

Washington, District of Columbia

D.C. Law 24-254. Enhancing Reproductive Health Protections Amendment Act of 2022.

AN ACT

To protect persons who assist and support others with self-managed abortions outside the healthcare system, re-codify certain existing protections regarding abortion, sterilization, and contraception, and clarify the extent of those existing protections and remedies in the event of a violation by the District government; and to amend the Human Rights Act of 1977 to add a definition and repeal the section providing the protections superseded by the aforementioned re-codification.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Enhancing Reproductive Health Protections Amendment Act of 2022".

New [Chapter 20D of Title 7](#)

Title I. RIGHT TO BODILY AUTONOMY

New [§ 7-2086.01](#)

Sec. 101. Government noninterference in reproductive health decisions.

(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization.

(b) The District shall recognize the right of every individual who becomes pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion.

(c) The District shall not:

(1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to:

(A) Choose or refuse contraception or sterilization; or

(B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion;

(2) Interfere with or restrict in the regulation or provision of benefits, facilities, services, or information, the decision of a health care professional or health care provider acting within the scope of the health care professional or health care provider's license to participate in a consenting individual's use of contraception, prenatal care, labor, delivery, or abortion; or

(3) Penalize a person for:

(A) Seeking, inducing, or attempting to induce the person's own abortion;

(B) Any act or omission by an individual during the individual's pregnancy based on the potential or actual impact on the individual's health or pregnancy, unless the act or omission is otherwise prohibited by District law; provided, that nothing in this section shall be interpreted to prevent psychiatric commitment or other lawful measures to protect the health of an individual who is pregnant where such measures are applied on the same terms as would apply to a person who is not pregnant;

(C) Assisting an individual who is seeking, inducing, or attempting to induce their own abortion; provided, that nothing in this section shall be interpreted to protect the provision of an abortion procedure unless a licensed health care provider or professional acting within the scope of licensed practice performs the abortion on an individual who voluntarily consents to the procedure; or

(D) Any act of providing, dispensing, administering, or transferring possession of self-managed abortion product; provided, that nothing in this section shall be interpreted to protect:

(i) The provision or administration of a self-managed abortion product to an individual without the individual's voluntary consent; or

(ii) Any negligent or intentional adulteration of medication, intentional misrepresentation of medication safety information, or any act of negligently or intentionally providing, dispensing, administering, or transferring possession of counterfeit or adulterated medication.

(d) A person claiming to be aggrieved by a violation of this section shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. An action pursuant to this subsection shall be filed in a court of competent jurisdiction within 2 years of the violation or the discovery of the violation.

(e) For the purposes of this section, the term:

(1) "Contraception" means any device, medication, or practice designed or employed to prevent pregnancy, including emergency contraception, the use of which would be lawful in the District.

(2) "Health care professional" shall have the same meaning as provided in section 291(1) of the Human Rights Act of 1977, effective May 6, 2020 (D.C. Law 23-90; D.C. Official Code § 2-1402.91(1)).

(3) "Health care provider" shall have the same meaning as provided in section 291(2) of the Human Rights Act of 1977, effective May 6, 2020 (D.C. Law 23-90; D.C. Official Code § 2-1402.91(2)).

(4) "Person" shall have the same meaning as provided in section 102(21) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02(21)).

(5) "Self-managed abortion product" shall have the same meaning as provided in section 102(25A) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02(25A)).

Title II. CONFORMING AMENDMENTS

Sec. 201. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38, effective December 13, 1977; D.C. Official Code §§ 2-1401.01 *et seq.*), is amended as follows:

Amend [§ 2-1401.02](#)

(a) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

(1) Paragraph (27C) is redesignated as (27D).

(2) A new paragraph (27C) is added to read as follows:

"(27C) "Self-managed abortion product" means a medication that is approved by the U.S. Food and Drug Administration for use, either alone or in combination with other approved medication, in terminating a pregnancy, and that is made available to one or more pregnant individuals other than through the licensed operation of a health care provider or health care professional."

Repeal [§ 2-1401.06](#)

(b) Section 105a (D.C. Law 23-90, effective May 6, 2020; D.C. Official Code § 2-1401.06) is repealed.

Title III. GENERAL PROVISIONS

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register

§ 2-1401.01. Intent of Council.

