

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 596]

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 the use of contraceptives or sterilization procedures.*

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

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

22 *B. A person shall have the right to obtain contraceptives and to engage in contraception. A health care*
 23 *provider shall have the right to provide contraceptives and contraception-related information to the extent*
 24 *the provider is properly licensed and acting within the scope of the provider's professional practice.*

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.*

42 *2. Prohibits or restricts any person from aiding another person in obtaining any contraceptives or*
 43 *utilizing any contraceptive methods.*

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

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

49 **§ 32.1-378. Enforcement.**

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

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

55 *C. A health care provider may commence an action for relief on the provider's own behalf, on behalf of*
 56 *the provider's staff, and on behalf of the provider's patients who are or may be adversely affected by an*

57 *alleged violation of this chapter.*

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