

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in abortion, providing for access to reproductive health services facilities; in particular rights and immunities, providing for action for blocking access to reproductive health services facility; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 3207.1. Access to reproductive health services facilities.

(a) Prohibited conduct.--

(1) An individual may not, b y force, threat of force o r violent or nonviolent physical obstruction, knowingly injure, intimidate or interfere with a person:

(i) because the person is a reproductive health services client, provider or assistant; or

(ii) to cause the person, or a class of persons, to not become or not remain a reproductive health services

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client, provider or assistant.

(2) An individual may not knowingly cause damage to th e property of a person because the person is a reproductive health services client, provider or assistant or reproductive health services facility.

(3) An individual may not knowingly use a telephone or other communication or electronic device, or knowingly permit the use of a telephone or other communication or electronic device under the control of the individual, to disrupt the normal functioning of a reproductive health services facility.

(4) An individual may not knowingly impede or interfere with the operation of a motor vehicle that attempts to enter, exit or park at or nearby a reproductive health services facility.

(b) Penalties.--An individual who is convicted for committing a prohibited act under subsection (a) may be sentenced to imprisonment for a term of not more than one year or to pay a fine of not more than \$3,000, or both.

(c) Considerations.--Prior to sentencing an individual convicted for committing a prohibited act under this section, the court shall consider any prior conviction of the individual for a violation under this section or 18 U.S.C. § 248 (relating

to freedom of access to clinic entrances).

(d) Construction.--Nothing in this section shall be construed to:

(1) Impair any constitutionally protected activity or activity otherwise protected by law.

(2) Provide an exclusive civil remedy or criminal penalty.

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(3) Preempt a municipality from enacting an ordinance or regulation in accordance with law to provide a remedy for the commission of an act prohibited by this section.

(4) Interfere with the enforcement of a law or regulation regarding the termination of a pregnancy or the provision of other reproductive health services.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Bodily injury." Impairment of physical condition or substantial pain.

"Person." An individual, corporation, partnership, unincorporated association or other business entity.

"Physical obstruction." The act of making entrance to or exit from a reproductive health services facility impassable, unreasonably difficult or hazardous for an individual.

"Reproductive health services." Medical, surgical, counseling or referral services which are:

(1) related to the human reproductive system, including services related to pregnancy or the termination of a pregnancy; and

(2) provided in a medical facility.

"Reproductive health services client, provider or assistant." As follows:

(1) A person involved in obtaining, providing, seeking to obtain or provide or assisting or seeking to assist another person, at the request of the other person, to obtain or provide services in a reproductive health services facility.

(2) The term includes a person that owns, operates or

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seeks to own or operate a reproductive health services facility.

"Reproductive health services facility." A facility or medical facility, as defined in section 3203 (relating to definitions), that provides reproductive health services.

"Serious bodily injury." Bodily injury which:

(1) creates a substantial risk of death; or
(2) causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"Violent." Causing, intending to cause or likely to cause bodily injury, serious bodily injury, death or serious damage to property.

Section 2. Title 42 is amended by adding a section to read:
§ 8320.2. Action for blocking access to reproductive health services facility.

(a) Redress for personal injury.- -

(1) A reproductive health services facility client, provider or assistant or an owner or agent of a reproductive health services facility who incurs bodily injury or damage to or loss of property as a result of conduct by an actor, as described in 18 Pa.C.S. § 3207.1 (relating to access to reproductive health services facilities), may bring a cause of action in a court of common pleas against:

(i) the actor;

(ii) a person that has solicited the actor to engage in the conduct; or

(iii) a person that has knowingly attempted to provide or provided aid to the actor with the intent that the actor engage in the conduct.

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(2) In an action under paragraph (1), the issue of whether the defendant engaged in the alleged conduct shall be determined according to the burden of proof used in other civil actions for similar relief.

(3) The plaintiff in an action under paragraph (1) may seek:

(i) General and special damages, including damages for emotional distress. Damages under this subparagraph shall be actual damages or \$500, whichever is greater.

(ii) Punitive damages.

(iii) Reasonable attorney fees and costs.

(iv) A preliminary or permanent injunction or other equitable relief.

(v) Other relief that the court deems necessary and proper.

(b) Redress sought by public official on behalf of others.- -
If conduct which would constitute a violation of 18 Pa.C.S. § 3207.1 has occurred, the district attorney of the county in which the violation occurred or the Attorney General, after consulting with the district attorney, may institute a civil action for injunctive or other equitable relief if needed to

protect a person or property. The civil action must be brought in the name of the Commonwealth of Pennsylvania in the county in which the violation occurred.

(c) Filing of court orders.--

(1) The prothonotary of the court in which a civil action is brought under subsection (a) or (b) shall transmit two certified copies of any order issued in the civil action to each appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to

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have committed the act and where the defendant resides or has a principal place of business.

(2) The sheriff of the county in which the defendant resides shall serve a copy of the order under paragraph (1) on the defendant. Unless otherwise ordered by the court, service shall be by delivering a copy in hand to the defendant.

(3) Law enforcement agencies shall establish procedures adequate to ensure that all officers responsible for the enforcement of the order under paragraph (1) are informed of the existence and terms of the order.

(4) If a law enforcement officer has probable cause to believe that a defendant has violated the provisions of an order under this subsection, the law enforcement officer may arrest the defendant.

(d) Contempt notice required to be part of order.--In actions brought under this section, if a court issues a temporary restraining order or a preliminary or permanent injunction ordering a defendant to refrain from certain conduct or activities, the order issued shall contain the following statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

(e) Penalties.- -

(1) Except as provided in paragraph (2), a violation of an order issued and served as specified in this section shall be a misdemeanor of the second degree.

(2) If bodily injury results from the violation described in paragraph (1), the violation shall be a misdemeanor of the first degree.

(f) Vacated orders.--If the court vacates a temporary restraining order or a preliminary or permanent injunction

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issued under this section:

(1) The prothonotary shall:

(i) Promptly notify in writing each appropriate law enforcement agency that had been notified of the issuance

of the order.

(ii) Direct each law enforcement agency under subparagraph (i) to destroy all records of the order.

(2) Each law enforcement agency under paragraph (1) shall comply with the directive under paragraph (1)(i) upon receipt of the notification.

(g) Construction.--Nothing in this section may be construed to prohibit, limit or punish religiously motivated speech or conduct that is otherwise protected by the Constitution of the United States, the Constitution of Pennsylvania or the act of December 9, 2002 (P.L.1701, No.214), known as the Religious Freedom Protection Act.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Bodily injury." As defined in 18 Pa.C.S. § 3207.1(e).

"Person." As defined in 18 Pa.C.S. § 3207.1(e).

"Reproductive health services client, provider or assistant." As defined in 18 Pa.C.S. § 3207.1(e).

"Reproductive health services facility." As defined in 18 Pa.C.S. § 3207.1(e) .

Section 3. This act shall take effect in 60 days.

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