

Short Ballot Title

An initiative to clarify and limit the scope and applicability of certain laws related to health care.

Long Ballot Title

An initiative related to health care; amending Title 41, adding a new Chapter 60, authorizing individuals or entities to determine whether they wish to purchase health care or not, allowing direct payment for health care services without penalty, setting forth prohibitions denying state recognition of federal law, defining violations, setting forth penalties, and nullifying federal law.

Text of Initiative

SECTION 1. That this act may be known and cited as the "People of Idaho's Health Care Freedom Act."

SECTION 2. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 60, Title 41, Idaho Code, and to read as follows:

CHAPTER 60 PEOPLE OF IDAHO'S HEALTH CARE FREEDOM ACT

41-6001. PURPOSE. (1) It is the purpose of this act to preserve the freedom of an individual or entity in the state of Idaho to determine whether they wish to purchase health care or not. It is declared that the public policy of Idaho is to prevent any and all forms of coercion applied to persons in the State that might be utilized to compel them to buy a health insurance policy. This shall include any such coercive action by the federal government to the extent such violates standards enumerated in the ninth and tenth amendments to the United States Constitution or any other Constitutional standards which might apply to a specific Public Law. It is the intention that any law, rule, or regulation be nullified that might have the effect of infringing or destroying these freedoms such as preventing people for paying for health care services without going through an intermediary or higher taxes that might be attached to an income tax return, payroll taxes, taxes or fees applied to existing health care insurance premiums or any other coercive action.

(2) The policy stated herein shall not be applied to impair any right of contract related to the provision of health care services to any person or group.

41-6002. DEFINITIONS. For the purposes of this chapter:

- (1) "Compel" includes penalties or fines.
- (2) "Direct payment or 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.
- (3) "Health care provider" means any person whose function or purpose includes providing one or more health care services to any of its clients.
- (4) "Health care system" means any person whose function or purpose is the management

of, processing of, enrollment of individuals for 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, rule, or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

(6) "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law, rule, or regulation by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

(7) "Person" means an individual, corporation, association, public or private corporation, city or other municipality, county, state agency or the state of Idaho.

41-6003. PROHIBITIONS. (1) To preserve the freedom of Idahoans to provide for their health care:

(a) A law, rule, or regulation shall not compel, directly or indirectly, any person to participate in any health care system.

(b) A person may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person for lawful health care services.

(2) Subject to reasonable and necessary rules and regulations that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law, rule, or regulation.

(3) This section does not:

(a) Affect which health care services a health care provider is required to perform or provide.

(b) Affect which health care services are permitted by law.

(c) Prohibit care provided pursuant to Title 72, Idaho Code, or any statutes enacted by this legislature relating to worker's compensation.

(d) Affect laws, rules, or regulations in effect as of December 31, 2009.

(e) Affect the terms of conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

41-6004. APPLICABILITY TO FEDERAL LAWS. (1) Any federal law, regulation, order or other act by the federal government violating the provisions of this chapter is hereby declared to be invalid in this state, is not recognized by and is specifically rejected by this state, and is considered as null and void and of no effect in this state.

(2) Any federal employee or agent of the federal government who actively attempts to enforce laws nullified by this chapter or commits a violation pursuant to 41-6006, Idaho Code, is subject to the penalties and prosecution described in Section 41-6007, Idaho Code.

41-6005. NULLIFICATION OF ANY INDIRECT VIOLATIONS OF THIS ACT. Any legislation, regulation, or administrative action whose enforcement or threatened enforcement might have the indirect effect of violating the prohibitions of this chapter shall also be null and void and of no force or effect in Idaho. For example, if there existed a requirement for an

individual or business to file income tax returns and the effect of filing those tax returns according to the instructions given under penalty of perjury would have the same economic effect of penalties or fines for not purchasing health care insurance, that requirement of filing would be null and void in the State of Idaho and no civil or criminal enforcement actions for failure to file such income tax returns could take place in Idaho.

41-6006. COLOR OF LAW VIOLATIONS. If any individual attempts to compel a person in Idaho into surrendering a right or property guaranteed by this act by directly or indirectly threatening such person with the enforcement of a law or code which would be nullified by this chapter, the individual or individuals attempting to so compel shall be subject to penalties as detailed in Section 41-6007, Idaho Code.

41-6007. PENALTIES. (1) An arrest, search, or seizure or attempted arrest or seizure in violation of this act is unlawful, and individuals involved can be prosecuted by the county prosecuting attorney or attorney general's office for kidnapping if an arrest or attempted arrest occurred, for trespass if a search or attempted search occurred, for theft if a seizure or attempted seizure occurred, and for any applicable homicide offense if loss of life occurred. The individuals involved can also be charged with any other applicable criminal offenses in Title 18, Idaho Code.

(2) Any individuals involved with violations of Section 41-6006, Idaho Code, can be prosecuted by the county prosecuting attorney or attorney general's office for extortion as described by subsection (2)(e) of 18-2403, Idaho Code. The individuals involved can also be charged with any other applicable criminal offenses in Title 18, Idaho Code.

(3) Victims of crimes prosecutable under this section shall also be entitled to independently pursue civil action against the perpetrators of these crimes.

41-6008. SEVERABILITY. If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.