

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 23-188

BY SENATOR(S) Gonzales and Jaquez Lewis, Cutter, Marchman, Moreno, Winter F., Bridges, Buckner, Coleman, Danielson, Fields, Ginal, Hansen, Hinrichsen, Kolker, Mullica, Rodriguez, Sullivan, Zenzinger, Fenberg; also REPRESENTATIVE(S) Froelich and Titone, Epps, McCormick, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marshall, Martinez, McLachlan, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Snyder, Valdez, Velasco, Vigil, Willford, Woodrow, Young, McCluskie.

CONCERNING PROTECTIONS FOR ACCESSING REPRODUCTIVE HEALTH CARE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The United States Supreme Court's decision in June 2022 to overturn *Roe v. Wade* in *Dobbs v. Jackson Women's Health Organization* has had immediate, disastrous effects on health care across the country. The resulting patchwork of state laws, executive orders, local ordinances, and court challenges has led to legal chaos and has caused grief, fear, and confusion.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) As of January 2023, twenty-four states have banned abortion or severely restricted abortion access, and more will likely try to do so in the near future;

(c) Nationally, abortion clinics across the country are closing, resulting in an eroded reproductive health-care infrastructure. Almost all abortions are performed in clinics rather than in hospitals or doctors' offices, and in the ten years before the *Dobbs* decision, a third of independent clinics closed. That pace of closure has doubled since *Dobbs*. Alarming, one hundred days after the decision to overturn *Roe*, at least sixty-six clinics in fifteen states stopped offering abortion care, and most clinics closed, eliminating preventative health-care access as well.

(d) Colorado's abortion providers are the closest available providers to the 1.2 million people seeking care from neighboring states, and Colorado clinics have seen a thirty-three percent rise in the number of patients seeking abortion care post-*Dobbs*. Colorado residents seeking abortion care and other wellness care that many clinics provide, especially in rural and other underserved areas, face wait times that have increased from one or two days up to three weeks in some cases. Colorado residents seeking gender-affirming care will see a similar increase in wait times as other states enact further restrictions. It is chillingly clear that since *Dobbs*, Colorado's reproductive health-care infrastructure is threatened by exterior pressures.

(e) A growing number of states, the same states hostile to abortion rights, are also banning gender-affirming health care and pursuing anti-LGBTQ+ legislation. Alabama, Arizona, Arkansas, Utah, and Tennessee have enacted prohibitions on gender-affirming care for youth and young adults. Eleven other states are considering restrictions that would make providing gender-affirming health care a felony or ban insurance coverage for such care, with Missouri's proposed law criminalizing care for patients up to age twenty-five.

(f) Several states are also eroding their health-care infrastructure by requiring providers to report any patients seeking gender-affirming health care to law enforcement. Providers are being forced to choose compliance with state law over their oath to do no harm, and those laws conflict with the strongest recommendations by the American Academy of Pediatrics that

transgender youth be given the fullest range of medical and psychiatric care possible.

(g) The national reproductive health and gender-affirming health-care infrastructure is being eroded, and Colorado's health-care infrastructure is being strained;

(h) In states where abortion and gender-affirming health care are still legal, the influx of patients from states with criminal bans or severe restrictions has created lengthy waiting times for appointments, delaying access to care for all. States hostile to reproductive rights and gender-affirming health care are not content with prohibiting care and access within their borders; such states seek to impose these restrictions on every other state as well. Colorado OB-GYN physicians have said publicly that the increased need for care is beyond their current capacity and is physically and mentally unsustainable, leading to burnout in the profession and major delays in patient treatment. Likewise, current and future politically motivated restrictions on gender-affirming care in other states will create an adjacent crisis in Colorado.

(i) Abortion and gender-affirming care providers are overwhelmed, fear violence and legal consequences, and face a dramatic increase in patient numbers. They also fear attacks on their licensure, denial of liability insurance, and interstate prosecution. Patients, and those who support them, are also scared. Individuals seeking abortion care, and those who help them, face criminal prosecution. The parents of youth seeking gender-affirming health care face charges of child abuse and neglect. Additional restrictions on reproductive and gender-affirming health care are anticipated, which could further restrict access, make it difficult to obtain accurate information, make it harder to travel for care, and even prohibit access to safe, FDA-approved abortion medication and gender-affirming hormones.

(j) As Colorado is further impacted by neighboring states' reproductive and gender-affirming health-care restrictions, Colorado will see the same deepening of existing inequities for poor or geographically underserved people, and Black and Indigenous communities and other communities of color;

(k) In the face of these attacks, policymakers and advocates in many other states are seeking to protect providers, patients, and those who assist

them from the criminal prosecution they face from new laws. Colorado has led the nation with regard to civil rights, including individuals' rights to the full range of reproductive and gender-affirming health care, and Coloradans have resoundingly rejected abortion bans at the ballot box four times in the past fifteen years. Therefore, it is critical that these safeguards be enacted in statute. As a state, we will continue to ensure that every individual has the fundamental right to reproductive and gender-affirming health care and that all health-care providers have the protection needed to offer essential care without fear for their safety or fear of losing their license or insurance.

