May 6, 2022

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, along with my colleagues Chairman Phil Mendelson, Anita Bonds, Charles Allen, Vincent Gray, Christina Henderson, Janeese Lewis George, Elissa Silverman, Robert White, and Kenyan McDuffie, I am introducing the Human Rights Sanctuary Amendment Act of 2022.

Four days ago, Politico circulated a draft opinion in Dobbs v. Jackson Women’s Health Organization suggesting that the Supreme Court will eliminate the constitutional right to abortion later this year. At that time, I promised District residents that I would take legislative action to defend the rights protected by Roe v. Wade.

It is clear from the draft opinion, however, than even more than the right to abortion is at stake. Under Samuel Alito’s regressive, political, results-driven reading of the Constitution, all substantive due process and equal protection rights, such as the rights to marriage, non-procreative sexual conduct, and the use of contraception are under threat.

In response, and in defense of human rights in the District, this proposed legislation would prevent the District from cooperating with investigations in furtherance of proceedings that seek to impose civil or criminal liability for the protected conduct identified in the statute. It also creates a private right of action against parties who successfully bring Texas-style bounty lawsuits against others for engaging in protected conduct.

The bill is modeled, in part, on Connecticut’s recently passed Reproductive Freedom Defense Act. It protects the rights of District residents to live with whom they please, love whom they love, and control their reproductive destinies. It makes the District a safe haven for trans youth who need gender-affirming care, LGBTQ+ individuals who need to preserve their families, and all people who need reproductive freedom to flourish as meaningful participants in American life.

While I am hurt and horrified by the assault on human rights perpetrated by the Supreme Court, I am resolved to do all that I can to protect women and other District residents whose liberties are endangered.

Sincerely,

Brianne K. Nadeau
Councilmember, Ward 1
Chairperson, Committee on Human Services
A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to prevent the District from supporting interstate investigations or proceedings with the potential to infringe upon the exercise of reproductive freedom and to create a private right of action against parties engaged in conduct that infringes on reproductive freedom.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Human Rights Sanctuary Amendment Act of 2022”.

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 et seq.), is amended as follows:

(a) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:
(1) A new paragraph (4A) is added to read as follows:

“(4A) “Contraception” means any device, medication, or practice designed or employed to prevent pregnancy, including levonorgestrel and other forms of emergency treatment, the use of which would be lawful in the District.”.

(2) Paragraph (12A-i) is redesignated as paragraph (12A-ii).

(3) A new paragraph (12A-i) is added to read as follows:

“(12A-i) “Gender-affirming care” means any form of surgical or other medical care that is lawful in the District designed or employed to affirm a person’s gender identity, including hormone therapy, behavioral healthcare, reproductive counseling, facial reconstruction surgery, and gender affirmation surgery.”.

(4) A new paragraph (15A) is added to read as follows:

“(15A) “Living arrangement” means the cohabitation of any number of related or unrelated persons in the same household.”.

(b) Section 105a(c) (D.C. Official Code § 2.1401.06(c)) is amended as follows:

(1) A new paragraph (4) is added to read as follows:

“(4) Provided that any such investigation or proceeding does not implicate conduct subject to civil or criminal liability in the District, provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability upon a person or entity for:

“(A) Receiving or seeking an abortion or contraception;

“(B) Performing or inducing an abortion;
“(C) Engaging in conduct that aids, abets, or advises the performance or inducement of an abortion or the use of contraception;

“(D) Engaging in sexual conduct that is lawful in the District;

“(E) Providing contraception to another person or entity;

“(F) Using contraception;

“(G) Entering into or remaining in a living arrangement, marriage, domestic partnership, or civil union that is lawful in the District;

“(H) Providing, consenting to, receiving, or facilitating gender-affirming care; or

“(I) Attempting or intending to engage in the conduct described in sub-paragraphs (A)-(H) of this paragraph.”.

(c) A new section 105b is added to read as follows:

“Sec. 105b. Private right of action for interference in reproductive health decisions.

“(a) When any person has had a judgment entered against such person, in any jurisdiction, where liability, in whole or in part, is based on the alleged provision, receipt, assistance in receipt or provision, material support for, or any theory of vicarious, joint, several or conspiracy liability derived therefrom, for the receipt, provision, or facilitation of an abortion, use of contraception, gender-affirming care, living arrangement, or sexual conduct that is lawful in the District, such person may recover damages from any party that brought the action leading to that judgment or that has sought to enforce that judgment. Recoverable damages shall include:

“(1) Just damages created by the action that led to that judgment, including, but not limited to, money damages in the amount of the judgment in that other
jurisdiction and costs, expenses, and reasonable attorney’s fees spent in defending the action that resulted in the entry of a judgment in another jurisdiction; and

“(2) Costs, expenses and reasonable attorney’s fees incurred in bringing an action under this section, as may be allowed by the court.

“(b) The provisions of this section shall not apply to a judgment entered in another jurisdiction that is based on:

“(1) An action founded in tort, contract or statute, and for which a similar claim would exist under the laws of the District, brought by the person who engaged in the conduct upon which the original lawsuit was based or the patient’s authorized legal representative, for damages suffered by that person or damages derived from an individual’s loss of consortium of that person;

“(2) An action founded in contract, and for which a similar claim would exist under the laws of the District, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the judgment entered in another state; or

“(3) An action where no part of the acts that formed the basis for liability occurred in the District.”.

Sec. 3. Fiscal impact statement.


Sec. 4. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the
Mayor, action by the Council to override the veto), a 30-day period of congressional review as
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
Columbia Register.