Court of Appeal, Second Appellate District
Eva McClintock
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Court of Appeal, Second Appellate District
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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

Case No. B355195

MAX DAVID BORENSTEIN,

Respondent,

v.

SOFIYA ALEXANDRA GOLDSHTEYN,

Appellant.

Appeal from the Superior Court of California,
County of Los Angeles - Case No. 22STFL08826

Hon. Scott J. Nord, Judge

APPELLANT'S APPENDIX
VOLUME 10 OF 11

Pages 1992-2252

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AMENDMENTS TO ASSEMBLY BILL NO. 2223

Amendment 1

In the heading, below line 1, insert:

(Principal coauthor: Assembly Member Mullin)

Amendment 2

In the title, in line 1, after "act" insert:

to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code,

Amendment 3

On page 1, before line 1, insert:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

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(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; ~~deaths related to or following known or suspected self-induced or criminal abortion;~~ known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state ~~mental~~ hospitals serving the mentally ~~disabled~~ disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under ~~such~~ circumstances ~~as to~~ that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section

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does not include those investigative functions usually performed by other law enforcement agencies.

(a) ~~In any case in which~~ If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of ~~his or her~~ the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) ~~Any~~ A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. ~~Any~~ A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

~~103000. All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance.~~

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner ~~shall~~ shall, within three days after examination of the ~~fetus~~ fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner ~~shall~~ shall, within three days after examining the ~~body~~ body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive ~~decisions.~~ decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every ~~woman~~ individual has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

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(c) The state shall not deny or interfere with ~~a woman's~~ an individual's fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state ~~may~~ shall not deny or interfere with a ~~woman's~~ pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the ~~woman.~~ pregnant person.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant ~~woman.~~ person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.

(b) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

Amendment 4

On page 1, strike out lines 1 and 2

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PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 2223

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL **No. 2223**

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)

February 15, 2022

Amendment 1

Amendment 2

An act *to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code,* relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as introduced, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal

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death to establish, bring, or support a criminal prosecution or civil cause of damages against any person.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff.

~~Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions.~~

~~This bill would state the intent of the Legislature to enact legislation that would relate to reproductive health.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

Amendment 3

\+ *SECTION 1. The Legislature finds and declares all of the following:*

\+ *(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.*

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+ *(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.*

+ *(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.*

+ *(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.*

+ *(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.*

+ *(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.*

+ *(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.*

+ *(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.*

+ *(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report*

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+ *people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.*
+ *(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.*
+ *(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.*
+ *(l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.*
+ *SEC. 2. Section 27491 of the Government Code is amended to read:*
+ 27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; ~~deaths related to or following known or suspected self-induced or criminal abortion;~~ known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths

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known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state ~~mental~~ hospitals serving the mentally ~~disabled~~ *disordered* and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under ~~such~~ circumstances ~~as to~~ *that* afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) ~~In any case in which~~ *If* the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of ~~his or her~~ *the* report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) ~~Any~~ *A* funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. ~~Any~~ *A* person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

~~103000. All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance.~~

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+ *SEC. 4. Section 103005 of the Health and Safety Code is amended to read:*
+ 103005. *(a)* The coroner ~~shall~~ *shall,* within three days after examination of the ~~fetus~~ *fetus,* state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner ~~shall~~ *shall,* within three days after examining the ~~body~~ *body,* deliver the death certificate to the attending funeral director.
+ *(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.*
+ *SEC. 5. Section 123462 of the Health and Safety Code is amended to read:*
+ 123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive ~~decisions.~~ *decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.* Accordingly, it is the public policy of the State of California that:
+ (a) Every individual has the fundamental right to choose or refuse birth control.
+ (b) Every ~~woman~~ *individual* has the fundamental right to choose to bear a child or to choose *to have* and to obtain an abortion, except as specifically limited by this article.
+ (c) The state shall not deny or interfere with ~~a woman's~~ *an individual's* fundamental right to choose to bear a child or to choose *to have and* to obtain an abortion, except as specifically permitted by this article.
+ *SEC. 6. Section 123466 of the Health and Safety Code is amended to read:*
+ 123466. The state ~~may~~ *shall* not deny or interfere with a ~~woman's~~ *pregnant person's* right to choose or obtain an abortion

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+ prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the ~~woman.~~ *pregnant person.*

+ *SEC. 7. Section 123467 is added to the Health and Safety Code, to read:*

+ *123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.*

+ *(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.*

+ *SEC. 8. Section 123468 of the Health and Safety Code is amended to read:*

+ 123468. The performance of an abortion is unauthorized *if performed by someone other than the pregnant person and* if either of the following is true:

+ (a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

+ (b) The abortion is performed on a viable fetus, and both of the following are established:

+ (1) In the good faith medical judgment of the physician, the fetus was viable.

+ (2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant ~~woman.~~ *person.*

+ *SEC. 9. Section 123469 is added to the Health and Safety Code, to read:*

+ *123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.*

+ *(b) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation*

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+ *expenses, to a plaintiff who is a prevailing party in an action*
+ *brought pursuant to this section. In awarding reasonable attorney's*
+ *fees, the court shall consider the degree to which the relief obtained*
+ *relates to the relief sought.*

age 1 ~~SECTION 1. It is the intent of the Legislature to enact legislation that would relate to reproductive health.~~

Amendment 4

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ASSEMBLY JUDICIARY COMMITTEE
MANDATORY INFORMATION WORKSHEET

*****IMPORTANT NOTE*****

This form must be fully completed no later than **seven (7) calendar days** after it is initially sent to the author's office. If the bill has been set for hearing and a completed worksheet and all other requested information about the bill has not been timely received by the Committee, the Committee shall consider the failure to provide the requested information to be an author's reset.

Please return completed worksheets to the Committee by email to the following:

grant.silva@asm.ca.gov **(Judiciary Committee)**
daryl.thomas@asm.ca.gov **(Republican Counsel)**

AUTHOR'S AMENDMENTS: At least **eleven (11) calendar days** prior to the hearing (two Fridays before the hearing date) at which the bill is scheduled to be heard, the following must be emailed to the Committee: the secured PDF version of the amendments in Legislative Counsel form; and one copy of Legislative Counsel's in-context version of the amendments. Failure to comply with these requirements may result in an author's reset.

ASSEMBLY JUDICIARY COMMITTEE, 1020 N Street (LOB), Room 104

Bill Number: AB 2223 **Author:** Wicks

Author's staff person: Samantha Huynh **work phone:**
work e-mail:

Cell or other phone number (where the Committee can reach you after regular business hours or on the weekend)**:**

Personal e-mail (where the Committee can reach you after regular business hours or on the weekend)**:**

1. Please describe *in detail* the problem or deficiency in existing law that the bill seeks to address. This description may be used in the Committee's analysis.

For reproductive justice to be a reality for Californians, we must end the criminalization of people's reproductive outcomes. In the past two decades, there has been a marked escalation in attempts to criminalize people for experiencing miscarriages or stillbirths, or for ending their own pregnancy outside the formal medical system. California has not been exempt from this trend.

California's fetal homicide provision prohibits the state from charging a pregnant individual with a crime against a fetus they are carrying. In spite of this protection, prosecutors have recently charged people with homicide offenses for

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having stillbirths. This points to a need to ensure that this never happens again by cutting off the chain of reporting that ends in wrongful criminalization, and protecting reproductive freedom. Currently, coroners have a statutory duty to investigate "self-induced or criminal abortions." However, neither abortion nor self-managing an abortion have been a crime under California law for more than two decades. This anachronistic holdover has led to hospitals turning their patients over to law enforcement, and should be repealed.

Similarly, public health reporting of fetal death is an important component of addressing the longstanding crisis in maternal and infant outcomes among Black, Indigenous, and other people of color. Because these communities are also the most likely to be targeted for prosecution on the basis of pregnancy outcomes, it is important that this information is used only for public health, not criminal punishment.

2. Please provide a statement of the author's purpose for the bill, which may be used in the Committee's analysis, including a description *in detail* of how the bill resolves the problem identified above.

In California, the misuse of state power to prosecute people for their pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions.

This threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities[1] and also more likely to be under scrutiny of punitive state systems.[2] It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Worse, there is frequently no recourse for people who have been harmed by the state as a result of their pregnancy loss or self-managed abortion. California's Reproductive Privacy Act provides a guarantee to a right to make reproductive decisions. However, it does not provide avenues for redress for people who are denied these rights.

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[1] E.g., Pruitt et al. Racial and Ethnic Disparities in Fetal Deaths — United States, 2015–2017, 69 MMWR Morb Mortal Wkly Rep 1277 (2020).

[2] See Hinton et al., Vera Institute of Justice Evidence Brief, An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System (May 2018); Bridges, Privacy Rights and Public Families, 34 Harvard J. L. & Gender 113 (2011); Children's Bureau, U.S. Dept. of Health & Human Servs., Child Welfare Practice to Address Racial Disproportionality and Disparity (April 2021).

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Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

3. Who is the sponsor of the bill? If there is no sponsor, what person or entity requested that the bill be introduced? Please provide the name, telephone number, and email address of any sponsor or other person who may be contacted by the Committee for information regarding the bill.

ACLU California Action (Co-Sponsor)
Ruth Dawson, Legislative Attorney

Black Women for Wellness (Co-Sponsor)
Onyenma Obiekea, Policy Analyst

California Latinas for Reproductive Justice (Co-Sponsor)
Lorena García Zermeño, Policy Manager

If/When/How: Lawyering for Reproductive Justice (Co-Sponsor)
Farah Diaz-Tello, JD, Senior Counsel & Legal Director

NARAL Pro-Choice California (Co-Sponsor)
Shannon Olivieri Hovis, Director

Planned Parenthood Affiliates of California (Co-Sponsor)
Molly Robson, Legislative Director

4. Please identify similar legislation that has been introduced during this legislative session, or in any prior legislative session covered by the LIS system. Please include the bill number and year, a summary of the bill's contents, and the disposition of each bill.

AB 1666 (Bauer-Kahan) - AB 1666 will protect patients and providers in CA from civil liability judgments for providing reproductive health care to patients when the claims are based on hostile laws in other states that are hostile to abortion rights and are contrary to the public policy of California.

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AB 2091 (Bonta) - AB 2091 would enhance privacy protections for medical records related to abortion care under California's Reproductive Privacy Act against disclosures to law enforcement and out-of-state third parties seeking to enforce hostile abortion bans in other states.

AB 2626 (Calderon) - AB 2626 will protect abortion providers by preventing the Medical Board of CA from revoking or suspending a medical license for a licensee providing abortion care in CA and in other states.

SB XXX (Weiner) - Bill to provide legal protections for trans kids, their parents, and providers who provide gender-affirming care in CA.

5. Please identify any similar federal legislation (see http://thomas.loc.gov/home/thomas2.html) and any similar legislation in other states.

Washington State - HB 1851 Signed into law

"The state shall not penalize, prosecute, or otherwise take adverse action against an individual based on their actual, potential, perceived, or alleged pregnancy outcomes. Nor shall the state penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent."

6. Please identify all relevant state and federal statutes and court decisions.

Relevant State Statutes:
Cal. Pen. § 187(b)(3)

Case Law:
People v. Jaurigue (Super. Ct. San Benito County, 1992, No. 18988)
People v. Jones (Justice Ct., Yreka Judicial Dist., Siskiyou County, 1993, No. 93-5)
People v. Johnson (Mun. Ct., Contra Costa County, 1995, No. 096001-3)
McCormack v. Hiedeman, 694 F.3d 1004 (9th Cir. 2012)(finding Idaho criminal statute penalizing self-managed abortion unconstitutional)

7. Are the issues addressed by the bill the subject of pending litigation? If yes, please identify the case or cases (by name and number, if possible) and indicate the location and status of the pending litigation and how the bill would affect the pending litigation. Please also provide any relevant documents and any other relevant information you have about the litigation.

The issues addressed by the bill are the subject of pending litigation in People v. Adora Perez, Kings County Superior Court Case No. 21W0033A (habeas proceeding challenging plea to manslaughter under threat of murder prosecution for fetal death) and related Kings County Superior Court Case No. 18CM-0021 (underlying murder case).

In 2018, Kings County District Attorney Fagundes charged Ms. Perez with murder in violation of Penal Code § 187 allegedly for causing the stillbirth of her fetus through her drug use, despite the plain language in 187(b) exempting acts" consented to" by the mother. Ms. Perez pleaded guilty to manslaughter in violation of Penal Code § 192, even though such a plea was factually impossible

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because a fetus is not a "human being" as defined in the statute. Ms. Perez has now been incarcerated for over four years.

On May 16, 2022, the Kings County Superior Court granted Ms. Perez habeas relief by entering an order directing the vacation of Ms. Perez's manslaughter plea, restoring her to the status quo ante of the original murder charge. Ms. Perez's case is now set for an April 6, 2022 appearance, and it is the understanding of Ms. Perez's counsel that DA Fagundes intends to reinstate the murder charge under Penal Code § 187 against Ms. Perez.

AB 2223 would ensure that Ms. Perez will be able to demonstrate in court that the Legislature did not intend for pregnant people who experience stillbirth to be subject to prosecution, thereby ending the wrongful murder prosecution against her.

8. Have there been any informational hearings on the subject matter of the bill? If so, when? Please attach all information distributed by the Committee that held the hearing.

N/A

9. Please describe all amendments the author currently wishes to make before this bill is heard in Committee. (Please recall that amendments must be emailed to the Committee in Leg Counsel form at least 11 calendar days before the bill is to be heard.)

Planned Amendments:

- Changes to the intent language that raise recent misapplications of the law to demonstrate the necessity of AB 2223.
- Removal of antiquated and stigmatizing language referring to certain sex offenses as "crimes against nature."

10. Please summarize any studies, reports, statistics or other evidence showing that the problem exists and that the bill will properly address the problem. Please also attach copies of all such evidence and/or state where such material is available for reference by Committee counsel.

- *Office of the Attorney General, Legal Alert* - notifying all California district attorneys, police chiefs, and sheriffs that section 187 of the California Penal Code was intended to hold accountable those who inflict harm on pregnant individuals, resulting in miscarriage or stillbirth, not to punish people who suffer the loss of their pregnancy: https://oag.ca.gov/system/files/attachments/press-docs/Penal%20Code%20187%20Legal%20Alert.pdf
- *American Bar Association, Resolution 107A* - opposing the criminal prosecution of anyone who has an abortion or experiences a miscarriage or stillbirth: https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2021/107a-midyear-2021.pdf
- *American College of Obstetricians and Gynecologists, Opposition to Criminalization of Individuals During Pregnancy and the Postpartum Period*:

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https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2020/opposition-criminalization-of-individuals-pregnancy-and-postpartum-period

- *American College of Obstetricians and Gynecologists, Position Statement on Self-induced Abortion*: https://www.acog.org/clinical-information/policy-and-position-statements/position-statements/2017/decriminalization-of-self-induced-abortion
- *American Medical Association, Resolution to Oppose the Criminalization of Self-induced Abortion*: https://www.ama-assn.org/sites/ama-assn.org/files/corp/media-browser/public/wps/a18-wps-resolution-007.pdf
- *American Public Health Association, official stances against punishment/ criminalization for pregnancy outcomes generally*: https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2014/07/14/14/03/Renouncing-Laws-to-Recognize-Fetuses-as-Independent-of-Pregnant-Women
- *American Public Health Association, Policy Statement on Decriminalization of and Support for Self-Managed Abortion*: https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2022/01/07/Decriminalization-of-and-Support-for-Self-Managed-Abortion
- *If/When/How: Lawyering for Reproductive Justice, Roe's Unfinished Promise: Decriminalizing Abortion Once and For* All: is the first comprehensive paper about the criminalization of non-clinical abortion in the U.S. and efforts to eliminate threats, while increasing protections, for people who end pregnancies outside the formal healthcare system. It includes a chart listing problematic laws state by state, maps highlighting the places where people who self-induce abortion are most at risk of an unjustified arrest, excerpts from relevant statutes, and case summaries. https://www.ifwhenhow.org/resources/roes-unfinished-promise/
- *If/When/How: Lawyering for Reproductive Justice, Roe's Unfinished Promise: Decriminalizing Abortion Once and For All, 2019 Update*: https://www.ifwhenhow.org/resources/roes-unfinished-promise-2019-update/
- *National Advocates for Pregnant Women (NAPW), Arrests and Other Deprivations of Liberty of Pregnant Women, 1973-2020* - summary of research by NAPW documenting 1,667 instances of women who were arrested, detained, or forced to undergo medical interventions between 1973 and 2020 and that would not have occurred but for their status as pregnant persons. https://www.nationaladvocatesforpregnantwomen.org/wp-content/uploads/2021/09/FINAL_1600Cases-Factsheet.docx.pdf

11. Please list all groups, agencies or persons that have contacted you in support or in opposition to the bill. Please attach copies of all letters of support and opposition. Please be aware that all support and opposition letters must be received by the Committee no later than seven (7) calendar days prior to the hearing in order to be reflected in the analysis. Furthermore, only those letters which clearly indicate "Support" or "Oppose" to the current version of the bill or resolution are required to be noted in the Committee analysis.

Support:
Given that this is a high priority for the California Future of Abortion (FAB) Council, we anticipate support from council members, California Coalition for

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Reproductive Freedom organizational member, public health associations, and from organizations advocating to improve maternal and infant health. This bill is also a legislative priority for the DREAM Alliance and the Stronger CA coalition this year.

Opposition:
Currently, there is no opposition on file.

12. Please describe any concerns that you anticipate may be raised in opposition to your bill, and state your response to those concerns.

- Abortion opponents are likely to be concerned that this bill is further affirmation of people's reproductive freedom. The State of California has long supported the right of each person to make decisions about their reproductive lives, and has committed to keeping reproductive healthcare accessible without stigma or penalty for everyone within its borders.
- People opposed to LGBTQ equality are likely to be concerned that the use of gender-inclusive language affirms the dignity of trans, nonbinary, and other gender nonconforming people. The State of California is committed to the equal dignity under the law of all Californians, and celebrates the diversity of gender identities of people who can become pregnant.

13. Please list the name, organization, telephone number, and email address of all witnesses that you anticipate will testify in support or opposition to the bill. (Please note that the time restraints may require the Committee to limit the number of testifying witnesses. Additional witnesses may identify themselves for the record.)

1. Farah Diaz-Tello, Senior Counsel & Legal Director, If/When/How: Lawyering for Reproductive Justice.
2. Samantha Lee, Staff Attorney, National Advocates for Pregnant Women,

Please complete this worksheet to the best of your ability and provide responses that are as detailed as possible. Remember to email the completed worksheet—along with all supporting documentation and letters of support and opposition— to the email addresses on the first page of this worksheet. Thank you for your assistance.

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Assembly Bill 2223

Decriminalization of Abortion and Pregnancy Loss

Assemblymember Buffy Wicks (AD-15)

THIS BILL

AB 2223 will ensure that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

THE ISSUE

Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society. At the core of reproductive justice is the belief in the right to bodily autonomy; the right to have children; the right not to have children; and the right to parent the children we have with dignity and respect, in safe and sustainable communities. A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes.

In the past two decades, at least 1,300 pregnant people have been criminally prosecuted for having miscarriages or stillbirths, or self-managing an abortion.[1] California has not been exempt: despite clear law that ending or losing a pregnancy is not a crime, prosecutors have charged people with homicide offenses for pregnancy losses.[2]

In California, this misuse of state power is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions.

