

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1088

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 22; RELATING TO MANDATED HEALTH COVERAGE.

(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: 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 ANY PERSON, EMPLOYER OR HEALTH CARE PROVIDER 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 HEALTH CARE PROVIDER FROM ACCEPTING DIRECT PAYMENT FOR LAWFUL
17 HEALTH CARE SERVICES.

18 3. ANY 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 PROHIBIT CARE PROVIDED PURSUANT TO ARTICLE
23 XVIII, SECTION 8, CONSTITUTION OF ARIZONA OR ANY STATUTES ENACTED BY THE
24 LEGISLATURE RELATING TO WORKERS' COMPENSATION.

25 D. THIS SECTION DOES NOT AFFECT LAWS OR RULES IMPLEMENTED FOR THE
26 PURPOSES OF ADMINISTERING PROGRAMS IN ACCORDANCE WITH TITLE 36, CHAPTER 29,
27 ARIZONA REVISED STATUTES.

28 E. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

ARTICLE II
DEFINITIONS

AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

1. "HEALTH CARE FREEDOM CRIMINAL LAWS" MEANS ANY STATE LAW THAT MAKES IT A CRIME FOR ANYONE TO INTERFERE WITH A RESIDENT'S ENJOYMENT OF THE FREEDOMS PROTECTED AND GUARANTEED BY THE STATE'S RESPECTIVE HEALTH CARE FREEDOM LAWS.

2. "HEALTH CARE FREEDOM LAWS" MEANS ANY STATE LAW OR CONSTITUTIONAL PROVISION THAT PROTECTS AND GUARANTEES A RESIDENT'S FREEDOM TO PAY OR NOT TO PAY DIRECTLY FOR LAWFUL HEALTH CARE SERVICES AND TO PARTICIPATE OR NOT TO PARTICIPATE IN HEALTH CARE PLANS AND HEALTH CARE SYSTEMS.

3. "HEALTH CARE PLAN" MEANS ANY LEGALLY BINDING ARRANGEMENT UNDER WHICH AT LEAST ONE PERSON OR ENTITY PROMISES AND UNDERTAKES, IN EXCHANGE FOR CONSIDERATION OF A SET OR ASSESSED AMOUNT OF MONEY, TO MAKE A PAYMENT TO ANOTHER PARTY OR A THIRD PARTY IF A SPECIFIED EVENT OCCURS INVOLVING THE PROVISION OF HEALTH CARE SERVICES.

4. "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY WHOSE FUNCTION OR PURPOSE IS THE MANAGEMENT OF, PROCESSING OF, ENROLLMENT OF INDIVIDUALS IN HEALTH CARE PLANS OR PAYMENT FOR, IN FULL OR IN PART, HEALTH CARE SERVICES OR HEALTH CARE DATA OR HEALTH CARE INFORMATION FOR ITS PARTICIPANTS.

5. "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED SERVICE OR TREATMENT TO THE EXTENT THAT THE SERVICE OR TREATMENT IS PERMITTED OR NOT PROHIBITED BY LAW OR REGULATION AND THAT MAY BE PROVIDED BY PERSONS OR BUSINESSES OTHERWISE PERMITTED TO OFFER SUCH SERVICES.

6. "PAY DIRECTLY" MEANS PAYMENT FOR LAWFUL HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, NOT INCLUDING AN EMPLOYER, PAYING FOR ANY PORTION OF THE SERVICE.

7. "STATE" MEANS A STATE OF THE UNITED STATES.

ARTICLE III
TERMS

NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY:

1. EACH PARTY STATE SHALL GIVE FULL FAITH AND CREDIT TO THE HEALTH CARE FREEDOM CRIMINAL LAWS AND HEALTH CARE FREEDOM LAWS OF EVERY PARTY STATE.

2. A GOVERNMENTAL AGENT SHALL NOT DEPRIVE RESIDENTS OF PARTY STATES OF THE RIGHTS AND FREEDOMS PROTECTED UNDER THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM LAWS.

3. GOVERNMENTAL AGENTS SHALL NOT PENALIZE RESIDENTS OF PARTY STATES FOR EXERCISING THE RIGHTS AND FREEDOMS PROTECTED UNDER THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM LAWS.

1 4. THE PARTY STATES SHALL COOPERATE WITH EACH OTHER AND GIVE EACH
2 OTHER MUTUAL ASSISTANCE IN THE PREVENTION OF CRIMES UNDER THE HEALTH CARE
3 FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.

4 5. THE PARTY STATES SHALL COOPERATE WITH EACH OTHER AND GIVE EACH
5 OTHER MUTUAL ASSISTANCE IN THE CRIMINAL PROSECUTION OF ANY PERSON WHO
6 VIOLATES THE HEALTH CARE FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.

