

HOUSE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 1/8/24

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reproductive health care services; relating to the Uniform
2 Arbitration Act in matters involving reproductive health care services; establishing a
3 civil action for interference with reproductive health care services; relating to arrests
4 and search warrants related to crimes involving reproductive health care services;
5 relating to the Uniform Act to Secure Attendance of Witnesses in Criminal Proceedings
6 in matters involving reproductive health care services; relating to the disclosure of
7 criminal justice information in matters involving reproductive health care services;
8 relating to the Uniform Criminal Extradition Act in matters involving reproductive
9 health care services; relating to health care records that include information about
10 reproductive health care services; relating to the application of laws and court cases
11 from other states in matters involving reproductive health care services; relating to
12 subpoenas and other orders served on telecommunications utilities; and providing for

1 **an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 09.43.440 is amended by adding a new subsection to read:

4 (h) Notwithstanding (g) of this section, a court may not enforce a subpoena or
5 discovery-related order for the attendance of a witness or the production of records in
6 this state that is issued in connection with an arbitration proceeding in another state for
7 the purpose of enforcing or attaching liability to the provision or receipt of a
8 reproductive health care service that is lawful in this state. In this subsection,
9 "provision or receipt" and "reproductive health care service" have the meanings given
10 in AS 18.23.007.

11 *** Sec. 2.** AS 09.65 is amended by adding a new section to read:

12 **Sec. 09.65.360. Interference with reproductive health care services.** (a) A
13 person may bring a civil action against another person who has brought an underlying
14 action against the person in any state or federal court in the United States if liability in
15 the underlying action is based on

16 (1) the person's provision or receipt of a reproductive health care
17 service that is lawful in this state;

18 (2) conduct occurring in this state; and

19 (3) a cause of action or criminal liability that is not recognized under
20 the laws of this state.

21 (b) A person may bring a civil action against another person who has brought
22 an underlying action against the person if

23 (1) the underlying action causes the plaintiff to receive a subpoena
24 from any state or federal court in the United States or its territories compelling the
25 production of information related to the provision or receipt of a reproductive health
26 care service that is lawful in this state; and

27 (2) liability in the underlying action is based in whole or in part on a
28 cause of action or criminal liability that is not recognized under the laws of this state.

29 (c) An underlying action is based on conduct occurring in this state if any part
30 of an act or omission that forms the basis of liability in the underlying action occurred

1 in the state, whether or not the act or omission is alleged in the action.

2 (d) An individual may maintain a civil action under this section if the
3 underlying action is objectively baseless or brought for an improper purpose.

4 (e) An underlying action is objectively baseless under (d) of this section if

5 (1) the court in the underlying action lacked jurisdiction over the
6 person;

7 (2) the underlying action impedes an individual's right to travel; or

8 (3) other factors exist that the court determines demonstrate the
9 objective baselessness of the underlying action.

10 (f) An underlying action is brought for an improper purpose under (d) of this
11 section if

12 (1) a purpose of the underlying action is to deter an act or omission in
13 this state that is permitted under the laws of this state; or

14 (2) other factors exist that the court determines demonstrate the
15 underlying action was brought for an improper purpose.

16 (g) If a claimant prevails in an action brought under this section, the claimant
17 may recover

18 (1) actual damages, including attorney fees incurred in defending the
19 underlying action;

20 (2) costs and attorney fees incurred in bringing an action under this
21 section; and

22 (3) up to \$10,000 in noneconomic loss if the underlying action is found
23 to be frivolous.

24 (h) This section does not apply to a judgment entered in another state that is
25 based on an action

26 (1) founded in tort, contract, or statute, and for which a similar claim
27 would exist under the laws of this state, brought by the individual who received the
28 reproductive health care service on which the original lawsuit was based, or that
29 individual's authorized legal representative, for damages suffered by the individual or
30 damages derived from the individual's loss of consortium;

31 (2) founded in contract, and for which a similar claim would exist

1 under the laws of this state, brought or sought to be enforced by a party with a
 2 contractual relationship with the person that is the subject of the judgment entered in
 3 another state; or

4 (3) in which no part of the acts that form the basis for liability occurred
 5 in this state.