This threat of criminal prosecutions has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities[3] and also more likely to be under scrutiny of punitive state systems.[4] It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage

[1] See, e.g., Paltrow & Flavin, *Arrests of and Forced Interventions on Pregnant Women in the United States, 1973–2005: Implications for Women's Legal Status and Public Health*, 38 J. Health Pol., Pol'y, & L. 299 (Apr. 2013); Martin, *Take a Valium, Lose Your Kid, Go to Jail: In Alabama, Anti-Drug Fervor and Abortion Politics Have Turned a Meth-Lab Law into the Country's Harshest Weapon Against Pregnant Women*, ProPublica, (Sept. 23, 2015); Bach, *Prosecuting Poverty, Criminalizing Care*, 60 Wm. & Mary L. Rev. 809 (2019); Diaz-Tello et al., If/When/How: Lawyering for Reproductive Justice, *Roe's Unfinished Promise: Decriminalizing Abortion Once and For All* (2019).

[2] Alex Wigglesworth, *With woman in prison for stillbirth, California's murder law is tested*, Los Angeles Times (Dec. 16, 2020).

[3] *E.g., Pruitt et al. Racial and Ethnic Disparities in Fetal Deaths — United States, 2015–2017, 69 MMWR Morb Mortal Wkly Rep 1277 (2020).*

[4] *See Hinton et al., Vera Institute of Justice Evidence Brief, An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System (May 2018); Bridges, Privacy Rights and Public Families, 34 Harvard J. L. & Gender 113 (2011); Children's Bureau, U.S. Dept. of Health & Human Servs., Child Welfare Practice to Address Racial Disproportionality and Disparity (April 2021).*

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abortions because care in formal medical systems is inaccessible.

Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. California's Reproductive Privacy Act provides a guarantee to a right to make reproductive decisions, but does not provide avenues for redress for people who are denied these rights.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

SOLUTION

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts.

This bill would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

SUPPORT

ACLU California Action (Co-Sponsor)
Black Women for Wellness (Co-Sponsor)
California Latinas for Reproductive Justice (Co-Sponsor)
If/When/How: Lawyering for Reproductive Justice (Co-Sponsor)
NARAL Pro-Choice California (Co-Sponsor)
Planned Parenthood Affiliates of California (Co-Sponsor)

CONTACT

Samantha Huynh
Office of Assemblymember Buffy Wicks

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Assembly Committee Rollcalls

Judiciary

Date of Hearing: April 5, 2022

BILL NO.	AB 2026	AB 2091	AB 2203	AB 2223
ACTION VOTED ON	Do pass as amended and re-refer to Cmte on Appr.	Do pass as amended and re-refer to Cmte on Health	Do pass and re-refer to Cmte on Appr.	Do pass as amended and re-refer to Cmte on Health
	Aye : No	Aye : No	Aye : No	Aye : No
Stone, Chair	X :	X :	X :	X :
Cunningham, V. Chair	Not Voting	Absent	Absent	Absent
Davies	: X	: X	: X	: X
Holden	X :	X :	X :	X :
Kalra	X :	X :	X :	X :
Kiley (*Mathis)	: X	: X	: X	: X
Maienschein	X :	X :	Not Voting	X :
Reyes	X :	X :	X :	X :
Robert Rivas	X :	X :	X :	X :
Vacancy (*Luz Rivas)	X :	X :	X :	X :
Vacancy				
	Ayes : 7 Noes : 2	Ayes : 7 Noes : 2	Ayes : 6 Noes : 2	Ayes : 7 Noes : 2

(Note: *Indicates temporary appointment. See Assembly Daily Journal.)

RECEIVED: _____

_____, CHAIR

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Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 2223 (Wicks) – As Amended April 6, 2022

SUBJECT: Reproductive health.

SUMMARY: Deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be treated as a death without medical attendance. Prohibits using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person. Prohibits a person from being subject to civil or criminal liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. Clarifies that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. Authorizes an individual aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, and requires a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. Specifically, **this bill**:

1) Deletes the requirement for a coroner, under existing law, to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

2) Repeals a provision of existing law requiring certain fetal deaths registered by a coroner to be handled as are deaths without medical attendance.

3) Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, is prohibited from being used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus.

4) Revises the Reproductive Privacy Act to state that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

5) Prohibits regardless of any other law, a person from being subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.

6) Prohibits a person who aids or assists a pregnant person in exercising their rights as described in 5) above, from being subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights, with the pregnant person's voluntary consent.

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7) Clarifies that an abortion is unauthorized if it meets the criteria specified in 4) in existing law below, and it is performed by someone other than the pregnant person.

8) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act to bring a civil action against an offending state actor in a state superior court.

9) States that whoever denies the right protected by this bill, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages;

   b) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this bill. Requires an action to be commenced within three years of the alleged practice in violation of this bill; and,

   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this bill.

10) Requires a court, upon a motion, to award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 8), above.

11) Allows a party aggrieved by conduct or regulation in violation of this bill to also bring a civil action pursuant to the Bane Civil Rights Act.

12) Changes gendered terminology in relevant code sections and eliminates the term "crime against nature" from existing law.

EXISTING LAW:

1) Requires a coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Specifies that such an inquiry does not include those investigative functions usually performed by other law enforcement agencies.

2) Requires a coroner, within three days after examination of a fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and to sign the certificate to attest to these facts. Requires a coroner, within three days after examining the body, to deliver the death certificate to the attending funeral director.

3) Establishes, in the Reproductive Privacy Act, that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, and that it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control;

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b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by law; and,

c) That the state cannot deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted.

4) States that the performance of an abortion is unauthorized if either of the following is true:

a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to existing law; or,

b) The abortion is performed on a viable fetus, and both of the following are established:
   i) In the good faith medical judgment of the physician, the fetus was viable; and,
   ii) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

5) Prohibits the State of California from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

6) Establishes the Bane Civil Rights Act which allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of California, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct.

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal Committee.

COMMENTS:

1) **PURPOSE OF THIS BILL.** According to the author, a critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. In California, the misuse of state power to prosecute people for their pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions, and this threat of criminal prosecution has a harmful effect on individual and public health.

   The author states that this bill protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. The author

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concludes that as other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

2) **BACKGROUND.** The U.S. Supreme Court recognized the constitutional right to abortion in 1973 in *Roe v. Wade*, and subsequent decisions have reaffirmed that right. The Court has held that a state cannot ban abortion before viability (the point at which a fetus can survive outside the uterus), and that any restriction on abortion after viability must contain exceptions to protect the life and health of the pregnant person. Any pre-viability abortion restriction cannot create an "undue burden" by placing a substantial obstacle in the path of a person seeking an abortion.

   In 2021, the State of Texas enacted a civilly enforced abortion restriction that prohibited any person from performing, or aiding and abetting, a person in obtaining an abortion after the detection of a "fetal heartbeat." That law prohibited state enforcement, and instead allows third parties to file lawsuits to enforce the law, regardless of the plaintiff's relationship to the defendant. The Texas law does not require the plaintiff to live in the state or suffer any actual harm. On Thursday April 7, 2022, a Texas woman was arrested and charged with murder after she allegedly terminated her own pregnancy. Police said she "intentionally and knowingly caused the death of an individual by self-induced abortion." The charges were subsequently dismissed by the District Attorney.

   In California, Adora Perez was charged with murder in 2018 after she delivered a stillborn baby at a hospital in California's Central Valley, with authorities alleging that methamphetamine use while pregnant was responsible. Faced with the possibility of life in prison, Perez accepted a plea deal, then lost an appeal and was sentenced to 11 years in prison. The 32-year-old inmate is now at the center of a legal battle between a team of lawyers who believe she was unjustly convicted and a district attorney who believes Perez is a criminal. If the prosecutor prevails, women's rights advocates say, it will open the door to charges against any woman who suffers a miscarriage or stillbirth. Perez was granted transfer from prison to county jail with the release conditions that Perez take part in a drug treatment program, as the case moves forward.

   On December 1, 2021, the U.S. Supreme Court heard oral arguments in *Dobbs v. Jackson Women's Health Organization*, a case regarding a Mississippi law that would ban abortion after 15 weeks of pregnancy. This case is a direct challenge to *Roe v. Wade*. *Dobbs v. Jackson Women's Health Organization* marks the first time the Supreme Court will rule on the constitutionality of a pre-viability abortion ban since *Roe v. Wade*. The Court's ruling in Roe recognized that the decision whether to continue a pregnancy or have an abortion, which impacts a person's body, health, family and future, belongs to the individual, not the government. The state of Mississippi has asked the Court not only to uphold its abortion ban, but to also overrule Roe and find there is no constitutional right to abortion. A decision is expected by the end of the Supreme Court's term in June 2022.

   a) **Abortion**. According to the Centers for Disease Control and Prevention (CDC), a legal induced abortion is defined as an intervention performed by a licensed clinician that is intended to terminate an ongoing pregnancy. The CDC reports that in 2019, 629,898 legal induced abortions were reported to CDC from 49 reporting areas. Among 48 reporting

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areas with data each year during 2010 to 2019, in 2019, a total of 625,346 abortions were reported, the abortion rate was 11.4 abortions per 1,000 women aged 15 to 44 years, and the abortion ratio was 195 abortions per 1,000 live births.

From 2010 to 2019, the number, rate, and ratio of reported abortions decreased 18%, 21%, and 13%, respectively. However, compared with 2018, in 2019, the total number increased 2%, the rate of reported abortions increased by 0.9%, and the abortion ratio increased by 3%.

b) Fetal assault laws. According to the American College of Obstetricians and Gynecologists (ACOG) policy statement, "Opposition to Criminalization of Individuals During Pregnancy and the Postpartum Period," as of 2018, 38 states had laws in which the "victim" of a crime can include a fetus, generally called "fetal assault," "fetal homicide," or "fetal protection" laws. Twenty-nine states apply these laws at any stage of gestation during pregnancy. Although the majority of these states prohibit charging pregnant people with crimes for the outcomes of their own pregnancies, fetal assault laws and similar statutes have been adopted across the United States as a way to limit behaviors during pregnancy that legislators deem harmful to the fetus. Often these laws are passed under the guise of protecting pregnant people, but instead they are being used to punish individuals for a wide range of actions. For example, pregnant people have been charged with committing crimes for attempting suicide, substance use disorder, and suspicion of self-managed abortion. ACOG notes that these laws increase the risk of prosecution, especially for those from marginalized communities, establishing a form of criminal liability that applies only to pregnant people. For example, most of the people arrested for self-managed abortion came to the attention of law enforcement when they sought emergency medical care. The fear of interrogation, arrest, and prosecution while seeking health care services and medical treatment creates a barrier to accessing care.

c) Self-managed medication abortion. The mifepristone and misoprostol or misoprostol-only regimens for medication abortion are supported by U.S. and international medical organizations, including the World Health Organization. The medication abortion regimen, approved by the U.S. Food and Drug Administration, is 200 mg of mifepristone taken orally, followed by 800 mcg of misoprostol taken buccally, (or vaginally) 24 to 48 hours later. ACOG Committee Opinion 788 details the strong body of literature demonstrating that reproductive-age women can self-screen for hormonal contraception and suggests that similar self-screening for medication abortion could be accomplished without a provider.

d) Safety of self-managed abortion: Before *Roe v. Wade* legalized abortion in the United States, pregnant people were often compelled to pursue dangerous methods to terminate a pregnancy. Although the harms of "pre-Roe" clandestine abortions were of great public health concern, applying past experiences to 2022 and beyond ignores the highly safe and effective models for self-managed abortion that exist today. A 2018 study in the journal Contraception, "Exploring the feasibility of obtaining mifepristone and misoprostol from the internet," evaluated the quality of mifepristone and misoprostol obtained from 18 different online vendors without a prescription and showed that all of the pills were of high quality and contained an appropriate and expected amount of the active ingredients.

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Opponents may argue that some people use less efficacious self-managed abortion methods, such as objects and herbs, that could cause the pregnant person more harm and delay care. However, according to the American Public Health Association (APHA), decriminalizing all forms of self-managed abortion would ensure that those with complications or incomplete abortions could access care without fear of legal repercussions. As noted by ACOG, such fears may result in negative health outcomes by eroding trust in the medical system and deterring people from seeking care when needed.

e) **Access to abortion.** According to APHA, in the past decade, U.S. abortion access has become increasingly restricted. Since 2011, nearly 500 abortion restrictions have been enacted, including laws banning abortion in certain circumstances and laws that impose medically unnecessary requirements on abortion care. Studies of multiple states have demonstrated adverse impacts of restrictive state laws, including delays in accessing care due to increased travel distance; economic burdens from lost wages, childcare, and travel costs; increased stigma; and reduced abortion rates. These barriers disproportionately impact racial and ethnic minority individuals, people with lower incomes, immigrants, people with disabilities, LGBTQ (lesbian, gay, bisexual, transgender, queer or questioning) communities, and people living in rural and medically underserved areas.

   Approximately 7% of U.S. women reported having attempted to self-manage abortion in their lifetime. A cross-sectional study of requests from U.S. residents for self-managed medication abortion through the online service Aid Access between March 2018 and March 2020 identified 57,506 requests from individuals in all 50 states. Barriers to accessing abortion during the COVID-19 pandemic have led to further increases in demand. Aid Access reported an increase of 27% in the rate of requests for self-managed medication abortion from March 20 to April 11, 2020, relative to before the pandemic.

3) **SUPPORT.** This bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. The co-sponsors state that it is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again. The co-sponsors note that the threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible. The co-sponsors conclude that states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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4) OPPOSITION. The California Family Council (CFC) is opposed to this bill and states that this bill would legalize infanticide by the mother or any accomplice. Killing or letting a newborn die will no longer have any criminal penalties associated with it if this bill passes. It is the government's job to protect vulnerable human beings from harm. Newborns are valuable human beings who should be protected and that doesn't change simply because their mother doesn't want them. California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. CFC concludes that mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location.

Traditional Values for Next Generations (TVNG) is opposed to this bill and states that California may follow the steps of former Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, and could not be prosecuted. This bill expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. That means, there is a great possibility to remove much needed civil and criminal penalties for killing babies born alive under almost any circumstances. This is the most extreme, anti-life bill in California's history. TVNG concludes that this bill legalizes infanticide and we absolutely cannot agree with the use of euphemisms like "personal reproductive decisions" and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb.

5) RELATED LEGISLATION.

a) AB 1918 (Petrie-Norris) establishes the California Reproductive Health Service Corps within HCAI for the purposes of recruiting, training, and retaining a diverse workforce of reproductive health care professionals who will be part of reproductive health care teams to work in underserved areas. AB 1918 is pending a hearing in the Assembly Health Committee.

b) AB 2091 (Mia Bonta) prohibits compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding. AB 2091 is pending hearing in the Assembly Judiciary Committee.

c) AB 2134 (Akilah Weber) establishes the California Reproductive Health Equity Program within HCAI to ensure abortion and contraception services are affordable for and accessible to all patients and to provide financial support for safety net providers of these services. AB 2134 is pending hearing in the Assembly Health Committee.

d) AB 2205 (Carrillo) requires, beginning July 1, 2023, a health care service plan or health insurer offering qualified health plans, as defined, to annually report the total amount of funds in the segregated account maintained pursuant to the federal Patient Protection and Affordable Care Act. Requires the annual report to include the ending balance of the account and the total dollar amount of claims paid during a reporting year. AB 2205 is pending hearing in the Assembly Health Committee.

e) AB 2320 (C. Garcia), requires, until January 1, 2028, the Department of Health Care Services, to establish and administer a pilot program to direct funds to community health

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clinics that provide reproductive health care services in five counties that agree to participate. AB 2320 is pending a hearing in the Assembly Health Committee.

f) SB 245 (Lena Gonzalez), Chapter 11, Statutes of 2022, eliminates cost sharing in abortion services.

g) SB 1142 (Caballero and Skinner) requires the California Health and Human Services Agency (CHHSA), or an entity designated by the agency, to establish an internet website where the public can find information on abortion services in California. Requires CHHSA to also develop, implement, and update as necessary, a statewide educational and outreach campaign to inform the public on how to access abortion services in the state. SB 1142 is pending a hearing in the Senate Health Committee.

6) **PREVIOUS LEGISLATION.** SB 1301 (Sheila Kuehl), Chapter 385, Statutes of 2002, enacts the Reproductive Privacy Act, which provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and the fundamental right to choose to bear a child or obtain an abortion**.**

7) **DOUBLE REFERRAL.** This bill has been double referred. It passed the Assembly Committee on Judiciary with a vote of 7-2 on April 5, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action (co-sponsor)
Black Women for Wellness (co-sponsor)
California Latinas for Reproductive Justice (co-sponsor)
If/When/How: Lawyering for Reproductive Justice (co-sponsor)
NARAL Pro-Choice California (co-sponsor)
Planned Parenthood Affiliates of California (co-sponsor)
Access Reproductive Justice
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice - California
California Coalition for Women Prisoners
California for Safety and Justice
California Medical Association
California Nurse Midwives Association
Californians United for a Responsible Budget
Citizens for Choice
Courage California
Disability Rights California
Ella Baker Center for Human Rights
Initiate Justice
National Center for Youth Law
National Health Law Program
Survived & Punished
Tides Advocacy
Urge: Unite for Reproductive & Gender Equity

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Women's Foundation California

Opposition

Americans United for Life
California Capitol Connection
California Family Council
Californians for Life
Calvary Chapel of Placerville
Catholic Families 4 Freedom CA
Children's Health Defense California Chapter
Concerned Women for America
Eagle Forum of California
Faith Baptist Church of Wheatland
Frederick Douglass Foundation of California
Liberty Baptist Church of Norwalk, CA
Life Legal Defense Foundation
National Center for Law & Policy
Republican Club of Laguna Woods
Right to Life League of Southern California
Right to Life of Central California
Right to Life of Kern County
Salt and Light Council
Siskiyou Conservative Republicans
The Salt & Light Council
Traditional Values for Next Generations
Numerous individuals

Analysis Prepared by: Lara Flynn / HEALTH / (916) 319-2097

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AB 2223 - Reproductive health. (Version: 92 - Chaptered Sep 27, 2022)

Bill Detail

Session Year: 2021-2022
Version: 92
Appropriation: No
Hearing Date:
Fiscal Committee: Yes
Hearing Location:
Local Program: No
Immediate Effect: No
Vote Required: Majority
Chapter: 2022 CHP-629
31 Days In Print: 03-18-2022

Status Secretary of StateChaptered

Senate:							1st	Cmt	2nd	3rd	Pass		Chp
Assembly:	1st	Cmt	2nd	Cmt	2nd	3rd	Pass					Pass	

Authors

Lead Authors: Wicks (A)
Principal Coauthors: Mullin (A)
Coauthors: Bauer-Kahan (A) , Bennett (A) , Berman (A) , Bryan (A) , Cristina Garcia (A) , Gonzalez (S) , Haney (A) , Jones-Sawyer (A) , Kalra (A) , Santiago (A) , Wiener (S)

Bill Properties

None

Bill Attributes

Attribute Name	Attribute Value
Double referral	Jud. 1st
Notes	x2015
Staff	Samantha Huynh
Cons(patty.rodgers@asm.ca.gov)	LF

Bill Versions

Date	Action	Version
2022, September 27	Chaptered	92
2022, September 01	Enrolled	93
2022, August 25	Amended Senate	94
2022, June 20	Amended Senate	95
2022, May 19	Amended Assembly	96
2022, April 06	Amended Assembly	97

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Date	Action	Version
2022, March 17	Amended Assembly	98
2022, February 15	Introduced	99

Bill Analysis

ID	Version Date	Stored Date	Analyzing Office
356274	2022, August 25	2022, August 30	Assembly Floor Analysis
355932	2022, August 25	2022, August 26	Sen. Floor Analyses
354411	2022, June 20	2022, August 13	Sen. Floor Analyses
353160	2022, June 20	2022, July 29	Senate Appropriations
352435	2022, June 20	2022, June 27	Senate Health
350898	2022, May 19	2022, June 11	Senate Judiciary
350086	2022, May 19	2022, May 24	Assembly Floor Analysis
348162	2022, April 06	2022, May 03	Assembly Appropriations
346657	2022, April 06	2022, April 16	Assembly Health
348968	2022, March 17	2022, May 16	Assembly Judiciary

Votes

	Date	Result	Location	Ayes	Noes	NVR	Motion
+	2022-08-30	(PASS)	Assembly Floor	54	19	7	AB 2223 Wicks Concurrence in Senate Amendments
+	2022-08-29	(PASS)	Senate Floor	30	9	1	Assembly 3rd Reading AB2223 Wicks et al. By Skinner
+	2022-08-11	(PASS)	Sen Appropriations	5	2	0	Do pass
+	2022-08-01	(PASS)	Sen Appropriations	7	0	0	Placed on suspense file
+	2022-06-30	(PASS)	Sen Health	7	2	2	Do pass, but first be re-referred to the Committee on [Appropriations]
+	2022-06-14	(PASS)	Sen Judiciary	9	2	0	Do pass, but first be re-referred to the Committee on [Health]
+	2022-05-26	(PASS)	Assembly Floor	48	21	9	AB 2223 Wicks Assembly Third Reading
+	2022-05-19	(PASS)	Asm Appropriations	12	4	0	Do pass as amended.
+	2022-04-19	(PASS)	Asm Health	11	3	1	Do pass and be re-referred to the Committee on [Appropriations]
+	2022-04-05	(PASS)	Asm Judiciary	7	2	1	Do pass as amended and be re-referred to the Committee on [Health]

Bill History switch order

Date Action

9/27/22 Chaptered by Secretary of State - Chapter 629, Statutes of 2022.

