

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 23

Short Title: Protect Health Care Freedom. (Public)

Sponsors: Senators Clary, Rouzer, Pate; Allran, Apodaca, Bingham, Blake, Daniel, Davis, Goolsby, Gunn, Harrington, Hartsell, Hise, Hunt, Jackson, Meredith, Newton, Preston, Rucho, Soucek, Tillman, and Tucker.

Referred to: Judiciary II.

February 2, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH  
3 INSURANCE.

4 The General Assembly of North Carolina enacts:

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

7 "Article 49A.

8 "North Carolina Health Care Protection Act.

9 **"§ 58-49A-1. Constraints on health care freedom prohibited.**

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

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

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

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

- 27 (1) The common-law doctrine of necessities that a spouse is liable for the  
28 necessary expenses incurred by the other spouse, including expenses  
29 incurred by medical necessity, or any other duty a person owes to a spouse  
30 or dependent with respect to the provision of health care services or medical  
31 treatment.  
32 (2) Any law regarding which health care services or medical treatments are  
33 lawful within this State or who is authorized to provide health care services  
34 or medical treatments within this State.



- 1           (3)    Any right or duty of a health care agent with respect to the principal pursuant
- 2           to a health care power of attorney executed in accordance with Article 3 of
- 3           Chapter 32A of the General Statutes.
- 4           (4)    Any law regarding the right or duty of a parent or guardian in the
- 5           determination or provision of health care services or medical treatment for a
- 6           minor.
- 7           (5)    Any law regarding the screening of newborns for metabolic or other
- 8           hereditary and congenital disorders.
- 9           (6)    Any law regarding health care services or medical treatments ordered under
- 10          the Workers' Compensation Act.
- 11          (7)    Any law regarding health care services or medical treatment regarding
- 12          involuntary commitments for mental illness or substance abuse.
- 13          (8)    Any law relating to the taking of DNA or any bodily fluid upon arrest.
- 14          (9)    Any law requiring the provision of health insurance for employees as a
- 15          condition of receiving State economic incentives.
- 16          (c)    An individual aggrieved by a violation of this section has standing to bring a private
- 17          right of action for the violation. In addition, the Attorney General shall have the duty and
- 18          standing to bring or defend a State or federal action or proceeding on behalf of the residents of
- 19          this State to enforce the provisions of this section."

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