

HB 4088 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Amie Fender-Sosa, LPRO Analyst

Meeting Dates: 2/18

WHAT THE MEASURE DOES:

The measure creates policies regarding legal protections for legal reproductive or gender-affirming health care activities that occur in Oregon. The measure relates to gubernatorial actions, data privacy, court records, public records, and midwifery practice. The measure declares an emergency, and most of it is effective on its passage; however, the effective date for policies related to court applications for name changes and/or changes of sex is July 1, 2026.

Detailed Summary:

Prohibits gubernatorial extraditions when the demand for extradition arises from a person's engagement in legal reproductive or gender-affirming health care activities, unless the governor is otherwise required to surrender the person for treason, felony, or other crimes. Directs public bodies not to cooperate with certain investigations or inquiries into legal reproductive or gender-affirming health care activities. States that nothing in the measure prohibits disclosing information in response to an investigation if the information is available to the general public and under the same terms and conditions as information that would be made available to the general public.

Modifies the rules of evidence and protects the Oregon Health Authority (OHA) from examination in a court or administrative proceeding regarding personally identifiable information related to legal reproductive or gender-affirming health care and prohibits the use of such information in most court proceedings. Removes language allowing an applicant for a legal sex change to seal the court record and instead states that a court petition for a legal sex change is confidential, with some exceptions.

Modifies the public records that are exempt from disclosure to include personally identifiable information relating to applications for or receipt of legal reproductive or gender-affirming health care activities and applications for legal sex changes. Allows personally identifiable information to be shared if the individual consents.

Under public records law, broadens protection from disclosure from a person's name, home address, and professional address or location to also include images and home telephone numbers of a person engaged in the provision of reproductive and gender-affirming health care services.

Prevents the Health Licensing Office from suspending or revoking a midwifery license because of a conviction or disciplinary action resulting solely from the person's provision of reproductive or gender-affirming health care activities that are lawful in Oregon but not lawful in the state where the person provided the services (as long as the services were provided pursuant to the applicable standard of care).

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2017, the Legislative Assembly passed House Bill 3391, also known as the Reproductive Health Equity Act (RHEA). RHEA sought to solidify access to reproductive health services in several ways, including by requiring health insurance coverage of a wide array of reproductive health services, drugs, and products with no

cost-sharing and protecting access to abortion services.

In 2022, the U.S. Supreme Court decided [*Dobbs v. Jackson Women's Health Organization*](#), holding that the U.S. Constitution does not confer a right to abortion and overturning previous Supreme Court precedent. According to KFF, since the Dobbs decision, 23 states have tried to implement a complete ban or a previability ban on abortion.

In 2023, the Legislative Assembly passed House Bill 2002 (sometimes referred to as a “shield” law) to further assure access to reproductive health services in Oregon, including creating an enforceable right to make decisions about one’s own reproductive health. The measure also required coverage of gender-affirming treatments by the state’s medical assistance program and health insurers. HB 4088 creates privacy protections for individuals engaged in health care services related to legal reproductive or gender-affirming health care that occurs in Oregon.