9/27/22 Approved by the Governor.

9/12/22 Enrolled and presented to the Governor at 4 p.m.

8/30/22 Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 54. Noes 19. Page 6464.).

8/30/22 In Assembly. Concurrence in Senate amendments pending.

8/29/22 Read third time. Passed. Ordered to the Assembly. (Ayes 30. Noes 9. Page 5218.).

8/25/22 Read third time and amended. Ordered to third reading.

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Date	Action
8/11/22	Read second time. Ordered to third reading.
8/11/22	From committee: Do pass. (Ayes 5. Noes 2.) (August 11).
8/2/22	In committee: Referred to suspense file.
6/30/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 2.) (June 30). Re-referred to Com. on APPR.
6/29/22	In committee: Testimony taken. Hearing postponed by committee.
6/20/22	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
6/15/22	From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 9. Noes 2.) (June 14). Re-referred to Com. on HEALTH.
6/9/22	Action rescinded whereby the bill was referred to Com. on PUB. S.
6/8/22	Referred to Coms. on JUD., HEALTH and PUB. S.
5/27/22	In Senate. Read first time. To Com. on RLS. for assignment.
5/26/22	Read third time. Passed. Ordered to the Senate. (Ayes 48. Noes 21.)
5/23/22	Read second time. Ordered to third reading.
5/19/22	Read second time and amended. Ordered returned to second reading.
5/19/22	From committee: Amend, and do pass as amended. (Ayes 12. Noes 4.) (May 19).
5/4/22	In committee: Set, first hearing. Referred to suspense file.
4/20/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 3.) (April 19). Re-referred to Com. on APPR.
4/7/22	Re-referred to Com. on HEALTH.
4/6/22	Read second time and amended.
4/5/22	From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 7. Noes 2.) (April 5).
3/21/22	Re-referred to Com. on JUD.
3/17/22	From committee chair, with author's amendments: Amend, and re-refer to Com. on JUD. Read second time and amended.
3/17/22	Referred to Coms. on JUD. and HEALTH.
2/16/22	From printer. May be heard in committee March 18.
2/15/22	Read first time. To print.

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CONFLICT NOTIFICATION

April 14, 2022

OFFICE OF LEGISLATIVE COUNSEL

AB 2223

The above measure introduced by Assembly Member Wicks and set for hearing in the

Assembly Committee on Health

appears to be in conflict with

AB 1666 - Bauer-Kahan
AB 2091 - Mia Bonta
AB 2698 - Friedman
SB 1375 - Atkins

Open the attachments included in this email for a complete list of Code Sections, Statutes Other Than Codes, Budget Items, and Constitution Sections in conflict.

A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same section, article, chapter, division, title, or heading.

The enactment of these measures in their present form could give rise to a serious legal problem that may be avoided by appropriate amendments.

We urge you to consult with our Conflicts Unit at ConflictsUnit.Assembly@lc.ca.gov or (916) 341-8230 at your earliest convenience.

LIS Link: For more information regarding bills in conflict, go to the Reports page in LIS and select the Canned Reports tab to research Bills that Amend Identical Code Sections and Bill Status.

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List of Code Sections in Conflict

Requested Measure: AB 2223

Session: 2021-2022 Regular Session

Code/Section	Measure ID/Ver	Current Lead Authors	Chapter Num	Amd Out*
HSC 123466	AB 2091 97	Assembly Member Mia Bonta		N
	AB 2223 97	Assembly Member Wicks		N
HSC 123468	AB 2223 97	Assembly Member Wicks		N
	AB 2698 99	Assembly Member Friedman		N
	SB 1375 99	Senator Atkins		N
HSC 123469	AB 1666 98	Assembly Member Bauer-Kahan		N
	AB 2223 97	Assembly Member Wicks		N

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*Y (Yes) or N (No) indicates whether section or item has been amended out of measure

REPORTS OF STANDING COMMITTEES

Committee on Health

¶ [t8] Date of Hearing: April 19, 2022 (_fr)

¶ Mr. Speaker: Your Committee on Health reports:

¶	AB	2205	(11-3)
	AB	2223	(11-3)

(fl) With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.



_____, Chair (_fr)

WOOD

¶ Above bills re-referred to the Committee on Appropriations.

CODE: 6

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Assembly Committee Rollcalls

Health

Date of Hearing: April 19, 2022

BILL NO.	AB 1823	AB 1896	AB 2205	AB 2223
ACTION VOTED ON	Do pass as amended and re-refer to Cmte on Appr.	Do pass as amended and re-refer to Cmte on Appr., Rec. Consent	Do pass and re-refer to Cmte on Appr.	Do pass and re-refer to Cmte on Appr.
	Aye : No	Aye : No	Aye : No	Aye : No
Wood, Chair	X :	X :	X :	X :
Waldron, V. Chair	X :	Absent	: X	: X
Aguiar-Curry	X :	X :	X :	X :
Arambula	X :	X :	X :	X :
Bigelow	X :	X :	: X	: X
Carrillo	X :	X :	X :	X :
Flora	X :	X :	: X	: X
Maienschein	X :	X :	X :	X :
Mayes	Absent	Absent	Absent	Not Voting
McCarty	X :	X :	X :	X :
Nazarian	X :	X :	X :	X :
Luz Rivas	X :	X :	X :	X :
Rodriguez	X :	X :	X :	X :
Santiago	X :	X :	X :	X :
Vacancy (*Kalra)	X :	X :	X :	X :
	Ayes : 14 Noes : 0	Ayes : 13 Noes : 0	Ayes : 11 Noes : 3	Ayes : 11 Noes : 3

(Note: *Indicates temporary appointment. See Assembly Daily Journal.)

RECEIVED: _____

_____, CHAIR

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Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 2223 (Wicks) – As Amended April 6, 2022

SUBJECT: Reproductive health.

SUMMARY: Deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be treated as a death without medical attendance. Prohibits using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person. Prohibits a person from being subject to civil or criminal liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. Clarifies that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. Authorizes an individual aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, and requires a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. Specifically, **this bill**:

1) Deletes the requirement for a coroner, under existing law, to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

2) Repeals a provision of existing law requiring certain fetal deaths registered by a coroner to be handled as are deaths without medical attendance.

3) Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, is prohibited from being used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus.

4) Revises the Reproductive Privacy Act to state that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

5) Prohibits regardless of any other law, a person from being subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.

6) Prohibits a person who aids or assists a pregnant person in exercising their rights as described in 5) above, from being subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights, with the pregnant person's voluntary consent.

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7) Clarifies that an abortion is unauthorized if it meets the criteria specified in 4) in existing law below, and it is performed by someone other than the pregnant person.

8) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act to bring a civil action against an offending state actor in a state superior court.

9) States that whoever denies the right protected by this bill, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages;

   b) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this bill. Requires an action to be commenced within three years of the alleged practice in violation of this bill; and,

   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this bill.

10) Requires a court, upon a motion, to award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 8), above.

11) Allows a party aggrieved by conduct or regulation in violation of this bill to also bring a civil action pursuant to the Bane Civil Rights Act.

12) Changes gendered terminology in relevant code sections and eliminates the term "crime against nature" from existing law.

EXISTING LAW:

1) Requires a coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Specifies that such an inquiry does not include those investigative functions usually performed by other law enforcement agencies.

2) Requires a coroner, within three days after examination of a fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and to sign the certificate to attest to these facts. Requires a coroner, within three days after examining the body, to deliver the death certificate to the attending funeral director.

3) Establishes, in the Reproductive Privacy Act, that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, and that it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control;

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b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by law; and,

c) That the state cannot deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted.

4) States that the performance of an abortion is unauthorized if either of the following is true:

a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to existing law; or,

b) The abortion is performed on a viable fetus, and both of the following are established:
i) In the good faith medical judgment of the physician, the fetus was viable; and,
ii) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

5) Prohibits the State of California from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

6) Establishes the Bane Civil Rights Act which allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of California, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct.

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal Committee.

COMMENTS:

1) **PURPOSE OF THIS BILL.** According to the author, a critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. In California, the misuse of state power to prosecute people for their pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions, and this threat of criminal prosecution has a harmful effect on individual and public health.

The author states that this bill protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. The author

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concludes that as other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

2) **BACKGROUND.** The U.S. Supreme Court recognized the constitutional right to abortion in 1973 in *Roe v. Wade*, and subsequent decisions have reaffirmed that right. The Court has held that a state cannot ban abortion before viability (the point at which a fetus can survive outside the uterus), and that any restriction on abortion after viability must contain exceptions to protect the life and health of the pregnant person. Any pre-viability abortion restriction cannot create an "undue burden" by placing a substantial obstacle in the path of a person seeking an abortion.

In 2021, the State of Texas enacted a civilly enforced abortion restriction that prohibited any person from performing, or aiding and abetting, a person in obtaining an abortion after the detection of a "fetal heartbeat." That law prohibited state enforcement, and instead allows third parties to file lawsuits to enforce the law, regardless of the plaintiff's relationship to the defendant. The Texas law does not require the plaintiff to live in the state or suffer any actual harm. On Thursday April 7, 2022, a Texas woman was arrested and charged with murder after she allegedly terminated her own pregnancy. Police said she "intentionally and knowingly caused the death of an individual by self-induced abortion." The charges were subsequently dismissed by the District Attorney.

In California, Adora Perez was charged with murder in 2018 after she delivered a stillborn baby at a hospital in California's Central Valley, with authorities alleging that methamphetamine use while pregnant was responsible. Faced with the possibility of life in prison, Perez accepted a plea deal, then lost an appeal and was sentenced to 11 years in prison. The 32-year-old inmate is now at the center of a legal battle between a team of lawyers who believe she was unjustly convicted and a district attorney who believes Perez is a criminal. If the prosecutor prevails, women's rights advocates say, it will open the door to charges against any woman who suffers a miscarriage or stillbirth. Perez was granted transfer from prison to county jail with the release conditions that Perez take part in a drug treatment program, as the case moves forward.

On December 1, 2021, the U.S. Supreme Court heard oral arguments in *Dobbs v. Jackson Women's Health Organization*, a case regarding a Mississippi law that would ban abortion after 15 weeks of pregnancy. This case is a direct challenge to *Roe v. Wade*. *Dobbs v. Jackson Women's Health Organization* marks the first time the Supreme Court will rule on the constitutionality of a pre-viability abortion ban since *Roe v. Wade*. The Court's ruling in Roe recognized that the decision whether to continue a pregnancy or have an abortion, which impacts a person's body, health, family and future, belongs to the individual, not the government. The state of Mississippi has asked the Court not only to uphold its abortion ban, but to also overrule Roe and find there is no constitutional right to abortion. A decision is expected by the end of the Supreme Court's term in June 2022.

a) **Abortion**. According to the Centers for Disease Control and Prevention (CDC), a legal induced abortion is defined as an intervention performed by a licensed clinician that is intended to terminate an ongoing pregnancy. The CDC reports that in 2019, 629,898 legal induced abortions were reported to CDC from 49 reporting areas. Among 48 reporting

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areas with data each year during 2010 to 2019, in 2019, a total of 625,346 abortions were reported, the abortion rate was 11.4 abortions per 1,000 women aged 15 to 44 years, and the abortion ratio was 195 abortions per 1,000 live births.

From 2010 to 2019, the number, rate, and ratio of reported abortions decreased 18%, 21%, and 13%, respectively. However, compared with 2018, in 2019, the total number increased 2%, the rate of reported abortions increased by 0.9%, and the abortion ratio increased by 3%.

b) **Fetal assault laws.** According to the American College of Obstetricians and Gynecologists (ACOG) policy statement, "Opposition to Criminalization of Individuals During Pregnancy and the Postpartum Period," as of 2018, 38 states had laws in which the "victim" of a crime can include a fetus, generally called "fetal assault," "fetal homicide," or "fetal protection" laws. Twenty-nine states apply these laws at any stage of gestation during pregnancy. Although the majority of these states prohibit charging pregnant people with crimes for the outcomes of their own pregnancies, fetal assault laws and similar statutes have been adopted across the United States as a way to limit behaviors during pregnancy that legislators deem harmful to the fetus. Often these laws are passed under the guise of protecting pregnant people, but instead they are being used to punish individuals for a wide range of actions. For example, pregnant people have been charged with committing crimes for attempting suicide, substance use disorder, and suspicion of self-managed abortion. ACOG notes that these laws increase the risk of prosecution, especially for those from marginalized communities, establishing a form of criminal liability that applies only to pregnant people. For example, most of the people arrested for self-managed abortion came to the attention of law enforcement when they sought emergency medical care. The fear of interrogation, arrest, and prosecution while seeking health care services and medical treatment creates a barrier to accessing care.

c) **Self-managed medication abortion.** The mifepristone and misoprostol or misoprostol-only regimens for medication abortion are supported by U.S. and international medical organizations, including the World Health Organization. The medication abortion regimen, approved by the U.S. Food and Drug Administration, is 200 mg of mifepristone taken orally, followed by 800 mcg of misoprostol taken buccally, (or vaginally) 24 to 48 hours later. ACOG Committee Opinion 788 details the strong body of literature demonstrating that reproductive-age women can self-screen for hormonal contraception and suggests that similar self-screening for medication abortion could be accomplished without a provider.

d) **Safety of self-managed abortion:** Before *Roe v. Wade* legalized abortion in the United States, pregnant people were often compelled to pursue dangerous methods to terminate a pregnancy. Although the harms of "pre-Roe" clandestine abortions were of great public health concern, applying past experiences to 2022 and beyond ignores the highly safe and effective models for self-managed abortion that exist today. A 2018 study in the journal Contraception, "Exploring the feasibility of obtaining mifepristone and misoprostol from the internet," evaluated the quality of mifepristone and misoprostol obtained from 18 different online vendors without a prescription and showed that all of the pills were of high quality and contained an appropriate and expected amount of the active ingredients.

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Opponents may argue that some people use less efficacious self-managed abortion methods, such as objects and herbs, that could cause the pregnant person more harm and delay care. However, according to the American Public Health Association (APHA), decriminalizing all forms of self-managed abortion would ensure that those with complications or incomplete abortions could access care without fear of legal repercussions. As noted by ACOG, such fears may result in negative health outcomes by eroding trust in the medical system and deterring people from seeking care when needed.

e) **Access to abortion.** According to APHA, in the past decade, U.S. abortion access has become increasingly restricted. Since 2011, nearly 500 abortion restrictions have been enacted, including laws banning abortion in certain circumstances and laws that impose medically unnecessary requirements on abortion care. Studies of multiple states have demonstrated adverse impacts of restrictive state laws, including delays in accessing care due to increased travel distance; economic burdens from lost wages, childcare, and travel costs; increased stigma; and reduced abortion rates. These barriers disproportionately impact racial and ethnic minority individuals, people with lower incomes, immigrants, people with disabilities, LGBTQ (lesbian, gay, bisexual, transgender, queer or questioning) communities, and people living in rural and medically underserved areas.

   Approximately 7% of U.S. women reported having attempted to self-manage abortion in their lifetime. A cross-sectional study of requests from U.S. residents for self-managed medication abortion through the online service Aid Access between March 2018 and March 2020 identified 57,506 requests from individuals in all 50 states. Barriers to accessing abortion during the COVID-19 pandemic have led to further increases in demand. Aid Access reported an increase of 27% in the rate of requests for self-managed medication abortion from March 20 to April 11, 2020, relative to before the pandemic.

3) **SUPPORT.** This bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. The co-sponsors state that it is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again. The co-sponsors note that the threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible. The co-sponsors conclude that states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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4) **OPPOSITION.** The California Family Council (CFC) is opposed to this bill and states that this bill would legalize infanticide by the mother or any accomplice. Killing or letting a newborn die will no longer have any criminal penalties associated with it if this bill passes. It is the government's job to protect vulnerable human beings from harm. Newborns are valuable human beings who should be protected and that doesn't change simply because their mother doesn't want them. California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. CFC concludes that mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location.

Traditional Values for Next Generations (TVNG) is opposed to this bill and states that California may follow the steps of former Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, and could not be prosecuted. This bill expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. That means, there is a great possibility to remove much needed civil and criminal penalties for killing babies born alive under almost any circumstances. This is the most extreme, anti-life bill in California's history. TVNG concludes that this bill legalizes infanticide and we absolutely cannot agree with the use of euphemisms like "personal reproductive decisions" and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb.

5) **RELATED LEGISLATION.**

a) AB 1918 (Petrie-Norris) establishes the California Reproductive Health Service Corps within HCAI for the purposes of recruiting, training, and retaining a diverse workforce of reproductive health care professionals who will be part of reproductive health care teams to work in underserved areas. AB 1918 is pending a hearing in the Assembly Health Committee.

b) AB 2091 (Mia Bonta) prohibits compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding. AB 2091 is pending hearing in the Assembly Judiciary Committee.

c) AB 2134 (Akilah Weber) establishes the California Reproductive Health Equity Program within HCAI to ensure abortion and contraception services are affordable for and accessible to all patients and to provide financial support for safety net providers of these services. AB 2134 is pending hearing in the Assembly Health Committee.

d) AB 2205 (Carrillo) requires, beginning July 1, 2023, a health care service plan or health insurer offering qualified health plans, as defined, to annually report the total amount of funds in the segregated account maintained pursuant to the federal Patient Protection and Affordable Care Act. Requires the annual report to include the ending balance of the account and the total dollar amount of claims paid during a reporting year. AB 2205 is pending hearing in the Assembly Health Committee.

e) AB 2320 (C. Garcia), requires, until January 1, 2028, the Department of Health Care Services, to establish and administer a pilot program to direct funds to community health

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clinics that provide reproductive health care services in five counties that agree to participate. AB 2320 is pending a hearing in the Assembly Health Committee.

f) SB 245 (Lena Gonzalez), Chapter 11, Statutes of 2022, eliminates cost sharing in abortion services.

g) SB 1142 (Caballero and Skinner) requires the California Health and Human Services Agency (CHHSA), or an entity designated by the agency, to establish an internet website where the public can find information on abortion services in California. Requires CHHSA to also develop, implement, and update as necessary, a statewide educational and outreach campaign to inform the public on how to access abortion services in the state. SB 1142 is pending a hearing in the Senate Health Committee.

