HB 1625 - FINAL VERSION

2022 SESSION

22-2038
05/08

HOUSE BILL ***1625***

AN ACT repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

SPONSORS: Rep. Kelsey, Hills. 7; Rep. Nunez, Hills. 37; Rep. Baxter, Rock. 20; Rep. Gould, Hills. 7; Rep. Stapleton, Sull. 5; Rep. Mooney, Hills. 21; Rep. Notter, Hills. 21; Rep. M. Pearson, Rock. 34; Rep. Sheehan, Hills. 23; Sen. Ricciardi, Dist 9; Sen. Daniels, Dist 11; Sen. Avard, Dist 12

COMMITTEE: Judiciary

ANALYSIS

This bill repeals the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Short Title. This act shall be known as "The Sidewalk Free Speech Act."

2 Findings and Purpose. The general court finds that:

I. The exercise of a person's right to free speech is a first amendment activity, and one which the New Hampshire Bill of Rights is especially zealous in protecting. N.H. Const. Part 1 Art. 22 (Stating that "Free speech… ought… to be inviolably preserved.") The right to free speech protects viewpoints which are controversial, unpopular, and offensive or otherwise inconvenient.

II. RSA 132:37 through RSA 132:40 would infringe upon free speech.

III. The United States Supreme Court has observed that "'one-on-one communication' is 'the most effective, fundamental, and perhaps economical avenue of political discourse.'… 'handing out leaflets in the advocacy of a politically controversial viewpoint... is the essence of First Amendment expression'; '[n]o form of speech is entitled to greater constitutional protection.'… When the government makes it more difficult to engage in these modes of communication, it imposes an especially significant First Amendment burden." *McCullen v. Coakley*, 573 U.S. 464, 488-489 (2014) (citing *Meyer v. Grant*, 486 U.S. 414, 424, (1988); *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995)).

IV. RSA 132:37 through RSA 132:40, if ever implemented through the demarcation of a buffer zone, would be subject to immediate constitutional challenge. *Reddy v. Foster*, (stating that plaintiffs will have standing to challenge the constitutionality of the law once an abortion clinic "demarcate[s] a zone.")

V. If subject to constitutional challenge, RSA 132:37 through RSA 132:40 is likely to be, and ought to be, struck down under either the federal or state Bills of Rights. *McCullen v. Coakley*, 573 U.S. 464 (2014) (correctly invalidating Massachusetts buffer zones under the First Amendment).

VI. RSA 132:37 through RSA 132:40 has served no public purpose.

3 Repeal. RSA 132:37 through 132:40, relative to access to reproductive health care facilities, are repealed.

4 Effective Date. This act shall take effect upon its passage.

VETOED May 27, 2022

SUSTAINED September 15, 2022