

1

H.89

2 An act relating to civil and criminal procedures concerning legally protected
3 health care activity

4 The Senate proposes to the House to amend the bill as follows:

5 First: In Sec. 1, 1 V.S.A. § 150, by striking out subsections (a)–(c) in their
6 entireties and inserting in lieu thereof new subsections (a)–(c) to read as
7 follows:

8 (a) “Gender-affirming health care services” means all supplies, care, and
9 services of a medical, behavioral health, mental health, surgical, psychiatric,
10 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,
11 including medication, relating to the treatment of gender dysphoria and gender
12 incongruence. “Gender-affirming health care services” does not include
13 conversion therapy as defined by 18 V.S.A. § 8351.

14 (b)(1) “Legally protected health care activity” means:

15 (A) the exercise and enjoyment, or attempted exercise and
16 enjoyment, by any person of rights to reproductive health care services or
17 gender-affirming health care services secured by this State;

18 (B) any act or omission undertaken to aid or encourage, or attempt to
19 aid or encourage, any person in the exercise and enjoyment, or attempted
20 exercise and enjoyment, of rights to reproductive health care services or
21 gender-affirming health care services secured by this State, provided that the

1 provision of such a health care service by a person duly licensed under the
2 laws of this State and physically present in this State shall be legally protected
3 if the service is permitted under the laws of this State, regardless of the
4 patient’s location; or

5 (C) the provision, issuance, or use of, or enrollment in, insurance or
6 other health coverage for reproductive health care services or gender-affirming
7 health care services that are legal in this State, or any act to aid or encourage,
8 or attempt to aid or encourage, any person in the provision, issuance, or use of,
9 or enrollment in, insurance or other health coverage for those services,
10 regardless of the location of the insured or individual seeking insurance or
11 health coverage, if the insurance or health coverage is permitted under the laws
12 of this State.

13 (2) Except as provided in subdivision (3) of this subsection, the
14 protections applicable to “legally protected health care activity” shall not apply
15 to a lawsuit; judgment; or civil, criminal, or administrative action that is based
16 on conduct for which an action would exist under the laws of this State if the
17 course of conduct that forms the basis for liability had occurred entirely in this
18 State.

19 (3) Notwithstanding subdivision (2) of this subsection, the provision of a
20 health care service by a person duly licensed under the laws of this State and
21 physically present in this State shall be legally protected if the service is

1 permitted under the laws of this State, regardless of the patient's location or
2 whether the health care provider is licensed in the state where the patient is
3 located at the time the service is rendered.

4 (c)(1) "Reproductive health care services" means all supplies, care, and
5 services of a medical, behavioral health, mental health, surgical, psychiatric,
6 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,
7 including medication, relating to pregnancy, contraception, assisted
8 reproduction, pregnancy loss management, or the termination of a pregnancy.

9 (2) "Reproductive health care services" includes medication that was
10 approved by the U.S. Food and Drug Administration (FDA) for termination of
11 a pregnancy as of January 1, 2023, regardless of the medication's current FDA
12 approval status:

13 (A) when such medication is procured, ordered, stored, distributed,
14 prescribed, dispensed, or administered, or a combination thereof, by a person
15 duly licensed under the laws of this State, as long as the licensee's actions
16 conform to the essential standards of acceptable and prevailing practice for the
17 licensee's profession; or

18 (B) when such medication is used by an individual.

19 Second: By striking out Sec. 9, effective dates, and its reader assistance
20 heading in their entirety and inserting in lieu thereof the following:

