more  
15 difficult to access.  
16           (2) To promote access to abortion services and women's ability to participate  
17 equally in the economic and social life of the United States.

18 **"§ 90-21.142. Definitions.**

19           The following definitions apply in this Article:

- 20           (1) Abortion services. – An abortion and any medical or nonmedical services  
21 related to and provided in conjunction with an abortion, including services not  
22 performed on the same day as an abortion.  
23           (2) Health care provider. – A person who provides maternal health care.  
24           (3) Medical emergency. – A condition which, in reasonable medical judgment, so  
25 complicates the medical condition of the pregnant woman as to necessitate the  
26 immediate abortion of her pregnancy to avert her death or for which a delay  
27 will create serious risk of substantial and irreversible physical impairment of  
28 a major bodily function, not including any psychological or emotional  
29 conditions.  
30           (4) Medically comparable procedure. – A medical procedure that is similar in  
31 terms of health and safety risks to the patient, complexity, or the clinical  
32 setting that is indicated.  
33           (5) Pregnancy. – The period of the human reproductive process beginning with  
34 the implantation of a fertilized egg.  
35           (6) Viability. – The point in a pregnancy at which, in the good-faith medical  
36 judgment of the treating health care provider, based on the particular facts of  
37 the case before the health care provider, there is a reasonable likelihood of  
38 sustained fetal survival outside the uterus with or without artificial support.  
39           (7) Woman or women. – A person who is capable of being pregnant, whether or  
40 not the person is an adult.

41 **"§ 90-21.143. Permitted services.**

42           (a) Prohibition of Requirements and Limitations. – A health care provider has a statutory  
43 right to provide abortion services in accordance with this Article. A health care provider may  
44 provide abortion services to a patient, and the patient has a statutory right to receive those  
45 abortion services, without any of the following limitations or requirements:

- 46           (1) A requirement that a health care provider perform specific tests or medical  
47 procedures in connection with the provision of abortion services, unless  
48 generally required for the provision of medically comparable services.  
49           (2) A requirement that the same health care provider who provides abortion  
50 services also perform specified tests, services, or procedures prior to or  
51 subsequent to the abortion.

- 1           (3)    A requirement that a health care provider offer or provide the patient seeking  
2           abortion services medically inaccurate information in advance of or during  
3           abortion services.
- 4           (4)    A limitation on a health care provider's ability to prescribe or dispense drugs  
5           based on current evidence-based regimens or the provider's good-faith  
6           medical judgment, other than a limitation generally applicable to the medical  
7           profession.
- 8           (5)    A limitation on a health care provider's ability to provide abortion services via  
9           telemedicine or telehealth, other than a limitation generally applicable to a  
10          health care provider's ability to provide medical or health care services via  
11          telemedicine or telehealth generally as applied to each health care provider's  
12          scope of practice.
- 13          (6)    A requirement or limitation concerning the physical plant, equipment,  
14          staffing, or hospital transfer arrangements of facilities where abortion services  
15          are provided, or the credentials or hospital privileges or status of personnel at  
16          those facilities, that is not imposed on facilities or the personnel of facilities  
17          where medically comparable procedures are performed.
- 18          (7)    A requirement a patient make one or more medically unnecessary in-person  
19          visits to a health care provider providing abortion services or to any individual  
20          or entity that does not provide abortion services, prior to obtaining an abortion.
- 21          (8)    A prohibition or restriction on abortion at any point or points in time prior to  
22          fetal viability, including a prohibition or restriction on a particular type of  
23          abortion procedure.
- 24          (9)    A prohibition on abortion after fetal viability when, in the good-faith medical  
25          judgment of the treating health care provider, continuation of the pregnancy  
26          would pose a risk to the pregnant patient's life or health or there is a medical  
27          emergency.
- 28          (10)   A limitation on a health care provider's ability to provide immediate abortion  
29          services when that health care provider believes, based on the good-faith  
30          medical judgment of the health care provider, delay of abortion services would  
31          pose a risk to the patient's health.
- 32          (11)   A requirement a patient seeking abortion services at any point or points in  
33          time prior to fetal viability disclose the patient's reason or reasons for seeking  
34          abortion services, or a limitation on the provision or obtaining of abortion  
35          services at any point or points in time prior to fetal viability based on any  
36          actual, perceived, or potential reason or reasons of the patient for obtaining  
37          abortion services, regardless of whether the limitation is based on a health care  
38          provider's degree of actual or constructive knowledge of such reason or  
39          reasons.
- 40          (b)    Limitations. – The statutory right for abortion services in accordance with subsection  
41          (a) of this section shall not be limited or otherwise infringed through any limitation or  
42          requirement which does any of the following:
- 43               (1)    Expressly, effectively, implicitly, or as implemented singles out the provision  
44               of abortion services, health care providers who provide those abortion  
45               services, or facilities in which abortion services are provided.
- 46               (2)    Impedes access to abortion services in accordance with subsection (c) of this  
47               section.
- 48               (3)    Is the same as or similar to one or more of the limitations or requirements as  
49               described in subsection (a) of this section.
- 50          (c)    Consideration Factors. – Factors a court of law may consider in determining whether  
51          a limitation or requirement impedes access to abortion services shall include all of the following:

- 1           (1)    Whether the limitation or requirement, in a health care provider's good-faith  
2           medical judgment, interferes with a health care provider's ability to provide  
3           care and render services, or poses a risk to the patient's health or safety.  
4           (2)    Whether the limitation or requirement is reasonably likely to delay or deter  
5           some patients in accessing abortion services.  
6           (3)    Whether the limitation or requirement is reasonably likely to, directly or  
7           indirectly, increase the cost of providing abortion services or the cost for  
8           obtaining abortion services, including costs associated with travel, child care,  
9           or time off work.  
10          (4)    Whether the limitation or requirement is reasonably likely to have the effect  
11          of necessitating a trip or virtual visit to the offices of a health care provider  
12          that would not otherwise be required.  
13          (5)    Whether the limitation or requirement is reasonably likely to result in a  
14          decrease in the availability of abortion services in the State or a geographic  
15          region.  
16          (6)    Whether the limitation or requirement imposes penalties that are not imposed  
17          on other health care providers for comparable conduct or failure to act, or are  
18          more severe than penalties imposed on other health care providers for  
19          comparable conduct or failure to act.  
20          (7)    The cumulative impact of the limitation or requirement combined with other  
21          new or existing limitations or requirements.

22    **"§ 90-21.144. Limitations.**

23          (a)    Exception; Violation. – A party defending against a claim alleging a violation of this  
24          Article must demonstrate the measure, rule, or law subject to the claim either (i) significantly  
25          advances the safety of abortion services or health of patients or (ii) cannot be achieved through  
26          less restrictive means or action.

27          (b)    Limitation. – The provisions of this act do not apply to the extent this Article is in  
28          conflict with laws of any of the following:

- 29               (1)    Physical access to a clinic entrance.  
30               (2)    Insurance or medical assistance coverage of abortion services.  
31               (3)    State contract law.  
32               (4)    The provisions of 18 U.S.C. § 1531.

33    **"§ 90-21.145. Applicability.**

34          Nothing in this Article shall be construed to authorize any State agency to interfere with a  
35          person's ability to terminate a pregnancy, diminish or in any way negatively affect a person's  
36          constitutional right to terminate a pregnancy, or to displace any other remedy for a violation of  
37          the constitutional right to terminate a pregnancy.

38    **"§ 90-21.146. Severability.**

39          This Article shall be liberally construed to effectuate the purposes of this Article. If any  
40          provision of this Article, or its application to any person, entity, government, or circumstance, is  
41          held to be unconstitutional, the remainder of this Article shall not be affected."

42          **SECTION 2.(a)** Articles 1I and 1K of Chapter 90 of the General Statutes are  
43          repealed.

44          **SECTION 2.(b)** G.S. 58-61-63 is repealed.

45          **SECTION 2.(c)** G.S. 143C-6-5.5 is repealed.

46          **SECTION 3.(a)** G.S. 135-48.50 reads as rewritten:

47    **"§ 135-48.50. Coverage mandates.**

48          The Plan shall provide coverage subject to the following coverage mandates:

- 49               (1)    Abortion coverage. – ~~The Plan shall not provide coverage for abortions for~~  
50               ~~which State funds could not be used under G.S. 143C-6-5.5. The Plan shall,~~

1                    however, shall provide coverage for subsequent complications or related  
2                    charges arising from an ~~abortion not covered under this subdivision.~~ abortion.

3                    ...."

4                    **SECTION 3.(b)** This section is effective 30 days after it becomes law and applies to  
5 contracts entered into, amended, or renewed on or after that date.

6                    **SECTION 4.(a)** G.S. 153A-92(d) reads as rewritten:

7                    "(d) A county may purchase life insurance or health insurance or both for the benefit of  
8 all or any class of county officers and employees as a part of their compensation. A county may  
9 provide other fringe benefits for county officers and employees. ~~In providing health insurance to  
10 county officers and employees, a county shall not provide abortion coverage greater than that  
11 provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter  
12 135 of the General Statutes."~~

13                    **SECTION 4.(b)** G.S. 160A-162(b) reads as rewritten:

14                    "(b) The council may purchase life, health, and any other forms of insurance for the benefit  
15 of all or any class of city employees and their dependents, and may provide other fringe benefits  
16 for city employees. ~~In providing health insurance to city employees, the council shall not provide  
17 abortion coverage greater than that provided by the State Health Plan for Teachers and State  
18 Employees under Article 3B of Chapter 135 of the General Statutes."~~

19                    **SECTION 5.(a)** G.S. 14-44 is repealed.

20                    **SECTION 5.(b)** G.S. 14-45 is repealed.

21                    **SECTION 5.(c)** G.S. 14-45.1 is repealed.

22                    **SECTION 6.** There is appropriated from the General Fund to the Department of  
23 Health and Human Services the recurring sum of two million dollars (\$2,000,000) for the  
24 2022-2023 fiscal year to provide grant funding to federally qualified community health centers,  
25 local health departments, and hospitals to provide all FDA-approved methods of birth control,  
26 reproductive medical care, and long-acting, reversible contraceptives to underserved, uninsured,  
27 or medically indigent patients.

28                    **SECTION 7.** This act is effective when it becomes law.