

1 HOUSE BILL NO. 471
2 INTRODUCED BY E. STAFMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ABORTION LAWS TO PROVIDE FOR THE
5 RELIGIOUS AND MEDICAL FREEDOM OF A PREGNANT WOMAN; PROVIDING A RELIGIOUS
6 EXEMPTION TO PROHIBITIONS ON ABORTION DURING THE FIRST AND SECOND TRIMESTERS OF
7 PREGNANCY; PROVIDING DEFINITIONS; AMENDING SECTIONS 50-20-109 AND 50-20-111, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 WHEREAS, the United States Constitution and the Montana Constitution expressly protect the freedom
11 of religion for all Montanans; and

12 WHEREAS, freedom of religion is a strong value in Montana law and practice, particularly when it
13 involves medical freedom; and

14 WHEREAS, throughout human history into the present day, different religions have had and currently
15 have divergent and deeply held theologies, religious beliefs, and values on profoundly religious questions
16 regarding when human life begins, bodily autonomy, and when abortion is allowable; and

17 WHEREAS, the Legislature intends to guarantee the religious and medical freedom of pregnant women
18 in Montana.

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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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22 **Section 1.** Section 50-20-109, MCA, is amended to read:

23 **"50-20-109. Control of practice of abortion -- exception.** (1) Except as provided in 50-20-111(4)
24 and 50-20-401, an abortion may not be performed within the state of Montana:

- 25 (a) except by a licensed physician or physician assistant;
- 26 (b) on an unborn child capable of feeling pain, except as provided in 50-20-603.
- 27 (2) The supervision agreement of a physician assistant may provide for performing abortions.
- 28 (3) Violation of subsection (1) is a felony."

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2 **Section 2.** Section 50-20-111, MCA, is amended to read:

3 **"50-20-111. ~~Right to refuse participation in abortion~~ Religious freedom exemptions.** (1) ~~No~~^A
4 private hospital or health care facility ~~shall~~^{may not} be required contrary to the religious or moral tenets or the
5 stated religious beliefs or moral convictions of its staff or governing board to admit any person for the purpose
6 of abortion or to permit the use of its facilities for ~~such that~~ purpose. ~~Such~~^{The} refusal ~~shall~~^{may} not give rise to
7 liability of ~~such the~~ hospital or health care facility or any personnel or agent or governing board ~~thereof of the~~
8 hospital or health care facility to any person for damages allegedly arising from ~~such the~~ refusal or be the basis
9 for any discriminatory, disciplinary, or other recriminatory action against ~~such the~~ hospital or health care facility
10 or any personnel, agent, or governing board ~~thereof~~ of the hospital or health care facility.

11 (2) All persons shall have the right to refuse to advise concerning, perform, assist, or participate in
12 abortion because of religious beliefs or moral convictions. If requested by any hospital or health care facility or
13 person desiring an abortion, ~~such the~~ refusal ~~shall~~^{must} be in writing signed by the person refusing, but may
14 refer generally to the grounds of "religious beliefs and moral convictions". The refusal of any person to advise
15 concerning, perform, assist, or participate in abortion ~~shall~~^{may} not be a consideration in respect of staff
16 privileges of any hospital or health care facility or a basis for any discriminatory, disciplinary, or other
17 recriminatory action against ~~such the~~ person, ~~nor shall such and the person~~ ^{may not} be liable to any person for
18 damages allegedly arising from refusal.

19 ~~(3) It shall be unlawful to interfere or attempt to interfere with the right of refusal authorized by this~~
20 ~~section. The person injured thereby shall be entitled to injunctive relief, when appropriate, and shall further be~~
21 ~~entitled to monetary damages for injuries suffered.~~

22 ~~(4)~~⁽³⁾ ~~Such~~^{The} refusal by any hospital or health care facility or person ~~shall~~^{may} not be grounds for
23 loss of any privileges or immunities to which the granting of consent may otherwise be a condition precedent or
24 for the loss of any public benefits.

25 ~~(5)~~⁽⁴⁾ At any time during the first and second trimesters of pregnancy, a pregnant woman has the
26 right to obtain an abortion from a willing health care provider, even when the abortion is prohibited by this
27 chapter or otherwise prohibited under the laws of this state, if the woman seeks the abortion in accordance with
28 the woman's sincerely held religious tenets.

