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**Act No. 14 (H. 89). An act relating to civil and criminal procedures concerning legally protected health care activity**

**Subjects: Civil and criminal procedure; legally protected health care**

This act defines “legally protected health care activity” for purposes of Vermont law to include reproductive health care services and gender-affirming health care services and reaffirms that access to such services is a legal right in Vermont. The act declares interference with legally protected health care activity, whether or not under the color of law, against the public policy of Vermont and the act shields providers and patients from litigation seeking to interfere with these established health care services.

The act identifies “abusive litigation” as litigation or other legal action to deter, prevent, sanction, or punish any person engaging in legally protected health care activity by filing or prosecuting any action in any other state where liability, in whole or part, directly or indirectly, is based on legally protected health care activity that occurred in Vermont. Lawsuits are considered to be based on conduct that occurred in Vermont if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in Vermont, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit. The act creates a private right of action for a person who has been subject to abusive litigation to countersue for damages for the amount of any judgment issued in connection with any abusive litigation, and any and all other expenses, costs, or reasonable attorney’s fees incurred in connection with the abusive litigation and with the tortious interference action.

The act establishes a policy of noncooperation with abusive litigation concerning legally protected health care. Vermont courts are prohibited from ordering a person found in Vermont to give testimony or a statement or produce documents or other things with any proceeding in a tribunal outside Vermont concerning abusive litigation involving legally protected health care activity. No public agency or employee, appointee, officer or official, or any other person acting on behalf of a public agency may knowingly provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability upon a person or entity for the provision, seeking or receipt of, or inquiring about legally protected health care activity that is legal in Vermont or assisting any person or entity providing, seeking, receiving, or responding to an inquiry about legally protected health care activity that is legal in Vermont. With respect to extradition, the Governor is directed not to surrender a person charged in another state as a result of engaging in legally protected health care activity unless the executive authority of the demanding state alleges in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and that thereafter the accused fled from the demanding state. Finally,

Vermont courts are prohibited from issuing a summons where a prosecution is pending in another state concerning legally protected health care activity or where a grand jury investigation concerning legally protected health care activity has commenced or is about to commence for a criminal violation of a law of the other state unless the acts forming the basis of the prosecution or investigation would also constitute an offense if occurring entirely in Vermont.

The act establishes a civil offense for interference with access to a health care facility that is modeled after the federal Freedom of Access to Clinic Entrances Act (18 U.S.C. § 248) and permits persons who provide legally protected health care, persons who assist others in obtaining such care, and persons who exercise their legal right to obtain such services to participate in the Safe at Home address confidentiality program that is currently available to victims of domestic violence, stalking, sexual assault, or human trafficking.

Effective Date: May 10, 2023