6) **PREVIOUS LEGISLATION.** SB 1301 (Sheila Kuehl), Chapter 385, Statutes of 2002, enacts the Reproductive Privacy Act, which provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and the fundamental right to choose to bear a child or obtain an abortion.

7) **DOUBLE REFERRAL.** This bill has been double referred. It passed the Assembly Committee on Judiciary with a vote of 7-2 on April 5, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action (co-sponsor)
Black Women for Wellness (co-sponsor)
California Latinas for Reproductive Justice (co-sponsor)
If/When/How: Lawyering for Reproductive Justice (co-sponsor)
NARAL Pro-Choice California (co-sponsor)
Planned Parenthood Affiliates of California (co-sponsor)
Access Reproductive Justice
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice - California
California Coalition for Women Prisoners
California for Safety and Justice
California Medical Association
California Nurse Midwives Association
Californians United for a Responsible Budget
Citizens for Choice
Courage California
Disability Rights California
Ella Baker Center for Human Rights
Initiate Justice
National Center for Youth Law
National Health Law Program
Survived & Punished
Tides Advocacy
Urge: Unite for Reproductive & Gender Equity

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Women's Foundation California

Opposition

Americans United for Life
California Capitol Connection
California Family Council
Californians for Life
Calvary Chapel of Placerville
Catholic Families 4 Freedom CA
Children's Health Defense California Chapter
Concerned Women for America
Eagle Forum of California
Faith Baptist Church of Wheatland
Frederick Douglass Foundation of California
Liberty Baptist Church of Norwalk, CA
Life Legal Defense Foundation
National Center for Law & Policy
Republican Club of Laguna Woods
Right to Life League of Southern California
Right to Life of Central California
Right to Life of Kern County
Salt and Light Council
Siskiyou Conservative Republicans
The Salt & Light Council
Traditional Values for Next Generations
Numerous individuals

Analysis Prepared by: Lara Flynn / HEALTH / (916) 319-2097

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ACLU CALIFORNIA ACTION

P.O. Box 630
1017 L Street
Sacramento 95814

Tel: (916) 442-1036

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

Re: AB 2223 – as amended
COSPONSOR

Dear Assemblymember Wicks,

ACLU California Action is pleased to cosponsor AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

ACLU California Action fights for Californians' bodily autonomy and the right to have children, not have children, and parent the children we have with dignity and safety. We believe Californians deserve reproductive justice. This means we work to ensure that every person in our state has equal access to excellent reproductive and sexual health care; schools teach accurate and unbiased health information; racism and socioeconomic status no longer stand in the way of people achieving and maintaining healthy lives; and individual decisions about intimacy and child-bearing are respected, valued, and supported.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of civil or criminal charges has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who also face barriers to safe, culturally competent, and inclusive medical systems.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without fear of being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from interrogation and criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, ACLU California Action is a proud cosponsor of AB 2223.

Sincerely,

Kevin G. Baker
Director of Governmental Relations

Ruth Dawson
Legislative Attorney

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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ACCESS REPRODUCTIVE JUSTICE

P.O. BOX 3609
Oakland, CA 94609
510-923-0739
ACCESSRJ.ORG

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: SUPPORT AB 2223 (Wicks) – Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

ACCESS REPRODUCTIVE JUSTICE, strongly supports AB 2223.

AB 2223 is a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss

As California's only abortion fund, we stand behind the Reproductive Justice movement. SisterSong defines Reproductive Justice as "The human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities."
Reproductive justice demands that we work at the intersections of racial, economic, and gender justice. We strive to use a reproductive justice lens in all our advocacy and outreach.

ACCESS Reproductive Justice often serves as an initial point of contact and primary support system for patients navigating myriad barriers in abortion access—from managing basic logistics, to debunking misinformation, to facing harassment and intimidation at clinics—as well as state-proscribed hurdles like mandatory waiting periods, parental consent, high co pays and cost, or judicial bypass provisions.
Trained, compassionate advocates operate our toll-free bilingual hotline. We help people pay for their abortion care by sending funding directly to the clinic. We also help people get to and from the clinic and we make sure people traveling for care have a safe place to stay. We play a crucial advocacy role in addressing those most impacted by restrictive laws, centering the LGBTQ+ community, low-income, young, and communities of color, among others.
Every day more people are being denied their constitutional right to abortion. We have to continue to advocate for the most vulnerable and affected, especially as COVID-19 continues to restrict abortion access across our communities.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

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The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

For these reasons, ACCESS REPRODUCTIVE JUSTICE respectfully asks for your support on AB 2223 that helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

Respectfully Submitted,

Jessica Pinckney

Jessica Pinckney
Executive Director
ACCESS REPRODUCTIVE JUSTICE

ACCESS REPRODUCTIVE JUSTICE removes barriers to sexual and reproductive health care and builds the power of Californians to demand health, justice, and dignity. At ACCESS RJ, we are building towards a future where all people in California have the freedom and resources necessary to make empowered and dignified decisions about their sexual and reproductive health, including the decision to have an abortion, without shame or stigma and regardless of their race, religion, documentation or economic status. A future where Black, Indigenous and people of color (BIPOC) and queer communities trust themselves; are trusted; and have the social, political, and economic power to sustain their communities and to build the families they desire, chosen and biological.

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American College of Obstetricians and Gynecologists

District IX

CHAIR
Diana Ramos, MD, MPH, MBA

CHAIR-ELECT
Kelly McCue, MD

TREASURER
John McHugh, MD

SECRETARY
Toni Marengo, MD

IMMEDIATE PAST CHAIR
Laura Sirott, MD

JUNIOR FELLOW CHAIR
Hayley Miller, MD

DISTRICT MANAGER
Michelle Clark, MSW

April 4, 2022

The Honorable Mark Stone, Chair
Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

RE: AB 2223 (Wicks) - SUPPORT

Dear Chairman Stone:

The American College of Obstetricians and Gynecologists District IX (ACOG) is pleased to **support** AB 2223 (Wicks), which will protect individuals from being investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

ACOG opposes the prosecution of pregnant individuals for conduct alleged to have harmed their fetus, including the criminalization of self-induced abortion. The threat of prosecution may result in negative health outcomes by deterring people from seeking needed care, including care related to complications after abortion. Throughout the United States, individuals have been prosecuted for a variety of actions during pregnancy that allegedly caused harm or risk of harm to fetuses they were carrying. For example, individuals have been arrested and jailed for crimes such as child endangerment, feticide, or homicide for using drugs during pregnancy, attempting suicide or declining to proceed with a recommended cesarean delivery. ACOG has long opposed efforts to criminalize such actions during pregnancy.

In addition, individuals have been prosecuted and sometimes incarcerated for allegedly self-inducing an abortion in the United States. The reasons why people attempt to self-induce an abortion are varied and include barriers to accessing clinic-based care, including cost, distance to the facility, and lack of knowledge of where and how to access care, as well as a preference for self-care.

AB 2223 protects people from criminalization of their pregnancy outcomes and secures their reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss. The bill eliminates provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal

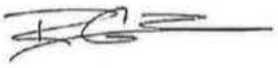
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systems. AB 2223 creates a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, ACOG is proud to support AB 2223 (Wicks) and ask for your "aye" vote. Thank for your attention.

Sincerely,



Ryan Spencer
Legislative Advocate

CC: The Honorable Buffy Wicks
Members of the Assembly Committee on Judiciary

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ASIAN AMERICANS
ADVANCING
JUSTICE
CALIFORNIA

April 4, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Asian Americans Advancing Justice – California (Advancing Justice – CA)strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Advancing Justice - CA, a partnership of Advancing Justice - Asian Law Caucus and Advancing Justice - Los Angeles, advocates for the civil and human rights of Asian American, Native Hawaiian, and Pacific Islander and other underserved communities to promote a just and equitable society for all through policy.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

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AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Advancing Justice – CA supports AB 2223.

Sincerely,

Faith Lee

Faith Lee
Legislative Director
Asian Americans Advancing Justice – California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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BLACK WOMEN WELLNESS ACTION PROJECT

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: SUPPORT — AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:
As proud co-sponsors of **AB 2223 (Wicks), decriminalization of Abortion and Pregnancy Loss,** Black Women for Wellness Action Project (BWWAP) writes to express our strong support for this bill! AB 2223 protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

BWWAP is a statewide Reproductive Justice organization committed to improving the overall health status and wellbeing of Black women and girls and we work to achieve this by building the political and electoral power of Black women throughout California. BWWAP believes in a just and equitable future for Black women and as such, engages policy and sponsors legislation that advances gender equity. This bill is important to our organization and the community that we serve, because we believe in and recognize our individual right to bodily autonomy and self-determination. Additionally, Black mommas and families are disproportionately surveilled, targeted and criminalized for our adverse pregnancy outcomes, exacerbating the trauma, deepening health disparities and chilling our ability to exercise out right to bodily autonomy.

This bill is also particularly important to our organization our community, as we know that Black mommas and families are particularly and likely to be targeted

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans

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people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Black Women for Wellness Action Project supports AB 2223.

Sincerely,

Onyemma C. Obiekea
Policy Analyst
Black Women for Wellness Action Project

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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California Coalition for Women Prisoners
4400 Market Street, Oakland, CA 94608
Phone: (415) 255-7036 x4 Fax: (415) 552-3150
info@womenprisoners.org

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The California Coalition for Women Prisoners (CCWP) strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

CCWP is a social justice organization that challenges the institutional violence imposed on women, transgender people, and communities of color by the prison industrial complex (PIC). The majority of our members are victims of violence, many of whom were prosecuted in contexts of surviving domestic and sexual violence.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

California Coalition for Women Prisoners
4400 Market Street, Oakland, CA 94608
Phone: (415) 255-7036 x4 Fax: (415) 552-3150
info@womenprisoners.org

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the California Coalition for Women Prisoners supports AB 2223.

Sincerely,

Legal Advocate
California Coalition for Women Prisoners

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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CALIFORNIA
LATINAS for
REPRODUCTIVE
JUSTICE

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

California Latinas for Reproductive Justice (CLRJ) is a proud Co-Sponsor of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

CLRJ is a statewide organization committed to honoring the experiences of Latinas/xs to uphold our dignity, our bodies, sexuality, and families. We build Latinas'/xs' power and cultivate leadership through community education, policy advocacy, and community informed research to achieve Reproductive Justice. Pregnant people should not be criminalized for having an abortion or experiencing a pregnancy loss. It is necessary for the state to uphold our collective right to bodily autonomy, the ability to decide if and when to parent, and to ensure that our families are able to live with dignity and respect in safe and healthy communities.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

Post Office Box 861766, Los Angeles, CA 90086 • ph: 213.270.5258 • e: info@clrj.org • www.clrj.org

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CALIFORNIA LATINAS for REPRODUCTIVE JUSTICE

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons California Latinas for Reproductive Justice supports AB 2223.

Sincerely,

Lorena Garcia Zermeño

Lorena Garcia Zermeño
Policy Manager
California Latinas for Reproductive Justice

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

Post Office Box 861766, Los Angeles, CA 90086 • ph: 213.270.5258 • e: info@clrj.org • www.clrj.org

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April 8, 2022

The Honorable Assemblymember Jim Wood, D.D.S.
Chair, Assembly Health Committee
1020 N Street, Room 390

Dear Chair Wood,

On behalf of the more than 50,000 physician and medical student members of the California Medical Association (CMA), we are proud to support AB 2223 (Wicks). CMA applauds this effort to remove barriers to reproductive health access.

By decriminalizing abortion and other pregnancy loss that occurs outside a health care setting, AB 2223 protects individuals who were pregnant from prosecution if they do not carry the pregnancy to term. Additionally, it takes an additional step by adding penalties into the law for individuals who attempt to violate this policy or deny anyone the right to privacy over their reproductive health decisions.

CMA policy supports ensuring that all Californians have access to safe and professional abortion services. AB 2223 ensures that all individuals can safely access abortion services without fear of criminal reprisal. Moreover, it ensures that decisions about reproductive health are protected by the right to privacy, and that there are consequences for those who would seek to violate that right.

Eliminating obstacles to reproductive health care for all individuals, regardless of income level, geography, or other factors is critical to achieving health equity in California. Ensuring that individuals do not face public intrusion into or criminal sanction for reproductive health choices furthers this goal.

For these reasons, CMA encourages your support for AB 2223 (Wicks). Please do not hesitate to contact me with any questions (707) 310-4536.

Sincerely,

Cyndi Hillery
Legislative Advocate, Government Relations

cc: The Honorable Assemblymember Buffy Wicks
The Honorable Assemblymember Marie Waldron
Rosielyn Pulmano, Consultant, Assembly Health Committee
Gino Folchi, Consultant, Assembly Republican Caucus Office of Policy and Budget

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March 31, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss - Support

Dear Assemblymember Wicks,

The California Nurse Midwives Association strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the California Nurse Midwives Association supports AB 2223.

Sincerely,

Paris Maloof-Bury
President, California Nurse Midwives Association

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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CALIFORNIANS FOR SAFETY AND JUSTICE

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Californians for Safety and Justice strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Californians for Safety and Justice is a nonprofit organization working with Californians from all walks of life to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. Through policy advocacy, grassroots mobilization, public education, alliances, and support for local best practices, we promote strategies to stop the cycle of crime, reduce reliance on incarceration, and build healthy communities. Our work includes a growing statewide network of over 12,000 crime survivors and an organized constituency among the 8 million Californians living with a past conviction or record and their families.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

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CALIFORNIANS FOR SAFETY AND JUSTICE
www.safeandjust.org

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons Californians for Safety and Justice supports AB 2223.

Sincerely,

Edward Little
CA Government Affairs Manager
Californians for Safety and Justice
ELittle@safeandjust.org

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Californians United for a Responsible Budget
909-975-1095 (c)
www.curbprisonspending.org

March 28, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Californians United for a Responsible Budget/CURB strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons CURB supports AB 2223.

Sincerely,

Amber-Rose Howard

Executive Director
Californians United for a Responsible Budget

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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citizens for CHOICE

P.O. Box 3525
Grass Valley, CA 95945
www.CitizensforChoice.org

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Nevada County Citizens for Choice strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Citizens for Choice has promoted reproductive health and justice as a California nonprofit organization since 2001. We sponsor a clinic in Grass Valley operated by our partner Women's Health Specialists; provide health information and education; and engage in California focused advocacy. Consistent with our mission, we believe it is important to prevent criminalization of abortion and pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

Citizens for Choice promotes reproductive justice through education, health care access and advocacy.
We exist to inform and enable choice.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, Nevada County Citizens for Choice supports AB 2223. We thank you for your leadership on this important bill.

Sincerely,

Elaine L. Sierra

Elaine L. Sierra, J.D.
President
info@citizensforchoice.org
Mobile: (530) 648-6816

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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COURAGE CALIFORNIA

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 — SUPPORT

Dear Assemblymember Wicks,

On behalf of the 1,400,000 members of Courage California, California's largest online, progressive organizing network, I write in strong support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

Courage California, 7119 W. Sunset Boulevard, No. 195, Los Angeles, CA 90046
323.205.5154 (phone) www.couragecalifornia.org

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, Courage California support AB 2223.

Best Regards,



Irene Kao
Executive Director, Courage California

cc: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Disability Rights California
California's protection & advocacy system

LEGISLATION & COMMUNICATIONS UNIT
1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

March 29, 2022

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

Re: AB 2223 (WICKS) as amended March 17, 2022 - SUPPORT

Dear Assemblymember Stone:

On behalf of Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, supports of AB 2223 (Wicks) which protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcome whether they have an abortion or experience a pregnancy loss.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. Californians must be able to support friends, community members, and loved ones for any reproductive health care, including abortion, without being investigated, arrested, or prosecuted.

This bill curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses

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are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, Disability Rights California supports AB 2223 and urge your 'aye' vote.

Sincerely,

Deb Roth
Senior Legislative Advocate
Disability Rights California

cc: Honorable Members, Assembly Judiciary Committee
Honorable Buffy Wicks, California State Assembly
Melanie Morelos, Legislative Director, Office of Wicks

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

ELLA BAKER CENTER FOR HUMAN RIGHTS

She led. So can you.

March 29, 2002

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The Ella Baker Center for Human Rights strongly supports your bill, AB 2223, to protect reproductive rights by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Based in Oakland, the Ella Baker Center for Human Rights works to advance racial and economic justice to ensure dignity and opportunity for people with low income and people of color. The Ella Baker Center believes the criminalization of the people we work to protect for their personal decisions is inhumane.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Frequently, there is no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, LGBTQ people, young people, and others who may self-manage abortions because of lack of access to medical care.

The bill protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, among others, Ella Baker Center for Human Rights supports AB 2223 (Wicks_. For more information about our organization or our position, please contact our policy consultant Glenn Backes at glennbackes@mac.com or (916) 202-2538. Thank you for your leadership on this important issue.

Sincerely,

Emily Harris
Policy Director

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

if
when
how

Lawyering for
Reproductive
Justice

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

If/When/How: Lawyering for Reproductive Justice is proud to co-sponsor AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

If/When/How is a national non-profit organization that works to transform law and policy 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. One of our urgent priorities is halting the criminalization of people who self-manage abortions or experience pregnancy losses. Criminalizing people for their pregnancy outcomes is dangerous and unsupported in the law. That's why groups like the American Bar Association, American Medical Association and the American College of Obstetricians and Gynecologists oppose the criminalization of people for self-managed abortion or for experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, If/When/How proudly supports AB 2223.

Sincerely,

Farah Diaz-Tello, J.D.
Senior Counsel & Legal Director

Myra Gissel R. Durán
Senior Policy Advocate

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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INITIATE JUSTICE

"Building the power of currently incarcerated people, formerly incarcerated people, and their loved ones."

March 29, 2022

The Honorable Buffy Wicks

State Capitol, Room 4240

Sacramento, CA 95814

RE: SUPPORT FOR AB 2223 (Wicks)

Dear Assemblymember Wicks,

On behalf of the Initiate Justice, I write in support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Initiate Justice fights to end mass incarceration by activating the political power of those directly impacted by it. With more than 45,000 members currently incarcerated in California's state prisons and hundreds of trained organizers on the outside, we advocate for policy change by sponsoring legislation, campaigning for state ballot initiatives, and leading strategic campaigns to ensure policy implementation in line with our goals.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Initiate Justice
1035 S. Grand Ave, Los Angeles, CA 90015
1720 Broadway, 2nd Floor, Oakland, CA 94612
www.initiatejustice.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, Initiate Justice supports AB 2223.