(l) It stands to reason that reproductive and gender-affirming health-care providers in states with abortion and gender-affirming health-care bans will want to relocate to states that protect their practice and values, thereby becoming an important part of Colorado's health-care infrastructure; and

(m) Other states friendly to reproductive and gender-affirming health-care rights are taking steps to protect care in their states, including:

(I) In 2022, fourteen governors and nine local governments took executive action to protect providers and the patients who travel across state lines to receive abortion care;

(II) California, Connecticut, Delaware, Illinois, Massachusetts, New York, New Jersey, and Washington, D.C., passed legislation designed to protect people who travel across state lines to receive an abortion and the providers who care for those patients;

(III) In May 2022, lawmakers and advocates from nineteen states, including Colorado, pledged to introduce legislation to protect transgender youth seeking gender-affirming health care and their families; and

(IV) Massachusetts and Illinois enacted legislation to protect gender-affirming health-care patients and providers, and California is expected to follow suit during its next legislative session.

(2) The general assembly further finds that despite the passage of House Bill 22-1279, concerning the "Reproductive Health Equity Act", the national, legally chaotic landscape resulting from other states' current and anticipated restrictions has caused widespread fear and confusion among

Colorado providers and patients traveling to Colorado for care.

(3) Therefore, the general assembly declares that medical professionals currently practicing in Colorado, as well as those moving to our state, should feel safe doing their jobs, and patients from Colorado and elsewhere should feel safe accessing the health care they need that Colorado has protected in law. It is critical that Colorado stand up for the providers of legally protected health care, their patients, and those who support them.

SECTION 2. In Colorado Revised Statutes, **add** 10-4-109.6 as follows:

10-4-109.6. Medical malpractice insurers - protections relating to reproductive health care - definition. (1) AN INSURER THAT ISSUES MEDICAL MALPRACTICE INSURANCE SHALL NOT TAKE A PROHIBITED ACTION AGAINST AN APPLICANT FOR OR THE NAMED INSURED UNDER A MEDICAL MALPRACTICE POLICY IN THIS STATE SOLELY BECAUSE THE APPLICANT OR INSURED HAS PROVIDED, OR ASSISTED IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED BY THE APPLICANT OR INSURED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW.

(2) AS USED IN THIS SECTION, "PROHIBITED ACTION" MEANS:

(a) REFUSING TO ISSUE A MEDICAL MALPRACTICE POLICY;

(b) CANCELING OR TERMINATING A MEDICAL MALPRACTICE POLICY;

(c) REFUSING TO RENEW A MEDICAL MALPRACTICE POLICY; OR

(d) IMPOSING ANY SANCTIONS, FINES, PENALTIES, OR RATE INCREASES.

SECTION 3. In Colorado Revised Statutes, 10-16-121, **add** (1)(f) as follows:

10-16-121. Required contract provisions in contracts between carriers and providers - definitions. (1) A contract between a carrier and

a provider or its representative concerning the delivery, provision, payment, or offering of care or services covered by a managed care plan must make provisions for the following requirements:

(f) (I) A PROVISION THAT PROHIBITS THE CARRIER FROM TAKING AN ADVERSE ACTION AGAINST A PROVIDER OR SUBJECTING THE PROVIDER TO FINANCIAL DISINCENTIVES BASED SOLELY ON THE PROVIDER'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.

(II) AS USED IN THIS SUBSECTION (1)(f), "ADVERSE ACTION" MEANS REFUSING OR FAILING TO PAY A PROVIDER FOR OTHERWISE COVERED SERVICES AS DEFINED IN THE APPLICABLE HEALTH BENEFIT PLAN.

SECTION 4. In Colorado Revised Statutes, 10-16-705.7, **add** (9.5) as follows:

10-16-705.7. Timely credentialing of physicians by carriers - notice of receipt required - notice of incomplete applications required - delegated credentialing agreements - discrepancies - denials of claims prohibited - disclosures - recredentialing - enforcement - rules - definitions. (9.5) A CARRIER SHALL NOT REFUSE TO CREDENTIAL AN APPLICANT OR TERMINATE A PARTICIPATING PHYSICIAN'S PARTICIPATION IN A PROVIDER NETWORK BASED SOLELY ON THE APPLICANT'S OR PARTICIPATING PHYSICIAN'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.

