

REPRODUCTIVE HEALTH CARE ACT (S 2163, H 7340): MYTHS and FACTS



Critics of the Reproductive Health Care Act of 2018 ("RHCA") are disseminating false information about its purpose and content. They prefer that the rights guaranteed by law to Rhode Island residents remain embedded in inaccessible court opinions and obscured behind unenforceable statutes. The RHCA does not alter the current state of abortion law in Rhode Island. It neither increases nor decreases the access of Rhode Island residents to safe and legal abortion.

"PARTIAL BIRTH" ABORTION

Opponents claim: Existing prohibitions on partial birth abortion are being reversed.

The Facts: The RHCA does not, nor could it, abrogate the federal Partial-Birth Abortion Ban Act of 2003. The RI law on this topic was struck down as unconstitutional in its entirety. The U.S. Supreme Court, on the other hand, has upheld the federal law. Further, the RHCA affirmatively states its intention to not abrogate the RI statute that criminalizes the actions of any medical professional who knowingly and intentionally fails to provide reasonable medical care and treatment to an infant born alive in the course of an abortion.

PUBLIC FUNDING FOR ABORTION

Opponents claim: Public funding of abortion will now be permitted.

The Facts: RIGL § 42-12.3-3, which implements Rite Care, unequivocally states that induced abortion is not a covered benefit. The only change the RHCA makes to this provision is to bring the code into compliance with the federal Hyde Amendment. Nor is the existing restriction on state employee coverage for abortion affected. However, RHCA does remove the ban on municipality-funded plans that was found unconstitutional.

CONSENTS AND DISCLOSURES

Opponents claim: Informed consent is no longer required.

The Facts: The RHCA expressly states that existing abortion informed consent laws are not abrogated.

REGULATORY OVERSIGHT

Opponents claim: The RHCA removes all regulatory oversight of abortion providers.

The Facts: Not a single existing regulation promulgated by the Department of Health is repealed or otherwise amended by the RHCA. To avoid any doubt, the RHCA expressly affirms the Department's role in regulating abortion providers in a manner consistent with all other medical providers.

FETAL VIABILITY

Opponents claim: Physicians will be able to perform abortions after viability, even at full term.

The Facts: The RHCA does not remove, expand or otherwise impact the requirement for physicians to comply with applicable medical standards and existing case law applicable to fetal viability. *Roe* permits states to restrict abortion late in pregnancy so long as there is an exception for the pregnant person's health. RI's existing "quick child" law fails that standard. The RHCA re-codifies the health language required under *Roe*.

FETAL EXPERIMENTATION / SALE OF FETAL TISSUE

Opponents claim: RI will become "a haven for abortionists" who wish to harvest and sell fetal body parts.

The Facts: The RHCA expressly affirms the existence of and continued applicability of RIGL § 11-54-1, which, among other things, makes it a felony for a person to use fetal material for scientific, laboratory, research, or other kind of experimentation without the mother's consent.

CONCLUSION

The RHCA repeals code sections that have been declared unconstitutional by the courts and are thus unenforceable, and enacts a clear, unified and affirmative statement of prevailing RI law guaranteeing a pregnant person's constitutional right to a safe and legal abortion. The RHCA neither repeals existing limitations nor expands existing rights. Any other characterization of its purpose and effect is false.