

HOUSE JOINT RESOLUTION 32

By Casada

A RESOLUTION to propose an amendment to Article XI of the Constitution of Tennessee relative to a Tennessee Health Care Freedom Amendment.

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article XI, of the Constitution of Tennessee be amended by adding the following language as a new section at the end of the article:

Section \_\_\_\_.

(a) This section shall be known and may be cited as the "Tennessee Health Care Freedom Amendment."

(b) As used in this section:

(1) "Health care services" means any service, treatment, or provision of product for the care of physical or mental disease, illness, injury, defect or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within this state;

(2) "Mode of securing" means to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means authorized by the state of Tennessee, or to apply for or accept employer or government sponsored health care benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same;

(3) "Penalty" means any civil or criminal fine, tax, salary or wage withholding, surcharge, fee or any other imposed consequence, established by law or rule of the federal government of the United States of America or its subdivision or agency, that is used to punish or discourage the exercise of rights protected under this section.

(c)

(1) The power to require or regulate a person's choice in the mode of securing health care services, or to impose a penalty related thereto, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the Ninth Amendment, and to the several states pursuant to the Tenth Amendment. This state hereby exercises its sovereign power to declare the public policy of this state regarding the right of all persons residing in this state in choosing the mode of securing health care services and to be free from the imposition of penalties or the threat of penalties by the federal government of the United States of America when choosing such.

(2) It is declared that the public policy of this state, consistent with our constitutionally recognized and inalienable rights of liberty, is that every person within this state is and shall be free to choose or decline to choose any mode of securing health care services without penalty or threat of penalty by the federal government of the United States of America.

(3) The policy stated in this section shall not be applied to impair any right of contract related to the provision of health care services to any person or group.

(d)

(1) No public official, employee, or agent of this state or any of its political subdivisions shall act to impose, collect, enforce, or effectuate any penalty in this state that violates the public policy set forth in this section.

(2) The attorney general shall take such action as is provided in this section, in the defense or prosecution of rights protected under this section. It is

the duty of the attorney general and reporter to seek injunctive and any other appropriate relief as expeditiously as possible to preserve the rights and property of the residents of this state, and to defend as necessary this state, its officials, employees and agents in the event that any law or regulation violating the public policy set forth in this section is enacted by any government, subdivision or agency thereof.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Eighth General Assembly and that this resolution proposing such amendment be published by the Secretary of State in accordance with Article XI, Section 3, of the Constitution of Tennessee by means of posting this resolution on the official web site of the Secretary of State.

BE IT FURTHER RESOLVED, that the Clerk of the Senate is directed to deliver a copy of this resolution to the Secretary of State.