SECTION 5. In Colorado Revised Statutes, **add** 12-30-121 as follows:

12-30-121. Legally protected health-care activity - prohibit adverse action against regulated professionals and applicants - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CIVIL JUDGMENT" MEANS A FINAL COURT DECISION AND ORDER RESULTING FROM A CIVIL LAWSUIT OR A SETTLEMENT IN LIEU OF A FINAL

COURT DECISION.

(b) "CRIMINAL JUDGMENT" MEANS A GUILTY VERDICT, A PLEA OF GUILTY, A PLEA OF NOLO CONTENDERE, PRETRIAL DIVERSION, OR A DEFERRED JUDGMENT OR SENTENCE RESULTING FROM CRIMINAL CHARGES OR CRIMINAL PROCEEDINGS OR THE DISMISSAL OF CHARGES OR THE DECISION NOT TO PROSECUTE CHARGES.

(c) "GENDER-AFFIRMING HEALTH-CARE SERVICES" MEANS ALL SUPPLIES, CARE, AND SERVICES OF A MEDICAL, BEHAVIORAL HEALTH, MENTAL HEALTH, PSYCHIATRIC, HABILITATIVE, SURGICAL, THERAPEUTIC, DIAGNOSTIC, PREVENTIVE, REHABILITATIVE, OR SUPPORTIVE NATURE RELATING TO THE TREATMENT OF GENDER DYSPHORIA.

(d) "LEGALLY PROTECTED HEALTH-CARE ACTIVITY" MEANS SEEKING, PROVIDING, RECEIVING, OR REFERRING FOR; ASSISTING IN SEEKING, PROVIDING, OR RECEIVING; OR PROVIDING MATERIAL SUPPORT FOR OR TRAVELING TO OBTAIN GENDER-AFFIRMING HEALTH-CARE SERVICES OR REPRODUCTIVE HEALTH CARE THAT IS NOT UNLAWFUL IN THIS STATE, INCLUDING ON ANY THEORY OF VICARIOUS, JOINT, SEVERAL, OR CONSPIRACY LIABILITY. AS IT RELATES TO THE PROVISION OF OR REFERRAL FOR GENDER-AFFIRMING HEALTH-CARE SERVICES OR REPRODUCTIVE HEALTH BY A HEALTH-CARE PROVIDER LICENSED IN THIS STATE AND PHYSICALLY PRESENT IN THIS STATE, THE SERVICES AND CARE ARE CONSIDERED A "LEGALLY PROTECTED HEALTH-CARE ACTIVITY" IF THE SERVICE OR CARE IS LAWFUL IN THIS STATE, REGARDLESS OF THE PATIENT'S LOCATION.

(e) "REPRODUCTIVE HEALTH CARE" MEANS HEALTH CARE AND OTHER MEDICAL SERVICES RELATED TO THE REPRODUCTIVE PROCESSES, FUNCTIONS, AND SYSTEMS AT ALL STAGES OF LIFE. IT INCLUDES, BUT IS NOT LIMITED TO, FAMILY PLANNING AND CONTRACEPTIVE CARE; GENDER-AFFIRMING HEALTH-CARE SERVICES; ABORTION CARE; PRENATAL, POSTNATAL, AND DELIVERY CARE; FERTILITY CARE; STERILIZATION SERVICES; AND TREATMENTS FOR SEXUALLY TRANSMITTED INFECTIONS AND REPRODUCTIVE CANCERS.

(2) A REGULATOR SHALL NOT DENY LICENSURE, CERTIFICATION, OR REGISTRATION TO AN APPLICANT OR IMPOSE DISCIPLINARY ACTION AGAINST AN INDIVIDUAL'S LICENSE, CERTIFICATE, OR REGISTRATION BASED SOLELY ON:

(a) THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

(b) A CIVIL JUDGMENT OR CRIMINAL JUDGMENT AGAINST THE APPLICANT, LICENSEE, CERTIFICANT, OR REGISTRANT ARISING FROM THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

(c) A PROFESSIONAL DISCIPLINARY ACTION OR ANY OTHER SANCTION AGAINST OR SUSPENSION, REVOCATION, SURRENDER, OR RELINQUISHMENT OF THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROFESSIONAL LICENSE, CERTIFICATION, OR REGISTRATION IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS:

(I) THE PROFESSIONAL DISCIPLINARY ACTION IS BASED SOLELY ON THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY; AND

(II) THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

(d) THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S OWN PERSONAL EFFORT TO SEEK OR ENGAGE IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY; OR

(e) A CIVIL OR CRIMINAL JUDGMENT AGAINST THE APPLICANT, LICENSEE, CERTIFICANT, OR REGISTRANT ARISING FROM THE INDIVIDUAL'S OWN PERSONAL LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY.