6 (i) In this section, "provision or receipt" and "reproductive health care service"
 7 have the meanings given in AS 18.23.007.

8 * **Sec. 3.** AS 12.25.030 is amended by adding a new subsection to read:

9 (f) A private person or a peace officer may not arrest another person for the
 10 provision or receipt of a reproductive health care service in another state that is lawful
 11 in this state. In this subsection, "provision or receipt" and "reproductive health care
 12 service" have the meanings given in AS 18.23.007.

13 * **Sec. 4.** AS 12.35.010 is amended by adding a new subsection to read:

14 (c) Notwithstanding (a) of this section, a judicial officer may not issue a
 15 search warrant if the purpose of the warrant is to investigate, or gather evidence
 16 related to a criminal investigation for, the provision or receipt of a reproductive health
 17 care service in another state that is lawful in this state. In this subsection, "provision or
 18 receipt" and "reproductive health care service" have the meanings given in
 19 AS 18.23.007.

20 * **Sec. 5.** AS 12.50.010(a) is amended to read:

21 (a) **Except as provided in (e) of this section, if** [IF] a judge of a court of
 22 record in any state which by its laws has made provision for commanding persons
 23 within the state to attend and testify in this state certifies under the seal of the court
 24 that there is a criminal prosecution pending in the court, or that a grand jury
 25 investigation has commenced or is about to commence, that a person within this state
 26 is a material witness in that prosecution or grand jury investigation, and that the
 27 presence of that person will be required for a specified number of days, then, upon
 28 presentation of the certificate to a judge of a court of record in the judicial district in
 29 which the person is, the judge shall fix a time and place for a hearing and shall make
 30 an order directing the witness to appear at a time and place certain for the hearing.

31 * **Sec. 6.** AS 12.50.010 is amended by adding a new subsection to read:

1 (e) A judge shall quash a subpoena issued by another state to compel the
2 presence of a person or document in this state if the purpose of the subpoena is to
3 enforce another state's law, or assist an investigation related to another state's law, that
4 asserts criminal liability for the provision or receipt of a reproductive health care
5 service that is lawful in this state. In this subsection, "provision or receipt" and
6 "reproductive health care service" have the meanings given in AS 18.23.007.

7 * **Sec. 7.** AS 12.62.160 is amended by adding a new subsection to read:

8 (f) Criminal justice information may not be provided to a person or
9 government agency for the purpose of enforcing another state's law, or assisting an
10 investigation related to another state's law, that asserts criminal or civil liability for the
11 provision or receipt of a reproductive health care service that is lawful in this state. In
12 this subsection, "provision or receipt" and "reproductive health care service" have the
13 meanings given in AS 18.23.007.

14 * **Sec. 8.** AS 12.70.120 is amended by adding new subsections to read:

15 (b) An individual making a charge or complaint and affidavit under this
16 section with information that the charge or complaint from another state is related to
17 criminal liability that is based on the provision or receipt of a reproductive health care
18 service that is lawful in this state shall disclose to the judge or magistrate that the
19 charge or complaint from another state is related to criminal liability that is based on
20 the provision or receipt of a reproductive health care service that is lawful in this state
21 and shall attest in writing whether the charge or complaint relates to criminal liability
22 that is based on the provision or receipt of a reproductive health care service. A false
23 attestation submitted under this subsection is subject to a statutory penalty of \$10,000
24 for each violation. Submission of a false attestation subjects the attester to the
25 jurisdiction of the courts of this state for any suit, penalty, or damage arising out of a
26 false attestation under this section.

27 (c) Except in cases arising under AS 12.70.020, and notwithstanding (a) of
28 this section, a judge or magistrate may not issue a warrant for a charge or complaint
29 that is related to criminal liability that is based on the provision or receipt of a
30 reproductive health care service that is lawful in this state.

