

NO. 39-23-OR

ORDINANCE

An Ordinance amending and supplementing the Allegheny County Code of Ordinances, Division 5, entitled "Health and Sanitation," through the creation of a new Chapter 560, entitled "Right of Choice."

WHEREAS, while it is the judgment of Council that the practice of abortion constitutes health care, Council also fully recognizes that decisions regarding whether to pursue this avenue are extremely difficult, and involve a multitude of factors – including quality of life, financial considerations, potential stigma within a family, workplace, or community, matters of individual conviction, and religious faith - that the individual patient must weigh; and

WHEREAS, it is the judgment of Council that it is neither appropriate nor welladvised for units of government presided over by transient groups of elected officials to attempt to interpose their own belief system(s) between any individual and their health care provider(s) in making the difficult decisions regarding such procedures; and

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The preamble to this Ordinance is hereby incorporated in its entirety herein.

SECTION 2. Amendment of the Code.

The Allegheny County Code of Ordinances, Division 5, entitled "Health and Sanitation," is hereby amended and supplemented through the creation of a new Chapter 560, entitled "Right of Choice," and comprised as follows:

Chapter 560
Right of Choice

§560-1. Findings of fact and construction.

- A. It is the intention of the Council of Allegheny County to hereby establish a policy of non-interference with the life and health of women choosing to undergo abortion procedures, consistent with applicable Commonwealth law. To this end, it is also the intention of Council to restrict its own ability to enact any laws on this subject, even in the event that such enactments become permissible for Counties of the Second Class. It is the further intention of the Council to protect the right of adult and minor women voluntarily to decide to submit to abortion or to carry her child to term. The Council specifically finds as fact that the rights and interests intended to be furthered by this chapter are not secure after the United States Supreme Court's decision in *Dobbs v. Jackson Women's Health*, No. 19-1392, 597 U.S. ___ (2022).
- B. Reliable and convincing evidence has compelled the Council to conclude and the Council does hereby solemnly declare and find that:
1. Many women now seek abortions within an environment of institutionalized hostility to the practice.
 2. In many cases, safely conducted abortions are necessary to protect the life or health of the mother.
 3. In cases of incest or rape, any attempt to force a woman to carry a resulting child to term and through delivery can result in irreparable psychological damage.
 4. Nearly all abortions take place in the first trimester when a fetus is attached by the placenta and umbilical cord to the mother, and as a result, its health is dependent on the mother's health, and cannot be regarded as a separate entity as it cannot exist outside her womb.
 5. Abortion is a safe medical procedure. The vast majority of women who have an abortion do so in their first trimester. Medical abortions have a very low risk of serious complications and do not affect a woman's health or future ability to become pregnant or give birth. "CDCs Abortion Surveillance System FAQs." Centers for Disease Control and Prevention, 25 Nov. 2019 and Bixby Center for Reproductive Health. "Complications of Surgical Abortion : Clinical Obstetrics and Gynecology." LWW.

6. As noted in a 2021 briefing by Dr. Sarah Prager, a professor of obstetrics and gynecology at the University of Washington in Seattle, the death rate for legal abortions is 0.7 deaths for every 100,000 abortions, while there are 2 deaths for every 100,000 plastic surgeries while childbirth has 9 deaths for every 100,000 deliveries.
7. Teenaged women who become mothers face disproportionately deleterious future impacts; they are much more likely to leave school, receive inadequate prenatal care, or develop mental health problems. "Working With Pregnant & Parenting Teens Tip Sheet." U.S. Department of Health and Human Services.
8. The American Psychological Association has found that there is no evidence of post-abortion syndrome. Major, Brenda, et al. "Abortion and Mental Health: Evaluating the Evidence." American Psychological Association.
9. As determined by the Committee on the Elimination of Discrimination Against Women of the United Nations considers the criminalization of abortion constitutes a violation of the sexual and reproductive health rights of women and a form of gender-based violence. "General Recommendation No. 35 on Gender-Based Violence Against Women."
10. As found in a landmark longitudinal study by the Advancing New Standards in Reproductive Health program of the University of California in San Francisco called the "Turnaway Study" examined the effects of unwanted pregnancy in the lives of women by a multidisciplinary team of researchers over the course of 10 years, and found that women who were denied access to abortion and went on to give birth experienced an increase in household poverty that lasted at least four years relative to those who received an abortion. The study further found that most of these women did not have enough money to cover basic living expenses such as food, housing, and transportation. The study also found out that being denied an abortion lowered the credit score of a woman, increased the amount of her debt, and increased the number of her negative public financial records leading to bankruptcies and evictions, and also found that children born as a result of abortion denial were likely to live below the federal poverty level, while existing children of women who sought an abortion but went on to give birth had poor development.
11. The United States already has the highest maternal mortality rate among developed countries, and the rate increased significantly in 2020. According to a 2021 study, maternal mortality would increase under a hypothetical national abortion ban, and existing disparities would be reinforced: the study found that black mothers, who already experience disproportionately high maternal mortality rates, would experience a 33

