

1 **ABORTION FREEDOM OF CONSCIENCE**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carl Wimmer**

5 Senate Sponsor: D. Chris Buttar

6

LONG TITLE

7 **General Description:**

8 This bill amends the portion of the Utah Criminal Code relating to abortion by
9 replacing Utah's freedom of conscience law with a new and expanded freedom of
10 conscience law.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ defines ~~H→ [the term "health care provider"] terms ←H~~ ;

14 ▶ provides that a health care provider may, on religious or moral grounds, refuse to
15 perform or participate in any way in an abortion;

16 ▶ provides that, except as otherwise required by law, a

17 ~~H→ [hospital] health care facility ←H~~ may refuse, on

18 religious or moral grounds, to admit a patient for an abortion procedure or perform
19 an abortion procedure for a patient;

20 ▶ provides that a health care provider's or a ~~H→ [hospital's] health care facility's ←H~~
21a refusal, described in the

22 preceding paragraphs, may not be the basis for civil liability or other recriminatory
23 action;

24 ▶ provides that a ~~H→ [hospital] health care facility ←H~~ , employer, or other person may
25a not take any adverse action

26 against a health care provider for exercising the health care provider's right of
27 refusal described in this bill;

▶ provides that a person who is adversely impacted by conduct prohibited by this bill
may bring a civil action for equitable relief, including reinstatement, and for



28 damages; and

29 ▶ provides that a person who brings an action under this bill must commence the
30 action within three years after the day on which the cause of action arises.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 REPEALS AND REENACTS:

37 **76-7-306**, as last amended by Laws of Utah 1995, Chapter 20

38

39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **76-7-306** is repealed and reenacted to read:

41 **76-7-306. Refusal to participate, admit, or treat for abortion based on religious or**
42 **moral grounds -- Cause of action.**

43 (1) As used in this section **Ĥ→ [;]** :

43a **(a) "Health care facility" is as defined in Section 26-21-2.**

43b **(b) ←Ĥ " Ĥ→ [health] Health ←Ĥ care provider" means an individual who is an**
44 **employee of, has practice privileges at, or is otherwise associated with a Ĥ→ [hospital] health care**
44a **facility ←Ĥ .**

45 (2) A health care provider may, on religious or moral grounds, refuse to perform or
46 participate in any way, in:

47 (a) an abortion; or

48 (b) a procedure that is intended to, or likely to, result in the termination of a pregnancy.

49 (3) Except as otherwise required by law, a Ĥ→ [hospital] health care facility, ←Ĥ may
49a refuse, on religious or moral
50 grounds, to:

51 (a) admit a patient for an abortion procedure or another procedure that is intended to, or
52 likely to, result in the termination of a pregnancy; or

53 (b) perform for a patient an abortion procedure or another procedure that is intended to,
54 or likely to, result in the termination of a pregnancy.

55 (4) A health care provider's refusal under Subsection (2) and a Ĥ→ [hospital's] health care
55a facility's ←Ĥ refusal under
56 Subsection (3) may not be the basis for civil liability or other recriminatory action.

57 (5) A Ĥ→ [hospital] health care facility ←Ĥ , employer, or other person may not take an
57a adverse action against a
58 health care provider for exercising the health care provider's right of refusal described in

59 Subsection (2), or for bringing or threatening to bring an action described in Subsection (6),
60 including:

61 (a) dismissal;

62 (b) demotion;

63 (c) suspension;

64 (d) discipline;

65 (e) discrimination;

66 (f) harassment;

67 (g) retaliation;

68 (h) adverse change in status;

69 (i) termination of, adverse alteration of, or refusal to renew an association or
70 agreement; or

71 (j) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status
72 that the health care provider would have otherwise received.

73 (6) A person who is adversely impacted by conduct prohibited in Subsection (5) may
74 bring a civil action for equitable relief, including reinstatement, and for damages. A person
75 who brings an action under this section must commence the action within three years after the
76 day on which the cause of action arises.

Legislative Review Note
as of 2-11-11 1:27 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 353

SHORT TITLE: **Abortion Freedom of Conscience**

SPONSOR: **Wimmer, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.