

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1078

AN ACT

AMENDING TITLE 20, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-184; AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 23; RELATING TO THE INTERSTATE HEALTH CARE FREEDOM COMPACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 1, article 3, Arizona Revised Statutes,
3 is amended by adding section 20-184, to read:

4 20-184. Compulsory participation in health care system or
5 purchase of health insurance: violation:
6 classification: exemption: definitions

7 A. THE FOLLOWING ACTS VIOLATE CIVIL RIGHTS PROTECTED BY ARTICLE XXVII,
8 SECTION 2, CONSTITUTION OF ARIZONA:

9 1. A KNOWING ATTEMPT BY ANY GOVERNMENTAL OFFICIAL TO DIRECTLY OR
10 INDIRECTLY COMPEL PERSONS, EMPLOYERS OR HEALTH CARE PROVIDERS TO PARTICIPATE
11 IN ANY HEALTH CARE SYSTEM AGAINST THEIR WILL.

12 2. A KNOWING ATTEMPT, BY THREAT OR IMPOSITION OF PENALTIES OR FINES,
13 BY ANY GOVERNMENT OFFICIAL TO PREVENT:

14 (a) ANY PERSON OR EMPLOYER FROM PAYING DIRECTLY FOR LAWFUL HEALTH CARE
15 SERVICES.

16 (b) ANY PERSON FROM ACCEPTING DIRECT PAYMENT FOR LAWFUL HEALTH CARE
17 SERVICES.

18 3. A KNOWING ATTEMPT BY ANY GOVERNMENT OFFICIAL TO ENFORCE
19 PROHIBITIONS ON THE PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE HEALTH
20 CARE SYSTEMS THAT IS OTHERWISE AUTHORIZED BY THE LAWS OF THIS STATE.

21 B. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

22 C. THIS SECTION DOES NOT APPLY TO ACTIONS TAKEN PURSUANT TO THE LAWS
23 OR RULES IMPLEMENTED FOR THE PURPOSES OF ADMINISTERING PROGRAMS IN ACCORDANCE
24 WITH TITLE 36, CHAPTER 29.

25 D. FOR THE PURPOSES OF THIS SECTION:

26 1. "COMPEL" INCLUDES THREATENING THE IMPOSITION OF PENALTIES OR FINES.

27 2. "DIRECT PAYMENT" OR "PAYING DIRECTLY" MEANS PAYMENT FOR LAWFUL
28 HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, OTHER THAN AN
29 EMPLOYER, PAYING FOR ANY PART OF THE SERVICE.

30 3. "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY WHOSE
31 FUNCTION OR PURPOSE IS TO MANAGE, PROCESS, ENROLL IN OR PAY FOR ALL OR PART
32 OF HEALTH CARE SERVICES OR HEALTH CARE DATA OR HEALTH CARE INFORMATION FOR
33 ITS PARTICIPANTS.

34 4. "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED SERVICE OR
35 TREATMENT TO THE EXTENT THAT THE SERVICE OR TREATMENT IS PERMITTED OR NOT
36 PROHIBITED BY LAW OR RULE THAT MAY BE PROVIDED BY PERSONS OR BUSINESSES
37 OTHERWISE PERMITTED TO OFFER THE SERVICE OR TREATMENT.

38 5. "PENALTIES" OR "FINES" MEANS ANY CIVIL OR CRIMINAL PENALTY OR FINE,
39 TAX, SALARY OR WAGE WITHHOLDING OR SURCHARGE OR ANY NAMED FEE WITH A SIMILAR
40 EFFECT ESTABLISHED BY LAW OR RULE BY A GOVERNMENT ESTABLISHED, CREATED OR
41 CONTROLLED AGENCY THAT IS USED TO PUNISH OR DISCOURAGE THE EXERCISE OF RIGHTS
42 PROTECTED UNDER THIS SECTION.

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ARTICLE IV
ENFORCEMENT

NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY:

1. THE CHIEF LAW ENFORCEMENT OFFICER OF EACH PARTY STATE SHALL ENFORCE THIS AGREEMENT AND COMPACT.
2. A TAXPAYING RESIDENT OF ANY PARTY STATE HAS STANDING IN THE COURTS OF ANY PARTY STATE TO REQUIRE THE CHIEF LAW ENFORCEMENT OFFICER OF ANY PARTY STATE TO ENFORCE THIS AGREEMENT AND COMPACT.