SECTION 6. In Colorado Revised Statutes, **add** 13-1-140 as follows:

13-1-140. Prohibition on issuing subpoena in connection with proceeding in another state. (1) A COURT, JUDICIAL OFFICER, COURT EMPLOYEE, OR ATTORNEY SHALL NOT ISSUE A SUBPOENA IN CONNECTION WITH A PROCEEDING IN ANOTHER STATE CONCERNING AN INDIVIDUAL ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), OR AN ENTITY THAT PROVIDES INSURANCE COVERAGE FOR GENDER-AFFIRMING HEALTH-CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4).

(2) THIS SECTION DOES NOT PROHIBIT THE INVESTIGATION OF CRIMINAL ACTIVITY THAT MAY INVOLVE A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, PROVIDED THAT INFORMATION RELATING TO A MEDICAL PROCEDURE PERFORMED ON AN INDIVIDUAL IS NOT SHARED WITH AN AGENCY OR INDIVIDUAL FROM ANOTHER STATE FOR THE PURPOSE OF ENFORCING ANOTHER STATE'S ABORTION LAW.

SECTION 7. In Colorado Revised Statutes, **add** 13-21-133 as follows:

13-21-133. Out-of-state civil action against a person or entity prohibited - legally protected health-care activity - out-of-state civil judgment. (1) IT IS AGAINST THE PUBLIC POLICY OF THIS STATE FOR THE LAW OF ANOTHER STATE TO AUTHORIZE A PERSON TO BRING A CIVIL ACTION AGAINST ANOTHER PERSON OR ENTITY FOR ENGAGING OR ATTEMPTING OR INTENDING TO ENGAGE IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), OR FOR PROVIDING INSURANCE COVERAGE FOR GENDER-AFFIRMING HEALTH-CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4).

(2) A COURT SHALL NOT APPLY ANOTHER STATE'S LAW AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO A CASE OR CONTROVERSY HEARD IN A COLORADO COURT.

(3) IN ANY ACTION FILED TO ENFORCE A FOREIGN JUDGMENT ISSUED IN CONNECTION WITH ANY LITIGATION CONCERNING A LEGALLY PROTECTED

HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), THE COURT SHALL NOT GIVE ANY FORCE OR EFFECT TO ANY JUDGMENT ISSUED WITHOUT PERSONAL JURISDICTION OR DUE PROCESS OR TO ANY JUDGMENT THAT IS PENAL IN NATURE.

SECTION 8. In Colorado Revised Statutes, **add** 13-64-402.5 as follows:

13-64-402.5. Evidence relating to legally protected health-care activity - legislative declaration. (1) IT IS THE GENERAL ASSEMBLY'S INTENT TO PROTECT PERSONS FROM LIABILITY IN COLORADO COURTS FOR TAKING ACTIONS SPECIFIED IN SECTION 12-30-121, PERSONALLY OR PROFESSIONALLY, THAT ARE NOT SUBJECT TO DISCIPLINE BY A REGULATOR PURSUANT TO SECTION 12-30-121.

(2) IN ANY MEDICAL MALPRACTICE ACTION BROUGHT IN THIS STATE AGAINST A HEALTH-CARE PROVIDER LICENSED, REGISTERED, OR CERTIFIED IN THIS STATE OR IN ANOTHER STATE OR UNITED STATES TERRITORY, A COURT OR ARBITRATOR SHALL NOT ALLOW EVIDENCE OR WITNESS TESTIMONY RELATING TO PROFESSIONAL DISCIPLINE OR CRIMINAL OR CIVIL CHARGES IN THIS STATE OR IN ANOTHER STATE OR UNITED STATES TERRITORY, REGARDLESS OF DISPOSITION OR OUTCOME, CONCERNING THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.

SECTION 9. In Colorado Revised Statutes, 16-3-102, **add** (2) as follows:

16-3-102. Arrest by peace officer. (2) A PEACE OFFICER SHALL NOT KNOWINGLY ARREST OR KNOWINGLY PARTICIPATE IN THE ARREST OF ANY PERSON WHO ENGAGES IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), UNLESS THE ACTS FORMING THE BASIS FOR THE ARREST CONSTITUTE A CRIMINAL OFFENSE IN COLORADO.

SECTION 10. In Colorado Revised Statutes, 16-3-301, **add** (4) as follows:

16-3-301. Search warrants - issuance - grounds - exception -

definitions. (4) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A COURT SHALL NOT ISSUE A SEARCH WARRANT TO SEARCH FOR AND SEIZE ANY PROPERTY THAT RELATES TO AN INVESTIGATION INTO A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

SECTION 11. In Colorado Revised Statutes, **add** 16-5-104 as follows:

16-5-104. Prohibition on issuing summons - reproductive health care. A JUDGE SHALL NOT ISSUE A SUMMONS IN A CASE WHEN A PROSECUTION IS PENDING, OR WHEN A GRAND JURY INVESTIGATION HAS STARTED OR IS ABOUT TO START, FOR A CRIMINAL VIOLATION OF LAW OF ANOTHER STATE INVOLVING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), OR INVOLVING AN ENTITY THAT PROVIDES INSURANCE COVERAGE FOR GENDER-AFFIRMING HEALTH-CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), THAT IS LEGAL IN COLORADO, UNLESS THE ACTS FORMING THE BASIS OF THE PROSECUTION OR INVESTIGATION WOULD ALSO CONSTITUTE A CRIMINAL OFFENSE IN COLORADO.

