



Substitute House Bill No. 5414

Public Act No. 22-19

AN ACT CONCERNING THE PROVISION OF PROTECTIONS FOR PERSONS RECEIVING AND PROVIDING REPRODUCTIVE HEALTH CARE SERVICES IN THE STATE AND ACCESS TO REPRODUCTIVE HEALTH CARE SERVICES IN THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2022*) (a) As used in this section:

(1) "Reproductive health care services" includes all medical, surgical, counseling or referral services relating to the human reproductive system, including, but not limited to, services relating to pregnancy, contraception or the termination of a pregnancy; and

(2) "Person" includes an individual, a partnership, an association, a limited liability company or a corporation.

(b) When any person has had a judgment entered against such person, in any state, where liability, in whole or in part, is based on the alleged provision, receipt, assistance in receipt or provision, material support for, or any theory of vicarious, joint, several or conspiracy liability derived therefrom, for reproductive health care services that are permitted under the laws of this state, such person may recover damages from any party that brought the action leading to that judgment or has sought to enforce that judgment. Recoverable damages

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shall include: (1) Just damages created by the action that led to that judgment, including, but not limited to, money damages in the amount of the judgment in that other state and costs, expenses and reasonable attorney's fees spent in defending the action that resulted in the entry of a judgment in another state; and (2) costs, expenses and reasonable attorney's fees incurred in bringing an action under this section as may be allowed by the court.

(c) The provisions of this section shall not apply to a judgment entered in another state that is based on: (1) An action founded in tort, contract or statute, and for which a similar claim would exist under the laws of this state, brought by the patient who received the reproductive health care services upon which the original lawsuit was based or the patient's authorized legal representative, for damages suffered by the patient or damages derived from an individual's loss of consortium of the patient; (2) an action founded in contract, and for which a similar claim would exist under the laws of this state, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the judgment entered in another state; or (3) an action where no part of the acts that formed the basis for liability occurred in this state.

Sec. 2. (NEW) (*Effective July 1, 2022*) (a) Except as provided in sections 52-146c to 52-146k, inclusive, sections 52-146o, 52-146p, 52-146q and 52-146s of the general statutes and subsection (b) of this section, in any civil action or any proceeding preliminary thereto or in any probate, legislative or administrative proceeding, no covered entity, as defined in 45 CFR 160.103, shall disclose (1) any communication made to such covered entity, or any information obtained by such covered entity from, a patient or the conservator, guardian or other authorized legal representative of a patient relating to reproductive health care services, as defined in section 1 of this act, that are permitted under the laws of this state, or (2) any information obtained by personal examination of a

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patient relating to reproductive health care services, as defined in section 1 of this act, that are permitted under the laws of this state, unless the patient or that patient's conservator, guardian or other authorized legal representative explicitly consents in writing to such disclosure. A covered entity shall inform the patient or the patient's conservator, guardian or other authorized legal representative of the patient's right to withhold such written consent.

(b) Written consent of the patient or the patient's conservator, guardian or other authorized legal representative shall not be required for the disclosure of such communication or information (1) pursuant to the laws of this state or the rules of court prescribed by the Judicial Branch, (2) by a covered entity against whom a claim has been made, or there is a reasonable belief will be made, in such action or proceeding, to the covered entity's attorney or professional liability insurer or such insurer's agent for use in the defense of such action or proceeding, (3) to the Commissioner of Public Health for records of a patient of a covered entity in connection with an investigation of a complaint, if such records are related to the complaint, or (4) if child abuse, abuse of an elderly individual, abuse of an individual who is physically disabled or incompetent or abuse of an individual with intellectual disability is known or in good faith suspected.

(c) Nothing in this section shall be construed to impede the lawful sharing of medical records as permitted by state or federal law or the rules of the court prescribed by the Judicial Branch, except in the case of a subpoena commanding the production, copying or inspection of medical records relating to reproductive health care services, as defined in section 1 of this act.