Sincerely,

Gregory Fidell

Gregory Fidell
Policy Manager, Initiate Justice
Greg@initatejustice.org

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1035 S. Grand Ave, Los Angeles, CA 90015
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www.initiatejustice.org

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NARAL PRO-CHOICE CALIFORNIA

FREEDOM IS FOR EVERYBODY

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss - Sponsor

Dear Assemblymember Wicks,

NARAL Pro-Choice California and our 295,000 members, **we are proud to sponsor AB 2223 (Wicks),** a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

NARAL Pro-Choice California is dedicated to protecting and expanding reproductive freedom for all people. For more than 50 years, NARAL Pro-Choice America has fought to protect and advance reproductive freedom at the federal and state levels—including access to abortion care, birth control, pregnancy and post-partum care, and paid family leave—for everybody. NARAL is powered by its more than 2.5 million members from every state and congressional district in the country, representing the 8 in 10 Americans who support legal abortion.

In the fall of 2021, NARAL Pro-Choice California joined ACCESS REPRODUCTIVE JUSTICE, Black Women for Wellness Action Project, Essential Access Health, National Health Law Program (NHeLP), Planned Parenthood Affiliates of California, the Office of Senate President pro Tempore Toni G. Atkins, and Training in Early Abortion for Comprehensive Healthcare to form the California Future of Abortion Council (CA FAB Council). Comprised of reproductive freedom and sexual and reproductive health care allies, partners, and leaders, the charge of the CA FAB Council was to identify barriers to abortion access for Californians and for people coming from out of state for abortion care, and recommend policy proposals and solutions. AB 2223 directly addresses several of the 45 recommendations in the California Future of Abortion Council Report.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

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NARAL Pro-Choice California supports this bill and urges legislators to vote "YES." We will score this vote in the 2022 Reproductive Freedom Legislative Scorecard.

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Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

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AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons NARAL Pro-Choice California is proud to sponsor AB 2223.

Sincerely,

Shannon Hovis

Shannon Olivieri Hovis
Director
NARAL Pro-Choice California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

NARAL Pro-Choice California supports this bill and urges legislators to vote "YES." We will score this vote in the 2022 Reproductive Freedom Legislative Scorecard.

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National Center for Youth Law

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March 30, 2022

The Honorable Buffy Wicks

State Capitol, Room 4240

Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The National Center for Youth Law strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

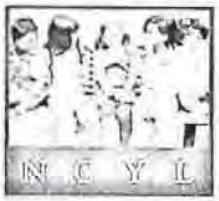
The National Center for Youth Law (NCYL) is a non-profit organization that works to create a world in which every young person thrives and has a full and fair opportunity to achieve the future they envision for themselves. NCYL has spent decades partnering with health care providers, adolescent medicine experts, guardians, and youth to advocate for equitable access to critical health care, including reproductive health care. Our support for AB 2223 comes from this experience and perspective.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

1212 Broadway, Suite 600, Oakland, CA 94612-1805 | 510.835.8098 tel | 510.835.8099 fax
info@youthlaw.org | www.youthlaw.org

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National Center for Youth Law

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, the National Center for Youth Law supports AB 2223.

Sincerely,

Jesse E Hahnel

Jesse Hahnel, Executive Director

CC: Senator Sydney Kamlager
Members of the Senate Health Committee
Members of the Senate Judiciary Committee

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March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

The National Health Law Program strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss. The National Health Law Program is a public interest law firm that protects and expands the health care rights of individuals who have low incomes or are underserved.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience

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3701 Wilshire Boulevard, Suite 750 · Los Angeles, CA 90010 · (310) 204-6010
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adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom. For all of these reasons, the National Health Law Program supports AB 2223.

Sincerely,

HEALTH LAW

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Fabiola Carrión
Director of Reproductive and Sexual Health
National Health Law Program

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Planned Parenthood
Act. No matter what.
Planned Parenthood Affiliates of California

March 29, 2022

The Honorable Buffy Wicks
State Capitol
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Planned Parenthood Affiliates of California, on behalf of the 7 Planned Parenthood affiliates in the state who provide health care and sexual health education in every county, is a proud to support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss. As a leading provider of sexual and reproductive health care, Planned Parenthood health centers treat approximately 1,000 patients a year suffering from pregnancy loss. The subsequent fear of their pregnancy outcome being criminalized makes this reality even more difficult to face.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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For all these reasons, Planned Parenthood Affiliates of California is proud to support AB 2223 and appreciate your leadership on this issue.

Sincerely,

Molly Robson

Molly Robson
Legislative Director, Planned Parenthood Affiliates of California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Survived & Punished
1589 ½ Altivo Way
Los Angeles, CA 90026

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Survived & Punished strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Survived & Punished is a statewide and national organization that advocates for the freedom of criminalized survivors of domestic and sexual violence. The vast majority of people in women's prisons (and many in men's prisons) are survivors of domestic and sexual violence. The incarceration of survivors is so pervasive, researchers have characterized it as an abuse-to-prison pipeline. Domestic and sexual violence often create conditions for both pregnancy and pregnancy loss. For example, the physical consequences of trauma can increase the likelihood of pregnancy loss. Also, the severity and lethality of domestic violence often increases if survivors become pregnant, creating conditions of pregnancy loss outside of their control.

California has not outlawed abortion, miscarriage, or the experience of pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. This unlawful practice creates additional abuse-to-prison pathways for survivors of domestic and sexual violence. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health,

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because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Survived & Punished strongly supports AB 2223.

Sincerely,

Alisa Bierria, Ph.D.
Survived & Punished

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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SMART JUSTICE

2443 Fillmore Street
Suite 134
San Francisco, CA 94115
(415) 937-7522
info@smartjusticeca.org

March 29, 2022

The Honorable Buffy Wicks
1021 O St., Ste. 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) – SUPPORT

Dear Assemblymember Wicks:

On behalf of **Smart Justice California,** I write in strong support of your bill AB 2223 to protect reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Smart Justice California educates and emboldens policymakers who support meaningful criminal justice reforms that promote safety, fairness and healthy communities. We are an alliance of philanthropists working hand-in-hand with a broad coalition to foster common sense criminal justice reform through the electoral process, stakeholder engagement and voter education.

In California, it is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law protecting the right to make decisions about pregnancy in our state, Californians have been charged with homicide offenses for pregnancy losses.

Criminally prosecuting a person following pregnancy loss or termination is, simply put, wrong. It is devastating to the individual and her family, and has negative impacts on public health and safety. Fear of prosecution prevents people from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

States hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve these problems by protecting people from criminalization of their pregnancy outcomes. AB 2223 strengthens reproductive rights in the following ways:

ADVISORY BOARD
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Scott Budnick
Quinn Delaney
Kaitlyn Krieger
Ethan Nadelmann
Robert Rooks
Tim Silard
Ana Zamora

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SMART JUSTICE

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- Protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes, whether they have an abortion or experience a pregnancy loss.

- Eliminates out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes.

- Holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

- Ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, we strongly support AB 2223. If you wish to discuss further, please contact our advocate Natasha Minsker at natasha@smartjusticeca.org.

Respectfully,

Anne R Irwin

Anne Irwin
Founder & Executive Director

ADVISORY BOARD
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UNITE FOR REPRODUCTIVE & GENDER EQUITY

Reproductive justice powered by young people in the South and the Midwest.

3/30/2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

URGE: Unite for Reproductive & Gender Equity strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

URGE is a state-driven national organization that builds power and sustains a young people's movement for reproductive justice by centering the leadership of young people of color who are women, queer, trans, nonbinary, and people with low incomes. We envision a liberated world where we can live with justice, love freely, express our gender and sexuality, and define and create families of our choosing.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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UNITE FOR REPRODUCTIVE & GENDER EQUITY

Reproductive justice powered by young people in the South and the Midwest.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons URGE supports AB 2223.

Sincerely,

Cindy Cruz

Cindy Cruz
Western States Field Director
URGE: Unite for Reproductive & Gender Equity

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

Phone: (202) 965-7700
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WOMEN'S FOUNDATION CALIFORNIA DR. BEATRIZ MARÍA SOLÍS POLICY INSTITUTE

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

Women's Foundation California (WFC) strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The WFC is a statewide, publicly supported foundation dedicated to achieving racial, economic, and gender justice by centering the experience and expertise of communities most impacted by systemic injustice. We support this effort to protect reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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womensfoundca.org 1301 Clay Street | Suite 1719 | Oakland, CA 94612 | 510.740.2500

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, the WFC supports AB 2223.

Sincerely,

Marisol Franco, Director of Programs
marisolf@womensfoundca.org

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Americans United for Life

Written Testimony of Katie Glenn, J.D.
Government Affairs Counsel, Americans United for Life
In Opposition to AB 2223
Submitted to California State Assembly Committee on Judiciary
March 29, 2022

My name is Katie Glenn, and I serve as Government Affairs Counsel of Americans United for Life, a national law and policy nonprofit organization with a specialization in abortion, end-of-life, and bioethics law. Our vision at AUL is a world where everyone is welcomed in life and protected in law.

Thank you for the opportunity to testify against AB 2223, a bill that would confuse existing laws, dehumanize the unborn, and prevent California lawmakers and law enforcement from responding to specific problems as they arise.

What does this bill cover? You don't know but it doesn't look good.

AB 2223 states that "a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death."[1]

"Perinatal" is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods."[2] DHCS states that women who complete a live birth should have a postpartum visit between 21-56 days,[3] and March of Dimes defines "neonatal" as the first 27 days of a child's life.[4] Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide.

What does it mean to "act or omit" under a law that permits the broadest power over the child during the 40 weeks of pregnancy and some unknown timeframe thereafter? This would include withholding medical care, nourishment, or warmth, any of which might kill the child. It might create a right to use illegal drugs during pregnancy, or at least a protection from being prosecuted under California drug laws.

[1] Cal. AB 2223 § 7(a)
[2] Cal. Health & Saf. Code § 123630.2
[3] https://www.dhcs.ca.gov/dataandstats/Pages/Prena.aspx
[4] https://www.marchofdimes.org/peristats/data?reg=99&top=6&stop=107&lev=1&slev=4&obj=1&sreg=06

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California law grants infants born alive during an abortion the same rights as any other child at the time of birth,[5] yet this bill denies those rights by stating that neither the mother, nor any person who "aids or assists" her may be liable or penalized for denying the child life-saving care.[6] Before enacting sweeping and unknown changes, this committee and the legislature should consider how it interfaces with other California laws.

What does "interference" mean? Would it mean that the state could not investigate dangerous lawbreakers? This bill would engender a regulatory regime akin to the one in Pennsylvania that allowed the infamous abortion provider Kermit Gosnell to operate his "House of Horrors" for many years. Gosnell, who was ultimately convicted and given a life sentence, was able to provide unsafe, unsanitary, and deadly abortions for many years because, according to the Grand Jury report, the Pennsylvania Department of Health thought it could not inspect or regulate abortion clinics because that would interfere with access to abortion.[7] This bill lowers professional accountability. It does not protect, empower, or help anyone other than abortion businesses. If you knew someone was breaking the law, could you stop them—or would that be a violation of this "fundamental right?"

Similar bills introduced in Vermont and New Hampshire have included under this "fundamental right to personal reproductive decisions" the right to have your insurance or the state pay for reproductive technology like IVF, egg freezing, and surrogacy. This broadly written bill will be taken to court and interpreted to cover all sorts of things the bill sponsors do not anticipate today. That question of "access" becomes a problem when what someone wants costs too much, takes too long, or no local healthcare professional wants to do it.

If a baby is found in a dumpster can law enforcement investigate the child's death? Probably not under AB 2223.

This bill has nothing to do with a right to privacy. It is not about preventing women from being prosecuted under abortion laws, something California and nearly every other state already does. It is about covering up crimes. Criminals carry duffel bags of abortion drugs across our Southern border.[8] Babies are thrown in dumpsters,[9] over[10] and over.[11] I read so many stories about babies abandoned in California, I ran into the LA Times' paywall. And this legislature's response is to pass a bill forbidding law enforcement from investigating these horrific crimes.

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[5] Cal. Health & Safety Code § 123435
[6] Cal. AB 2223 § 7
[7] https://www.theatlantic.com/national/archive/2013/04/why-dr-kermit-gosnells-trial-should-be-a-front-pagestory/274944/
[8] https://www.youtube.com/watch?v=CR3uexqGgXo
[9] https://www.latimes.com/california/story/2019-07-30/baby-dies-fairfield-northern-california
[10] https://www.latimes.com/local/lanow/la-me-baby-heat-dumpster-20190612-story.html
[11] https://wgntv.com/news/newborn-boy-found-abandoned-in-restroom-trash-bin-at-california-park/

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One of the duties of coroners in the state of California is to investigate "violent, sudden, or unusual deaths."[12] AB 2223 would repeal from this list "deaths related to or following known or suspected self-induced or criminal abortion."[13] A coroner is still required to document relevant information on a certificate of fetal death, but it "shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus."[14] If a coroner had reason to believe that the circumstances of a fetal death were suspicious or criminal, or even that the mother was being coerced or abused, that information could not be used by law enforcement to investigate the suspected crime. Criminals will walk free because "California protects the right to reproductive privacy."[15]

AB 2223 establishes a cause of action for "[a] party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court."[16] Under this bill, if a person commits a horrific act, like abandoning a newborn in a dumpster in 102-degree weather, if the police find that person, she (or he, if acting at the direction of the mother) could sue law enforcement for infringing on her right to "make and effectuate decisions about all matters relating to pregnancy, including…childbirth [and] postpartum care…"[17] Thus, the bill sponsors expect law enforcement to ask no questions and look no further into the situation, even though in this case, the mother was 15 years old and likely the victim of a crime herself.[18] This is outrageous and will only lead to more cases of child abandonment or death, and more harm to pregnant women if abusers, traffickers, and pimps know that reproductive control and crimes related to abortion or childbirth will go uninvestigated and unpunished.

This bill creates a legal fiction.

If you pass this bill, and California law denies motherhood by repealing scientifically accurate terms[19] and further dehumanizes the unborn, a unique, unrepeatable human being will still be created at the moment of fertilization.[20] Nothing about this text changes the biological reality of the child or his or her mother. The sponsors of this bill have decided that the youngest Californians aren't worth protecting—even once they're born—but that does not mean that they are not members of the human family.

[12] Cal. Gov. Code § 27491
[13] Cal. AB 2223 § 2
[14] Cal. AB 2223 § 4
[15] Id.
[16] Cal. AB 2223 § 9
[17] Cal. AB 2223 § 5
[18] https://www.latimes.com/local/lanow/la-me-baby-heat-dumpster-20190612-story.html
[19] Cal. AB 2223 § 5(b)-(c), § 6, §8(b)(2)
[20] https://lozierinstitute.org/a-scientific-view-of-when-life-begins/

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Unlike almost every other state, California's "health exception" and bills like AB 2223 virtually permit abortion throughout pregnancy. A third trimester abortion is a four-day process[21] that includes a lethal injection of digoxin or potassium chloride,[22] the very same drug California used for the death penalty[23]—until Governor Newsom's moratorium in 2019.[24] That is what we are talking about today. Enshrining a fundamental right to starve, dismember, or lethally inject a child throughout pregnancy and beyond with minimal oversight.

Infanticide is an act or omission that kills a helpless baby. It is also the logical next step for a state that rushes to be an "abortion sanctuary." If a baby has no right to life at 39 weeks' gestation, if California asserts no interest in defending and protecting that child, then why would a right attach just because the child draws breath? What is the difference? Both need nourishment and protection to survive. Neither can care for themselves for many years. The mask always slips.

Vote no on this confusing, overbroad, and dehumanizing bill.

For Life,



Katie Glenn, Govt Affairs Counsel
Americans United for Life

[21] https://www.drhern.com/third-trimester-abortion/
[22] https://www.mottchildren.org/health-library/tw2562
[23] https://www.aclu.org/press-releases/aclu-says-californias-use-paralytic-drug-during-executions-unconstitutional
[24] https://www.cdcr.ca.gov/capital-punishment/

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CALIFORNIA
CAPITOL CONNECTION

March 29, 2022

Committee of Judiciary
1020 N Street, Room 140
Sacramento, CA 95814

RE: Assembly Bill 2223- Opposition

Dear Members:

On behalf of hundreds of pastors and churches across the state, the California Capitol Connection is writing to express its opposition to for AB 2223.

AB 2223 would open the door to legalize the killing of babies in California after birth. Depending on how the term "perinatal" is interpreted, this bill could legalize the infanticide of children several weeks after their birth and possibly as late as their first birthday.

Children are a gift from God that we should cherish and protect. We strongly urge you to oppose this bill.

Sincerely,

Brandon Campbell
Northern California Organizer
California Capitol Connection

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March 29, 2022

Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

CALIFORNIA FAMILY COUNCIL

RE: AB 2223- Infanticide Decriminalization

Dear Assembly Member Mark Stone,

On behalf of our tens of thousands of constituents, allied organizations, and over 2,000 churches across the state, the California Family Council is opposed to AB 2223, a bill that seeks to codify the killing of unborn children throughout all nine months of pregnancy as well as decriminalize killing newborns days or even weeks after birth.

The proposed legislation would shield a mother from civil and criminal charges for any "actions or omissions" related to her pregnancy, "including miscarriage, stillbirth, or abortion, or perinatal death." Although definitions of "perinatal death" vary, all of them include the demise of newborns seven days or more after birth.

The bill additionally protects anyone who "aids or assists a pregnant person in exercising" these rights. It also allows a woman to sue any police department or legal authority which arrests or charges her for hurting or killing her child under provisions of the bill.

This bill would legalize infanticide by the mother or any accomplice. Killing or letting a newborn die will no longer have any criminal penalties associated with it if this bill passes. It is the government's job to protect vulnerable human beings from harm. Newborns are valuable human beings who should be protected and that doesn't change simply because their mother doesn't want them.

California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. Mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location.

The California Family Council strongly opposes AB 2229 and encourages this committee to reject this evil and brutally violent bill.

Sincerely,

Greg Burt
Director of Capitol Engagement
California Family Council

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Californians for LIFE

CaliforniansForLife.org
Wynette Sills, Director, Californians for Life
916-955-1577, Wynette.Sills@gmail.com
wynette sills

Letter of Opposition to AB 2223 for Assembly Health Committee

Dear Assembly Health Committee Members,



We have entered a new era in California politics. No longer can you claim to be "Pro-Choice" when so many of these recent bills, including AB 2223, are exclusively Pro-Abortion, only underwriting and promoting one deadly choice, rather than actually helping women.

Mothers need help when facing an unexpected pregnancy. Yet, AB 2223 will do nothing to help mothers, but only promotes the deliberate, intentional and brutal killing of even more babies and hurting more women.

We see all across America, including California, an increased awareness of the scientific fact that at least one human being is killed in every abortion. Recently, ten people were killed across from the state Capitol and we recoil in horror and grief, but AB 2223 will promote more killing, even decriminalizing killing babies "perinatal" after birth. We must stop all killing, all violence.

Governor Newsom promotes a "no-kill" state for "unwanted" dogs and cats, while AB 2223 promotes killing our own children. How sad and no wonder we are closing schools due to so few children.

FALSE INFORMATION: This 2022 deluge of abortion bills is predicated upon the false premise that supposedly California will experience a "3,000% increase" in out-of-state abortions each year, from about 46.000 currently to supposedly some 1.4 million women coming to California to end the lives of their children.

Yet, how can that be true? According to the Guttmacher Institute, there are 862.320 abortions done each year in the United States. Therefore, how can it be true that California will experience an influx of 1.4 million pregnant women coming here for an abortion? That projected number EXCEEDS the current number of abortions in the entire country! Women in other states will either choose life for their children or perhaps they will resort to the Chemical Abortion Pills, but certainly there will NOT be 1.4 million pregnant women coming to California for the purposes of killing their children. This bill is lethally harmful and based entirely upon false information.

