

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 21, consisting of sections*  
 3 *numbered 32.1-376, 32.1-377, and 32.1-378, relating to contraception; right to contraception;*  
 4 *applicability; enforcement.*

5 [S 1105]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 21, consisting of**  
 9 **sections numbered 32.1-376, 32.1-377, and 32.1-378, as follows:**

10 *CHAPTER 21.*11 *CONTRACEPTION.*12 **§ 32.1-376. Right to contraception.**13 *A. For the purposes of this chapter, unless the context requires a different meaning:*

14 *"Contraception" means an action taken to prevent pregnancy, including the use of contraceptives or*  
 15 *sterilization procedures.*

16 *"Contraceptive" means any drug, device, or biological product intended for use in the prevention of*  
 17 *pregnancy, whether specifically intended to prevent pregnancy or for other health needs, that is legally*  
 18 *marketed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), including oral*  
 19 *contraceptives, long-acting reversible contraceptives such as intrauterine devices and hormonal*  
 20 *contraceptive implants, emergency contraceptives, internal and external condoms, injectables, vaginal*  
 21 *barrier methods, transdermal patches, and vaginal rings.*

22 *"Health care provider" means the same as that term is defined in § 8.01-581.1.*

23 *B. A person shall have the right to obtain contraceptives and to engage in contraception. A health care*  
 24 *provider shall have the right to provide contraceptives and contraception-related information.*

25 *C. The rights specified in subsection B shall not be infringed upon by any law, regulation, or policy that*  
 26 *expressly or effectively limits, delays, or impedes access to contraceptives or information related to*  
 27 *contraception.*

28 *D. To defend against a claim that a law, regulation, or policy violates a health care provider's or patient's*  
 29 *statutory rights under subsection B, a party must establish, by clear and convincing evidence, that:*

30 *1. The law, regulation, or policy significantly advances the safety of contraceptives, contraception, and*  
 31 *contraception-related information, and the safety of contraceptives, contraception, and contraception-related*  
 32 *information or the health of patients cannot be advanced by a less restrictive alternative measure or action;*  
 33 *or*

34 *2. The law, regulation, or policy that is being applied to contraception is also being applied to other*  
 35 *medically similar drugs, devices, or biological products.*

36 *E. Nothing in this chapter shall be construed to permit or sanction the performance of any sterilization*  
 37 *procedure without the patient's voluntary and informed consent.*

38 **§ 32.1-377. Applicability.**

39 *A. Neither the Commonwealth nor any locality may administer, implement, or enforce any law, rule,*  
 40 *regulation, standard, or other provision having the force and effect of law in a manner that:*

41 *1. Prohibits or restricts the sale, provision, or use of any contraceptives that have been approved by the*  
 42 *U.S. Food and Drug Administration for contraceptive purposes.*

43 *2. Prohibits or restricts any person from aiding another person in obtaining any contraceptives approved*  
 44 *by the U.S. Food and Drug Administration or utilizing any contraceptive methods.*

45 *3. Exempts any contraceptives approved by the U.S. Food and Drug Administration from any other*  
 46 *generally applicable law in a way that would make it more difficult to sell, provide, obtain, or use those*  
 47 *contraceptives or contraceptive methods.*

48 *B. An individual or entity that is subject to a law, regulation, or policy that violates this chapter may raise*  
 49 *this section as a defense to any cause of action against the individual or entity.*

50 **§ 32.1-378. Enforcement.**

51 *A. The attorney general may commence a civil action on behalf of the Commonwealth against any person*  
 52 *that violates or enforces a law, regulation, or policy that violates the provisions of this chapter.*

53 *B. Any individual or entity, including any health care provider or patient, adversely affected by an alleged*  
 54 *violation of this chapter may commence a civil action against any person that violates, implements, or*  
 55 *enforces a law, regulation, or policy in violation of this chapter.*

56 *C. A health care provider may commence an action for relief on the provider's own behalf, on behalf of*

57 *the provider's staff, and on behalf of the provider's patients who are or may be adversely affected by an*  
58 *alleged violation of this chapter.*

59 *D. If a court finds that there has been a violation of this chapter, the court shall hold unlawful and set*  
60 *aside the law, regulation, or policy. In any action under this chapter, the court may award appropriate*  
61 *equitable relief, including temporary, preliminary, or permanent injunctive relief.*