SECTION 12. In Colorado Revised Statutes, 16-15-102, **add** (1)(d) as follows:

16-15-102. Ex parte order authorizing the interception of wire, oral, or electronic communications. (1) (d) A COURT SHALL NOT ISSUE AN EX PARTE ORDER FOR WIRETAPPING OR EAVESDROPPING TO OBTAIN ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION THAT RELATES TO AN INVESTIGATION INTO A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

SECTION 13. In Colorado Revised Statutes, **amend** 16-19-107 as follows:

16-19-107. Extradition of persons not present where crime committed. (1) The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 16-19-104 with committing an act in this state, or in a third state, intentionally resulting in

a crime in the state whose executive authority is making the demand, and the provisions of this ~~article~~ ARTICLE 19 THAT ARE not otherwise inconsistent ~~shall~~ apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom, PROVIDED THE ACTS FOR WHICH EXTRADITION IS SOUGHT WOULD BE PUNISHABLE BY THE LAWS OF THIS STATE IF THE ACTS OCCURRED IN THIS STATE.

(2) EXCEPT AS REQUIRED BY FEDERAL LAW, THE GOVERNOR SHALL NOT SURRENDER A PERSON CHARGED IN ANOTHER STATE AS A RESULT OF THE PERSON ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), UNLESS THE EXECUTIVE AUTHORITY OF THE DEMANDING STATE ALLEGES IN WRITING THAT THE ACCUSED WAS PHYSICALLY PRESENT IN THE DEMANDING STATE AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE AND THAT THEREAFTER THE ACCUSED FLED FROM THE DEMANDING STATE.

SECTION 14. In Colorado Revised Statutes, 17-1-114.5, **amend** (1)(i); and **add** (1)(k) and (1)(l) as follows:

17-1-114.5. Incarceration of a person in custody with the capacity for pregnancy - report. (1) A correctional facility or private contract prison incarcerating a person who is capable of pregnancy shall:

(i) Establish partnerships with local public entities, private community entities, community-based organizations, Indian tribes and tribal organizations as defined in the federal "Indian Self-Determination and Education Assistance Act", 25 U.S.C. sec. 5304, as amended, or urban Indian organizations as defined in the federal "Indian Health Care Improvement Act", 25 U.S.C. sec. 1603, as amended; ~~and~~

(k) REGARDLESS OF THE PERSON'S ABILITY TO PAY, ENSURE ACCESS TO AN ABORTION, AS DEFINED IN SECTION 25-6-402, BY PROVIDING A PREGNANT PERSON WITH INFORMATION ABOUT ABORTION PROVIDERS, REFERRALS TO COMMUNITY-BASED PROVIDERS OF ABORTIONS, REFERRALS TO COMMUNITY-BASED ORGANIZATIONS THAT HELP PEOPLE PAY FOR ABORTIONS, AND TRANSPORTATION TO ACCESS AN ABORTION; AND

(l) ENSURE ACCESS TO MISCARRIAGE MANAGEMENT, INCLUDING MEDICATION.

SECTION 15. In Colorado Revised Statutes, 18-9-313, **amend** (1)(d) and (1)(n); and **add** (1) (q.5) as follows:

18-9-313. Personal information on the internet - victims of domestic violence, sexual assault, and stalking - other protected persons - definitions. (1) As used in this section, unless the context otherwise requires:

(d) "Health-care worker" means A LICENSED HEALTH-CARE PROVIDER, OR an employee, contracted health-care provider, or individual serving in a governance capacity of a health-care facility licensed pursuant to section 25-1.5-103.

(n) "Protected person" means an educator, a code enforcement officer, a human services worker, a public health worker, a child representative, a health-care worker, A REPRODUCTIVE HEALTH-CARE SERVICES WORKER, an officer or agent of the state bureau of animal protection, an animal control officer, an office of the respondent parents' counsel staff member or contractor, a judge, a peace officer, a prosecutor, a public defender, or a public safety worker.

