1 HOUSE BILL NO. 471

2 INTRODUCED BY E. STAFMAN

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

8 WHEREAS, the United States Constitution and the Montana Constitution expressly protect the freedom
9 of religion for all Montanans; and
10 WHEREAS, freedom of religion is a strong value in Montana law and practice, particularly when it
11 involves medical freedom; and
12 WHEREAS, throughout human history into the present day, different religions have had and currently
13 have divergent and deeply held theologies, religious beliefs, and values on profoundly religious questions
14 regarding when human life begins, bodily autonomy, and when abortion is allowable; and
15 WHEREAS, the Legislature intends to guarantee the religious and medical freedom of pregnant women
16 in Montana.
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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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20 Section 1. Section 50-20-109, MCA, is amended to read:
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22 “50-20-109. Control of practice of abortion -- exception. (1) Except as provided in 50-20-111(4)
23 and 50-20-401, an abortion may not be performed within the state of Montana:
24 (a) except by a licensed physician or physician assistant;
25 (b) on an unborn child capable of feeling pain, except as provided in 50-20-603.
26 (2) The supervision agreement of a physician assistant may provide for performing abortions.
27 (3) Violation of subsection (1) is a felony.”
Section 2. Section 50-20-111, MCA, is amended to read:

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

(2) All persons shall have the right to refuse to advise concerning, perform, assist, or participate in abortion because of religious beliefs or moral convictions. If requested by any hospital or health care facility or person desiring an abortion, such refusal shall be in writing signed by the person refusing, but may refer generally to the grounds of "religious beliefs and moral convictions". The refusal of any person to advise concerning, perform, assist, or participate in abortion shall not be a consideration in respect of staff privileges of any hospital or health care facility or a basis for any discriminatory, disciplinary, or other recriminatory action against the person, nor shall such refusal be the basis for any discriminatory, disciplinary, or other recriminatory action against the person, nor shall such refusal be the basis for any discriminatory, disciplinary, or other recriminatory action against the person, nor shall such refusal be the basis for any discriminatory, disciplinary, or other recriminatory action against the person, nor shall such refusal be the basis for any discriminatory, disciplinary, or other recriminatory action against. Such refusal shall not give rise to liability of the hospital or health care facility to any person for damages allegedly arising from refusal.

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

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

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

(i) the right of refusal authorized by subsections (1) and (2); or

(ii) the right, pursuant to subsection (4), to receive an abortion in accordance with sincerely held religious tenets.

(b) A person injured by a violation of subsection (5)(a) is entitled to injunctive relief, when appropriate, and is entitled to monetary damages for injuries suffered.

(6) As used in this section, the term following definitions apply:

(a) "Health care provider" means any physician, physician assistant, nurse, nurse practitioner, or other professional who has been determined by the appropriate medical examining and licensing authority to be competent by reason of education, training, or experience to perform an abortion.

(b) "Person" means one or more individuals, partnerships, associations, and corporations.

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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