

**ABORTION FREEDOM OF CONSCIENCE**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl Wimmer**

Senate Sponsor: D. Chris Buttars

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ defines the term "health care provider";
- ▶ provides that a health care provider may, on religious or moral grounds, refuse to perform or participate in any way in an abortion;
- ▶ provides that, except as otherwise required by law, a hospital may refuse, on religious or moral grounds, to admit a patient for an abortion procedure or perform an abortion procedure for a patient;
- ▶ provides that a health care provider's or a hospital's refusal, described in the preceding paragraphs, may not be the basis for civil liability or other recriminatory action;
- ▶ provides that a hospital, employer, or other person may not take any adverse action against a health care provider for exercising the health care provider's right of 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



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 Section **76-7-306** is repealed and reenacted to read: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, "health care provider" means an individual who is an  
44 employee of, has practice privileges at, or is otherwise associated with a hospital.

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 hospital may 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 hospital's refusal under  
56 Subsection (3) may not be the basis for civil liability or other recriminatory action.

57       (5) A hospital, employer, or other person may not take an 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.

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**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.