(q.5) "REPRODUCTIVE HEALTH-CARE SERVICES WORKER" MEANS A PATIENT WHO RELOCATED TO COLORADO, PROVIDER, OR EMPLOYEE OF AN ORGANIZATION THAT PROVIDES OR ASSISTS INDIVIDUALS IN ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

SECTION 16. In Colorado Revised Statutes, **add** 18-13-133 as follows:

18-13-133. Prohibition on prosecuting health-care providers - patient ingests abortifacient in another state. A LICENSED HEALTH-CARE PROVIDER SHALL NOT BE PROSECUTED, INVESTIGATED, OR SUBJECTED TO ANY PENALTY IF THE HEALTH-CARE PROVIDER PRESCRIBES AN ABORTIFACIENT TO A PATIENT AND THE PATIENT INGESTS THE ABORTIFACIENT IN ANOTHER STATE SO LONG AS THE ABORTIFACIENT WAS PRESCRIBED OR ADMINISTERED CONSISTENT WITH ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW.

SECTION 17. In Colorado Revised Statutes, 24-30-2102, **amend** (1); and **add** (1.5) as follows:

24-30-2102. Legislative declaration. (1) The general assembly ~~hereby~~ finds and declares that a person attempting to escape from actual or threatened domestic violence, a sexual offense, or stalking frequently moves to a new address in order to prevent an assailant or potential assailant from finding ~~him or her~~ THE VICTIM. This new address, however, is only useful if an assailant or potential assailant does not discover it. ~~Therefore, in order to help victims of domestic violence, a sexual offense, or stalking, it is the intent of the general assembly to establish an address confidentiality program, whereby the confidentiality of a victim's address may be maintained through, among other things, the use of a substitute address for purposes of public records and confidential mail forwarding.~~ ADDITIONALLY, PEOPLE INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE ARE AT A HEIGHTENED RISK OF ACTUAL OR THREATENED VIOLENCE, STALKING, OR OTHER SOCIAL HARMS.

(1.5) THEREFORE, IN ORDER TO HELP VICTIMS OF DOMESTIC VIOLENCE, A SEXUAL OFFENSE, OR STALKING, AND TO ASSIST AND PROTECT INDIVIDUALS INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH AN ADDRESS CONFIDENTIALITY PROGRAM, WHEREBY THE CONFIDENTIALITY OF A VICTIM'S OR AN INDIVIDUAL INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE'S ADDRESS MAY BE MAINTAINED THROUGH, AMONG OTHER THINGS, THE USE OF A SUBSTITUTE ADDRESS FOR PURPOSES OF PUBLIC RECORDS AND CONFIDENTIAL MAIL FORWARDING.

SECTION 18. In Colorado Revised Statutes, 24-30-2103, **amend** (2); and **add** (9.5) as follows:

24-30-2103. Definitions. As used in this part 21, unless the context otherwise requires:

(2) "Address confidentiality program" or "program" means the program created under this part 21 in the department to protect the confidentiality of the actual address of a RELOCATED PROTECTED HEALTH-CARE WORKER OR A relocated victim of domestic violence, a sexual offense, or stalking.

(9.5) "PROTECTED HEALTH-CARE WORKER" MEANS A REPRODUCTIVE HEALTH-CARE PROVIDER, OR AN EMPLOYEE, VOLUNTEER, PATIENT, OR IMMEDIATE FAMILY MEMBER OF A REPRODUCTIVE HEALTH-CARE PROVIDER, ENGAGED IN THE PROVISION, FACILITATION, OR PROMOTION OF A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

SECTION 19. In Colorado Revised Statutes, 24-30-2104, **amend** (1) introductory portion and (4) as follows:

24-30-2104. Address confidentiality program - creation - substitute address - uses - service by mail - application assistance centers. (1) There is ~~hereby~~ created the address confidentiality program in the department to protect the confidentiality of the actual address of A RELOCATED PROTECTED HEALTH-CARE WORKER OR a relocated victim of domestic violence, a sexual offense, or stalking and to prevent the victim's assailants or potential assailants from finding the victim through public records. Under the program, the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee shall:

(4) The executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee may designate as an application assistant any person who:

(a) Provides counseling, referral, or other services to victims of domestic violence, a sexual offense, or stalking, ~~and~~ IF APPLICABLE;

(b) Completes any training and registration process required by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee, IF APPLICABLE; AND

(c) PROVIDES COUNSELING, REFERRALS, OR OTHER SERVICES TO INDIVIDUALS ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IF APPLICABLE.

