

SENATE BILL NO. 596

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on _____)

(Patron Prior to Substitute—Senator Carroll Foy)

A BILL to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376, 32.1-377, and 32.1-378, relating to contraception; right to contraception; applicability; enforcement.

Be it enacted by the General Assembly of Virginia:

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

*CHAPTER 21.**CONTRACEPTION.***§ 32.1-376. Right to contraception.**

A. As used in this chapter, unless the context requires a different meaning:

"Contraception" means the use of contraceptives or sterilization procedures.

"Contraceptive" means any drug, device, or biological product that has been approved by the U.S. Food and Drug Administration for contraceptive purposes, whether utilized to prevent pregnancy or for other health needs, including oral contraceptives, long-acting reversible contraceptives such as intrauterine devices and hormonal contraceptive implants, emergency contraceptives, internal and external condoms, injectables, vaginal barrier methods, transdermal patches, and vaginal rings.

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

B. A person shall have the right to obtain contraceptives, to provide contraception-related information, and to engage in contraception without government interference. A health care provider shall have the right to provide contraceptives and contraception-related information to the extent the provider is properly licensed and acting within the scope of the provider's professional practice.

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

D. In any action by a person or the attorney general pursuant to this section, the defending party shall have the burden to establish by clear and convincing evidence that the state or local law, regulation, or policy is consistent with widely accepted and evidenced-based clinical practice standards, which are also

33 applied to the provision of any medically similar procedures, drugs, devices, or biological products.

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

36 **§ 32.1-377. Applicability.**

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

39 1. Prohibits or restricts the sale, provision, or use of any contraceptives; or

40 2. Prohibits or restricts any person from aiding another person in obtaining any contraceptives.

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

43 **§ 32.1-378. Enforcement.**

44 A. The Attorney General may commence a civil action on behalf of the state against any person that
45 violates or enforces a law, regulation, or policy that violates the provisions of this chapter.

46 B. Any individual or entity adversely affected by an alleged violation of this chapter may commence a civil
47 action against any person that violates or implements or enforces a law, regulation, or policy in violation of
48 this chapter.

49 C. A health care provider may commence an action for relief on the provider's own behalf, on behalf of
50 the provider's staff, and on behalf of the provider's patients who are or may be adversely affected by an
51 alleged violation of this chapter.

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