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, sealed eviction record, status as a victim of an intrafamily offense, place of residence or business, status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking, and homeless status.

[D.C. Code § 2-1401.01](#)

§ 2-1401.02. Definitions.

(27A) “Reproductive health decision” includes a decision by an individual, an individual's dependent, or an individual's spouse related to:

(A) The use or intended use of a particular drug, device, or medical service, including contraception or fertility control; or

(B) The planned initiation or termination of a pregnancy.

(27B) “Sealed eviction record” means an eviction record that has been sealed pursuant to § 42-3505.09.

(27C) “Self-managed abortion product” means a medication that is approved by the U.S. Food and Drug Administration for use, either alone or in combination with other approved medication, in terminating a pregnancy, and that is made available to one or more pregnant individuals other than through the licensed operation of a health care provider or health care professional.

[D.C. Code § 2-1401.02](#)

§ 2-1401.06a. Government noninterference in reproductive health decisions.

(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization.

(b) The District shall recognize the right of every individual who becomes pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion.

(c) The District shall not:

(1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to:

(A) Choose or refuse contraception or sterilization; or

(B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion;

- (2) Interfere with or restrict in the regulation or provision of benefits, facilities, services, or information, the decision of a health care professional or health care provider acting within the scope of the health care professional or health care provider's license to participate in a consenting individual's use of contraception, prenatal care, labor, delivery, or abortion; or
- (3) Penalize a person for:
- (A) Seeking, inducing, or attempting to induce the person's own abortion;
- (B) Any act or omission by an individual during the individual's pregnancy based on the potential or actual impact on the individual's health or pregnancy, unless the act or omission is otherwise prohibited by District law; provided, that nothing in this section shall be interpreted to prevent psychiatric commitment or other lawful measures to protect the health of an individual who is pregnant where such measures are applied on the same terms as would apply to a person who is not pregnant;
- (C) Assisting an individual who is seeking, inducing, or attempting to induce their own abortion; provided, that nothing in this section shall be interpreted to protect the provision of an abortion procedure unless a licensed health care provider or professional acting within the scope of licensed practice performs the abortion on an individual who voluntarily consents to the procedure; or
- (D) Any act of providing, dispensing, administering, or transferring possession of self-managed abortion product; provided, that nothing in this section shall be interpreted to protect:
- (i) The provision or administration of a self-managed abortion product to an individual without the individual's voluntary consent; or
- (ii) Any negligent or intentional adulteration of medication, intentional misrepresentation of medication safety information, or any act of negligently or intentionally providing, dispensing, administering, or transferring possession of counterfeit or adulterated medication.
- (d) A person claiming to be aggrieved by a violation of this section shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. An action pursuant to this subsection shall be filed in a court of competent jurisdiction within 2 years of the violation or the discovery of the violation.
- (e) For the purposes of this section, the term:
- (1) "Contraception" means any device, medication, or practice designed or employed to prevent pregnancy, including emergency contraception, the use of which would be lawful in the District.
- (2) "Health care professional" shall have the same meaning as provided in § 2-1402.91(1).
- (3) "Health care provider" shall have the same meaning as provided in § 2-1402.91(2).
- (4) "Person" shall have the same meaning as provided in § 2-1401.02(21).
- (5) "Self-managed abortion product" shall have the same meaning as provided in § 2-1401.02(25A).

[D.C. Code § 2-1401.06a](#)

§ 2-1402.11. Prohibitions.

(a) **General.** — It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking, credit information, or homeless status of any individual:

(1) **By an employer.** —

(A) To fail or refuse to hire, or to discharge, any individual; or otherwise to discriminate against any individual, with respect to his or her compensation, terms, conditions, or privileges of employment, including promotion; or to limit, segregate, or classify his or her employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his or her status as an employee; and

(B) To fail to treat an employee affected by pregnancy, childbirth, a pregnancy-related or childbirth-related medical condition, breastfeeding, or a reproductive health decision, the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as an employee not so affected but similar in the employee's ability or inability to work, including the requirement that an employer shall treat an employee temporarily unable to perform the functions of the employee's job because of the employee's pregnancy-related condition in the same manner as it treats other employees with temporary disabilities; provided, that this subparagraph shall not be construed to require an employer to provide insurance coverage related to a reproductive health decision;

