

Senate Bill 923

Sponsored by Senators BOQUIST, LINTHICUM; Senators GIROD, HANSELL, KNOPP, THATCHER, THOMSEN, Representatives BARRETO, BOLES, BONHAM, BOSHART DAVIS, FINDLEY, LEIF, NEARMAN, NOBLE, POST, RESCHKE, SMITH DB, SMITH G, SPRENGER, STARK, WILSON, ZIKA (at the request of ORTL)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides protections for person who refuses to participate in procedure related to abortion or physician-assisted suicide if refusal is based on person's ethical, moral or religious convictions.

Allows health care facility to refuse to perform procedure related to abortion or physician-assisted suicide.

Allows person to bring action for damages and equitable relief against health care facility, health professional regulatory agency, employer or school for violation. Directs court to award attorney fees to prevailing plaintiff.

A BILL FOR AN ACT

Relating to participation in medical procedures.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2019 Act:

(1) **"Abortion" means the use or prescription of a drug, medicine, instrument or other substance or device in order to:**

(a) **Intentionally kill the unborn child of a pregnant person; or**

(b) **Terminate a person's pregnancy with a purpose other than:**

(A) **After viability, to produce a live birth and preserve the life and health of the child;**
or

(B) **To remove a dead unborn child.**

(2) **"Health care facility" means an entity involved in providing health care services, including but not limited to a hospital, clinic, medical center, ambulatory surgical center, physician's office, pharmacy, nursing home, medical school, nursing school, medical training facility or inpatient health care facility.**

(3) **"Health care practitioner" means a person who is authorized by a health professional regulatory agency in this state to engage in the practice of a health care discipline.**

(4) **"In vitro human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning or other means from one or more human gametes or human diploid cells, whether cryopreserved or not, and that lives outside of a pregnant person's body.**

(5) **"Participate" means to perform, practice, engage in, assist in, recommend, counsel in favor of, make referrals for, prescribe, dispense or administer drugs or devices or otherwise promote or encourage.**

SECTION 2. (1) An employer may not discriminate against an employee or prospective employee by refusing to reasonably accommodate the ethical, moral or religious objection of the employee or prospective employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the program or enterprise of the employer,

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to any of the following procedures:

2 (a) An abortion, unless the person who is pregnant suffers from a physical disorder, in-
 3 jury or illness that, as determined by a physician licensed under ORS chapter 677, causes the
 4 person to be in imminent danger of death unless an abortion is immediately performed and
 5 the employee is the only person available with the necessary skills and training to carry out
 6 the abortion.

7 (b) An experimental or medical procedure that destroys an in vitro human embryo or
 8 uses cells or tissue derived from the destruction of an in vitro human embryo.

9 (c) An experimental or medical procedure performed on an in vitro human embryo that
 10 is not related to the beneficial treatment of the in vitro human embryo.

11 (d) An experimental or medical procedure performed on a developing child in an artificial
 12 womb, at any stage of development, that is not related to the beneficial treatment of the
 13 child.

14 (e) A procedure, including a transplant procedure, that uses fetal tissue or organs from
 15 a source other than a stillbirth or miscarriage.

16 (f) An act that intentionally causes or assists in causing the death of a person who has
 17 voluntarily requested medication for the purpose of ending the person’s life in a manner de-
 18 scribed in ORS 127.800 to 127.897.

19 (g) An act that intentionally causes or assists in causing the death of a person by with-
 20 holding from the person ordinary food and water.

21 (2) A health care facility, employer or school may not discriminate against a person with
 22 regard to admission, hiring or firing, tenure, terms, conditions or privileges of employment,
 23 student status or staff status on the grounds that the person refuses, or expresses an in-
 24 tention to refuse, to participate in a procedure described in subsection (1) of this section if
 25 the refusal is based on the person’s ethical, moral or religious convictions. Except as pro-
 26 vided in subsection (1) of this section, an individual may not be required to:

27 (a) Participate in a procedure described in subsection (1) of this section;

28 (b) Make facilities under the person’s control available to another person so that the
 29 other person can participate in a procedure described in subsection (1) of this section; or

30 (c) Provide personnel under the person’s control who will participate in a procedure de-
 31 scribed in subsection (1) of this section.

32 **SECTION 3. (1) A health care facility is not required to:**

33 (a) Admit a patient so that the patient may undergo a procedure described in section 2
 34 of this 2019 Act.

35 (b) Permit the use of the health care facility for the purpose of the performance of a
 36 procedure described in section 2 of this 2019 Act.

37 (2)(a) A health care practitioner employed by or associated with a health care facility in
 38 which a procedure described in section 2 of this 2019 Act is performed may state in writing,
 39 and submit to the health care facility in a manner determined by the health care facility, the
 40 health care practitioner’s intention, based on the health care practitioner’s ethical, moral
 41 or religious objection, to refuse to participate in the performance of the procedure.

42 (b) The health care facility may not:

43 (A) Require a health care practitioner described in this subsection to participate in a
 44 procedure described in section 2 of this 2019 Act; or

45 (B) Discipline a health care practitioner described in this subsection for the health care

1 practitioner's refusal to participate in a procedure described in section 2 of this 2019 Act.

2 (c) A health professional regulatory agency may not discipline a health care practitioner
3 described in this subsection over whom the agency has regulatory authority for the health
4 care practitioner's refusal to participate in a procedure described in section 2 of this 2019
5 Act.

6 **SECTION 4.** (1)(a) A person who alleges discrimination in violation of section 2 of this
7 2019 Act may bring an action against the health care facility, employer or school accused of
8 violating section 2 of this 2019 Act for damages and equitable relief.

9 (b) A health care practitioner who alleges a violation of section 3 of this 2019 Act may
10 bring an action against the health care facility or health professional regulatory agency ac-
11 cused of violating section 3 of this 2019 Act for damages and equitable relief.

12 (c) An action described in this subsection may be brought against the state or any
13 agency, association, authority, department, office or other body of the state or local gov-
14 ernment established by the Oregon Constitution or laws of this state.

15 (2) A court shall award attorney fees to a plaintiff who prevails in an action under this
16 section.

17 (3) An action under this section must be commenced within one year of the date on
18 which the cause of action accrues.

19