7 ARTICLE IV
8 ENFORCEMENT

9 NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY:

10 1. THE CHIEF LAW ENFORCEMENT OFFICER OF EACH PARTY STATE SHALL ENFORCE
11 THIS AGREEMENT AND COMPACT.

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

15 ARTICLE V

16 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

17 A. THE GOVERNOR OF EACH PARTY STATE OR THE GOVERNOR'S DESIGNEE IS THE
18 COMPACT ADMINISTRATOR. THE COMPACT ADMINISTRATOR SHALL:

19 1. MAINTAIN AN ACCURATE LIST OF ALL PARTY STATES.

20 2. CONSISTENT WITH SUBSECTIONS C AND D, TRANSMIT IN A TIMELY FASHION
21 TO OTHER PARTY STATES CITATIONS OF ALL CURRENT HEALTH CARE FREEDOM LAWS AND
22 CURRENT HEALTH CARE FREEDOM CRIMINAL LAWS OF THE COMPACT ADMINISTRATOR'S
23 RESPECTIVE STATE.

24 3. RECEIVE AND MAINTAIN A COMPLETE LIST OF THE HEALTH CARE FREEDOM
25 LAWS AND HEALTH CARE FREEDOM CRIMINAL LAWS OF EACH PARTY STATE.

26 4. FORMULATE ALL NECESSARY AND PROPER PROCEDURES TO EFFECTUATE THIS
27 COMPACT.

28 5. DELEGATE NEEDED TASKS TO OTHER STATE AGENCIES.

29 B. THE COMPACT ADMINISTRATOR OF EACH PARTY STATE SHALL FURNISH TO THE
30 COMPACT ADMINISTRATOR OF EACH PARTY STATE ANY INFORMATION OR DOCUMENTS THAT
31 ARE REASONABLY NECESSARY TO FACILITATE THE ADMINISTRATION OF THIS COMPACT.

32 C. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND
33 THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE
34 SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY
35 APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM LAWS, WHICH
36 SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND COMPACT,
37 UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES SPECIFIC
38 NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF SUCH NOTICE
39 THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS AGREEMENT AND
40 COMPACT.

41 D. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND
42 THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE
43 SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY
44 APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM CRIMINAL
45 LAWS, WHICH SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND

1 COMPACT, UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES
2 SPECIFIC NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF
3 SUCH NOTICE THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS
4 AGREEMENT AND COMPACT.

5 ARTICLE VI

6 ENTRY INTO EFFECT AND WITHDRAWAL

7 A. THIS COMPACT IS DEEMED ACCEPTED WHEN AT LEAST TWO STATES DELIVER A
8 NOTICE OF CONFIRMATION, WHICH IS DULY EXECUTED BY THEIR RESPECTIVE AUTHORIZED
9 REPRESENTATIVE AND WHICH ACKNOWLEDGES COMPLETE AGREEMENT TO THE TERMS OF THIS
10 COMPACT, TO EACH OTHER'S GOVERNOR, THE OFFICE OF THE CLERK OF THE UNITED
11 STATES HOUSE OF REPRESENTATIVES, THE OFFICE OF THE SECRETARY OF THE UNITED
12 STATES SENATE, THE PRESIDENT OF THE UNITED STATES SENATE AND THE SPEAKER OF
13 THE UNITED STATES HOUSE OF REPRESENTATIVES. THEREAFTER, THE COMPACT IS
14 DEEMED ACCEPTED BY ANY STATE WHEN A RESPECTIVE NOTICE OF CONFIRMATION, WHICH
15 IS DULY EXECUTED BY THE STATE'S RESPECTIVE AUTHORIZED REPRESENTATIVE AND
16 WHICH ACKNOWLEDGES COMPLETE AGREEMENT TO THE TERMS OF THIS COMPACT, IS
17 DELIVERED TO EACH PARTY STATE'S COMPACT ADMINISTRATOR, THE OFFICE OF THE
18 CLERK OF THE UNITED STATES HOUSE OF REPRESENTATIVES, THE OFFICE OF THE
19 SECRETARY OF THE UNITED STATES SENATE, THE PRESIDENT OF THE UNITED STATES
20 SENATE AND THE SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.

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

26 ARTICLE VII

27 CONSTRUCTION AND SEVERABILITY

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

30 B. THIS COMPACT IS NOT INTENDED TO:

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

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

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

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

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

8 F. IF THIS COMPACT IS HELD TO BE CONTRARY TO THE CONSTITUTION OF ANY
9 PARTY STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE
10 REMAINING PARTY STATES AND IN FULL FORCE AND EFFECT AS TO THE AFFECTED PARTY
11 STATE AS TO ALL SEVERABLE MATTERS.