

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 1126

Short Title: Abortion Law Revisions. (Public)

Sponsors: Representatives Logan and K. Smith (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 31, 2022

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CHILD SUPPORT PAYMENTS BEGIN IN THE FIRST MONTH IN WHICH THE CHILD WAS CONCEIVED, TO PROHIBIT THE USE OF TELEHEALTH TO ADVISE ON USE OF OR PRESCRIBE ERECTILE DYSFUNCTION DRUGS, TO PROHIBIT THE USE OF STATE FUNDS FOR ERECTILE DYSFUNCTION DRUGS, TO PROHIBIT THE USE OF STATE FUNDS FOR CRISIS PREGNANCY CENTERS, TO PROHIBIT THE PERSON WHO CAUSED PREGNANCY THROUGH INCEST FROM CUSTODY OF THE CHILD, TO ALLOW FOR ABORTION AFTER TWENTY WEEKS FOR PREGNANCIES CAUSED BY RAPE OR INCEST OR WHERE THE UNBORN CHILD WILL NOT SURVIVE PREGNANCY, TO PROVIDE A RIGHT TO PRIVACY FOR A PERSON'S MEDICAL RECORDS AND INFORMATION, TO APPROPRIATE FUNDS TO THE STATE CRIME LABORATORY, AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR COSTS ASSOCIATED WITH PROVIDING DNA TESTS USED TO ESTABLISH THE PATERNITY OF A CHILD.

The General Assembly of North Carolina enacts:

PART I. CHILD SUPPORT BEGINS AT CONCEPTION

SECTION 1.(a) G.S. 50-13.4 reads as rewritten:

"§ 50-13.4. Action for support of minor child.

...

(a1) Child support ordered under this section shall begin with the first month in which the child was conceived, as determined by a licensed physician. If paternity of the father is disputed, the court shall (i) await the outcome of the paternity proceeding before ordering child support payments and (ii) award child support retroactive to the first month in which the child was conceived, as determined by a licensed physician.

...

(c) Payments ordered for the support of a minor child shall be in such amount as to (i) cover medical expenses incident to the pregnancy and birth of the child and (ii) meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.



1 The court shall determine the amount of child support payments by applying the presumptive
2 guidelines established pursuant to subsection (c1) of this section. However, upon request of any
3 party, the Court shall hear evidence, and from the evidence, find the facts relating to the
4 reasonable needs of the child for support and the relative ability of each parent to provide support.
5 If, after considering the evidence, the Court finds by the greater weight of the evidence that the
6 application of the guidelines would not meet or would exceed the reasonable needs of the child
7 considering the relative ability of each parent to provide support or would be otherwise unjust or
8 inappropriate the Court may vary from the guidelines. If the court orders an amount other than
9 the amount determined by application of the presumptive guidelines, the court shall make
10 findings of fact as to the criteria that justify varying from the guidelines and the basis for the
11 amount ordered.

12 Payments ordered for the support of a child shall terminate when the child reaches the age of
13 18 except:

- 14 (1) If the child is otherwise emancipated, payments shall terminate at that time;
- 15 (2) If the child is still in primary or secondary school when the child reaches age
16 18, support payments shall continue until the child graduates, otherwise ceases
17 to attend school on a regular basis, fails to make satisfactory academic
18 progress towards graduation, or reaches age 20, whichever comes first, unless
19 the court in its discretion orders that payments cease at age 18 or prior to high
20 school graduation.
- 21 (3) If the child is enrolled in a cooperative innovative high school program
22 authorized under Part 9 of Article 16 of Chapter 115C of the General Statutes,
23 then payments shall terminate when the child completes his or her fourth year
24 of enrollment or when the child reaches the age of 18, whichever occurs later.

25 In the case of graduation, or attaining age 20, payments shall terminate without order by the
26 court, subject to the right of the party receiving support to show, upon motion and with notice to
27 the opposing party, that the child has not graduated or attained the age of 20.

