

HOUSE BILL NO. 388

INTRODUCED BY A. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING TARGETING PREGNANCY CENTERS FOR REGULATION OR OVERSIGHT BECAUSE PREGNANCY CENTERS DO NOT PERFORM, REFER, OR COUNSEL IN FAVOR OF ABORTION OR CONTRACEPTION; PROVIDING DEFINITIONS; PROVIDING REMEDIES; PROVIDING AN EXCEPTION FOR SIMILAR OVERSIGHT AND REGULATION AS ABORTION CLINICS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, pregnancy centers have a considerable and growing life-affirming impact on the women, men, children, and communities they serve; and

WHEREAS, pregnancy centers serve women in Montana and across the United States with integrity and compassion; and

WHEREAS, pregnancy centers provide comprehensive care to women and men facing unexpected pregnancies, including resources to meet their physical, psychological, emotional, and spiritual needs; and

WHEREAS, pregnancy centers offer women free, confidential, and compassionate services, which can include pregnancy tests, peer counseling, 24-hour telephone hotlines, childbirth and parenting classes, referrals to community health care, adoption referrals, and other support services; and

WHEREAS, many medical pregnancy centers offer ultrasounds and other medical services; and

WHEREAS, pregnancy centers encourage women to make positive life choices by equipping them with complete and accurate information regarding their pregnancy options and the development of their unborn children; and

WHEREAS, pregnancy centers provide important support and resources for women who choose childbirth over abortion; and

WHEREAS, pregnancy centers have faced unprecedented attacks since the Supreme Court's decision in Dobbs v. Jackson Women's Health Organization, overturning Roe v. Wade and the federal constitutional right to abortion; and

WHEREAS, since 2022, at least one-third of the states have introduced legislation seeking to

undermine pregnancy centers' freedom of speech and association or interfere with their hiring and staffing decisions, while numerous cities and municipalities have considered similar ordinances.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Abortion" means the act of using or prescribing an instrument, medicine, or drug or a substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman and for the purpose of ensuring the death of her unborn child.

(b) The term does not include an act taken with the intent to:

(i) save the life or preserve the health of the unborn child;

(ii) remove a dead unborn child caused by miscarriage;

(iii) remove an ectopic pregnancy; or

(iv) perform a previability separation procedure when the procedure is, in reasonable medical judgment, necessary to save or preserve the life of the pregnant woman.

~~(2)~~ "Abortion clinic" has the same meaning as provided in 50-20-901.

~~(2)(3)~~ (a) "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent to terminate the clinically diagnosable pregnancy of a woman and for the purpose of ensuring the death of her unborn child.

(b) The term includes the off-label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent to cause an abortion.

(c) The term does not include drugs that are known to cause an abortion but that are prescribed for other medical indications.

~~(3)(4)~~ "Contraception" means the use of any natural or artificial means to prevent the fertilization of a human ovum.

~~(4)(5)~~ "Ectopic pregnancy" means the state of carrying an unborn child outside of the uterine cavity.

~~(5)(6)~~ "Medical pregnancy center" means a pregnancy center that provides medical testing,

1 counseling, and pregnancy-related care.

2 ~~(6)~~(7) "Miscarriage" means the spontaneous loss of an unborn child.

3 ~~(7)~~(8) "Pregnancy center" means a private, nonprofit organization that promotes childbirth and
4 alternatives to abortion and provides women, children, and families with resources, counseling, classes,
5 referrals, and information related to pregnancy, childbearing, adoption, and parenting.

6 ~~(8)~~(9) (a) "Previability separation procedure" means a medical procedure performed by a qualified
7 health care provider to remove an unborn child from the mother's uterine cavity before the stage of fetal
8 development when, in the reasonable medical judgment of the qualified health care provider based on the
9 particular facts of the case and in light of the most advanced medical technology and information available,
10 there is a reasonable likelihood of sustained survival of the unborn child outside the mother's body, with or
11 without artificial support.

12 (b) The term does not include an abortion.
13

14 **NEW SECTION. Section 2. Prohibition on interference with work of pregnancy center.** ~~(1)~~ The
15 state or a local government may not adopt or enact a law, rule, policy, or similar measure that:

16 ~~(+)~~(a) requires a pregnancy center to:

17 ~~(a)~~(i) offer or perform abortions;

18 ~~(b)~~(ii) offer, provide, or distribute abortion-inducing drugs or contraception;

19 ~~(c)~~(iii) refer a patient for an abortion, an abortion-inducing drug, or contraception;

20 ~~(d)~~(iv) counsel a patient in favor of an abortion, an abortion-inducing drug, or contraception; or

21 ~~(e)~~(v) post an advertisement, sign, flyer, or similar material that promotes or provides information
22 about obtaining an abortion, abortion-inducing drugs, or contraception;

23 ~~(2)~~(b) prohibits a pregnancy center from:

24 ~~(a)~~(i) providing information, care, counseling, classes, or other services related to pregnancy,
25 childbirth, or parenting because the pregnancy center does not perform, refer, or counsel in favor of abortion,
26 abortion-inducing drugs, or contraception;

27 ~~(b)~~(ii) providing prenatal and postnatal resources, such as diapers, baby clothes, baby furniture,
28 formula, and similar items, because the pregnancy center does not perform, refer, or counsel in favor of

1 abortion, abortion-inducing drugs, or contraception;

2 ~~(e)(iii)~~ providing medical testing, counseling, and care related to pregnancy or childbirth because the
3 pregnancy center does not perform, refer, or counsel in favor of abortion, abortion-inducing drugs, or
4 contraception; or

5 ~~(d)(iv)~~ counseling a woman on pregnancy-related care or treatment, including care or treatment that
6 may reverse the effects of abortion-inducing drugs; or

7 ~~(3)(c)~~ interferes with the pregnancy center's staffing or hiring decisions by requiring the pregnancy
8 center to interview, hire, or continue to employ a person who does not affirm the center's mission statement or
9 agree to comply with the center's pro-life ethic and operating procedures.

10 (2) Nothing in this section precludes a state or local government from licensing, regulating, or
11 inspecting a pregnancy center to the same extent that 50-20-902 through 50-20-904 provide for abortion clinics.

13 NEW SECTION. Section 3. Legal remedies -- damages. (1) A pregnancy center or a party
14 aggrieved by a violation of [section 2] may commence a civil action for damages, declaratory relief, injunctive
15 relief, and any other appropriate relief.

16 (2) On a finding of a violation of [section 2], the prevailing party is entitled to recover actual
17 damages or statutory damages of \$50,000, whichever is greater, plus attorney fees and costs. If the person
18 acted with malice, the court may award treble actual damages or treble statutory damages, whichever is
19 greater.

20 (3) Damages awarded under this section are cumulative and are not limited by other remedies that
21 may be available under federal or state law.

23 NEW SECTION. Section 4. Right of intervention. The legislature, by joint resolution, may appoint
24 one or more of its members who sponsored or cosponsored [sections 1 through 4] in the member's official
25 capacity to intervene as a matter of right in a case in which the constitutionality of this part is challenged.

27 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be
28 codified as a new part in Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1

1 through 4].

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3 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
5 the part remains in effect in all valid applications that are severable from the invalid applications.

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7 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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