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When most abortions occur: The baby's brainwaves have been measured and recorded. The baby's hands move, the neck turns, and hiccups begin. The human embryo's heart beats 170 times per minute. By ten weeks, fingers and toes are fully formed. The hands and feet move frequently and most embryos show the first signs of right- or left-handedness in the highly complex 10-week-old human embryo. See National Geographic's Endowment for Human Development website EHD.org for more information.

AB 2223 decriminalizes infanticide by eliminating civil and criminal penalties for abortions and including "perinatal death." Perinatal death is defined in existing California law as "the period from the establishment of pregnancy to one month following delivery."

Applying these pre-existing legal definitions means that AB 2223 effectively decriminalizes killing babies born alive through the first month after birth. AB 2223 will prevent prosecution of later child mortality beyond birth, making it a crime to investigate a newborn death.

Chemical Abortion Pills are intended to end the life of a baby in the womb up to ten months of pregnancy, but now there is very little oversight regarding the distribution of these lethal drugs. Since no medical oversight is needed, women further along in their pregnancy, even beyond viability, may gain access to these dangerous abortion pills, which can now be delivered through the mail, without any medical care or ultrasound to determine the woman's stage of pregnancy. These babies will be born alive and capable of surviving if given appropriate medical care, yet they will be left to die under AB 2223.

The abortion industry and AB 2223 proponents do not want these babies to live. AB 2223's use of "perinatal" and its prohibition of investigation into the deaths of newborns is not an accident, an oversight, or a misunderstanding. The pro-death language is intentional, as it has been used in other states.

California families need help during these financially difficult times, not more abortion, not more killing.

Social Justice begins in the womb and if we are not first given the most basic right to life, no other rights really matter, while abortion has also hurt millions of women for a lifetime.

This is a Pro-Abortion effort, supported by the abortion industry.

For these reasons, we urge you to Vote NO on AB 2223.

Women need support, not more abortions to kill their children.

Sincerely,

Wynette Sills

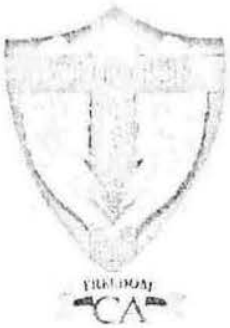
Wynette Sills, Director of Californians for Life

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I represent Calvary Chapel of Placerville. I am writing to voice my position on a AB2223. I am appalled anyone would even draft such legislation. We stand opposed to this heinous and barbaric bill. Anyone who would even propose such legislation should never hold office ever again. Enough is enough. Stop the slaughter of innocent children. In the name of decency, morality, and everything sacred, please reject this bill.

Pastor Dominic Triveri

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Dear Committee Members,

I am writing on behalf of ***California Catholic Families 4 Freedom CA*** to strongly oppose AB 2223. We formed our group of over 10,000 concerned members within California to Empower California Catholic families to advocate for their medical and religious freedoms.

We strongly oppose AB 2223 for the following reasons:

- The Catholic Church proclaims that human life is sacred and that the dignity of the human person is the foundation of a moral vision for society. This belief is the foundation of all the principles of our social teaching. In our society, human life is under direct attack from abortion and therfore we must defend those most vulnerable.
- The Catholic Church teaches that **all human life is sacred** (sanctity of life) and that everyone has a right to life which should be protected and valued at every stage. The Catholic Church is against abortion in all circumstances. The Catholic Church teaches that life begins at conception.
- "We must begin with a commitment never to intentionally kill," says Living the Gospel of Life "or collude in the killing, of any innocent human life, no matter how broken, unformed, disabled or desperate that life may seem."
- Life is a gift from God. Our teaching calls for respect for human life in every situation, but especially for the most vulnerable. Who can be more vulnerable than a preborn child?
- "Under the guise of "reproductive health," this bill seeks to decriminalize killing babies not only in the womb but also even after the baby is born," Attorney Nada Higuera with Tyler & Bursch, LLP explained. "This is the most extreme, anti-life bill in California's history. It legalizes infanticide, plain and simple."

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- According to Attorney Matthew McReynolds with the Pacific Justice Institute, California lawmakers have crossed a red line by seeking to legitimize the killing of hours-old and even week-old infants. This is not about expanding abortion rights; this is a degree of evil that the overwhelming majority of Americans, regardless of how they identify politically, cannot stomach.
- According to Attorney and President of the National Center for Law and Policy Dean Broyles, AB 2223 seeks to legalize the killing of babies in California after birth. Depending on how the term "perinatal" is interpreted by the courts, this bill legalizes the infanticide of children several weeks after their birth and possibly as late as their first birthday. If this barbaric bill is enacted, there will be no criminal or civil liability for the mother or those who assist her with killing her baby post-birth.

The California Catholic Conference Mission Statement is in part to empower Catholics to put their faith into action consistent with the Catholic teaching. We are called as Catholics to oppose all intrinsically evil acts, everywhere and all the time.

We respectfully ask that you oppose AB2223,



Catholic Families 4 Freedom CA
catholicfamilies4freedom@yahoomail.com

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Children's Health Defense
California Chapter

Children's Health Defense California Chapter opposes AB 2223

Dear Assembly Member Wicks and Senate Health and Judiciary Committees,

The California Chapter of the Children's Health Defense strongly opposes AB 2223. The language of this bill is insidious and detrimental to the vitality of human health. We can not allow the live birth of a viable human being to be discarded into the fundamental right of the mother to do with however she pleases. Since when do we allow harm against another human being? The language in this bill, which demotes an actual birth to "pregnancy outcome" or "viable fetus" is deplorable and goes against basic human virtues and morals. We are sanctioning the state-assisted death of a child.

The language, which determines "perinatal death" is vague (currently defined as 7 days post birth by the WHO and some sources claim up to 28 days post birth in other structured documents.) We can not support a bill which claims to enact "privacy" rights to perinatal death. Furthermore, language which states that the coroner should not hold an inquest for deaths related to or following unattended fetal death will only position coroners as accomplices to murder. Simultaneously, this language prevents a corner who suspect foul play to provide a statement which may bring about prosecution against those who contribute to "unattended fetal death."

What is the purpose of this bill? If we are looking to strengthen a woman's right to terminate a pregnancy, this bill is not that. This bill, in fact, will only help legitimize the murder of "unwanted" children, most likely contributing to infanticide on a massive level in poor communities, disenfranchised communities, communities of color and communities lacking in access to health care. This bill is racist and discriminatory and we stand against AB 2223.

Sincerely,

Aria Morgan
Managing Editor
Children's Health Defense - California Chapter
P.O. Box 409
Ross, CA 94957
ariamorgansd@protonmail.com

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EAGLE FORUM CALIFORNIA

Leading The Pro-Family Movement Since 1972

GOD • FAMILY • COUNTRY



Oppose AB-2223 Reproductive health

Dear Legislators,

Eagle Forum of California is strongly opposed to AB 2223 that allows innocent babies to be harmed, neglected and murdered without recourse! This bill has gone way too far and it should break your heart to know this bill can be used to cover and decriminalize crimes against the most innocent and precious of life. There is no way anyone shall justify this bill to move forward.

"In the name of, 'Science", there are people out there who will harvest the babies for its tissue, its organs, its blood, its brain. Does that sound satanic? It's done today in the name of science. Please replace the word science in in the following sentences with the word satanism in your head and compare your thoughts and feelings. Yes, science already allows the harvesting to happen on the unborn, fetuses old enough to live outside the womb. Science buys and get mothers to donate their babies, as they are being aborted, in the name of science. Science does it both in other countries and here today. If this law were to pass, you know that Science will be there to abuse the power of using these unwanted babies. Is it ok to murder people in the name of science?

A baby has the right to life as much as any other human or even animal life. How many animals' rights activist would deem this bill criminal for animals and we are looking at a bill for human life.

When is a life considered living, is it when it is viable and growing, when the life has a beating heart, when the life is breathing? Anyone legislator elected into office should agree that two signs of life are breath and a heartbeat. Why would we even entertain the idea of a bill that would stop breath and heartbeat of a living human being?

A mother could throw her baby in the trash, and she would not go to jail or see a day in court? A mother could starve the baby and not be punished? A mother could drain the blood from her baby, and drink it and nothing would be done? A mother could choose to harm the baby in a more brutal way and this bill would have us and coroners look the other way?

Someone assisting in the abortion could mishandle the baby and we would allow it? Someone assisting the death of the victim could harvest the baby's organs while living and

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this is acceptable? Someone assisting the abortion could brutalize the baby anyway it wanted and there would be no recourse?

Why does one person have more rights than another person? Is this not a Civil Rights Issue? A mother's rights should not take precedence over a living baby. This bill goes beyond protecting a mismanaged abortion or a woman who accidentally has a still born baby. This bill protects violent criminal acts that lead to the death of a baby human being.

Taking a human life should always be considered murder!

Sincerely,

Summer Boger

Summer Boger
President for Eagle Forum of CA

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FAITH BAPTIST CHURCH

in His name • by His power • for His glory

April 8, 2022

Assembly Health Committee
1020 N Street, Room 390
Sacramento, CA 95814

RE: Assembly Bill 2223- Opposition

Dear Members:

On behalf of the Faith Baptist Church in Wheatland, California I am writing to express opposition to for AB 2223.

Despite claims from the author AB 2223 would open the door to legalize the killing of babies in California after birth. Depending on how the term "perinatal" is interpreted, this bill could legalize the infanticide of children several weeks after their birth and possibly as late as their first birthday.

Children are a gift from God that we should cherish and protect. We strongly urge you to oppose this bill.

Sincerely,

Brandon Campbell
Pastor
Faith Baptist Church Wheatland

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

The
Frederick Douglass
Foundation of California

March 22, 2022

The Honorable Mark Stone, Chair
Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

RE: Assembly Bill 2223 (Wicks) - OPPOSE

Dear Chair Stone and Committee members:

The Frederick Douglass Foundation of California (FDFCA) opposes AB 2223 for several reasons. First, abortion and infanticide date back to the Canaanite ritual practices of child sacrifice.[i] Children were offered as sacrifices to the idols of Baal, Molech and Chemosh, among others. This ritual practice of child sacrifice spread across civilizations from the Phoenicians at Carthage to Egypt, Israel, Africa, Europe, Asia, to the pre-Columbian cultures of South America.[ii] Child sacrifice is prohibited when life is recognized as sacred and uniquely created in the image of God. AB 2223 is an offense to the founding principles of our nation and to God.

Secondly, AB 2223 continues the practice of eugenics on steroids. It targets the very population it pretends to protect, women of color. The roots of abortion run deep in those who support the work, of Margret Sanger the founder of Planned Parenthood, to actively control the birth rate among "undesirables." Margret Sanger was a eugenist and a formidable force pushing the 1939 "Negro Project." On June 18, 2000, Planned Parenthood of Greater New York admitted that "Planned Parenthood was founded by a racist white woman. That is part of history that cannot be changed."[iii]

The Klu Klux Klan, founded as a paramilitary arm of the Democrat Party, would be proud to call Sanger one of its own because Planned Parenthood has exterminated more Black people in 49 years, than all the lynching, bombing and murders combined under their reign of terror between 1865 and 2022. By 2002, sixteen million Black children had been aborted reducing the Black population from 17 percent nationally to 13 percent.[iv] The Black family has been decimated by the government's family planning laws.

Thirdly, this bill is branded "reproductive health." It pretends to be concerned with the health of women of color. Nothing could be further from the truth. The murder of innocent babies is the primary and underlying reason for the work of Planned Parenthood within communities of color. Seventy-nine percent (79%) of Planned Parenthood's surgical abortion facilities are strategically located within walking distance of African American and or Hispanic communities.[v] This is

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targeted genocide. The United Nations defines genocide under Article II(d) as imposing measures to prevent births within a group.[vi] Planned Parenthood, its associated supporters, and funders are selectively committing genocide on specific populations.

Genuine care for the reproductive health of women, of all colors, would include incentives to reduce contributing factors in unwanted pregnancies. Historic cultic temple prostitution was an integral part of the Canaanite religion closely tied to child sacrifice. Today, the relationship between sexual immorality and promiscuity have resulted in millions of unplanned pregnancies outside the covenant of marriage. Valuing women, families, and children should be the goal of a healthy society. Why should California become the new "killing fields?" Women, children, and families deserve better.

Finally, when a society embraces, celebrates, and legalizes the murder of its future generations, that society is destined for self-extermination. Mother Teresa said "...if we accept that the mother can kill her own child, how can we tell other people not to kill one another."[vii] Elon Musk said, "If people don't have more children, civilization is going to crumble. Mark my words."[viii]

FDFCA opposes AB 2223, and we respectfully ask, on behalf of our members in this state, for your NO vote.

"POWER CONCEDES NOTHING WITHOUT A DEMAND"

Rochelle Conner

Rochelle Conner
Frederick Douglass, Abolitionist

---

[i] https://biblearchaeology.org/images/Child-Sacrifice-and-Abortion/4---Canaanite-Child-Sacrifice---Smith-90-125.pdf
[ii] https://en.wikipedia.org/wiki/Child_sacrifice
[iii] https://www.worldtribune.com/employees-say-planned-parenthood-steeped-in-white-supremacy/
[iv] https://curepolicy.org/content/uploads/2022/01/CURE-Impact-of-Abortion-Report-DIGITAL-SPREADS.pdf
[v] https://www.lifeissues.org/2012/10/new-research-shows-planned-parenthood-targets-minority-neighborhoods/
[vi] https://www.un.org/en/genocideprevention/genocide.shtml
[vii] https://www.stjoanofarcchurch.org/Downloads/e8304718-37cb-4c45-81c8-4cb54ae8eb99.pdf
[viii] https://www.indy100.com/viral/elon-musk-how-many-children

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LIBERTY BAPTIST CHURCH

March 30, 2022

To: Members of the California State Assembly &
Members of the Assembly Judiciary Committee

Re: AB2223

Greetings from your constituents in Assembly District 57, representative Lisa Calderon. We write today with a very troubled heart and concern for the very conscience of our state and nation. We have come to a point where there is an utter disregard for life in its most innocent and helpless form, that of our precious preborn, and now recently born citizens. The language in the bill that is before the Judiciary Committee is extremely troubling. We believe that all life is sacred and the blatant disregard for life in the womb and now, with the use of the word "perinatal" (which is commonly understood to mean infants in the womb, and also born and as many as 7 days out of the womb) out of the womb, is a disgusting display of the degeneration of our morals as a society, and a direct violation of the law of God. We further extend this reproof as a reminder to you that:

- This bill is a blatant disregard for life created in the image and likeness of God. That life, beginning at the moment of conception, and sacred from that moment until death, should not be left to the discretion of politicians with immoral agendas.
- This bill is a clear disregard for the rights of every person to life, liberty and the pursuit of happiness, as so clearly stated in our founding documents, particularly the Declaration of Independence.
- This bill is a clear and willful rejection of God's Law, which emphatically states, "Thou shalt not kill," and serves as a foundation for the laws of our nation and this republic.
- This bill is a demonstration of willful negligence on the part of our elected officials. You have no power outside of the will of your constituents, and the authority of God, and as servants of the people, you have a responsibility to protect our land from these vile and abominable proposals that are sure to bring further judgment.

So, on behalf of the Liberty Baptist Church, and many, many other like-minded churches, and people in this state, we demand that AB2223 be thrown out and disregarded.

Deuteronomy 18:10 "That innocent blood be not shed in thy land, which the LORD thy God giveth thee for an inheritance, and so blood be upon thee."

Respectfully,

Pastor Max H. Graves, Jr
& Liberty Baptist Church

12029 Pine St.
Norwalk, CA 90650
(562)833-3701

www.LBCFamily.church

Pastor Max H. Graves, Jr.
Pastor Jason Jasper
Pastor Ke

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LIFE LEGAL DEFENSE FOUNDATION

SINCE 1989

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www.LLDF.org

Assembly Health Committee
1020 N Street, Room 390
Sacramento, California 95814

SUBMITTED VIA CALIFORNIA LEGISLATURE
POSITION LETTER PORTAL

April 12, 2022

Re: Assembly Bill 2223 – OPPOSE

Dear Committee Members,

Life Legal Defense Foundation strongly opposes AB 2223 for the following reasons.

1. AB 2223 removes all civil and criminal penalties for "people's actual, potential, or alleged pregnancy outcomes," including perinatal death due to a pregnancy-related cause. Perinatal death is not defined in the bill, but in every other context includes the death of neonates (newborns) at least through 7 days after birth. Many entities include the death of newborns up to one month old in their definition of perinatal death.[1] The term "pregnancy-related" is likewise undefined in the bill, but would likely encompass situations where a viable baby is born alive and then killed or dies from neglect following an abortion performed without medical supervision. In such a case, the child's mother would escape criminal prosecution, as would anyone she enlisted to assist in the abortion. The death of a newborn at the hands of a mother suffering from post-partum depression or any other "pregnancy-related cause" would also be shielded from investigation and prosecution under AB

[1] For example, the American Academy of Pediatrics includes in its definition of perinatal death "infant deaths that occur at less than 28 days of age and fetal deaths with a stated or presumed period of gestation of 20 weeks or more." Available at: https://publications.aap.org/pediatrics/article/128/1/177/30361/Standard-Terminology-for-Fetal-Infant-and

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2223. In short, the bill, if passed, will legalize infanticide in certain circumstances.

2. AB 2223 conflicts with the Reproductive Privacy Act, in that AB 2223 provides for an absolute right to any pregnancy outcome at any stage of pregnancy, including perinatal death. The Reproductive Privacy Act limits the right of abortion after the age of viability in keeping with U.S. Supreme Court precedent.

3. AB 2223 interferes with the function of coroners by deleting the existing requirement for inquiries into the death of babies – including babies delivered alive – following a self-induced or criminal abortion. Moreover, if a coroner finds that a baby was born alive and then intentionally killed up to one month after birth, the bill would prohibit using the coroner's statement for the purpose of criminal prosecution or civil damages. These provisions are meant to suppress evidence of what would otherwise be prosecuted as infanticide.

4. AB 2223 grants a private right of action against state actors in cases where a woman or someone assisting her is prosecuted for a perinatal death due to any pregnancy-related cause, including a self-induced abortion without medical supervision. The effect of this provision will be to deter prosecution in cases where late-term and even newborn babies are intentionally killed.

5. AB 2223 creates a right to "self-managed abortion," which is defined as "ending one's own pregnancy outside of the medical system" during any stage of pregnancy. Instead of protecting women from unscrupulous and unlicensed abortionists, the bill opens the floodgate to back-alley abortions, including late-term abortions that carry numerous health risks such as hemorrhage, infection, embolism, thrombosis, injury to internal organs, and maternal death. These health risks are substantial even when late-term abortions are performed in medical settings. Many of the risks associated with second and third trimester abortions require immediate medical attention, yet the sponsors of AB 2223 want women to be free to perform surgical procedures on themselves or each other without any medical oversight whatsoever. The state already disregards the lives of unborn children, but permitting the amateur induction of early labor that results in the delivery of a living baby outside the medical system exhibits a profound and reckless disregard for the physical and emotional well-being of women.

AB 2223 is based on the unconstitutional premise that women and those who assist them have an absolute "right" to a successful abortion – that is a procedure that results in a dead child – at any stage of pregnancy or beyond. It strips vulnerable late-term babies and even newborns of any protection from crimes committed against them at the hands of those upon whom they are completely dependent. This is antithetical to US Supreme Court jurisprudence since *Roe*.