28 If an arrearage for child support or fees due exists at the time that a child support obligation
29 terminates, payments shall continue in the same total amount that was due under the terms of the
30 previous court order or income withholding in effect at the time of the support obligation. The
31 total amount of these payments is to be applied to the arrearage until all arrearages and fees are
32 satisfied or until further order of the court.

33 (c1) Effective July 1, 1990, the Conference of Chief District Judges shall prescribe
34 uniform statewide presumptive guidelines for the computation of child support obligations,
35 including retroactive support obligations, of each parent as provided in Chapter 50 or elsewhere
36 in the General Statutes and shall develop criteria for determining when, in a particular case,
37 application of the guidelines would be unjust or inappropriate. The purpose of the guidelines and
38 criteria shall be to ensure that payments ordered for the support of a minor child are in such
39 amount as to meet the reasonable needs of the child for health, education, and maintenance,
40 having due regard to the estates, earnings, conditions, accustomed standard of living of the child
41 and the parties, the child care and homemaker contributions of each party, and other facts of the
42 particular case. Additionally, the guidelines shall ensure that payments are in such amount to
43 cover medical expenses incident to the pregnancy and birth of the child. The guidelines shall
44 include a procedure for setting child support, if any, in a joint or shared custody arrangement
45 which shall reflect the other statutory requirements herein.

46 Periodically, but at least once every four years, the Conference of Chief District Judges shall
47 review the guidelines to determine whether their application results in appropriate child support
48 award amounts. The Conference may modify the guidelines accordingly. The Conference shall
49 give the Department of Health and Human Services, the Administrative Office of the Courts, and
50 the general public an opportunity to provide the Conference with information relevant to the
51 development and review of the guidelines. Any modifications of the guidelines or criteria shall

1 be reported to the General Assembly by the Administrative Office of the Courts before they
2 become effective by delivering copies to the President Pro Tempore of the Senate and the Speaker
3 of the House of Representatives. The guidelines, when adopted or modified, shall be provided to
4 the Department of Health and Human Services and the Administrative Office of the Courts,
5 which shall disseminate them to the public through local IV-D offices, clerks of court, and the
6 media.

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8 **SECTION 1.(b)** G.S. 49-15 reads as rewritten:

9 "**§ 49-15. Custody and support of children born out of wedlock when paternity established.**

10 Upon and after the establishment of paternity pursuant to G.S. 49-14 of a child born out of
11 wedlock, the rights, duties, and obligations of the mother and the father so established, with
12 regard to support and custody of the child, shall be the same, and may be determined and enforced
13 in the same manner, as if the child were the legitimate child of the father and mother. ~~When~~
14 ~~paternity has been established, the father becomes responsible for medical expenses incident to~~
15 ~~the pregnancy and the birth of the child."~~

16 **SECTION 1.(c)** The Conference of Chief District Judges shall modify the uniform
17 statewide presumptive guidelines for the computation of child support obligations required under
18 G.S. 50-13.4, as amended by subsection (a) of this section.

19 **SECTION 1.(d)** Subsections (a) and (b) of this section apply to children conceived
20 on or after the effective date of this act.

21 **PART II. PROHIBIT USE OF TELEHEALTH TO ADVISE ON USE OF OR** 22 **PRESCRIBE ERECTILE DYSFUNCTION DRUGS**

23 **SECTION 2.(a)** Article 1 of Chapter 90 of the General Statutes is amended by adding
24 a new section to read:

25 **"§ 90-18.8. Prohibit use of telehealth for erectile dysfunction drugs.**

26 No person licensed under this Article shall provide advice on the use of, or prescribe any
27 drug used for, the treatment of erectile dysfunction."

28 **SECTION 2.(b)** This section applies to telehealth provided on or after the effective
29 date of this act.

30 **PART III. PROHIBIT USE OF STATE FUNDS FOR ERECTILE DYSFUNCTION** 31 **DRUGS**

32 **SECTION 3.(a)** Article 6 of Chapter 143C of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 143C-6-5.6. Prohibit State funds for erectile dysfunction drugs.**

35 No State funds may be used for the procurement, dispensation, or procurement and
36 dispensation of erectile dysfunction drugs nor to support the administration of any governmental
37 health plan or government-offered insurance policy offering erectile dysfunction drugs. The
38 prohibition in this section does not apply if the erectile dysfunction drugs are being procured and
39 dispensed to be used for procreation."