SECTION 20. In Colorado Revised Statutes, 24-30-2105, **amend** (3) introductory portion, (3)(b), (3)(c) introductory portion, (3)(h), and (3)(k); and **add** (3)(l) as follows:

24-30-2105. Filing and certification of applications - authorization card. (3) The application ~~shall~~ MUST be on a form

prescribed by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee and ~~shall~~ MUST contain ~~all of~~ the following:

(b) A statement by the applicant that the applicant is a victim of domestic violence, a sexual offense, or stalking and that the applicant fears for ~~his or her~~ THE APPLICANT'S safety, IF APPLICABLE;

(c) Evidence that the applicant is a victim of domestic violence, a sexual offense, or stalking, IF APPLICABLE. This evidence may include any of the following:

(h) The actual address that the applicant requests not to be disclosed by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee that directly relates to the increased risk of domestic violence, a sexual offense, or stalking, OR INCREASED RISK OF ACTUAL OR THREATENED VIOLENCE, STALKING, OR OTHER SOCIAL HARMS DUE TO THE PROVISION OF A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d);

(k) A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the application is true; AND

(l) A STATEMENT BY THE APPLICANT, UNDER PENALTY OF PERJURY, THAT THE APPLICANT IS A PROTECTED HEALTH-CARE WORKER OR PROVIDES, REFERS, OR ASSISTS PATIENTS IN ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IF APPLICABLE.

SECTION 21. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XVI) and (1)(i)(XVII); and **add** (1)(i)(XVIII) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(XVI) Part 7 of article 12 of title 38; ~~and~~

(XVII) Section 38-12-904 (1)(b); AND

(XVIII) THE "REPRODUCTIVE HEALTH EQUITY ACT", PART 4 OF ARTICLE 6 OF TITLE 25.

SECTION 22. In Colorado Revised Statutes, **add** article 116 to title 24 as follows:

ARTICLE 116
Prohibition on Government Resources for
Out-of-state Investigation into Legally Protected Health-care
Activity

24-116-101. Prohibition on providing information or expending government resources - legally protected health-care activity. A PUBLIC AGENCY, OR EMPLOYEE, APPOINTEE, OFFICER, OFFICIAL, OR ANY OTHER PERSON ACTING ON BEHALF OF A PUBLIC AGENCY, SHALL NOT PROVIDE ANY INFORMATION OR EXPEND OR USE TIME, MONEY, FACILITIES, PROPERTY, EQUIPMENT, PERSONNEL, OR OTHER RESOURCES IN FURTHERANCE OF ANY OUT-OF-STATE INVESTIGATION OR PROCEEDING SEEKING TO IMPOSE CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL SANCTION UPON A PERSON OR ENTITY FOR ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

24-116-102. Prohibition on assisting another state - legally protected health-care activity. (1) A STATE AGENCY OR EXECUTIVE DEPARTMENT SHALL NOT PROVIDE INFORMATION OR DATA, INCLUDING PATIENT MEDICAL RECORDS, PATIENT-LEVEL DATA, OR RELATED BILLING INFORMATION, OR EXPEND TIME, MONEY, FACILITIES, PROPERTY, EQUIPMENT, PERSONNEL, OR OTHER RESOURCES FOR THE PURPOSE OF ASSISTING OR FURTHERING AN INVESTIGATION OR PROCEEDING INITIATED IN OR BY ANOTHER STATE THAT SEEKS TO IMPOSE CRIMINAL OR CIVIL LIABILITY OR PROFESSIONAL SANCTION UPON A PERSON OR ENTITY FOR ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN AGENCY OR EXECUTIVE DEPARTMENT MAY PROVIDE INFORMATION OR ASSISTANCE IN CONNECTION WITH AN INVESTIGATION OR PROCEEDING IN RESPONSE TO A WRITTEN REQUEST FROM THE SUBJECT OF THE

INVESTIGATION OR PROCEEDING.

(3) THIS SECTION DOES NOT APPLY TO AN INVESTIGATION OR PROCEEDING THAT WOULD BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL SANCTION UNDER COLORADO LAW IF THE ACTION WAS COMMITTED IN COLORADO.

SECTION 23. In Colorado Revised Statutes, **amend** 25-6-404 as follows:

25-6-404. Public entity - prohibited actions. (1) A public entity shall not:

(a) Deny, restrict, interfere with, or discriminate against an individual's fundamental right to use or refuse contraception or to continue a pregnancy and give birth or to have an abortion in the regulation or provision of benefits, facilities, services, or information; ~~or~~

(b) Deprive, through prosecution, punishment, or other means, an individual of the individual's right to act or refrain from acting during the individual's own pregnancy based on the potential, actual, or perceived impact on the pregnancy, the pregnancy's outcomes, or on the pregnant individual's health;

(c) RESTRICT ANY NATURAL OR LEGAL PERSON IN PERFORMING, OR PROHIBIT ANY NATURAL OR LEGAL PERSON FROM PROVIDING, REPRODUCTIVE HEALTH CARE THROUGH THE IMPOSITION OF LICENSING, PERMITTING, CERTIFICATION, OR SIMILAR LEGISLATIVE OR REGULATORY REQUIREMENTS THAT APPLY SOLELY TO PROVIDERS OF REPRODUCTIVE HEALTH CARE; OR

(d) PROSECUTE OR OTHERWISE CRIMINALLY SANCTION ANY NATURAL OR LEGAL PERSON FOR PROVIDING, ASSISTING IN THE PROVISION OF, ARRANGING FOR, OR OTHERWISE ASSISTING A PERSON IN ACCESSING REPRODUCTIVE HEALTH CARE PERFORMED WITHIN THE SCOPE OF APPLICABLE PROFESSIONAL LICENSURE AND CERTIFICATION REQUIREMENTS.