(2) *By an employment agency.* — To fail or refuse to refer for employment, or to classify or refer for employment, any individual, or otherwise to discriminate against, any individual; or

(3) *By a labor organization.* — To exclude or to expel from its membership, or otherwise to discriminate against, any individual; or to limit, segregate, or classify its membership; or to classify, or fail, or refuse to refer for employment any individual in any way, which would deprive such individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his or her status as an employee or as an applicant for employment; or

(4) *By an employer, employment agency or labor organization.* —

(A) To discriminate against any individual in admission to or the employment in, any program established to provide apprenticeship or other training or retraining, including an on-the-job training program;

(B) To print or publish, or cause to be printed or published, any notice or advertisement, or use any publication form, relating to employment by such an employer, or to membership in, or any classification or referral for employment by such a labor organization, or to any classification or referral for employment by such an employment agency, unlawfully indicating any preference, limitation, specification, or distinction, based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, gender identity or expression, family responsibilities, matriculation, genetic information, disability, political affiliation, status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking, credit information, or homeless status of any individual.

(C) To request or require a genetic test of, or administer a genetic test to, any individual as a condition of employment, application for employment, or membership, or to seek to obtain, obtain, or use genetic information of an employee or applicant for employment or membership.

(D) To directly or indirectly require, request, suggest, or cause any employee to submit credit information, or use, accept, refer to, or inquire into an employee's credit information.

(b) *Subterfuge.* — It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, matriculation, genetic information, disability, political affiliation, status as a

victim or family member of a victim of domestic violence, a sexual offense, or stalking, credit information, or homeless status of any individual.

[D.C. Code § 2-1402.11](#)

§ 2-1402.92. Prohibited discrimination.

(a) It shall be an unlawful discriminatory practice for a health care provider to do any of the following against a health care professional based on the health care professional's participation in an abortion or sterilization procedure, participation in abortion or sterilization training outside the course and scope of the health care professional's employment with that health care provider, or willingness to participate in an abortion or sterilization procedure:

- (1) Fail or refuse to hire the health care professional;
- (2) Discharge the health care professional from employment or a medical training program;
- (3) Transfer the health care professional;
- (4) Discriminate against the health care professional with respect to:
 - (A) Compensation or promotion;
 - (B) Residency or other medical training opportunity;
 - (C) Staff privileges, admitting privileges, or staff appointments; or
 - (D) Licensure or board certification;
- (5) Take adverse administrative action against the health care professional;
- (6) Harass the health care professional; or
- (7) Otherwise penalize, discipline, or take adverse or retaliatory action against the health care professional.

[D.C. Code § 2-1402.92](#)

§ 2-1461.01. District government nonparticipation in interstate investigations and proceedings interfering with certain rights.

(a) The District and its officers and employees acting in their official capacities shall not 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 any person for the following conduct, or for attempting, aiding, abetting, advising, facilitating, or intending or conspiring to achieve the following conduct, except to the extent that such conduct would be prohibited under District law:

- (1) Receiving or seeking an abortion or contraception;
- (2) Performing or inducing an abortion with the voluntary consent of the pregnant person;
- (3) Engaging in sexual conduct;
- (4) Providing contraception to an entity or to an individual with that individual's voluntary consent;
- (5) Using contraception;
- (6) Entering into or remaining in a living arrangement, marriage, domestic partnership, or civil union; or
- (7) Providing, consenting to, receiving, or facilitating gender-affirming care.

(b) A person claiming to be aggrieved by a violation of this section shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be

appropriate. An action pursuant to this subsection shall be filed in a court of competent jurisdiction within 2 years of the violation, or the discovery of the violation.

(c) For the purposes of this section, the term:

- (1) “Contraception” shall have the same meaning as provided in § 2-1401.02(4A).
- (2) “Domestic partnership” shall have the same meaning as provided in § 2-1401.02(7B).
- (3) “Gender-affirming care” shall have the same meaning as provided in § 2-1401.02(12A).
- (4) “Living arrangement” shall have the same meaning as provided in § 2-1401.02(15A).
- (5) “Person” shall have the same meaning as provided in § 2-1401.02(21).

[D.C. Code § 2-1461.01](#)