40 **SECTION 3.(b)** G.S. 135-48.50 is amended by adding a new subdivision to read:

41 **"(1a) Erectile dysfunction drugs. – The Plan shall not provide coverage for erectile**
42 **dysfunction drugs for which State funds could not be used under**
43 **G.S. 143C-6-5.6."**

44 **SECTION 3.(c)** Subsection (a) of this section applies beginning with the budget
45 enacted for the fiscal year immediately following the effective date of this act. Subsection (b) of
46 this section applies to coverage provided on or after the effective date of this act.

47 **PART IV. PROHIBIT THE USE OF STATE FUNDS FOR CRISIS PREGNANCY** 48 **CENTERS**

1 **SECTION 4.(a)** Article 6 of Chapter 143C of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 143C-6-5.7. Prohibit State funds for crisis pregnancy centers.**

4 Except as otherwise provided in subsection (b27) of G.S. 20-81.12, no State funds shall be
5 appropriated to or otherwise provided to a nongovernmental, not-for-profit agency, organization,
6 business, or entity that provides pregnancy services that do not include reproductive or abortion
7 information or services."

8 **SECTION 4.(b)** This section applies beginning with the budget enacted for the fiscal
9 year immediately following the effective date of this act.

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11 **PART V. PROHIBIT PERSON WHO CAUSED PREGNANCY THROUGH INCEST**
12 **FROM CUSTODY OF CHILD**

13 **SECTION 5.(a)** G.S. 50-13.1(a) reads as rewritten:

14 "(a) Any parent, relative, or other person, agency, organization or institution claiming the
15 right to custody of a minor child may institute an action or proceeding for the custody of such
16 child, as hereinafter provided. Any person whose actions resulted in a conviction under
17 G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, ~~or G.S. 14-27.24~~ G.S. 14-27.24, or G.S. 14-178
18 and the conception of the minor child may not claim the right to custody of that minor child.
19 Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or
20 visitation or both."

21 **SECTION 5.(b)** This section applies to offenses committed on or after the effective
22 date of this act.

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24 **PART VI. ALLOW FOR ABORTION AFTER 20 WEEKS FOR PREGNANCIES**
25 **CAUSED BY RAPE OR INCEST OR WHERE THE UNBORN CHILD WILL NOT**
26 **SURVIVE PREGNANCY**

27 **SECTION 6.(a)** G.S. 14-45.1 reads as rewritten:

28 **"§ 14-45.1. When abortion not unlawful.**

29 (a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
30 unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a
31 miscarriage or abortion when the procedure is performed by a qualified physician licensed to
32 practice medicine in North Carolina in a hospital or clinic certified by the Department of Health
33 and Human Services to be a suitable facility for the performance of abortions.

34 (a1) The Department of Health and Human Services shall annually inspect any clinic,
35 including ambulatory surgical facilities, where abortions are performed. The Department of
36 Health and Human Services shall publish on the Department's Web site and on the State Web
37 site established under G.S. 90-21.84 the results and findings of all inspections conducted on or
38 after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are
39 performed, including any statement of deficiencies and any notice of administrative action
40 resulting from the inspection. No person who is less than 18 years of age shall be employed at
41 any clinic, including ambulatory surgical facilities, where abortions are performed. The
42 requirements of this subsection shall not apply to a hospital required to be licensed under Chapter
43 131E of the General Statutes.

44 (b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
45 unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a
46 miscarriage or abortion when the procedure is performed by a qualified physician licensed to
47 practice medicine in North Carolina in a hospital licensed by the Department of Health and
48 Human Services, if any of the following applies:

49 (1) ~~there-There~~ is a medical emergency as defined by G.S. 90-21.81(5).

50 (2) The pregnancy resulted from an offense resulting in a conviction under
51 G.S. 14-27.21, 14-27.22, 14-27.23, 14-27.24, or 14-178.

