

ASSEMBLY, No. 1299

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GREENWALD

1 AN ACT concerning access to certain health care facilities and
2 supplementing Title 2C of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. This act shall be known and may be cited as the "Freedom of
8 Access to Facilities Entrances Act of 1993."

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10 2. a. A person commits an offense who, with intent to prevent or
11 discourage any person from obtaining, administering or delivering
12 reproductive health services, intentionally and physically obstructs,
13 hinders or impedes the ingress or egress of another to a health care
14 facility.

15 b. As used in this act, "reproductive health services" means any
16 medical, surgical or counseling services relating to the human
17 reproductive system.

18 "Health care facility" means any health care facility as defined in
19 section 2 of the "Health Care Facilities Act," P.L.1971, c.136
20 (C.26:2H-2).

21 c. A person who commits a first offense in violation of subsection
22 a. of this section shall be guilty of a crime of the fourth degree except
23 that, notwithstanding the provisions of subsection a. of N.J.S.2C:43-6,
24 any term of imprisonment imposed shall not exceed one year. A
25 person who commits a second or subsequent offense in violation of
26 subsection a. of this section shall be guilty of a crime of the third
27 degree except that, notwithstanding the provisions of subsection a. of
28 N.J.S.2C:43-6, any term of imprisonment imposed shall not exceed
29 three years.

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31 3. a. In addition to the criminal penalties provided in subsection
32 c. of section 2 of P.L. ,c. (C.) (now pending before the
33 Legislature as this bill) a qualified plaintiff may institute a civil action
34 with respect to any violation of subsection a. of section 2 of P.L. ,
35 c. (C.) (now pending before the Legislature as this bill).

1 b. "Qualified plaintiff" as used in this act means:

2 (1) the person whose ingress or egress is or is about to be
3 obstructed, hindered or impeded;

4 (2) a person whose obtaining of reproductive health services is
5 intended to be prevented or discouraged;

6 (3) the health care facility or any of the medical or administrative
7 staff of the health care facility; and

8 (4) the owner of the building where the health care facility is
9 located.

10 c. Relief in a civil action under this section includes:

11 (1) any appropriate declaratory or injunctive or other equitable
12 relief, including injunctive relief to terminate existing or threatened
13 blockades of a health care facility; and

14 (2) damages in the amount of \$5,000.00 or treble the actual
15 damages, including any award for pain and suffering or emotional
16 distress, whichever is the greater amount; and

17 (3) an award to the prevailing party of reasonable attorney's fees
18 and court costs.

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20 4. This act shall not prohibit;

21 a. any expressive conduct permitted by the First Amendment of the
22 Constitution of the United States or Article I of the New Jersey
23 Constitution;

24 b. conduct by a party to a labor dispute in furtherance of labor or
25 management objectives in that dispute;

26 c. conduct by government officials in the course of their official
27 duties, by agents of public utilities carrying out their duties or by
28 agents of the health care facility, or the building in which the health
29 care facility is located, in carrying out their duties.

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31 5. This act shall take effect immediately.

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STATEMENT

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36 This bill provides that it is a criminal offense to prevent or
37 discourage any person from obtaining, administering or delivering
38 reproductive health services by intentionally and physically
39 obstructing, hindering or impeding the ingress or egress of another to
40 a health care facility.

41 A person who commits a first offense shall be guilty of a crime of
42 the fourth degree. A crime of the fourth degree is punishable generally
43 by a fine not to exceed \$7,500.00, a term of imprisonment not to
44 exceed 18 months or both. This bill limits the term of imprisonment
45 to one year. A person who commits a second or subsequent offense
46 shall be guilty of a crime of the third degree. A crime of the third

1 degree is punishable generally by a fine not to exceed \$7,500.00, a
2 term of imprisonment between three to five years, or both. This bill
3 limits the term of imprisonment to three years.

4 In addition to the criminal penalties provided in the bill, a qualified
5 plaintiff may institute a civil action with respect to any violation.
6 "Qualified plaintiff" as used in this bill means:

7 (1) the person whose ingress or egress is or is about to be
8 obstructed, hindered or impeded;

9 (2) a person whose obtaining of reproductive health services is
10 intended to be prevented or discouraged;

11 (3) the health care facility or any of the medical or administrative
12 staff of the health care facility; and

13 (4) the owner of the building where the health care facility is
14 located.

15 Relief in a civil action includes:

16 (1) any appropriate declaratory or injunctive or other equitable
17 relief, including injunctive relief to terminate existing or threatened
18 blockades of a health care facility; and

19 (2) damages in the amount of \$5000.00 or treble the actual
20 damages, including any award for pain and suffering or emotional
21 distress, whichever is the greater amount; and

22 (3) an award to the prevailing party of reasonable attorney's fees
23 and court costs.

24 This act shall not prohibit any expressive conduct permitted by the
25 First Amendment; conduct by a party to a labor dispute in furtherance
26 of objectives in that dispute; conduct by government officials in the
27 course of their official duties, by agents of public utilities or by agents
28 of the health care facility, or the building in which the facility is
29 located, in carrying out the agency duties.

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34 Provides criminal and civil penalties for blocking access to certain
35 health care facilities in certain circumstances.