

1 AN ACT concerning reproductive health care facilities.

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

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

23 (c) Federal actions that proved effective in reducing  
24 and punishing these crimes include the vigorous criminal and  
25 civil enforcement of the Freedom of Access to Clinic  
26 Entrances Act of 1994 (18 U.S.C. Sec. 248) by the United  
27 States Department of Justice and the United States Attorney's  
28 Office; security training and advice provided by the United  
29 States Marshals Service and the Bureau of Alcohol, Tobacco  
30 and Firearms to reproductive health service providers; and  
31 the protection provided by the United States Marshals

1 Service, the Bureau of Alcohol, Tobacco, and Firearms, and  
2 the Federal Bureau of Investigation to those persons most at  
3 risk from these crimes.

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

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

20 Section 10. Definitions. In this Act:

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

24 "Interfere with" means to restrict a person's freedom of  
25 movement.

26 "Intimidate" means to place a person in reasonable  
27 apprehension of bodily harm to herself or himself or to  
28 another.

29 "Nonviolent" means conduct that would not constitute a  
30 crime of violence.

31 "Physical obstruction" means rendering ingress to or  
32 egress from a reproductive health services facility  
33 impassable to another person or rendering passage to or from

1 a reproductive health services facility unreasonably  
2 difficult or hazardous to another person.

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

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

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

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

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

33 (2) By nonviolent physical obstruction,

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

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

13 Section 20. Penalty.

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

16 (1) A first violation of Section 15 is a Class A  
17 misdemeanor;

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

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

24 (b) This Act establishes concurrent State jurisdiction  
25 over conduct that is also prohibited by the federal Freedom  
26 of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec.  
27 248), which provides for more severe misdemeanor penalties  
28 for first violations and felony-misdemeanor penalties for  
29 second and subsequent violations. State law enforcement  
30 agencies and prosecutors shall cooperate with federal  
31 authorities in the prevention, apprehension, and prosecution  
32 of these crimes and shall seek federal prosecutions when  
33 appropriate.

1 (c) No person shall be convicted under this Section for  
2 conduct in violation of Section 15 that was done on a  
3 particular occasion if the identical conduct on that occasion  
4 was the basis for a conviction of that person under the  
5 federal Freedom of Access to Clinic Entrances Act of 1994 (18  
6 U.S.C. Sec. 248).

7 Section 25. Damages; costs.

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

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

1 violation of Section 15.

2 (c) No person shall be found liable under this Section  
3 for conduct in violation of Section 15 done on a particular  
4 occasion if the identical conduct on that occasion was the  
5 basis for a finding of liability by that person under the  
6 federal Freedom of Access to Clinic Entrances Act of 1994 (18  
7 U.S.C. Sec. 248).

8 Section 30. Injunctive relief.

9 (a) The court in which a criminal or civil proceeding is  
10 filed for a violation of Section 15 shall take all action  
11 reasonably required, including granting restraining orders,  
12 to safeguard the reproductive health, safety, or privacy of  
13 either of the following:

14 (1) A reproductive health services client,  
15 provider, or assistant who is a party or witness in the  
16 proceeding;

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

19 (b) A court may, in its discretion, permit an individual  
20 described in subsection (a) to use a pseudonym in a civil  
21 proceeding described in subsection (a) when reasonably  
22 required to safeguard the health, safety, or privacy of the  
23 individual.

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

26 (1) To impair any constitutionally protected activity or  
27 any activity protected by the State of Illinois or federal  
28 law.

29 (2) To provide exclusive civil or criminal remedies or  
30 to preempt or to preclude any county, city, or city and  
31 county from passing any law to provide a remedy for the  
32 commission of any of the acts prohibited by this Act or to

1 make any of those acts a crime.

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

5 (4) To negate, supercede, or otherwise interfere with  
6 the operation of any provision of the Illinois Labor Dispute  
7 Act.

8 (5) To preclude prosecution under this Section and any  
9 other provision of law, except as provided in subsection (c)  
10 of Section 20.