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AB 2223 was allegedly drafted out of fear that *Roe v. Wade* may be limited or overturned altogether by the Court in *Dobbs v. Jackson Women's Health*. This is a farce. Even if *Roe* is overturned, abortion access in California would not be affected in the slightest. California already allows abortions throughout all nine months of pregnancy without any meaningful restrictions whatsoever. There is no justification for this unprecedented expansion of abortion into legalized infanticide.

For the above reasons, we strongly urge this Committee to allow this bill – rather than untold numbers of women and newborns – to die.

Alexandra Snyder, Esq.
CEO, Life Legal Defense Foundation

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Date: 4-8-2022

State of California Assembly Health Committee

1020 N Street, Room 390

Sacramento, California 95814

To: Honorable Chairman Jim Wood

SUBJECT: **OPPOSE AB 2223 AS IT IS INFANTICIDE (KILLING of BABIES), VIOLATES THE NEWBORN'S CONSTITUTIONAL RIGHT TO LIFE, AND ALLOWS MALPRACTICE ABUSE BY MEDICAL PRACTITIONERS**

Dear Honorable Chairman Wood,

PLEASE VOTE NO ON AB 2223 Reproductive Health Bill. AB 2223 excludes a death finding when a living newborn DIES outside the womb, thereby eliminating infanticide from being categorized as murder. Willful neglect or withholding of life support would not be a chargeable crime. In effect, AB 2223 legalizes killing of babies.

All live born babies have the inalienable right to life, liberty, and pursuit of happiness. AB 2223 excluding death finding is unconstitutional since it denies the equal protection and due process rights of the newborn to live.

As deaths after birth would not have a finding of death, medical practitioners can use the provision of AB 2223 to hide malpractice and abuses. It violates the Hippocratic Oath of medical practitioners.

This "Kill the Baby" bill is barbaric and is opposed for the above reasons.

We respectfully ask that you and your committee vote no on AB 2223.

Very truly yours,

Pat Micone,

Pat Micone

President, Republican Club of Laguna Woods (RCLW)

On behalf of our RCLW Executive Board of Directors

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Right to Life League
1208 N. Lake Ave, Ste. 207
Pasadena, CA 91104

March 29, 2022

Assembly Member Mark Stone
Chair of the Judiciary Committee
1020 North Street, Room 104
Sacramento, CA 95814

Re: Letter in Opposition: AB 2223 Decriminalizing Infanticide

Dear Member Stone and Members of the Assembly Judiciary Committee,

On behalf of the Right to Life League, I urge you to vote NO on SB 2223.

AB 2223 decriminalizes infanticide by eliminating civil and criminal penalties for abortions and **including "perinatal death."**

The bill doesn't define the term "perinatal" – but it doesn't have to. Existing California law already supplies the definition. The term "perinatal" means "the period from the establishment of pregnancy to **one month following delivery**."[1]

Applying these pre-existing legal definitions means that AB 2223 effectively decriminalizes killing babies born alive ostensibly up through the first month after birth. And if the definition of "perinatal" expands further, AB 2223's scope will likewise expand to prevent prosecution of later child mortality.

AB2223 will further make it a crime to investigate a newborn death. AB 2223 seeks to change the scope of coroners' inquiries, adding a private cause of action against state employees – like detectives or coroners – who investigate why a newborn baby died. This is chilling and horrific.

[1] See ARTICLE 4. The Medi-Cal Benefits Program § 14134.5(b).

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The American Center for Law and Justice explains[2] how AB 2223 will thwart investigation and cover up evidence of infanticide following failed late-term abortions:

> Shortly into the start of the Biden Administration, the FDA lifted the in-person dispensing requirement, allowing abortion pills to be delivered through the mail. Many pro-abortion states do not have state level regulations concerning chemical abortions, and the FDA's change in its REMS program ensured even greater access to chemical abortion via mail – with no in-person visit requirement to verify the actual stage of pregnancy.
>
> When there is no in-person oversight of chemical abortions to verify the stage of pregnancy, there will be an increase in late-term chemical abortions. We already know that the abortion pills do not work in "safe or effective ways" one out of every four times. And that the pills are not recommended for use past 10-weeks of gestation. The abortion industry and pro-abortion advocates also know this. **The abortion lobby further knows and understands that an increase in late-term chemical abortions is going to lead to an increase in babies being born alive after failed abortions.** And abortion advocates do not want those live births to be investigated or recorded. They also don't want those babies to live.

AB 2223's use of "perinatal" and its prohibition of investigation into the deaths of newborns is not an accident, an oversight, or a misunderstanding. It is intentional, strategic evil designed to corrupt the executive branch of state government so as to cover up the deaths of babies born alive. Please vote NO on AB 2223.

Very Truly Yours,

Susan S. Arnall, Esq.

Vice President of Legal Affairs
Right to Life League

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[2] Summers, O. (2022. March 28). *California follows Maryland's lead with disturbing bill that could effectively legalize infanticide*. American Center for Law and Justice. Retrieved March 29, 2022, from https://aclj.org/pro-life/california-follows-marylands-lead-with-disturbing-bill-that-could-effectively-legalize-infanticide

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Right to Life
of Central California

April 12. 2022

Hon. Jim Wood
Chair, Assembly Health Committee
1020 N Street, Room 390
Sacramento, CA 95814

Re: AB 2223, OPPOSE

Assembly Member Wood:

On behalf of our thousands of supporters in Fresno and Madera Counties, as well as other supporters in the San Joaquin Valley, Right to Life of Central California urges the Health Committee to vote no on AB 2223.

While our organization in no way supports prosecution for parents who undergo miscarriages, we believe this bill is drafted in a bizarrely and horrifically overbroad manner in a number of respects. Eliminating criminal and civil liability for perinatal death effectively legalizes infanticide, allowing healthcare personnel to deprive life-saving care to a child who, for example, has survived a late-term abortion attempt. It also discourages investigations into abortion practitioners who may be performing unlawful partial-birth abortions or depriving care to newborns. While our friends from the California Catholic Conference worked with Assembly Member Wicks' staff to clarify these points, the imprecise language has remained in the bill.

We urge the members of this committee, particularly our own Central Valley Assembly Member Dr. Joaquin Arambula, to vote against this horrific legislation, and not simply to pass it along with lip-service promises of eventual amendments.

Very truly yours,

John Gerardi
Executive Director, Right to Life of Central California

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Right to Life
KERN COUNTY

March 29, 2022

Assemblymember Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

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President

Annie Elrod
Treasurer

Pam Francis
Secretary

Michael Arriola
Director

Michael Molatore
Director

Dr. Regina Ng
Director

Joel Torczon
Director

Dear Assemblymember Stone,

Gov. Gavin Newsome and the super majority in our legislature have made no secret about their desire to make California the abortion capitol of America. The number of pro-abortion bills introduced this year alone attest to goal, along with the Future of Abortion Council established by the governor in September.

That said, nothing could have prepared those of us who value life, born and preborn, for the diabolical AB2223, which removes all civil and criminal penalties for killing babies born alive under any circumstances. Depending on how the term "prenatal" is interpreted by the courts – and you can count on this barbaric bill landing in the courts should it be enacted – AB2223 would legalize the infanticide of children several weeks after birth.

This is not about expanding abortion rights, this is a degree of evil that the overwhelming majority of Americans, regardless of how they identify politically, cannot stomach. Nor will they tolerate the presence in elected office of those who would support such a heinous bill. If the thought of killing babies born alive won't stay Democrats' hands from approving this bill, the possibility of losing their seats might.

AB2223 is the most extreme, anti-life bill in California's history, and we intend to do everything in our power to defeat it.

Sincerely,

Marylee

Marylee Shrider
Executive Director

PO Box 11104 Bakersfield, Ca. 93389 Phone: (661)864-7508

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STOP LEGALIZING THE MURDER OF BABIES

TO: Chairman Wood, Vice-Chair Waldron, Members of the California Health Committee and Assembly member Petrie-Norris

FROM: California residents

SUBJECT: STOP THE LEGALIZATION OF BABY MURDERS; OPPOSE AB 2223.

California legislators:

PLEASE VOTE NO ON AB 2223. STOP LEGALIZING THE MURDER OF BABIES !!!

AB 2223 PERMITS THE KILLING OF BABIES BORN ALIVE and expands legalized abortion throughout the full pregnancy term REGARDLESS OF CIRCUMSTANCES. The overwhelming majority of Americans, regardless of political or religious affiliations, are horrified by baby killers and oppose the murder of babies.
Furthermore, AB 2223 is UNCONSTITUTIONAL.

VOTE NO ON AB 2223 to stop increasing California taxpayer liabilities for fees, costs and judgments awarded to murderers suing a California governmental agency or employee.

Respectfully submitted,

No.	NAME	CITY
1	Cicylia Lanadjaja	Rancho Cucamonga CA
2	Melvin Castillo	Diamond Bar, CA
3	Jusuf Tandarki	Chino Hills CA
4	Katherine Hwang	Walnut, CA
5	Clarissa Suwoto	Claremont. CA
6	Sharon Sowo	Temple City. CA
7	Reinoldy Lundjani	San Gabriel, CA
8	Kris Adiluk	Rancho Cucamonga, CA
9	Eddie Supramaru	Chino. CA
10	SARAH HWA	MONROVIA, CA

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STOP LEGALIZING THE MURDER OF BABIES

TO: Chairman Wood, Vice-Chair Waldron, Members of the California Health Committee and Assembly member Petrie-Norris

FROM: California residents

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Respectfully submitted,

No.	NAME	CITY
1	JOHN H	San Gabriel
2	JOSHUA SUDJARWADI	CHINO.
3	JOSIAH NAINGGOLAN	[illegible] FONTANA
4	Rudy Darmanto	Corona
5	Elizabeth García	El Monte
6	Abigail Chin	Chino Hills
7	IWAN SUDARSONO	Chino Hills
8	Shirley Chyang	Walnut
9	Dian Kusnadi	Ontario
10	Matthew Kwa	Monrovia

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Respectfully submitted,

No.	NAME	CITY
1	DANNY HERMANUS	CHINO HILLS
2	VALENCIA GRACE	SAN GABRIEL
3	Kathleen Suwoko	Chino Hills
4	Kiesha Suwoko	↓
5	Jennifer Chin	Chino Hills
6	Peter Tam	Corona
7	Deborah Tjitrajadi	Rancho Cucamonga
8	Dony Ang	Hacienda
9	Reivandy Lamdjani	San Gabriel
10	Reihandy Lamdjani	San Gabriel

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Respectfully submitted,

No.	NAME	CITY
1	IVO KAZAN	Rancho Cucamonga
2	Elly Osman	Rancho Cucamonga
3	Yuliani Lim	Hacienda Heights
4	Johnny Yeh	Hacienda Heights
5	Joshua Yeh	Hacienda Heights
6	Budiman Jap	Hacienda Heights
7	Sui Ngo	Hacienda Heights
8	JURIE CHIADILLA	CHINO
9	MARGARITA CHIADILLA	CHINO
10	Dorothy Tandarki	Chino Hills

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Respectfully submitted,

No.	NAME	CITY
1	Bethany Morata	San Gabriel
2	John Morata	San Gabriel
3	JEFF WIJAYA	TEMPLE CITY
4	Erlando Vendrees	San Gabriel
5	Markus M	West Covina
6	Brando Hikales	temple city
7	Hans Sebastian	Ontario
8	Anitha Anugrane	Ontario
9	KEVIN STEPHEN	TEMPLE CITY
10	Jay Santos	Redlands

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Respectfully submitted,

No.	NAME	CITY
1	Stephanie TJIE	DUARTE
2	Carissa TJEN	Chino
3	Charles Tjen	Chino
4	Riella Jap	Temple City
5	Vincia Tjie	Duarte.
6	Stephanie Tjie	Duarte.
7	YINNIA, TJONG	WEST COVINA
8	Rina Lamdjani	San GabrieL
9	MICHAEL, THE	WEST COVINA
10	PAUL TAN	CHINO HILLS

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AB 2223 PERMITS THE KILLING OF BABIES BORN ALIVE and expands legalized abortion throughout the full pregnancy term REGARDLESS OF CIRCUMSTANCES. The overwhelming majority of Americans, regardless of political or religious affiliations, are horrified by baby killers and oppose the murder of babies.
Furthermore, AB 2223 is UNCONSTITUTIONAL.

VOTE NO ON AB 2223 to stop increasing California taxpayer liabilities for fees, costs and judgments awarded to murderers suing a California governmental agency or employee.

Respectfully submitted,

No.	NAME	CITY
1	Anny Cey	Chino Hills
2	Beth Cey	Chino Hills
3	Natalia Sutanto	West Covina
4	Tara Orghowiejo	Fontana
5	Wally Orghowiejo	Fontana
6	ELINA Sucianan Mingkid	San Gabriel
7	LiLy Djauari	Rowland H
8	FRANCIS TJIA	CLAREMONT
9	Ananda Ardianto	Claremont
10	Alfredo Torres	Walnut

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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STOP LEGALIZING THE MURDER OF BABIES

TO: Chairman Wood, Vice-Chair Waldron, Members of the California Health Committee and Assembly member Petrie-Norris

FROM: California residents

SUBJECT: STOP THE LEGALIZATION OF BABY MURDERS; OPPOSE AB 2223.

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No.	NAME	CITY
1	Myina Barolo	Walnut
2	ACHILLES BAROLO	WALNUT
3	Lisa Ang	La Habra
4	Vincent Wo	Chino Hills
5	Chusting Lontang	Diamond Bar
6	Leonard Lontang	Diamond Bar
7	YEFFY PURNAWAN	West. covina.
8	Tony Salim	West Covina
9	WEI SIAN MEI WANG	WEST COVINA
10	Thea wundesti	West Covina

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No.	NAME	CITY
1	Henry Lamara	Hacienda Heights
2	Kimby Jauforo	San Dimas
3	Shirley Jauforo	San Dimas
4	Vivi le	Hacienda Heights
5	Siswatan Siet	Hacienda Heights
6	Seor le	Hacienda Heights
7	Sui Ngo	Hacienda Heights
8	Budiman Yoh	Hacienda Heights
9	Ashley le	Hacienda Heights
10	Audrey le	Hacienda Heights

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1	Tom Lay	Hacienda Heights
2	[illegible]	Hacienda Heights
3	Hendrick Gunawan	San Gabriel
4	Angela Tanamas	Walnut
5	[illegible]	Pomona
6	[illegible]	Pomona
7	Daniel Tandarki	Chino Hills
8	LIANA [illegible]	WALNUT
9	[illegible]	Temple City
10	[illegible]	[illegible]

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Respectfully submitted,

No.	NAME	CITY
1	Stephen Adilukito	Alta Loma, CA
2	Samuel Sentosa	Rancho Cucamonga
3	Giffit Helmanu	Chino Hills
4	Shannon Dyre	San Gabriel
5	Nicholas Culadilla	chino
6	Katrine Culadilla	Chino Hills
7	Sofia Culadilla	chino
8	Ephraim chong	Chino
9	Sue lee	west covina
10	Fred Lohman	West covina

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No.	NAME	CITY
1	LIZA ENRIQUEZ	WALNUT
2	Thezia Syliano	West Covina
3	Yu Ming Zhang	Rowland Hts
4	Timothy Zhang	Row Land Heights
5	PITA MAKMUR	San Gabriel, CA
6	BRIGITTA TEOJA	LAGUNA HILLS, CA
7	Samuel Tandarki	Chino hills
8	Jaclon Wong	Canyon park drive
9	Sherry Ho	west covina.
10	Jeremy Oey	Chino Hills

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Respectfully submitted,

No.	NAME	CITY
1	Lisa Sudarsono	Chino Hills
2	Wm Sean Nunez.	[redacted] Temecula
3	Natasha Henderson.	Temple City.
4	Marianna Ha	West Covina
5	Jonathan Tapia	Eastvale
6	Edwin Melgoza	San Bernardino
7	Abby Hardy	Diamond Bar
8	Hira	Rowland Heights
9	Mexiana Ontiveros	Chino
10	FRANCIS TJIA	CHINO

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Respectfully submitted,

No.	NAME	CITY
1	Irjanti setiadi	walnut
2	G. Irwan setiadi	walnut
3	RUDY LAMDJANI	SAN GABRIEL
4	HANDY HO	ALHAMBRA
5	Sati Wahjoedi	Eastvale
6	Denny Setiawan	Eastvale
7	Danny HERMANUS	CHINO HILLS
8	RINA HERMANUS	CHINO HILLS.
9	Melanie Chairil	EL Monte
10	MARIA DALIVA-KOCH	DIAMOND BAR

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1	Lian Hong Ng	Hacienda Hights
2	Rosjid Harlidjanak	Hacienda Heights
3	GREGORY G RATHS	Mission Viejo
4	Hendy Chang	Chino
5	Irene Santosa	Rancho Cucamonga
6	Samuel Santosa	Rancho Cucamonga
7	Mabel Vandeas	Pasadena
8	Samuel Hermanus	Chino Hills
9	Lin Ming	La Habra
10	ANEKE A NAINGGOLAN	Rancho Cucamonga

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No.	NAME	CITY
1	[illegible]	ALHAMBRA
2	Jhon S Tjen	Rowland Heights.
3	Hon Khiang	Alhambra
4	Santy Chen	Rowland Heights.
5	kelly Chen	Hacienda Heights
6	Mariam Dorryand	Corona.
7	HENCHE HALIM	ONTARIO
8	AMANDA NAINGGOLAN	FONTANA
9	HADIAN J TAN	CHINO HILLS
10	Richard Nainggolan	Rancho Cucamonga

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No.	NAME	CITY
1	Hans Poetra	Monterey Park, CA
2	YOERITA ANG	WALNUT.
3	OE HAN ANG	WALNUT
4	Natasha Lo	WALNUT
5	CHRISTOPHER Lo	WALNUT.
6	CINDY SUMANTI	CHINO HILLS
7	Blania Tan	Corona
8	Haznam Osman	R. Cucamonga
9	~~Jo~~ Lucia Tan	Chino Hills
10	Michelle Formadi	Ontario

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No.	NAME	CITY
1	Susi Cung	Alhambra
2	Hardy J Ho	Alhambra .
3	KORNELIUS WALUYO	TEMPLE CITY
4	DESY SUSANTO	TEMPLE CITY
5	Betty Chu	Villa Park
6	Phillip Rebhistate	Rancho Cucamonga
7	Matthew Tan	Corona
8	Dillon Die	San Gabriel
9	Darlene Tandarki	Chino Hills
10	FIRMAN MANULANG	ROWLAND HEIGHTS

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1	SHARON LIM	Chino Hills
2	James Sudarsono	Walnut
3	Sharon Sudarsono	Walnut
4	Jessica Syparman	Chino
5	Eddie Syparman	Chino
6	Melissa Wongso	Diamond Bar
7	MATTHEW OSMIN	DIAMOND BAR
8	Lydiana Winarto	Chino
9	Brenda Navarro	Temple City
10	Joyce Tan	Chino Hills

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No.	NAME	CITY
1	[illegible]	West Covina
2	[illegible]	Rowland Heights.
3	[illegible]	Rowland Heights
4	[illegible]	West Covina
5	[illegible]	West Covina
6	[illegible]	UPLAND
7	[illegible]	[illegible]
8	Tiarma Siloban	San Gabriel
9	[illegible]	San Gabriel
10	[illegible]	San Gabriel

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Siskiyou Conservative Republicans
P.O. Box 604, Yreka, CA 96097
527s EIN 84-4767659

Legislative Analyst
wezgliatto@grecigirl.com
530-586-1430

Oppose AB-2223 Reproductive health.

