RESOLUTION NO. ____ – 2025

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ___ - 2025, entitled "A LOCAL LAW amending Chapter 425 of the Laws of Westchester County." The public hearing will be held at __.m. on the _____ day of _____, 2025, in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of "A LOCAL LAW amending Chapter 425 of the Laws of Westchester County."

Your Committee recalls that in 2022, this Honorable Board enacted Chapter 425 of the Laws of Westchester County ("Chapter 425"), which is aimed at providing safe access to reproductive health care facilities by prohibiting threatening, harassing, violent, fraudulent, and obstructive conduct. Chapter 425 was passed to protect and promote the public health, safety, and welfare; to ensure order; to protect freedom of access to reproductive health care facilities; to protect the freedom to obtain reproductive health care services; to promote the free flow of traffic in the public way; to advance medical privacy and the well-being of patients seeking access to reproductive health care facilities and obtaining reproductive health care services; and to safeguard private property. In enacting Chapter 425, this Honorable Board found it vital to strike an appropriate balance between the rights of those seeking reproductive health care and those seeking to exercise their First Amendment rights outside of reproductive health care facilities.

Your Committee is aware that, shortly after Chapter 425's enactment, a group of plaintiffs filed a federal lawsuit in the U.S. District Court for the Southern District of New York ("District Court") challenging Chapter 425. Although no section of the law had been enforced against them, the plaintiffs claimed that numerous provisions of Chapter 425 violated their constitutional rights to free speech, free exercise of religion, and due process in the pre-enforcement context. The County vigorously defended the case. First, the County successfully opposed, through appeal, the plaintiffs' motion to preliminarily enjoin Chapter 425 from being enforced. Second, at the conclusion of

discovery in the case, the County moved for summary judgment on all the plaintiffs' claims, arguing that each section of Chapter 425 was constitutional.

Your Committee has been informed that on March 14, 2025, the District Court issued an order granting the lion's share of the County's motion, and dismissing most of the plaintiffs' claims. The District Court held that the majority of Chapter 425's provisions are constitutional. The District Court did, however, take issue with the interplay between Chapter 425's definition of "interfere with" and the law's prohibition on interfering with reproductive health care facility operations. The District Court determined that these provisions, when read together, produced a restriction that was not narrowly tailored to the County's interests under the First Amendment, and that the section suffered from both overbreadth and vagueness problems under the First and Fourteenth Amendments, respectively.

Your Committee understands that, as these provisions were originally drafted, Chapter 425's definition of "interfere with" was identical to the definition of "interfere" as used in the Federal Access to Clinic Entrances Act, *see* 18 U.S.C. § 248(e)(2)—although the County's definition added "to stop . . . through deceptive means or otherwise." Laws of Westchester County § 425.21(b). This additional language was meant to specifically address one of the incidents that precipitated the County's enactment of Chapter 425: individuals who gained entry to the All Women's Health facility under deceptive means, then facilitated the infiltration by numerous other people into the clinic, ultimately suspending the facility's operations for a period of time. To be clear, "interference" has never been a violation on its own; rather, it is used as a term in four of the current provisions of Chapter 425. As used in section 425.31(h), "interference" is linked to the operation of a reproductive health care facility.

Your Committee has been made aware that, in evaluating Chapter 425, the District Court noted that section 425.31(h) was not "connected to physical acts or threats," unlike the other sections of the law. Order at 22. Thus, section 425.31(h) currently restricts anyone from "using any non-deceptive 'means'" to stop facility operations—which could "include[ ] large swaths of protected speech," and an argument could conceivably be made that merely "by convincing another person through counseling to cancel their appointment at the facility," the section could be violated. Order at 22. The District Court also found that section 425.31(h) "leaves law-enforcement officials unfettered discretion to determine liability," and that the restriction fails to provide people of ordinary intelligence a reasonable opportunity to understand exactly what conduct it prohibits.

Your Committee recognizes that the District Court's interpretation of the plain text of § 425.31(h) is at odds with the original intent of this Honorable Board. It was never the aim of Chapter 425 to restrict protected free expression in the way the District Court has interpreted the law. Section 425.31(h) and the definition of "interfere with," working in tandem, were always meant to prohibit conduct such as a person's trespass through deceptive means; they were also meant to restrict conduct that physically stopped the operation of a reproductive health care facility. Nevertheless, the Court's construction of the terms does not effectuate the Board's intended meaning, nor does it provide clear guidance for law-enforcement officials.

Your Committee therefore believes that Chapter 425 should be amended in order to clearly express the Board's intent. This proposed Local Law, if adopted, would do three things to clarify and narrowly tailor the law to the County's legitimate interests. First, this Local Law amends the definition of "interfere with" to more clearly read: "to stop, to obstruct, or to restrict a person's freedom of movement." Second, this Local Law clarifies the language of section 425.31(h) to make plain that to

"knowingly interfere with the operation of a reproductive health care facility" encompasses activities that *physically* interfere with such facility operations—specifically, physical interference with medical procedures or treatments; physical interference with the delivery of goods or services to the facility; and physical interference with persons inside the facility. Third, and finally, this Local Law adds a new section 425.31(i) to Chapter 425. This new prohibition specifically targets circumstances such as those at play during the All Women's Health incident that led to the County's enactment of Chapter 425 in 2022—i.e., when individuals made false appointments at the facility in order to assist numerous others in trespassing into the facility, ultimately suspending the facility's operations for hours.