percent increase in deaths in subsequent years after a ban was enacted. Stevenson, "The Pregnancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant," Duke University Press, December 1, 2021.

12. The ripple effects of abortion bans also extend to how medical emergencies may be treated, as such bans could complicate care for the 26 percent of pregnancies that end in miscarriages, already an emotionally and physically traumatic experience for the mother. A physician, faced with uncertainty as to whether they're legally allowed to offer certain forms of care, may be hesitant to treat a person who suffers an incomplete miscarriage, for example, due to concerns that they could be held criminally liable for extracting remaining fetal tissue. Segers, "Abortion Bans Could Have a Dire Impact on All Reproductive Health Treatments," June 28, 2022.
13. Abortion bans will likely also affect how physicians are trained. As noted by Rebecca Reingold, associate director for the O'Neill Institute for National and Global Health Law at Georgetown University: "An important predictor of a physician's ability to provide a full range of miscarriage management options is having had abortion care training as a resident. We're going to see fewer providers receiving the training they need to provide these types of health services. And a shrinking workforce, not only for abortion services but also for the treatment of miscarriages, will have far reaching consequences for maternal health." *Id.*

C. In every relevant civil or criminal proceeding in which it is possible to do so without violating the Federal or Commonwealth Constitutions, the common and statutory law of Allegheny County shall be construed to further the public policy of this County preserving the right of a woman to exercise her own judgment in determining whether to proceed with a safe abortion undertaken by qualified medical staff.

§560-2. Effective date.

The provisions of this Ordinance shall become effective upon the earlier of:

- A. The effective date of any Federal or Commonwealth statute or regulation granting authority to regulate abortion to Allegheny County, Counties of the Second Class, counties generally, or home rule municipalities within the Commonwealth of Pennsylvania; or

- B. The date of issuance of any Federal or Commonwealth court decision granting authority to regulate abortion to Allegheny County, Counties of the Second Class, counties generally, or home rule municipalities within the Commonwealth of Pennsylvania.

§560-3. Antiretaliation and freedom from coercion policy.

It is the public policy of the County of Allegheny to respect and protect the right of conscience of all persons who obtain, receive, subsidize, accept or provide safe abortions, including those persons who are engaged in the delivery of medical services and medical care whether acting individually, corporately or in association with other persons; and to discourage all forms of discrimination, disqualification, coercion, disability or imposition of liability or financial burden upon such persons or entities by reason of their decision to obtain, receive, subsidize, accept or provide abortions in a fashion consistent with applicable Commonwealth law at the time of this ordinance's enactment.

§560-4. Future legislative enactments.

- A. An individual's right to personal reproductive autonomy, including the rights to seek or refuse to seek an abortion and/or contraceptives, is central to the liberty and dignity to determine one's own life course, and shall not be denied or infringed upon by Allegheny County Council via legislative enactment.
- B. Any ordinance repealing, amending, supplementing, or in any other fashion altering the provisions of this Chapter shall be enacted only upon the affirmative vote of at least two thirds (2/3) of the seated members of Allegheny County Council.

SECTION 2. Enactment Date and Codification.

This Ordinance shall be deemed enacted upon the date of final approval, and shall be subject to codification thereafter. Once enacted, the provisions of this Ordinance shall become effective as provided for in §560-1.

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

PRIMARY SPONSOR: COUNCIL MEMBER DUERR


CO-SPONSORS:

Enacted in Council, this 18th day of December, 2023,

Council Agenda No. 12741-23



President of Council

Attest: 

Jared E. Barker, Chief Clerk
Allegheny County Council

Chief Executive Office December 21st, 2023

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

~~Sonya Dietz~~ Jennifer M. Liphik
Executive's Secretary County Manager