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H.576

Introduced by Representatives Rosenquist of Georgia, Strong of Albany,
Achey of Middletown Springs, Hango of Berkshire, and
Peterson of Clarendon

Referred to Committee on

Date:

Subject: Health; reproductive rights; abortion based on sex or genetic
abnormalities prohibited

Statement of purpose of bill as introduced: This bill proposes to prohibit a
physician or other person from intentionally performing or attempting to
perform an abortion with the knowledge that the pregnant woman is seeking
the abortion solely on account of the sex of the unborn child, because the
unborn child has been diagnosed with either Down syndrome or a potential for
Down syndrome, or because the unborn child has been diagnosed with either a
genetic abnormality or a potential for a genetic abnormality. The bill makes a
violation a criminal offense and allows for civil action against the physician or
person who performed or attempted the abortion.

An act relating to banning selective abortions based on sex, Down
syndrome, or genetic abnormalities

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. SHORT TITLE

3 This act may be cited as the “Prenatal Nondiscrimination Act of 2022.”

4 Sec. 2. 18 V.S.A. § 9494 is amended to read:

5 § 9494. INTERFERENCE WITH REPRODUCTIVE CHOICE PROHIBITED

6 (a) ~~A~~ Except as provided in section 9499 of this title, a public entity as
7 defined in section 9496 of this title shall not, in the regulation or provision of
8 benefits, facilities, services, or information, deny or interfere with an
9 individual’s fundamental rights to choose or refuse contraception or
10 sterilization or to choose to carry a pregnancy to term, to give birth to a child,
11 or to obtain an abortion.

12 (b) No State or local law enforcement shall prosecute any individual for
13 inducing, performing, or attempting to induce or perform the individual’s own
14 abortion.

15 Sec. 3. 18 V.S.A. § 9497 is amended to read:

16 § 9497. ABORTION; RESTRICTING ACCESS PROHIBITED

17 ~~A~~ Except as provided in section 9499 of this title, a public entity shall not:

18 (1) deprive a consenting individual of the choice of terminating the
19 individual’s pregnancy;

1 (2) interfere with or restrict, in the regulation or provision of benefits,
2 facilities, services, or information, the choice of a consenting individual to
3 terminate the individual's pregnancy;

4 (3) prohibit a health care provider, acting within the scope of the health
5 care provider's license, from terminating or assisting in the termination of a
6 patient's pregnancy; or

7 (4) interfere with or restrict, in the regulation or provision of benefits,
8 facilities, services, or information, the choice of a health care provider acting
9 within the scope of the health care provider's license to terminate or assist in
10 the termination of a patient's pregnancy.

11 Sec. 4. 18 V.S.A. § 9499 is added to read:

12 § 9499. ABORTION BASED ON SEX OR GENETIC ABNORMALITIES

13 PROHIBITED

14 (a) As used in this section:

15 (1) "Abortion" means the act of using or prescribing any instrument,
16 medicine, drug, or any other substance, device, or means with the intent to
17 terminate the clinically diagnosable pregnancy of a woman with knowledge
18 that the termination by those means will with reasonable likelihood cause the
19 death of the unborn child. Such use, prescription, or means is not an abortion
20 if done with the intent to:

21 (A) save the life or preserve the health of the unborn child;

1 (B) remove a dead unborn child caused by spontaneous abortion; or

2 (C) remove an ectopic pregnancy.

3 (2) “Down syndrome” refers to a chromosome disorder associated either
4 with an extra chromosome 21, in whole or in part, or an effective trisomy for
5 chromosome 21. Down syndrome is sometimes referred to as “trisomy 21
6 syndrome.”

7 (3) “Genetic abnormality” means any defect, disease, or disorder that is
8 inherited genetically. The term “genetic abnormality” includes any physical
9 disability; any mental disability or retardation; any physical disfigurement,
10 scoliosis, dwarfism, Down syndrome, albinism, or Amelia; or any other type of
11 physical or mental abnormality or disease.

12 (4) “Minor” means any person under 18 years of age who is not and has
13 not been married and has not been legally emancipated.

14 (5) “Physician” means any person licensed to practice medicine in this
15 State. The term includes medical doctors and doctors of osteopathy.

16 (6) “Pregnant woman” means any female, including those who have not
17 reached 18 years of age, who is in the reproductive condition of having an
18 unborn child in her uterus.

19 (7) “Sex-selection abortion” means an abortion performed solely on
20 account of the sex of the unborn child.

1 (8) “Unborn child” means the offspring of human beings from
2 conception until birth.

3 (9) “Viability” means the state of fetal development when, in the
4 judgment of the physician based on the particular facts of the case before him
5 or her and in light of the most advanced medical technology and information
6 available to him or her, there is a reasonable likelihood of sustained survival of
7 the unborn child outside the body of his or her mother, with or without
8 artificial support.

9 (b)(1) No person may intentionally perform or attempt to perform an
10 abortion with the knowledge that the pregnant woman is seeking the abortion
11 solely:

12 (A) on account of the sex of the unborn child;

13 (B) because the unborn child has been diagnosed with either Down
14 syndrome or a potential for Down syndrome; or

15 (C) because the unborn child has been diagnosed with either a
16 genetic abnormality or a potential for a genetic abnormality.

17 (2) If this subsection is held invalid as applied to the period of
18 pregnancy prior to viability, then it shall remain applicable to the period of
19 pregnancy subsequent to viability.

1 (c) A physician or other person who intentionally or knowingly performs or
2 attempts to perform an abortion in violation of this section shall be imprisoned
3 not more than two years or fined not more than \$5,000.00, or both.

4 (d) A person harmed by a violation of this section may bring an action
5 against the physician or person who performed the abortion in the Civil
6 Division of the Superior Court for injunctive relief, compensatory damages,
7 punitive damages, and reasonable costs and attorney's fees.

8 (e) A physician who violates this section shall be considered to have
9 engaged in unprofessional conduct and subject to the provisions of 26 V.S.A.
10 chapter 23.

11 (f) A woman upon whom an abortion is performed or attempted in
12 violation of this act shall not be prosecuted under this section for a conspiracy
13 to violate this section or otherwise held criminally or civilly liable for any
14 violation.

15 (g) In every civil proceeding or action brought under this section, the
16 anonymity of the woman upon whom an abortion is performed or attempted
17 shall be preserved from public disclosure unless she gives her consent to such
18 disclosure. A court of competent jurisdiction, upon motion or sua sponte, shall
19 issue orders to the parties, witnesses, and counsel and shall direct the sealing of
20 the record and exclusion of individuals from courtrooms or hearing rooms to
21 the extent necessary to safeguard her identity from public disclosure.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on July 1, 2022.