Your Committee believes that these revisions to Chapter 425, drafted now with the aid of the District Court's opinion and order, will ensure that each provision of Chapter 425 can be enforced consistent with the Board's original intent. Adopting this Local Law will allow the County to maintain the protections of Chapter 425 while safeguarding the ability of individuals to engage in protected speech outside of reproductive health care facilities, all while addressing the concerns of the District Court.

Finally, Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 14, 2025, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee recommends adoption of this Local Law.

Dated: April 7, 2025
White Plains, New York

-WOP

Margaret A. Cyico (WOP)

COMMITTEE ON

Legislation

Human Services

SCM-3/27/2025

Dated: April 7, 2025
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Emiljana Ulaj

COMMITTEE ON

Legislation

LOCAL LAW INTRO. NO. - 2025

A LOCAL LAW amending Chapter 425
of the Laws of Westchester County.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Section 425.21 of the Laws of Westchester is hereby amended to read as follows:

Sec. 425.21. Definitions.

Whenever used in this Chapter, the following words and phrases shall have the meanings indicated, unless the context or subject matter otherwise requires:

a. "Harass" shall mean to engage in a course of conduct or repeatedly commit conduct or acts that alarm or seriously annoy another person and which serve no legitimate purpose. For the purposes of this definition, conduct or acts that serve no legitimate purpose include, but are not limited to, conduct or acts that continue after an express or implied request to cease has been made.

b. "Interfere with" shall mean to stop, to obstruct, or to restrict a person's freedom of movement~~; or to stop, obstruct, or prevent, through deceptive means or otherwise~~.

c. "Intimidate" shall mean to place a person in reasonable apprehension of physical injury to such person or to another person.

d. "Invitee" shall mean an individual who enters another's premises as a result of an express or implied invitation of the owner or occupant for their mutual gain or benefit.

e. "Person" shall mean an individual, corporation, not-for-profit organization, partnership, association, group, or any other entity.

f. "Physically obstruct or block" shall mean to physically hinder, restrain, or impede, or to attempt to physically hinder, restrain or impede, or to otherwise render ingress to or egress from, or render passage to or from the premises of a reproductive health care facility impassable, unreasonably difficult, or hazardous.

g. "Premises of a reproductive health care facility" shall include the driveway, entrance, entryway, or exit of the reproductive health care facility, the building in which such facility is located, and any parking lot in which the facility has an ownership or leasehold interest.

h. "Public parking lot serving a reproductive health care facility" shall mean any public parking lot that serves a reproductive health care facility and that has an entrance or exit located within 100 feet of any door to that reproductive health care facility.

i. "Reproductive health care facility" shall mean any building, structure, or place, or any portion thereof, at which licensed, certified, or otherwise legally authorized persons provide reproductive health care services.

j. "Reproductive health care services" shall mean medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

Section 2. Section 425.31 of the Laws of Westchester is hereby amended to read as follows:

Sec. 425.31. Prohibited conduct.

It shall be unlawful for any person to do the following:

a. knowingly physically obstruct or block another person from entering into or exiting from the premises of a reproductive health care facility or a public parking lot serving a reproductive health care facility, in order to prevent that person from obtaining or rendering, or assisting in obtaining or rendering, medical treatment or reproductive health care services; or

b. strike, shove, restrain, grab, kick, or otherwise subject to unwanted physical contact or injury any person seeking to legally enter or exit the premises of a reproductive health care facility; or

c. knowingly follow and harass another person within twenty-five (25) feet of: (i) the premises of a reproductive health care facility; or (ii) the entrance or exit of a public parking lot serving a reproductive health care facility; or

d. knowingly engage in a course of conduct or repeatedly commit acts when such behavior places another person in reasonable fear of physical harm, or attempt to do the same, within 25 feet of: (i) the premises of a reproductive health care facility; or (ii) the entrance or exit of a public parking lot serving a reproductive health care facility; or

e. by force or threat of force, or by physically obstructing or blocking, knowingly injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with, another person in order to discourage such other person or any other person or persons from obtaining or providing, or assisting in obtaining or providing, reproductive health care services; or

f. by force or threat of force, or by physically obstructing or blocking, knowingly injure, intimidate, or interfere with, or attempt to injure, intimidate or interfere with, another person because such person was or is obtaining or providing, or was or is assisting in obtaining or providing, reproductive health care services; or

g. physically damage a reproductive health care facility so as to interfere with its operation, or attempt to do the same; or

h. knowingly interfere with the operation of a reproductive health care facility, or attempt to do the same, by ~~activities including, but not limited to,~~ physically interfering with, or attempting to physically interfere with (i) medical procedures or treatments being performed at such reproductive health care facility; (ii) the delivery of goods or services to such reproductive health care facility; or (iii) persons inside the facility.

i. knowingly use deceptive means to physically gain entry to a reproductive health care facility with the intent to interfere with the operations of the reproductive health care facility.

Section 3. This Local Law shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Local Law Amending Chapter 425 [X] **NO FISCAL IMPACT PROJECTED**

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

[X] GENERAL FUND [ ] AIRPORT FUND [ ] SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense $ -

Total Current Year Revenue $ -

Source of Funds (check one): [X] Current Appropriations [ ] Transfer of Existing Appropriations

[ ] Additional Appropriations [ ] Other (explain)

Identify Accounts:

Potential Related Operating Budget Expenses: Annual Amount $ -

Describe: None

Potential Related Operating Budget Revenues: Annual Amount $ -

Describe: None

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Jaevon Boxhill

Title: Sr. Budget Analyst

Department: Budget

Date: April 1, 2025

Reviewed By: Lawrence C. Soares

Budget Director

Date: 4/1/25