

1 AN ACT in relation to health.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Illinois Freedom of Access to Clinic Entrances Act.

6 Section 5. Legislative intention.

7 (a) The purpose of this Act is to protect the freedom of
8 families to make health care decisions and to protect access
9 to health care in Illinois.

10 (b) The General Assembly recognizes that access to
11 health care facilities for the purpose of obtaining medical
12 counseling and treatment is imperative for the citizens of
13 this State; that the exercise of a person's right to protest
14 or counsel against certain medical procedures must be
15 balanced against another person's right to obtain medical
16 counseling and treatment in an unobstructed manner; and that
17 preventing the willful obstruction of a person's access to
18 medical counseling and treatment at a reproductive health
19 care facility is a matter of statewide concern.

20 (c) Federal law enforcement activities proved effective
21 between 1993 and 2001 in reducing and punishing crimes
22 intended to violate an individual's right to access
23 reproductive health care. However, the level and threat of
24 those crimes in 2002 and 2003 remain unacceptably high, and
25 continued and increased law enforcement remains necessary.

26 (d) Federal actions that proved effective in reducing
27 and punishing these crimes include the vigorous criminal and
28 civil enforcement of the Freedom of Access to Clinic
29 Entrances Act of 1994 (18 U.S.C. Sec. 248) by the United
30 States Department of Justice and the United States Attorney's
31 Office; security training and advice provided by the United

1 States Marshals Service and the Bureau of Alcohol, Tobacco
2 and Firearms to reproductive health service providers; and
3 the protection provided by the United States Marshals
4 Service, the Bureau of Alcohol, Tobacco, and Firearms, and
5 the Federal Bureau of Investigation to those persons most at
6 risk from these crimes.

7 (e) It is the intent of the General Assembly that State
8 and local law enforcement agencies continue and build on
9 these services in Illinois. Therefore, the General Assembly
10 declares that it is appropriate to enact legislation that
11 prohibits a person from knowingly obstructing another
12 person's entry to or exit from a reproductive health services
13 facility.

14 (f) It is the intent of the General Assembly that
15 nothing in this Act, and no action by anyone pursuant to this
16 Act, punish an individual solely because of his or her
17 political beliefs, because of his or her advocacy of any
18 lawful actions, or because of his or her exercise of the
19 right of free speech, and that nothing in this Act, and no
20 actions by anyone pursuant to this Act, otherwise punish an
21 individual because of his or her beliefs, constitutionally
22 protected speech, or lawful actions.

23 Section 10. Definitions. In this Act:

24 "Crime of violence" means an offense that has as an
25 element the use, attempted use, or threatened use of physical
26 force against the person or property of another.

27 "Interfere with" means to restrict a person's freedom of
28 movement.

29 "Intimidate" means to place a person in reasonable
30 apprehension of bodily harm to herself or himself or to
31 another.

32 "Nonviolent" means conduct that would not constitute a
33 crime of violence.

1 "Physical obstruction" means rendering ingress to or
2 egress from a reproductive health services facility
3 impassable to another person or rendering passage to or from
4 a reproductive health services facility unreasonably
5 difficult or hazardous to another person.

6 "Reproductive health services" means health services
7 provided in a hospital, clinic, physician's office, or other
8 facility and includes medical, surgical, counseling, or
9 referral services relating to reproductive health care.

10 "Reproductive health services client, provider, or
11 assistant" means a person or entity that is or was involved
12 in obtaining, seeking to obtain, providing, seeking to
13 provide, or assisting or seeking to assist another person, at
14 that other person's request, to obtain or provide any
15 services in a reproductive health services facility, or a
16 person or entity that is or was involved in owning or
17 operating or seeking to own or operate a reproductive health
18 services facility.

19 "Reproductive health services facility" means a hospital,
20 clinic, physician's office, or other facility that provides
21 or seeks to provide reproductive health services and includes
22 the building or structure in which the facility is located.

23 Section 15. Unlawful interference with access to
24 reproductive health services. A person commits the offense of
25 unlawful interference with access to reproductive health
26 services when he or she commits any of the following acts:

27 (1) By force, threat of force, or physical
28 obstruction, intentionally injures, intimidates,
29 interferes with, or attempts to injure, intimidate, or
30 interfere with, any person or entity because that person
31 or entity is a reproductive health services client,
32 provider, or assistant, or in order to intimidate any
33 person or entity, or any class of persons or entities,

1 from becoming or remaining a reproductive health services
2 client, provider, or assistant.

