



Lawyering for Reproductive Justice

March 20, 2023

To: House Committee on Behavioral Health and Health Care

From: Sara L. Ainsworth, J.D. and Myra Durán, If/When/How: Lawyering for Reproductive Justice

RE: Support HB 2002

Chair Nosse, Vice-Chairs Goodwin and Nelson, Members of the Committee:

We are writing on behalf of If/When/How: Lawyering for Reproductive Justice to express **support for House Bill 2002, Reproductive Health and Access to Care**, which will help create a future in which everyone in Oregon has the ability to make decisions about their own bodies and access the full range of reproductive, sexual, and gender affirming health care.

If/When/How works to transform the law and policy landscape through advocacy, support, and organizing so all people have the power to determine if, when, and how to define, create, and sustain families with dignity and to actualize sexual and reproductive wellbeing on their own terms. We do this work by pursuing five strategic initiatives. One of those initiatives is improving young people's access to abortion care by eliminating barriers imposed by forced parental involvement laws and judicial bypass. Another is to advance public policy that halts the criminalization of people who self-manage abortions or experience pregnancy losses.

We strongly support HB 2002. It promises to protect individuals from prosecution for seeking or supporting reproductive and gender affirming care that is legal in Oregon, codifies the right of all people to the full spectrum of reproductive care, and will prevent individuals from being criminalized for any pregnancy outcome.

HB 2002 would ensure the rights of every Oregonian to access abortion care. This law will ensure that all people, regardless of age, can consent to the care they need. Young people need and

deserve access to comprehensive health care, including abortion care. They need and deserve medically accurate information, support, and resources when they are faced with an important life decision – barriers and delays undermine their health and burden their access to care.

Denying young people their autonomy does not ensure healthy family communication; in fact, according to the American Academy of Pediatrics Committee on Adolescence, it has the opposite effect. Healthy family communication cannot be forced and family dialogue should not be a political mandate. The majority of young people already involve a parent in their abortion decision-making. Those who cannot or choose not to involve a parent do so for reasons rooted in their own safety and well-being, and often have a network of support that includes close family members or other trusted adults. In fact, according to the American Academy of Pediatrics Committee on Adolescence, rather than promote family communication, state laws that force young people to involve a parent actually have the opposite effect; they cause delay and obstruction of professional advice and receipt of medical care.

Some opponents made the claim that passing HB 2002 would result in more human trafficking of people under 18; there is no evidence that limiting the rights of young people to access abortion care when they need it has any impact at all on human trafficking. Neither would HB 2022 undermine the state's ability to identify human trafficking victims or perpetrators.

Claims that passing HB 2002 would impact human trafficking are rooted in harmful myths about the extremely complex issue of human trafficking and exploitation. There is no evidence to suggest that forcing young people to disclose a pregnancy to their parents will correlate to a trafficking disclosure, or in any way contribute to prosecutorial goals around trafficking. These myths rely on the belief that parents and guardians are unequivocally safe and healthy individuals in a young person's life and that, if involved, would act in the best interest of the young person. But this ignores that traffickers are all too frequently the young person's parents or family members.^[1]

And forcing a young person to disclose an unwanted pregnancy could place them in an even more precarious situation. Survivors must be trusted to know what is best for themselves, including what health care they need. Moving forward, solutions to empower people who are victimized should be developed in consultation with, and with deference to, the members of those communities.

HB 2002 will also ensure that Oregonians are not criminalized for their pregnancy outcomes.

Oregon law and public policy protect access to reproductive health care and reproductive autonomy. But Oregon's "concealing a birth" law has been used to criminally punish people for having a miscarriage or stillbirth. To ensure that Oregonians are free from criminalization of their pregnancy outcomes, this archaic, rarely-used criminal law must be repealed. "Concealing a birth" is an antiquated criminal law, originally intended to punish women who hid "illegitimate" pregnancies that ended in miscarriage or stillbirth.

The “concealing a birth” statute targets vulnerable Oregonians at a time of health care crisis. This law is rarely used in Oregon, but when it has been used, it has hurt people who had already suffered a health emergency and the loss of a pregnancy. For example, in 2009, an Oregon woman who already had children was charged with concealing a birth after suffering a stillbirth. After a trial and public exposure in the media, she was found not guilty. Media attention and being forced to go through a criminal trial, even if found innocent, have lifelong harmful effects on targeted people and their families. In Oregon and in other states, the people targeted for prosecution in these cases were more vulnerable to surveillance and suspicion because of race, immigration, and/or economic status. Such criminalization also undermines public health.

When getting medical care means risking criminal punishment, people are less likely to seek medical care when they need it. That’s why groups like the American Medical Association and the American College of Obstetricians and Gynecologists oppose the criminalization of people for having an abortion, a miscarriage, or an infant loss. ***No one should be criminalized for their pregnancy outcomes.***

HB 2002 would support young people’s bodily autonomy and ensure that all Oregonians are free from criminalization of their reproductive lives. We urge your yes vote on HB 2002.

If you have any questions, or would like a list of citations for the information in this letter, we would be glad to provide that. Thank you for your consideration.

Sincerely,



Sara L. Ainsworth
Senior Legal & Policy Director



Myra Gissel R. Durán
Senior Policy Advocate

^[1] “Recruitment by family members and intimate partners was particularly noteworthy in sex trafficking situations. In 2020, situations of sex trafficking or sex and labor trafficking combined, of the 2,448 victims whose recruitment was known: 42% were brought into trafficking by a member of their own families.” Polaris Project, Analysis of 2020 National Human Trafficking Hotline Data (2020), <https://polarisproject.org/2020-us-national-human-trafficking-hotline-statistics/>. See also IOM, *Family Members Linked to Nearly Half of Child Trafficking: New IOM, Polaris Data* (Nov. 28, 2017), <https://www.iom.int/news/family-members-linked-nearly-half-child-trafficking-new-iom-polaris-data>; Office to Monitor and Combat Trafficking in Persons, *Navigating the Unique Complexities in Familial Trafficking* (July 1, 2021), <https://www.state.gov/navigating-the-unique-complexities-in-familial-trafficking/>.