

An ordinance whereby the City Council establishes the Hyattsville Bodily Autonomy Act which establishes that the City of Hyattsville does not intervene in matters brought by local, state and federal authorities against women and pregnant people receiving reproductive health care services, medical providers of women's and pregnant persons' reproductive health care services and any other individual who is providing financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care.

WHEREAS, the government of the United States of America has the exclusive authority to enact laws with respect to women's and pregnant persons' reproductive health care actions and those who provide women's and pregnant persons' reproductive health care services in the United States and any other individuals who are providing financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care; and

WHEREAS, the government of the United States of America has the exclusive authority to enact laws with respect to gender affirming care actions and those who provide gender affirming health care services in the United States and any other individuals who are providing financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care; and

WHEREAS, the government of the United States of America has put in place a robust statutory and regulatory scheme regarding abortion and gender affirming care; and

WHEREAS, the City of Hyattsville has the authority to enact laws which are not preempted by or in conflict with federal law or State law provided such authority has been granted to it by the state; and

WHEREAS, Maryland Annotated Code, Local Government Article, Section 5-202 grants to municipal corporations of the State of Maryland, including the City of Hyattsville, the power to preserve peace and good order and protect the health, comfort, and convenience of their residents and to enact laws regarding same; and

WHEREAS, it is the sense of the Mayor and Council that it is not a proper utilization of the City of Hyattsville's resources to enforce laws that restrict women's and pregnant persons' access to reproductive health care and people's access to gender affirming care and the ability of health care providers to provide women's and pregnant persons' reproductive health care services and gender affirming health care services and the ability of any other individuals to provide financial, logistical or any other type of material support to anyone seeking women's and pregnant persons reproductive health care services or gender affirming care; and

WHEREAS, Abortion and other women's reproductive services are legal under Maryland Annotated Code, Health-General, § 20-209; and

WHEREAS Maryland Code Regulations Section 10.67.06.26-3 states that an MCO shall provide medically necessary gender reassignment surgery and other somatic specialty care; and

WHEREAS, it is the sense of the Mayor and Council that the Hyattsville community is strengthened by the City providing benefits, services, and opportunities to individuals regardless of whether they have received or provided or materially assisted to help an individual obtain abortion services or gender affirming services and other women's and pregnant persons' reproductive health care and gender affirming health care services; and

WHEREAS, it is the Mayor and Council's intent to maintain trust between members of the community and the City while ensuring public safety goals are met.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Hyattsville in regular session assembled that Chapter _____ of the City of Hyattsville Code is enacted as follows:

DRAFT April 16, 2023

§ ____ Non-Intervention with Respect to Women's and Pregnant Persons' Health Care Procedures and Gender Affirming Care.

A. No official or employee may inquire, unless necessary in the official duties or an investigation by Hyattsville Police Department employee(s) **outside of the scope of protection offered** in this legislation to those seeking and receiving and providing abortions or gender affirming care, including abortions and/or gender affirming care for their family member(s), into whether someone has received or seeks to receive or has been provided an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services or provided financial, logistical or any other type of material support to anyone seeking women's reproductive health care services or gender affirming care.

B. If an official or employee learns of an individual's receipt or provisioning of an abortion or other women's reproductive health care services or gender affirming care or other gender affirming health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care, the official or employee may not act based solely on the individual's receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care.

C. No official or employee may utilize or allow to be utilized City resources to support local, state or federal criminal or civil enforcement operations or activities directed against an individual's receipt or provisioning of an abortion or other women's and pregnant persons'

reproductive health care services or gender affirming care or other gender affirming health care services or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons reproductive health care services or gender affirming care.

§ ____ Law Enforcement and Abortion.

A. No official or employee may detain or arrest an individual based solely on known or suspicions of an individual's receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's reproductive health care services or gender affirming care.

B. No official or employee may utilize any individual's receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services status, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care as an interrogation tool or tactic. Nothing herein shall be construed as barring an official or employee from providing information about abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services to that same individual.

C. No official or employee may enter into an agreement under any local, state or federal law that permits state or local governmental entities to enforce laws criminalizing the receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care.

D. No provision in this Chapter shall be construed as prohibiting the City of Hyattsville Police Department from:

1. Investigating, detaining, or arresting violators of the criminal law; or
2. Assisting any law enforcement agency with investigations or arrests relating to criminal activity and suspected criminal activity other than violations of receipt and provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services laws, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care laws of the United States of America.

§ ____ City Benefits.

A. No official or employee shall condition the provision of City benefits, opportunities, or services on a person's receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services status, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care status unless required to do so by federal law, state law, this Code, or court order.

B. The City of Hyattsville shall not retain information related to an individual's receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care status, including abortions and/or gender affirming care for their family member(s). The City Administrator shall promptly conduct a review of all applications, questionnaires, and interview forms utilized for the provision of City benefits, opportunities, or services. Any information sought regarding receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's reproductive health care services or gender affirming care status, other than those required by federal law, state law, this Code, or court order, shall be removed.

§ ____ Discrimination and Unconstitutional Registries Prohibited.

A. No official or employee shall discriminate against any person on the basis of receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services or gender affirming care or other gender affirming health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care.

§ ____ Reporting Requirements.

The City Administrator shall report to the Mayor and Council the number of requests received by the City from local, state and federal governments, including law enforcement bodies funded and overseen by local, state and federal governments regarding any matter covered by this ordinance. The report shall be made every six months and include the nature of the request or requests and the nature of any response. The City Administrator shall respond to a request by the Mayor or a Councilmember regarding a specific incident covered by this ordinance within two business days of the request.

§ _____ Preemption or Conflicts.

A. No provision of this Chapter shall apply whenever the provision conflicts with federal law, state law, this Code, or court order.

B. This Chapter does not prohibit disclosure of information regarding local, state and federal governments status if the disclosure is:

1. Required or authorized by federal law, state law, this Code, or court order; or
2. Authorized in writing by the subject of the information.

B. No official or employee shall participate in any federal registration program that requires registration of individuals on the basis of age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity, physical characteristic, citizenship, nationality, or receipt or provisioning of an abortion or other women's and pregnant persons' reproductive health care services, including abortions and/or gender affirming care for their family member(s), or provisioning of financial, logistical or any other type of material support to anyone seeking women's and pregnant persons' reproductive health care services or gender affirming care status. If any official or employee becomes aware of any requirement that the City participate in any such program, the official or employee shall notify the City Administrator immediately. The City Administrator shall inform the Mayor and Council of the requirement and direct that the City Attorney review the requirement and advise the Mayor and Council as to the legality of the requirement.

C. Nothing herein shall be construed as applying to the City of Hyattsville's requirements for eligibility for employment and/or employee benefits.

§ _____ Construction.

The provisions of this Chapter shall be construed so as to be effective to the extent that they do not conflict with federal law, state law, this Code, or any Court order.

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable;

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect 20 days from the date of its adoption;

AND BE IT FURTHER ORDAINED that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the City and otherwise be made available to the public.

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