SECTION 24. In Colorado Revised Statutes, **add** 25-6-407 as follows:

25-6-407. Enforcement. THE VENUE TO ENFORCE AN ACTION

PURSUANT TO THE PROVISIONS OF THIS PART 4 IS IN THE DENVER DISTRICT COURT.

SECTION 25. In Colorado Revised Statutes, 25-37-103, **add** (1)(e) as follows:

25-37-103. Health-care contracts - required provisions - permissible provision. (1) (e) (I) THE SUMMARY DISCLOSURE FORM REQUIRED BY SUBSECTION (1)(a) OF THIS SECTION MUST INCLUDE A DISCLOSURE THAT A PERSON OR ENTITY SHALL NOT TERMINATE A HEALTH-CARE CONTRACT WITH A HEALTH-CARE PROVIDER SOLELY FOR THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

(II) A PERSON OR ENTITY THAT IS A RELIGIOUS ORGANIZATION IS NOT SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (1)(e) IF THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), CONFLICTS WITH THE RELIGIOUS ORGANIZATION'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

SECTION 26. In Colorado Revised Statutes, 29-20-104, **amend** (1)(g) as follows:

29-20-104. Powers of local governments - definition. (1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(g) (I) Regulating the use of land on the basis of the impact of the use on the community or surrounding areas;

(II) (A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT ACCESS TO OUTPATIENT CLINICAL FACILITIES PROVIDING REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), IS A MATTER OF STATEWIDE CONCERN AND THAT, FOR PURPOSES OF ZONING AND OTHER LAND USE PLANNING, SUCH FACILITIES FALL WITHIN THE MEANING OF A MEDICAL OFFICE USE, A MEDICAL CLINIC USE, A HEALTH-CARE USE, AND OTHER FACILITIES THAT PROVIDE OUTPATIENT HEALTH-CARE SERVICES.

(B) FOR THE PURPOSES OF ZONING AND OTHER LAND USE PLANNING, EVERY LOCAL GOVERNMENT THAT HAS ADOPTED OR ADOPTS A ZONING ORDINANCE SHALL RECOGNIZE THE PROVISION OF OUTPATIENT REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), AS A PERMITTED USE IN ANY ZONE IN WHICH THE PROVISION OF GENERAL OUTPATIENT HEALTH CARE IS RECOGNIZED AS A PERMITTED USE.

(C) NOTHING IN THIS SUBSECTION (1)(g)(II) RESTRICTS OR SUPERSEDES THE AUTHORITY OF A LOCAL GOVERNMENT TO ENACT UNIFORM ZONING ORDINANCES AND OTHER LAND USE REGULATIONS THAT COMPLY WITH THIS SUBSECTION (1)(g)(II).

SECTION 27. In Colorado Revised Statutes, 30-28-115, **add** (1.5) as follows:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (1.5) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT ACCESS TO OUTPATIENT CLINICAL FACILITIES PROVIDING REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), IS A MATTER OF STATEWIDE CONCERN AND THAT, FOR PURPOSES OF ZONING AND OTHER LAND USE PLANNING, SUCH FACILITIES FALL WITHIN THE MEANING OF A MEDICAL OFFICE USE, A MEDICAL CLINIC USE, A HEALTH-CARE USE, AND OTHER FACILITIES THAT PROVIDE OUTPATIENT HEALTH-CARE SERVICES.

(b) FOR THE PURPOSES OF ZONING AND OTHER LAND USE PLANNING, EVERY LOCAL GOVERNMENT THAT HAS ADOPTED OR ADOPTS A ZONING ORDINANCE SHALL RECOGNIZE THE PROVISION OF OUTPATIENT REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), AS A PERMITTED USE IN ANY ZONE IN WHICH THE PROVISION OF GENERAL OUTPATIENT HEALTH CARE IS RECOGNIZED AS A PERMITTED USE.

(c) NOTHING IN THIS SUBSECTION (1.5) RESTRICTS OR SUPERSEDES THE AUTHORITY OF A LOCAL GOVERNMENT TO ENACT UNIFORM ZONING ORDINANCES AND OTHER LAND USE REGULATIONS THAT COMPLY WITH THIS SUBSECTION (1.5).

SECTION 28. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO