



House Judiciary Reported Substitute for HB279

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A BILL
TO BE ENTITLED
AN ACT

Relating to contraception; to provide that individuals have the right to use contraception and that health care providers have the right to dispense contraceptive devices that have been approved by the federal Food and Drug Administration; to prohibit the state and political subdivisions from enforcing any law that would interfere with the distribution and use of contraceptives; and to further provide for a civil cause of action by the Attorney General, health care providers, and consumers to enforce this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms have the following meanings:

(1) CONTRACEPTION. Any action taken to prevent pregnancy **prior to the implantation of an embryo in the uterus which is legally marketed**, including the use of contraceptives or sterilization procedures.

(2) CONTRACEPTIVE. Any drug, device, biological product, or method that is intended for use in the prevention of pregnancy **prior to the implantation of an embryo in the uterus which** is legally marketed under the federal Food, Drug,



House Judiciary Reported Substitute for HB279

29 and Cosmetic Act, including oral contraceptives, long-acting
30 reversible contraceptives such as intrauterine devices and
31 hormonal contraceptive implants, emergency contraceptives,
32 internal and external condoms, injectables, vaginal barrier
33 methods, transdermal patches, and vaginal rings. The term does
34 not include any drug, device, biological product, or method
35 that is intended to terminate a pregnancy after the point of
36 implantation of an embryo in a uterus.

37 (3) HEALTH CARE PROVIDER. A person engaged in providing
38 health care which dispenses legally marketed contraceptives to
39 individuals. The term includes:

40 a. A physician, physician assistant, certified nurse
41 practitioner, or a pharmacist licensed pursuant to Title 34,
42 Code of Alabama 1975.

43 b. A hospital, clinic, emergency center, reproductive
44 health service, or other health care institution or service
45 licensed pursuant to Title 22, Code of Alabama 1975, or a
46 pharmacy.

47 Section 2. (a) An individual who resides in the State
48 of Alabama shall have the right to obtain contraceptives and
49 to engage in contraception. A health care provider shall have
50 the right to dispense contraceptives and provide information
51 about contraception.

52 (b) The rights provided for in subsection (a) may not
53 be infringed upon by any law, rule, or policy that expressly
54 limits, delays, or impedes access to contraceptives or
55 information about contraception.

56 Section 3. (a) The state, any department, agency, or



House Judiciary Reported Substitute for HB279

57 instrumentality of the same, or any political subdivision of
58 the state, may not implement, administer, or enforce any law,
59 rule, or policy that has the effect of any of the following:

60 (1) Prohibiting or restricting the sale, provision, or
61 use of any contraceptive that has been approved by the U.S.
62 Food and Drug Administration for contraception.

63 (2) Prohibiting or restricting any health care provider
64 from aiding an individual in obtaining or using any
65 contraceptive approved by the U.S. Food and Drug
66 Administration.

67 (3) Exempting any contraceptive approved by the U.S.
68 Food and Drug Administration from any other generally
69 applicable law in a way that would make it more difficult to
70 sell, dispense, obtain, or use the contraceptive.

71 (b) Any individual or entity that is subject to a law,
72 rule, or policy that violates this act may assert this section
73 as a defense in any action to enforce the law, rule, or policy
74 against the individual or entity.

75 Section 4. (a) The Attorney General may commence a
76 civil action in the circuit court for injunctive relief
77 against any person that implements, administers, or enforces
78 any law, rule, or policy that violates, or that has the effect
79 of violating, this act.

80 (b) (1) Any health care provider or individual adversely
81 affected by a violation of this act may commence a civil
82 action in circuit court for injunctive relief against any
83 person that implements, administers, or enforces any law,
84 rule, or policy that violates, or that has the effect of



House Judiciary Reported Substitute for HB279

85 violating, this act.

86 (2) A health care provider may commence a civil action
87 on the health care provider's behalf, or on behalf of the
88 health care provider's patients or customers who are or who
89 may be adversely affected by a violation of this act.

90 (c) (1) In any action commenced under this section, a
91 party alleged to implement, administer, or enforce a law,
92 rule, or policy in violation of this act may assert one of the
93 following defenses:

94 a. The law, rule, or policy significantly advances the
95 safety of contraceptives, contraception, or the quality of
96 information about contraceptives, or the health of users, in a
97 way that cannot be advanced by an alternative measure or
98 action that is less restrictive.

99 b. The law, rule, or policy that is being applied to a
100 contraceptive or contraception is also being applied to other
101 medically similar drugs, devices, biological products, or
102 methods.

103 (2) A defense asserted under subdivision (1) must be
104 established by clear and convincing evidence in order to bar a
105 a claim brought under this section.

106 Section 5. This act shall become effective on October
107 1, 2024.