

A BILL

23-434

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Human Rights Act of 1977 to recognize the right to choose or refuse contraception or sterilization and to decide whether to carry a pregnancy to term, to give birth, or to have an abortion, to prohibit the District government from interfering with reproductive health decisions and from imposing a punishment or penalty on an individual for a self-managed abortion, miscarriage, or adverse pregnancy outcomes, and to prohibit employment discrimination against health care professionals based on the professional's participation in, or the fact that the health care professional is willing to participate in, abortion or sterilization procedures.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Strengthening Reproductive Health Protections Amendment Act of 2020".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Title I is amended as follows:

(1) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

(A) Redesignated the existing paragraph (27A) as paragraph (27B).

(B) A new paragraph (27A) is added to read as follows:

28                   “(27A) “Reproductive health decisions” include a decision by an individual, an  
29 individual’s dependent, or an individual’s spouse related to:

30                   “(A) The use or intended use of a particular drug, device, or medical  
31 service, including the use or intended use of contraception or fertility control; or

32                   “(B) The planned initiation or termination of a pregnancy.”

33                   (2) Section 105 (D.C. Official Code § 2-1401.05) is amended as follows:

34                   (A) Subsection (a) is amended by striking the sentence “This section shall  
35 not be construed to require an employer to provide insurance coverage related to a reproductive  
36 health decision.”.

37                   (B) Subsections (b) and (c) are repealed.

38                   (3) A new section 105a is added to read as follows:

39                   “Sec. 105a. Ensuring government noninterference in reproductive health decisions.

40                   “(a) The District recognizes the right of every individual to choose or refuse  
41 contraception or sterilization.

42                   “(b) The District recognizes the right of every individual who becomes pregnant to  
43 decide whether to carry a pregnancy to term, to give birth to a child, or to have an abortion.

44                   “(c) The District shall not:

45                   “(1) Deny, interfere with, or restrict, in the regulation or provision of benefits,

46 facilities, services, or information, the right of an individual, including an individual under  
47 District control or supervision, to:

48                   “(A) Choose or refuse contraception or sterilization; or

49                   “(B) Choose or refuse to carry a pregnancy to term, to give birth to a child,  
50 or to have an abortion;

51                   “(2) Interfere with or restrict in the regulation or provision of benefits, facilities,  
52 services, or information, the decision of a health care practitioner acting within the scope of the  
53 health care practitioner’s license to participate in a consenting patient’s prenatal care, labor or  
54 delivery, or abortion; or

55                   “(3) Punish or penalize an individual for:

56                   “(A) Seeking, inducing, or attempting to induce, the individual’s own  
57 abortion; or

58                   “(B) Any act or omission during the individual’s own pregnancy based on  
59 the potential or actual impact on the individual’s health or pregnancy.

60                   “(d) For the purposes of this subsection, the term “health care practitioner” means an  
61 individual, groups of individuals, partnership, or corporation, including a health care facility, that  
62 is licensed, certified, or otherwise authorized by law to provide professional health care services  
63 in the District to an individual.”.

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65 (b) Title II is amended as follows:

66 (1) Section 211(a)(4) (D.C. Official Code § 2-1402.11(a)(4)) is amended by  
67 adding a new subparagraph (E) to read as follows:

68 “(E) To fail to treat an employee affected by pregnancy, childbirth,  
69 pregnancy- or childbirth-related medical conditions, or breastfeeding, or an employee affected by  
70 reproductive health decisions, the same for all employment-related purposes, including receipt of  
71 benefits under fringe benefit programs, as an employee not so affected but similar in the  
72 employee’s ability or inability to work, including a requirement that an employer must treat an  
73 employee temporarily unable to perform the functions of the employee’s job because of the  
74 employee’s pregnancy-related condition in the same manner as it treats other employees with  
75 temporary disabilities, provided, that this subparagraph shall not be construed to require an  
76 employer to provide insurance coverage related to a reproductive health decision.”.

77 (2) A new part J is added to read as follows:

78 “PART J - Prohibition On Discrimination Against Health Care Professionals.

79 “Sec. 291. Definitions.

80 “For the purposes of this part:

81 “(1) “Health care professional” means a physician; advance practice clinician;  
82 nurse; nurse’s aide; medical assistant; hospital employee; clinic employee; nursing home  
83 employee; pharmacist; pharmacy employee; medical researcher; medical or nursing school

84 faculty, student, or employee, counselor or social worker; or any other individual involved in  
85 providing health care.

86 “(2) “Health care provider” means:

87 “(A) Any individual, group of individuals, partnership, institution,  
88 corporation, organization, or board engaged in providing health care in any manner; or

89 “(B) Any individual, group of individuals, partnership, institution,  
90 corporation, organization, or board engaged in, or authorized in, credentialing or licensing of a  
91 health care professional.

92 “Sec. 292. Prohibited discrimination.

93 “(a) It shall be an unlawful discriminatory practice for a health care provider to engage in  
94 any of the following acts against a health care professional, based on the health care  
95 professional’s participation in abortion or sterilization procedures, participation in abortion or  
96 sterilization training outside the course and scope of the health care professional’s employment  
97 with that health care provider, or willingness to participate in abortion or sterilization procedures:

98 “(1) Fail or refuse to hire a health care professional;

99 “(2) Discharge a health care professional from an employment or medical  
100 training program;

101 “(3) Transfer a health care professional;

102 “(4) Discriminate against a health care professional with respect to:

- 103 (A) Compensation or promotion;
- 104 (B) Residency or other medical training opportunities;
- 105 (C) Staff privileges, admitting privileges, or staff appointments; or
- 106 (D) Licensure or board certification;
- 107 “(5) Take adverse administrative action against a health care professional;
- 108 “(6) Harass a health care professional; or
- 109 “(7) Otherwise penalize, discipline, or take adverse or retaliatory action against a
- 110 health care professional.”.

111 Sec. 3. Applicability

112 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved  
113 budget and financial plan.

114 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
115 an approved budget and financial plan, and provide notice to the Budget Director of the Council  
116 of the certification.

117 (c)(1) The Budget Director shall cause the notice of the certification to be published in  
118 the District of Columbia Register.

119 (2) The date of publication of the notice of the certification shall not affect the  
120 applicability of this act.

121           Sec. 4. Fiscal impact statement.

122           The Council adopts the fiscal impact statement in the committee report as the fiscal  
123 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
124 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

125           Sec. 5. Effective date.

126           This act shall take effect following approval by the Mayor (or in the event of veto by the  
127 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
128 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
129 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
130 Columbia Register.