ARTICLE V

COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

- A. THE GOVERNOR OF EACH PARTY STATE OR THE GOVERNOR'S DESIGNEE IS THE COMPACT ADMINISTRATOR. THE COMPACT ADMINISTRATOR SHALL:
 1. MAINTAIN AN ACCURATE LIST OF ALL PARTY STATES.
 2. CONSISTENT WITH SUBSECTIONS C AND D, TRANSMIT IN A TIMELY FASHION TO OTHER PARTY STATES CITATIONS OF ALL CURRENT HEALTH CARE FREEDOM LAWS AND CURRENT HEALTH CARE FREEDOM CRIMINAL LAWS OF THE COMPACT ADMINISTRATOR'S RESPECTIVE STATE.
 3. RECEIVE AND MAINTAIN A COMPLETE LIST OF THE HEALTH CARE FREEDOM LAWS AND HEALTH CARE FREEDOM CRIMINAL LAWS OF EACH PARTY STATE.
 4. FORMULATE ALL NECESSARY AND PROPER PROCEDURES TO EFFECTUATE THIS COMPACT.
 5. DELEGATE NEEDED TASKS TO OTHER STATE AGENCIES.
- B. THE COMPACT ADMINISTRATOR OF EACH PARTY STATE SHALL FURNISH TO THE COMPACT ADMINISTRATOR OF EACH PARTY STATE ANY INFORMATION OR DOCUMENTS THAT ARE REASONABLY NECESSARY TO FACILITATE THE ADMINISTRATION OF THIS COMPACT.
- C. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM LAWS, WHICH SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND COMPACT UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES SPECIFIC NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF SUCH NOTICE THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS AGREEMENT AND COMPACT.
- D. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM CRIMINAL LAWS, WHICH SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND COMPACT UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES SPECIFIC NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF SUCH NOTICE THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS AGREEMENT AND COMPACT.

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ARTICLE VI

ENTRY INTO EFFECT AND WITHDRAWAL

A. THIS COMPACT IS EFFECTIVE AND BINDING ON ANY STATE THAT ENACTS APPROPRIATE LEGISLATION, AS DETERMINED BY THE LAWS OF THE RESPECTIVE STATE, AGREEING TO BE BOUND BY IT, IF:

1. AT LEAST ONE OTHER STATE HAS LIKewise ENACTED AND IS GOVERNED BY LEGISLATION AGREEING TO BE BOUND BY THIS COMPACT.

2. NOTICE OF SUCH LEGISLATION IS OR HAS BEEN TIMELY RECEIVED BY THE GOVERNOR OF EACH STATE BOUND OR TO BE BOUND BY THIS COMPACT.

B. LEGISLATION WHEREBY A STATE AGREES TO BE BOUND TO THIS COMPACT SHALL BE DEEMED REPEALED AND HELD FOR NAUGHT IF, WITHIN FOUR YEARS AFTER ENACTMENT, NO OTHER STATE HAS LIKewise ENACTED OR IS GOVERNED BY LEGISLATION AGREEING TO BE BOUND BY THIS COMPACT.

C. FOUR YEARS AFTER THIS COMPACT FIRST BECOMES EFFECTIVE, ANY PARTY STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A JOINT RESOLUTION DECLARING SUCH WITHDRAWAL AND DELIVERING NOTICE OF THE WITHDRAWAL TO EACH OTHER PARTY STATE. A WITHDRAWAL DOES NOT AFFECT THE VALIDITY OR APPLICABILITY OF THE COMPACT TO STATES REMAINING PARTY TO THE COMPACT.

ARTICLE VII

CONSTRUCTION AND SEVERABILITY

A. THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE ITS PURPOSES.

B. THIS COMPACT IS NOT INTENDED TO:

1. AFFECT WHICH HEALTH CARE SERVICES A HEALTH CARE PROVIDER OR HOSPITAL IS REQUIRED TO PERFORM OR PROVIDE UNDER STATE OR FEDERAL LAW.

2. AFFECT WHICH HEALTH CARE SERVICES ARE PERMITTED BY STATE OR FEDERAL LAW.

C. THIS COMPACT IS INTENDED TO OPERATE AS THE LAW OF THE NATION WITH RESPECT TO THE PARTY STATES UNDER 4 UNITED STATES CODE SECTION 112, TO SUPERSEDE ANY INCONSISTENT STATE AND FEDERAL LAW AND TO ESTABLISH VESTED RIGHTS IN FAVOR OF RESIDENTS OF THE PARTY STATES IN THE ENJOYMENT OF THE RIGHTS AND FREEDOMS PROTECTED BY THEIR RESPECTIVE HEALTH CARE FREEDOM CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE HEALTH CARE FREEDOM LAWS.

D. IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO BE CONTRARY TO THE CONSTITUTION OF THE UNITED STATES OR IS OTHERWISE HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT SHALL NOT BE AFFECTED.

E. IF THE APPLICABILITY OF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS DECLARED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO BE CONTRARY TO THE CONSTITUTION OF THE UNITED STATES OR IS OTHERWISE HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY OF THE REMAINDER OF THIS COMPACT TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED.

1 F. IF THIS COMPACT IS HELD TO BE CONTRARY TO THE CONSTITUTION OF ANY
2 PARTY STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE
3 REMAINING PARTY STATES AND IN FULL FORCE AND EFFECT AS TO THE AFFECTED PARTY
4 STATE AS TO ALL SEVERABLE MATTERS.

5 Sec. 3. Rule of construction and severance clause

6 If any portion of this act is held to be unlawful or unconstitutional
7 under any present or future law or court decision, then that provision will
8 be fully severable. This act shall then be construed and enforced as if the
9 unlawful or unconstitutional provision had never comprised a part of it and
10 the remaining provisions of this act will remain in full force and effect and
11 will not be affected by an such unlawful or unconstitutional provision or by
12 its severance from this act.