

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 385 Session of 2017

INTRODUCED BY FARNESE, SCHWANK, TARTAGLIONE, HAYWOOD, HUGHES,
STREET AND WILLIAMS, FEBRUARY 16, 2017

REFERRED TO JUDICIARY, FEBRUARY 16, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in assault, providing for the offense of hindering
4 access to clinic entrances; and, in particular rights and
5 immunities, providing for freedom of access to clinic
6 entrances.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 18 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 2719. Hindering access to clinic entrances.

12 (a) Offense defined.--A person commits an offense if:

13 (1) by force or threat of force or by physical
14 obstruction, the person intentionally injures, intimidates or
15 interferes with or attempts to injure, intimidate or
16 interfere with another person:

17 (i) because the other person was or is obtaining or
18 providing reproductive health services; or

19 (ii) in order to discourage the other person from
20 obtaining or providing reproductive health services; or

1 (2) the person intentionally, negligently or recklessly
2 damages or destroys the property of a clinic or attempts to
3 do so because the clinic provides reproductive health
4 services.

5 (b) Penalties.--

6 (1) Except as otherwise provided in paragraph (2), an
7 offense under subsection (a) shall be:

8 (i) A misdemeanor of the second degree for a first
9 offense, punishable by a term of imprisonment not to
10 exceed two years and a fine of not more than \$10,000.

11 (ii) A misdemeanor of the first degree for a second
12 or subsequent offense, punishable by a term of
13 imprisonment not to exceed five years and a fine of not
14 more than \$50,000.

15 (2) An offense under subsection (a) that results in:

16 (i) Bodily injury constitutes a felony of the third
17 degree.

18 (ii) Serious bodily injury constitutes a felony of
19 the first degree.

20 (iii) The death of a person constitutes a felony of
21 the first degree, punishable by a term of imprisonment,
22 the maximum of which shall be life imprisonment.

23 (c) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Abortion facility." As defined in section 802.1 of the act
27 of July 19, 1979 (P.L.130, No.48), known as the Health Care
28 Facilities Act.

29 "Ambulatory surgical facility." As defined in section 802.1
30 of the act of July 19, 1979 (P.L.130, No.48), known as the

1 Health Care Facilities Act.

2 "Clinic." A hospital, physician's office or facility that
3 provides reproductive health services, including the building or
4 structure in which the hospital, physician's office or facility
5 is located, and the grounds, driveways and any parking
6 facilities in which the hospital, physician's office or facility
7 has an ownership or leasehold interest.

8 "Facility." An abortion facility or ambulatory surgical
9 facility.

10 "Hospital." As defined in section 802.1 of the act of July
11 19, 1979 (P.L.130, No.48), known as the Health Care Facilities
12 Act.

13 "Interfere with." To impede, obstruct or restrict a person's
14 freedom of movement.

15 "Intimidate." To intentionally, recklessly, knowingly or
16 negligently place a person in reasonable apprehension of
17 unwanted contact or bodily injury to himself or to another
18 person by force or threat of force.

19 "Physical obstruction." Rendering impassable ingress to or
20 egress from a clinic or rendering passage to or from such a
21 facility unreasonably difficult or hazardous.

22 "Physician." As defined in section 2 of the act of December
23 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of
24 1985.

25 "Reproductive health services." Medical, surgical,
26 counseling or referral services related to the human
27 reproductive system, including services related to pregnancy or
28 the termination of a pregnancy.

29 Section 2. Title 42 is amended by adding a section to read:
30 § 8309.1. Freedom of access to clinic entrances.

1 (a) General rule.--A person aggrieved by another person who
2 commits an offense under 18 Pa.C.S. § 2719 (relating to
3 hindering access to clinic entrances) may bring a civil action
4 in a court of competent jurisdiction against the other person
5 for declaratory and injunctive relief and damages, including
6 temporary, preliminary or permanent injunctive relief and
7 compensatory and punitive damages related to the offense, and
8 may recover costs, reasonable attorney fees and expert witness
9 fees.

10 (b) Election of statutory damages.--In lieu of compensatory
11 damages under subsection (a), the person bringing the civil
12 action may elect, any time prior to final judgment, to recover
13 statutory damages in the amount of \$10,000 per violation from
14 each person who committed the offense under 18 Pa.C.S. § 2719.

15 Section 3. This amendatory act shall be known and may be
16 cited as the Pennsylvania Freedom of Access to Clinic Entrances
17 Act.

18 Section 4. This act shall take effect in 60 days.