Sec. 3. (NEW) (*Effective July 1, 2022*) Notwithstanding the provisions of section 52-155 of the general statutes and section 46 of public act 22-26, a judge, justice of the peace, notary public or commissioner of the Superior Court shall not issue a subpoena requested by a commissioner,

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appointed according to the laws or usages of any other state or government, or by any court of the United States or of any other state or government, when such subpoena relates to reproductive health care services, as defined in section 1 of this act, that are permitted under the laws of this state, unless the subpoena relates to: (1) An out-of-state action founded in tort, contract or statute, for which a similar claim would exist under the laws of this state, brought by a patient or the patient's authorized legal representative, for damages suffered by the patient or damages derived from an individual's loss of consortium of the patient; or (2) an out-of-state action founded in contract, and for which a similar claim would exist under the laws of this state, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the subpoena requested by a commissioner appointed according to the laws or usages of another state.

Sec. 4. Subsection (b) of section 54-82i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(b) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies, under the seal of such court, that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution or grand jury investigation and that the presence of such witness will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the judicial district in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at such time and place for such hearing. If, at such hearing, the judge determines that the witness is material and necessary, that it will not cause undue hardship to the

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witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state and that the laws of such other state and the laws of any other state through which the witness may be required to pass by ordinary course of travel will give to such witness protection from arrest and from the service of civil or criminal process, the judge shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons, except that no judge shall issue a summons in a case where prosecution is pending, or where a grand jury investigation has commenced or is about to commence for a criminal violation of a law of such other state involving the provision or receipt of or assistance with reproductive health care services, as defined in section 1 of this act, that are legal in this state, unless the acts forming the basis of the prosecution or investigation would also constitute an offense in this state. At any such hearing, the certificate shall be prima facie evidence of all the facts stated therein. If such certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the attendance of the witness in such state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before such judge for such hearing, and, being satisfied, at such hearing, of the desirability of such custody and delivery, of which desirability such certificate shall be prima facie proof, may, in lieu of issuing a subpoena or summons, order that such witness be forthwith taken into custody and delivered to an officer of the requesting state. If such witness, after being paid or tendered by an authorized person the same amount per mile as provided for state employees pursuant to section 5-141c for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars each day that such witness is required to travel and attend as a witness, fails, without good cause, to attend and testify as directed in the summons, the witness shall be punished in the manner

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provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

Sec. 5. Section 54-162 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

The Governor of this state may also surrender, on demand of the executive authority of any other state, any person found in this state who is charged in such other state in the manner provided in section 54-159 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom, provided the acts for which extradition is sought would be punishable by the laws of this state, if the consequences claimed to have resulted from those acts in the demanding state had taken effect in this state.

Sec. 6. (NEW) (*Effective July 1, 2022*) No public agency, as defined in section 1-200 of the general statutes, or employee, appointee, officer or official or any other person acting on behalf of a public agency may provide any information or expend or use time, money, facilities, property, equipment, personnel or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability upon a person or entity for (1) the provision, seeking or receipt of or inquiring about reproductive health care services, as defined in section 1 of this act, that are legal in this state, or (2) assisting any person or entity providing, seeking, receiving or responding to an inquiry about reproductive health care services, as defined in section 1 of this act, that are legal in this state. This section shall not apply to any investigation or proceeding where the conduct subject to potential liability under the investigation or proceeding would be subject to liability under the laws of this state if committed in this state.

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Sec. 7. Section 19a-602 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

(a) The decision to terminate a pregnancy prior to the viability of the fetus shall be solely that of the [pregnant woman] patient in consultation with [her] the patient's physician or, pursuant to the provisions of subsection (d) of this section, the patient's advanced practice registered nurse, nurse-midwife or physician assistant.

(b) No abortion may be performed upon a [pregnant woman] patient after viability of the fetus except when necessary to preserve the life or health of the [pregnant woman] patient.

(c) A physician licensed pursuant to chapter 370 may perform an abortion, as defined in section 19a-912.

(d) An advanced practice registered nurse licensed pursuant to chapter 378, a nurse-midwife licensed pursuant to chapter 377 and a physician assistant licensed pursuant to chapter 370 may perform medication and aspiration abortions under and in accordance with said chapters.