3 (2) By nonviolent physical obstruction,
4 intentionally injures, intimidates, or interferes with or
5 attempts to injure, intimidate, or interfere with any
6 person or entity because that person or entity is a
7 reproductive health services client, provider, or
8 assistant or in order to intimidate any person or entity
9 or any class of persons or entities from becoming or
10 remaining a reproductive health services client,
11 provider, or assistant.

12 (3) Intentionally damages or destroys the property
13 of a person, entity, or facility, or attempts to do so,
14 because the person, entity, or facility is a reproductive
15 health services client, provider, assistant, or facility.

16 Section 20. Penalty.

17 (a) A violation of Section 15 shall be penalized as
18 follows:

19 (1) A first violation of Section 15 is a Class A
20 misdemeanor;

21 (2) A second or subsequent violation of Section 15
22 is a Class 4 felony; and

23 (3) For an offense involving exclusively a
24 nonviolent physical obstruction, the first violation of
25 Section 15 is a Class C misdemeanor and a second or
26 subsequent violation is a Class B misdemeanor.

27 (b) No person shall be convicted under this Section for
28 conduct in violation of Section 15 that was done on a
29 particular occasion if the identical conduct on that occasion
30 was the basis for a conviction of that person under the
31 federal Freedom of Access to Clinic Entrances Act of 1994 (18
32 U.S.C. Sec. 248).

1 Section 25. Damages; costs.

2 (a) A person aggrieved by a violation of Section 15 may
3 bring a civil action to enjoin the violation, for
4 compensatory and punitive damages, and for the costs of suit
5 and reasonable fees for attorneys and expert witnesses. With
6 respect to compensatory damages, the plaintiff may elect, at
7 any time prior to the rendering of a final judgment, to
8 recover, in lieu of actual damages, an award of statutory
9 damages in the amount of \$1,000 per exclusively nonviolent
10 violation, and \$5,000 per any other violation, for each
11 violation committed.

12 (b) The Attorney General may bring a civil action to
13 enjoin a violation of Section 15, for compensatory damages to
14 persons aggrieved as described in subsection (a), and for the
15 assessment of a civil penalty against each respondent. The
16 civil penalty shall not exceed \$2,000 for an exclusively
17 nonviolent first violation, and \$15,000 for any other first
18 violation, and shall not exceed \$5,000 for an exclusively
19 nonviolent subsequent violation, and \$25,000 for any other
20 subsequent violation. In imposing civil penalties pursuant to
21 this subsection (b), the court shall consider a prior
22 violation of the federal Freedom of Access to Clinic
23 Entrances Act of 1994 (18 U.S.C. Sec. 248) or a prior
24 violation of a statute of another jurisdiction that would
25 constitute a violation of Section 20 or the federal Freedom
26 of Access to Clinic Entrances Act of 1994, to be a prior
27 violation of Section 15.

28 (c) No person shall be found liable under this Section
29 for conduct in violation of Section 15 done on a particular
30 occasion if the identical conduct on that occasion was the
31 basis for a finding of liability by that person under the
32 federal Freedom of Access to Clinic Entrances Act of 1994 (18
33 U.S.C. Sec. 248).

1 Section 30. Injunctive relief.

2 (a) The court in which a criminal or civil proceeding is
3 filed for a violation of Section 15 shall take all action
4 reasonably required, including granting restraining orders,
5 to safeguard the reproductive health, safety, or privacy of
6 either of the following:

7 (1) A reproductive health services client,
8 provider, or assistant who is a party or witness in the
9 proceeding;

10 (2) A person who is a victim of, or at risk of
11 becoming a victim of, conduct prohibited by Section 15.

12 (b) A court may, in its discretion, permit an individual
13 described in subsection (a) to use a pseudonym in a civil
14 proceeding described in subsection (a) when reasonably
15 required to safeguard the health, safety, or privacy of the
16 individual.

17 Section 35. This Act may not be construed for any of the
18 following purposes:

19 (1) To impair any constitutionally protected activity or
20 any activity protected by the State of Illinois or federal
21 law.

22 (2) To provide exclusive civil or criminal remedies or
23 to preempt or to preclude any county, city, or city and
24 county from passing any law to provide a remedy for the
25 commission of any of the acts prohibited by this Act or to
26 make any of those acts a crime.

27 (3) To interfere with the enforcement of any federal,
28 State, or local laws regulating the performance of abortions
29 or the provision of other reproductive health services.

30 (4) To negate, supercede, or otherwise interfere with
31 the operation of any provision of the Labor Dispute Act.

32 (5) To preclude prosecution under this Section and any
33 other provision of law, except as provided in subsection (c)

1 of Section 20.