31 (d) In this section, "provision or receipt" and "reproductive health care

1 service" have the meanings given in AS 18.23.007.

2 * **Sec. 9.** AS 18.23 is amended by adding a new section to read:

3 **Sec. 18.23.007. Records involving reproductive health care services.** (a) A
4 health care provider may not cooperate with or provide information to a person,
5 agency, commission, board, or department from another state or, to the extent
6 permitted by federal law, to a federal law enforcement agency for the purpose of
7 enforcing another state's law, or assisting an investigation related to another state's
8 law, that asserts criminal or civil liability for the provision or receipt of a reproductive
9 health care service that is lawful in this state.

10 (b) In this section,

11 (1) "provision or receipt" includes the provision or receipt, attempted
12 provision or receipt, assistance in the provision or receipt, or attempted assistance in
13 the provision or receipt;

14 (2) "reproductive health care service" includes any service, care, or
15 product of a medical, surgical, psychiatric, therapeutic, mental health, behavioral
16 health, diagnostic, preventive, rehabilitative, supportive, counseling, referral,
17 prescribing, or dispensing nature relating to

18 (A) the human reproductive system; or

19 (B) pregnancy, assisted reproduction, contraception,
20 miscarriage management, or the termination of a pregnancy, including self-
21 managed terminations.

22 * **Sec. 10.** AS 22.35 is amended by adding a new section to read:

23 **Sec. 22.35.040. Foreign laws and cases involving reproductive health care.**

24 A judicial officer, court clerk, or other court employee may not apply a law or case
25 from another state that authorizes the imposition of a civil or criminal penalty or
26 liability for the provision or receipt of a reproductive health care service that is lawful
27 in this state. In this section, "provision or receipt" and "reproductive health care
28 service" have the meanings given in AS 18.23.007.

29 * **Sec. 11.** AS 42.05 is amended by adding a new section to article 8 to read:

30 **Sec. 42.05.731. Records involving reproductive health care services.** (a) A
31 telecommunications utility that is organized or has its principal place of business in the

1 state may not knowingly provide a record, information, facility, or assistance in
2 response to a subpoena, warrant, court order, or other civil or criminal legal process
3 that relates to an investigation into, or the enforcement of, another state's law that
4 asserts criminal or civil liability for the provision or receipt of a reproductive health
5 care service that is lawful in this state.

6 (b) A telecommunications utility that is organized or has its principal place of
7 business in the state may not comply with a subpoena, warrant, court order, or other
8 civil or criminal legal process for a record, information, facility, or assistance related
9 to the provision or receipt of a reproductive health care service that is lawful in this
10 state unless the subpoena, warrant, court order, or other civil or criminal legal process
11 is accompanied by a declaration made under penalty of perjury stating that the
12 subpoena, warrant, court order, or other civil or criminal legal process does not seek a
13 document, information, or testimony relating to an investigation into, or the
14 enforcement of, another state's law that asserts criminal or civil liability for the
15 provision or receipt of a reproductive health care service that is lawful in this state. A
16 person who submits a false declaration under this subsection is subject to a civil fine
17 of \$10,000 for each violation. Submission of a declaration under this subsection
18 subjects the declarant to the jurisdiction of the courts of this state for any suit, penalty,
19 or damages arising out of a false declaration under this subsection.

20 (c) A telecommunications utility that is organized or has its principal place of
21 business in the state that is served with a subpoena, warrant, court order, or other civil
22 or criminal legal process described in this section is entitled to rely on the
23 representations made in a declaration described in (b) of this section in determining
24 whether the subpoena, warrant, court order, or other civil or criminal legal process
25 relates to an investigation into, or the enforcement of, another state's law that asserts
26 criminal or civil liability for the provision or receipt of a reproductive health care
27 service that is lawful in this state.

28 (d) In this section,

- 29 (1) "knowingly" has the meaning given in AS 11.81.900(a);
30 (2) "provision or receipt" has the meaning given in AS 18.23.007; and
31 (3) "reproductive health care service" has the meaning given in

1 AS 18.23.007.

2 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).