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DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 5

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

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 reproductive freedom.
- 4 (a) Every individual has a fundamental right to reproductive freedom, which entails the right to make and
5 effectuate decisions about all matters relating to that individual’s pregnancy, including prenatal care, childbirth, postpartum
6 care, contraception, sterilization, abortion care, miscarriage management, and infertility care.
- 7 (b) An individual’s right to reproductive freedom shall not be denied, burdened, nor infringed upon.
- 8 (c) This State may regulate the provision of abortion care after fetal viability, provided that in no circumstance
9 shall this State prohibit an abortion that, in the good-faith medical judgment of a treating attending health care professional,
10 is medically indicated to protect the life or physical or mental health of the pregnant individual.

SYNOPSIS

Like Senate Bill No. 5, this Act is the first leg of an amendment to the Delaware Constitution to ensure that every Delawarean is afforded reproductive freedom.

This Act differs from Senate Bill No. 5 by making the following clarifications:

- (1) That an individual has a fundamental right to reproductive freedom relating to that individual’s pregnancy.
- (2) That the standard of medical judgment is a “good-faith medical judgment” rather than a “professional judgment”.
- (3) That the health care professional making the good-faith medical judgment is the “treating attending health care professional” rather than the “attending health care professional”.

Amending the Delaware Constitution requires not only the passing of the changes in this Act, but also passage of the same changes after the next general election by the next General Assembly.

This Act requires a greater than majority vote for passage because § 1 of Article XVI of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend the Delaware Constitution.

Author: Senator Townsend