

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

HOUSE BILL 2
RATIFIED BILL

AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 49A.

"North Carolina Health Care Protection Act.

"§ 58-49A-1. Constraints on health care freedom prohibited.

(a) A law or rule shall not do any of the following:

- (1) Compel a person to (i) provide for health care services or medical treatment for that person or (ii) contract with, or enroll in, a public or private health care system or health insurance plan.
- (2) Interfere with a person's right to pay directly for lawful health care services or medical treatment to preserve or enhance that person's life or health.
- (3) Impose a penalty, tax, fee, or fine on a person for (i) providing for, or failing to provide for, health care services or medical treatment for that person or (ii) contracting with, or enrolling in, or failing to contract with or enroll in, a public or private health care system or health insurance plan.

As used in this subsection, health care services or medical treatments do not include drug testing, drug screening, or communicable disease controls. This subsection does not apply to persons in custody of the Department of Correction or a local confinement facility or who have not completed all requirements imposed as the result of a sentence in a criminal conviction, including, but not limited to, any type of probation, parole, or post-release supervision.

(b) This section shall not be construed to expand, limit, or otherwise modify any of the following:

- (1) The common-law doctrine of necessities that a spouse is liable for the necessary expenses incurred by the other spouse, including expenses incurred by medical necessity, or any other duty a person owes to a spouse or dependent with respect to the provision of health care services or medical treatment.
- (2) Any law regarding which health care services or medical treatments are lawful within this State or who is authorized to provide health care services or medical treatments within this State.
- (3) Any right or duty of a health care agent with respect to the principal pursuant to a health care power of attorney executed in accordance with Article 3 of Chapter 32A of the General Statutes.
- (4) Any law regarding the right or duty of a parent or guardian in the determination or provision of health care services or medical treatment for a minor.
- (5) Any law regarding the screening of newborns for metabolic or other hereditary and congenital disorders, examination and testing of a child for lead poisoning under G.S. 130A-131.9, and health assessments for children entering Kindergarten in the public schools as required in G.S. 130A-440.
- (6) Any law regarding health care services or medical treatments ordered under the Workers' Compensation Act.
- (7) Any law regarding health care services or medical treatment regarding involuntary commitments for mental illness or substance abuse.



- (8) The physical and mental examination of a party ordered by a judge in a civil action pursuant to Rule 35 of the Rules of Civil Procedure, blood or genetic testing to establish paternity pursuant to G.S. 8-50.1 and G.S. 110-132.2, and the taking of DNA or any other biological evidence in accordance with Chapter 15A of the North Carolina General Statutes.
- (9) Any law requiring the provision of health insurance for employees as a condition of receiving State economic incentives.
- (10) Any law regarding the examination and testing of persons to determine possible exposure to nuclear, biological, or chemical agents caused by a terrorist incident, as provided in Article 22 of Chapter 130A of the North Carolina General Statutes.

(c) An individual aggrieved by a violation of this section has standing to bring a private right of action for the violation. In addition, the Attorney General shall have the duty and standing to bring or defend a State or federal action or proceeding on behalf of the residents of this State to enforce the provisions of this section. Any funds required by the Office of the Attorney General to fulfill the responsibilities under this subsection shall be provided by the Department of Justice from other funds appropriated to the Department and from other grants or funding that are available from other sources."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of February, 2011.

Walter H. Dalton
President of the Senate

Thom Tillis
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____ .m. this _____ day of _____, 2011