1 (3) The qualified physician determined that the unborn child would not survive
2 the pregnancy.

3 (b1) A qualified physician who advises, procures, or causes a miscarriage or abortion after
4 the sixteenth week of a woman's pregnancy shall record all of the following: the method used by
5 the qualified physician to determine the probable gestational age of the unborn child at the time
6 the procedure is to be performed; the results of the methodology, including the measurements of
7 the unborn child; and an ultrasound image of the unborn child that depicts the measurements.
8 The qualified physician shall provide this information, including the ultrasound image, to the
9 Department of Health and Human Services pursuant to G.S. 14-45.1(c).

10 A qualified physician who procures or causes a miscarriage or abortion after the twentieth
11 week of a woman's pregnancy pursuant to subdivisions (1) and (3) of subsection (b) of this section
12 shall record the findings and analysis on which the qualified physician based the determination
13 that the unborn child would not survive the pregnancy or that there existed a medical emergency
14 as defined by G.S. 90-21.81(5) and shall provide that information to the Department of Health
15 and Human Services pursuant to ~~G.S. 14-45.1(e)~~ subsection (c) of this section. A qualified
16 physician who procures or causes a miscarriage or abortion after the twentieth week of a woman's
17 pregnancy pursuant to subdivision (2) of subsection (b) of this section shall record the findings
18 on which the qualified physician determined that subdivision (2) of subsection (b) of this section
19 applied and shall provide that information to the Department of Health and Human Services
20 pursuant to subsection (c) of this section. Materials generated by the physician or provided by
21 the physician to the Department of Health and Human Services pursuant to this section shall not
22 be public records under G.S. 132-1.

23 The information provided under this subsection shall be for statistical purposes only, and the
24 confidentiality of the patient and the physician shall be protected. It is the duty of the qualified
25 physician to submit information to the Department of Health and Human Services that omits
26 identifying information of the patient and complies with Health Insurance Portability and
27 Accountability Act of 1996 (HIPAA).

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29 **SECTION 6.(b)** This section applies to abortions performed or attempted on or after
30 the effective date of this act.

31 **PART VII. RIGHT TO PRIVACY FOR MEDICAL RECORDS AND INFORMATION**

32 **SECTION 7.(a)** Article 1B of Chapter 90 of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 90-21.19A. Right to privacy for medical records and information.**

35 A health care provider may deny access to all or part of a patient's medical records and
36 information, including specific procedures, to another health care provider, individual, or entity
37 that requests that information. If, after consideration of all attendant facts and circumstances, the
38 health care provider determines the request to review all or a part of the patient information can
39 reasonably be expected to cause substantial and identifiable harm to the subject or others, and
40 outweighs the patient's right of privacy to the records, the health care provider may grant
41 reasonable access to the medical records or provide a signed, written summary of the requested
42 medical records."

43 **SECTION 7.(b)** This section applies to requests for medical records and information
44 on or after the effective date of this act.

45 **PART VIII. APPROPRIATION OF FUNDS TO THE STATE CRIME LABORATORY**

46 **SECTION 8.** There is appropriated from the General Fund to the Department of
47 Justice, State Crime Laboratory, the sum of five hundred thousand dollars (\$500,000) in
48 nonrecurring funds for the fiscal year immediately following the effective date of this act to be
49 used for equipment or other resources needed by the State Crime Laboratory.
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PART IX. APPROPRIATION OF FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR COSTS ASSOCIATED WITH DNA TESTS

SECTION 9. There is appropriated from the General Fund to the Department of Health and Human Services the sum of five hundred thousand dollars (\$500,000) in nonrecurring funds for the fiscal year immediately following the effective date of this act to be used for costs associated with providing DNA tests to use for establishing paternity of a child.

PART X. SEVERABILITY, SAVINGS CLAUSE, AND EFFECTIVE DATE

SECTION 10.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 10.(b) Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 10.(c) This act becomes effective on the thirtieth day after the date abortion becomes illegal in the State of North Carolina.