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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 343

AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE DELAWARE CONSTITUTION RELATING TO THE RIGHT TO PERSONAL REPRODUCTIVE LIBERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Article I of the Delaware Constitution by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 22. Right to Personal Reproductive Liberty.

4 An individual's right to personal reproductive autonomy is fundamental to the liberty and dignity to determine
5 one's own life course and may not be directly or indirectly denied, burdened, or abridged unless justified by a compelling
6 State interest achieved by the least restrictive means.

SYNOPSIS

This Act is the first leg of an amendment to the Delaware Constitution to ensure that every Delawarean is afforded personal reproductive liberty. The Delaware Constitution is our founding legal document stating the overarching values of our society. This amendment is in keeping with the values espoused by the current Delaware Constitution. The Preamble to the Delaware Constitution states:

Through Divine goodness, all people have by nature the rights of worshiping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of obtaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness; and they may for this end, as circumstances require, from time to time, alter their Constitution of government.

Section 21 of Article 1 of the Delaware Constitution provides that, "Equality of rights under the law shall not be denied or abridged on account of race, color, national origin, or sex." The core value reflected in the Preamble and § 21 is that all people should be afforded all the benefits and protections bestowed by the government, and that the government should not confer special advantages on the privileged.

The right to reproductive liberty is fundamental to the exercise of personal autonomy and involves decisions people should be able to make free from compulsion of the State. Enshrining this right in the Constitution is critical to ensuring equal protection and treatment under the law and upholding the right of all people to health, dignity, independence, and freedom. This Act would ensure that government does not create or perpetuate the legal, social, or economic inferiority of any class of people.

This Act requires greater than a majority vote for passage because § 1 of Article XVI of the Delaware Constitution requires an affirmative vote of 2/3 of the members elected to each house of the General Assembly to amend the Delaware

Constitution. Amending Delaware’s Constitution requires 2 pieces of legislation, referred to as “legs,” which are enacted in successive General Assemblies. This Act is the first leg of this amendment to the Delaware Constitution.

Author: Senator Gay