AB 2223 is not about "reproductive health" but about abortion on demand before, during and after birth. Calling it health care is only an attempt to sanitize and decriminalize infanticide pure and simple.

Unborn babies are considered human beings by the US government in the federal "Unborn victims of Violence Act." It was enacted to protect unborn children from assault and murder. Under federal law anybody intentionally killing or attempting to kill an unborn child should be punished.

The original Hippocratic oath forbids abortion. The modern version of the oath which was written in 1964 still forbids doctors from performing abortions, "above all, I must not play at God"

AB223 sends a message that human life is of little value and can be dispensed with and thrown away as unnecessary and inconvenient. This is a dangerous slippery slope in which the elderly and disabled could be next.

When we legislate that the preborn and born are disposable in our society then no one is exempt from being expendable. This is a dangerous slippery slope in which the elderly and disabled could be next.

Vote NO on this shameful dehumanizing bill.

Respectfully,

Louise R. Gliatto

Louise R. Gliatto, RN

Siskiyou Conservative Republicans Legislative Analysis

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THE NATIONAL CENTER FOR LAW & POLICY

SUBMITTED VIA POSITION LETTER PORTAL

March 29, 2022

Assembly Judiciary Committee
1020 North Street, Room 104
Sacramento, CA 95814

Re: Letter in Strong Opposition to AB-2223—Infanticide Decriminalization

Dear Chair and Honorable Members of the Assembly Judiciary Committee,

I write on behalf of my fellow citizens of California and The National Center for Law & Policy, where I serve as president and chief counsel. Both in my capacity as a constitutional attorney practicing before the U.S. Supreme Court and as a father of three precious adopted children, I strongly urge you to vote **no** on AB-2223. This egregious bill would, if enacted, endanger children and legalize infanticide.

The relevant portion of AB-2223 reads:

"123467.
(a) Notwithstanding any other law, **a person shall not be subject to civil or criminal liability or penalty**, or otherwise deprived of their rights, **based on their actions or omissions with respect to their pregnancy** or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or **perinatal death** (emphasis added)."

"Perinatal" has no fixed definition in medicine today, but includes the death of a child weeks, months and even possibly up to a year after the child's birth. As written, the sweeping language of this bill will legalize child homicide or murder, whether through neglect, exposure, starvation, strangulation or other unlawful means. This is unacceptable outcome for a civilized people who claim to value human life. I strongly urge you to vote no on AB-2223.

Sincerely,

Dean R. Broyles, Esq.
President & Chief Counsel
The National Center for Law & Policy

539 West Grand Avenue – Escondido, CA 92025
(760) 747-4529 – Fax (760) 747-4505
www.nclplaw.org

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THE SALT&LIGHT COUNCIL

March 29, 2022

March 29, 2022
Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

RE: AB 2223- Infanticide Decriminalization - OPPOSE

Dear Assembly Member Stone:

As an organization with affiliated churches throughout California, The Salt & Light Council opposes AB 2223, and respectfully urges your opposition, as well.

New language added to AB 2223 shields a mother from civil and criminal charges for any "actions or omissions" related to her pregnancy. SEC. 7 123467 "is added to the Health and Safety Code," to include "miscarriage, stillbirth, or abortion, or perinatal death." Although definitions of "perinatal death" vary, all of them include the demise of newborns seven days or more after birth. Further, the bill protects anyone who "aids or assists a pregnant person in exercising" those rights.

The baby in the womb of the mother has human rights too, and we look to you to protect the lives of both the mother *and* the baby she is carrying by opposing this bill.

Sincerely,

Dran Reese | President

Gail Levin | Director

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

991 Lomas Santa Fe C-119, Solana Beach, CA 92075 • (888) 725-8654 • SaltandLightCouncil.org

Traditional Values for Next Generations

다음세대 가치관 정립 & 보호 단체 (TVNext)

March 29, 2021
Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

RE: AB 2223- OPPOSE Infanticide Decriminalization

Dear Assembly Member Mark Stone,

On behalf of our tens of thousands of partnering Asian-American parents, grandparents, pastors, leaders and allied organizations across the state, the Traditional Values for Next Generations is writing to express its OPPOSITION for AB 2223.

We are more than greatly concerned on this particular bill; AB2223 for a number of reasons. Depending on how the term "perinatal" is interpreted by the courts, this bill not only protects the rights of any type of abortion but it expends to discriminating against the life of born alive babies.

We are greatly concerned, under AB 2223, California may follow the steps of former Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, and could not be prosecuted. AB 2223 expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. That means, there's a great possibility to remove much needed civil and criminal penalties for killing babies born alive under almost any circumstances under AB 2223.

This is the most extreme, anti-life bill in California's history. It legalizes infanticide and we absolutely cannot agree with the use of euphemisms like "personal reproductive decisions" and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb.

On behalf of thousands of partners in our community, we ask you to please vote No on AB 2223. We appreciate your leadership on this critical human's life issue.

Sincerely,
Timothy & Sarah Kim
Founder, Co-President
Traditional Values for Next Generations

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STOP LEGALIZING THE MURDER OF BABIES

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2	Melvin Castillo	Diamond Bar, CA
3	Jusuf Tandarki	Chino Hills CA
4	Katherine Hwang	Walnut, CA
5	Clarissa Suwoto	Claremont. CA
6	Sharon Siauw	Temple City, CA
7	Reinaldy Lundoni	San Gabriel, CA
8	Kris Adilukito	Rancho Cucamonga, CA
9	Eddie Suparman	Chino, CA
10	SARAH KWA	MONROVIA, CA

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FROM: California residents

SUBJECT: STOP THE LEGALIZATION OF BABY MURDERS; OPPOSE AB 2223.

California legislators:

PLEASE VOTE NO ON AB 2223. STOP LEGALIZING THE MURDER OF BABIES !!!

AB 2223 PERMITS THE KILLING OF BABIES BORN ALIVE and expands legalized abortion throughout the full pregnancy term REGARDLESS OF CIRCUMSTANCES. The overwhelming majority of Americans, regardless of political or religious affiliations, are horrified by baby killers and oppose the murder of babies.
Furthermore, AB 2223 is UNCONSTITUTIONAL.

VOTE NO ON AB 2223 to stop increasing California taxpayer liabilities for fees, costs and judgments awarded to murderers suing a California governmental agency or employee.

Respectfully submitted,

No.	NAME	CITY
1	JOHN H	San Gabriel
2	JOSHUA SUDJARWADI	CHINO.
3	JOSIAH NAINGGOLAN	JOSIAH FONTANA
4	Rudy Darmanto	Corona
5	Elizabeth García	El Monte
6	Abigail Chin	Chino Hills
7	IWAN SUDARSONO	Chino Hills
8	Shuang Ouyang	Walnut
9	Dian Kurniadi	Ontario
10	Matthew Kwa	Monrovia

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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Respectfully submitted,

No.	NAME	CITY
1	DANNY HERMANUS	CHINO HILLS
2	VALENCIA GRACE	SAN GABRIEL
3	Kathleen Suwoko	Chino Hills
4	Kiesha Suwoko	↓
5	Jennifer Chin	Chino Hills
6	Peter Tan	Corona
7	Deborah Tjitrajadi	Rancho Cucamonga
8	Dony Ang	Walnut
9	Reivandy Lamdjani	San Gabriel
10	Reihandy Lamdjani	San Gabriel

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Respectfully submitted,

No.	NAME	CITY
1	IVO KAZAN	Rancho Cucamonga
2	Elly Osman	Rancho Cucamonga
3	Yuliani Lim	Hacienda Heights
4	Johnny Yeh	Hacienda Heights
5	Joshua Yeh	Hacienda Heights
6	Budiman Jap	Hacienda Heights
7	Sui Ngo	Hacienda Heights
8	JULIE CHIADILLA	CHINO
9	MARGARITA CHIADILLA	CHINO
10	Dorothy Tandarski	Chino Hills

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Respectfully submitted,

No.	NAME	CITY
1	Bethany Mashata	San Gabriel
2	John Mashata	San Gabriel
3	JEFF WIJAYA	TEMPLE CITY
4	Erlando Vandroos	San Gabriel
5	Markus M	West Covina
6	Brando Hikales	temple CHY
7	Hans Sebastian	Ontario
8	Anditha Aunyane	Ontario
9	KEVIN STIPHEN	TEMPLE CITY
10	Joy Siantari	Redlands

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Respectfully submitted,

No.	NAME	CITY
1	Stephanie Tjie	DUARTE
2	Carissa Tjen	Chino
3	Charles Tjen	Chino
4	Rietta Jap	Temple City
5	Vincent Tjie	Duarte.
6	Stephanie Tjie	Duarte.
7	YINNIA, TJONG	WEST COVINA
8	Rina Lamdjani	San Gabriel
9	MICHAEL, THE	WEST COVINA
10	PAUL TAN	CHINO HILLS

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Respectfully submitted,

No.	NAME	CITY
1	Anny Oey	Chino Hills
2	Beth Oey	Chino Hills
3	Natalia Sutanto	West Covina
4	Tara Orphowidjojo	Fontana
5	Wely Orphowidjojo	Fontana
6	VELINA Suciawan Minghd	San Gabriel
7	LILY Djauhari	Rowland H
8	FRANCIS TJIA	CLAREMONT
9	Ananda Ardianto	Claremont
10	Alfredo Torres	Walnut

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Respectfully submitted,

No.	NAME	CITY
1	Myina Barolo	Walnut
2	ACHILLES BAROLO	WALNUT
3	Lisa Ang	La Habra
4	Vincent Wo	Chino Hills
5	Christina Lantang	Diamond Bar
6	Leonard Lantz.	Diamond Bar
7	YEFFY PURNAWAN	West. COVINA.
8	Tony Salim	West Covina
9	WES STAN MIE WANG	WEST COVINA
10	Thea windesti	West Covina

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Respectfully submitted,

No.	NAME	CITY
1	IPIN	West Covina
2	Lily Cong	Rowland Heights.
3	Eri Mardams	Rowland Heights
4	Daniel	West Covina
5	I/N1	West Covina
6	Lasmeria Sihaan	UPLAND
7	Anthon	Upland
8	Tiarma Silaban	San Gabriel
9	Veeka Samudra	San Gabriel
10	Immanuel Samudra	San Gabriel

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Respectfully submitted,

No.	NAME	CITY
1	Herny Lasmana	Hacienda Heights
2	Kimby Jauforo	San Dimas
3	Shirley Jauforo	San Dimas
4	Vivi le	Hacienda Heights
5	Siswatini Siek	Hacienda Heights
6	Sean le	Hacienda Heights
7	Sui Ngo	Hacienda Heights
8	Budiman Yoh	Hacienda Heights
9	Ashley le	Hacienda Heights
10	Audrey le	Hacienda Heights

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Respectfully submitted,

No.	NAME	CITY
1	Tom Lay	Hacienda Heights
2	Rosalia Tandon	Hacienda Heights
3	Hendrich Gunawan	San Gabriel
4	Angela Tanamas	Walnut
5	Jacqueline Cruzado	Pomona
6	Vera Golden	Pomona
7	Daniel Tandarki	Chino Hills
8	LIANA CAPUTRA	WALNUT
9	Natalie Chandra	Temple City
10	ellicia nikijuluw	Redlands

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Respectfully submitted,

No.	NAME	CITY
1	Stephen Abilukito	Alta Loma, CA
2	Samuel Sentosa	Rancho Cucamonga
3	Gerrit Hermanus	Chino Hills
4	Shannon Djie	San Gabriel
5	Nicholas Culadilla	chino
6	Nathan Culadilla	Chino hills
7	Sofia Culadilla	chino
8	Ephraim chong	Chino
9	Sue lee	west covina
10	Fred Lohman	west covina

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No.	NAME	CITY
1	LIZA ENRIQUEZ	WALNUT
2	Thezia Syliano	West Covina
3	Yu Ming Zhang	Rowland Hts
4	Timothy Zhang	Rowland Heights
5	RITA MAKMURA	San Gabriel, CA
6	BRIGITTA TEOJA	LAGUNA HILLS, CA
7	Samuel Tandarki	Chino hills
8	Jaylon Wong	Canyon park drive
9	Sherily Ho	west covina.
10	Jeremy Oey	Chino Hills

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No.	NAME	CITY
1	Lisa Sudarsono	Chino Hills
2	Win Sean Niñares.	[redacted] Temple City.
3	Natasha Handeleon.	Temple City.
4	Michellina The	West Covina
5	Jonathan Tjitrajadi	Rancho Cucamonga
6	Edelson Mikijulow	San Bernardino
7	Lily Hendry	Diamond bar.
8	Hera	Rowland Heights
9	MEYLIANA SUTANTO	CHINO
10	FRANCIS TJIA	CHINO

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No.	NAME	CITY
1	Irjanti setiadi	walnut.
2	G. Irwan setiadi	walnut
3	RUDY LAMDJANI	SAN GABRIEL
4	HANDY HO	ALHAMBRA
5	Sati Wahjoedi	Eastvale
6	Denny Setiawan	Eastvale
7	Danny HERMANUS	CHINO HILLS
8	RIMA HERMANUS	CHINO HILLS.
9	Melanie Chairil	EL Monte
10	MARIA DALIVA-KOCH	DIAMOND BAR

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1	Lian Hong Ng	Hacienda Heights
2	Rosjid Harlidjaraik	Hacienda Heights
3	GREGORY G RATHS	Mission Viejo
4	Hendy chong	chino
5	Irene Sentosa	Rancho Cucamonga
6	Samuel Sentosa	Rancho Cucamonga
7	Mabel Vandreas	Pasadena
8	Samuel Hermanus	Chino Hills
9	Ian Ang	La Habra
10	ANEKE A NAINGGOLAN	Rancho Cucamonga

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No.	NAME	CITY
1	[illegible]	ALHAMBRA
2	Jhon S Tjen	Rowland Heights.
3	Hon Chiong	Alhambra
4	Sandy Chen	Rowland Heights.
5	Kelly Chen	Hacienda Heights
6	Mariana Darryanto	Corona
7	HENCHE HALIM	ONTARIO
8	AMANDA NAINGGOLAN	FONTANA
9	HADIAN J TAN	CHINO HILLS
10	Richard Nainggolan	Rancho Cucamonga

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No.	NAME	CITY
1	Hans Poetra	Monterey Park, CA
2	YOERITA ANG	WALNUT.
3	OE HAN ANG	WALNUT
4	Natasha Lo	WALNUT
5	CHRISTOPHER Lo	WALNUT.
6	CINDY SUWANTI	CHINO HILLS
7	Blania Tan	Corona
8	Haznam Osman	R. Cucamonga
9	~~A~~ Lucia Tan	Chino Hills
10	Michelle Kurniadi	Ontario

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1	Susi Cung	Alhambra
2	Handy J Ho	Alhambra.
3	KORNELIUS WALUYO	TEMPLE CITY
4	DESY SUSANTO	TEMPLE CITY
5	Betty Chen	Villa Park
6	Phillip Ashbrooke	Rancho Cucamonga
7	Matthew Tan	Corona
8	Dillon Djie	San Gabriel
9	Darlene Tandarki	Chino Hills
10	FIRMAN MANULANG	ROWLAND HEIGHTS

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2	James Sudarsono	Walnut
3	Sharon Sudarsono	Walnut
4	Jessica Syparman	Chino
5	Eddie Syparman	Chino
6	Melissa Wongso	Diamond Bar
7	MATTHEW DJIMIN	DIAMOND BAR
8	Lydiana Winarto	Chino
9	Brenda Nikolos	Temple City
10	Joyce Tan	Chino Hills

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2223

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chairman

BACKGROUND INFORMATION REQUEST

*Please complete and return **this form and all supporting materials electronically** (including support/opposition letters) **within 5 working days** of receipt of this form. (During the pandemic, a hard copy is not required). A bill cannot be heard if a completed worksheet is not returned.*

NEW POLICY– PLEASE READ!!

The Assembly Health Committee has implemented a more efficient way of accepting Position Letters. Please make sure the letters are uploaded through the Advocate Portal:
https://calegislation.lc.ca.gov/Advocates/

Please e-mail the completed background request form and other materials electronically to:
Lara.Flynn@asm.ca.gov
Marshall.Kirkland@asm.ca.gov

Measure: AB-2223

Author: Wicks

Subject: Reproductive health.

Staff Contact Number: Samantha Huynh – Office: (916) 319-2015; Cell: (510) 305-9326

1. Does this bill have a sponsor? Please provide name, phone and email.

ACLU California Action (Co-Sponsor)
Ruth Dawson, Legislative Attorney
rdawson@acluca.org
(916) 824-3262

Black Women for Wellness (Co-Sponsor)
Onyenma Obiekea, Policy Analyst
Onyenma@bwwla.com

California Latinas for Reproductive Justice (Co-Sponsor)
Lorena García Zermeño, Policy Manager

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Lorena@clrj.org

If/When/How: Lawyering for Reproductive Justice (Co-Sponsor)
Farah Diaz-Tello, JD, Senior Counsel & Legal Director
farah@ifwhenhow.org
(347)-974-7337

NARAL Pro-Choice California (Co-Sponsor)
Shannon Olivieri Hovis, Director
shovis@prochoiceamerica.org
(415) 500-8123

Planned Parenthood Affiliates of California (Co-Sponsor)
Molly Robson, Legislative Director
Molly.Robson@ppacca.org
(916) 862-1374

2. Please explain the problem or deficiency in the existing law, and how this bill seeks to remedy that problem.

In California, the misuse of state power to prosecute people for their pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions.

This threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities[1] and also more likely to be under scrutiny of punitive state systems.[2] It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

There is frequently no recourse for people who have been harmed by the state as a result of their pregnancy loss or self-managed abortion. California's Reproductive Privacy Act provides a guarantee to a right to make reproductive decisions. However, it does not provide avenues for redress for people who are denied these rights.

[1] E.g., Pruitt et al. Racial and Ethnic Disparities in Fetal Deaths — United States, 2015–2017, 69 MMWR Morb Mortal Wkly Rep 1277 (2020).

[2] See Hinton et al., Vera Institute of Justice Evidence Brief, An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System (May 2018); Bridges, Privacy Rights and Public Families, 34 Harvard J. L. & Gender 113 (2011); Children's Bureau, U.S. Dept. of Health & Human Servs., Child Welfare Practice to Address Racial Disproportionality and Disparity (April 2021).

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AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

3. Describe how your bill solves the problem described in 2) above.

California's fetal homicide provision prohibits the state from charging a pregnant individual with a crime against a fetus they are carrying. In spite of this protection, prosecutors have recently charged people with homicide offenses for having stillbirths. This points to a need to ensure that this never happens again by cutting off the chain of reporting that ends in wrongful criminalization, and protecting reproductive freedom. Currently, coroners have a statutory duty to investigate "self-induced or criminal abortions." But neither abortion nor self-managing an abortion have been a crime under California law for more than two decades. This anachronistic holdover has led to hospitals turning their patients over to law enforcement, and should be repealed. AB 2223 is seeking to address this issue by removing outdated provisions.

Similarly, public health reporting of fetal death is an important component of addressing the longstanding crisis in maternal and infant outcomes among Black, Indigenous, and other people of color. Because these communities are also the most likely to be targeted for prosecution on the basis of pregnancy outcomes, it is important that this information is used only for public health, not criminal punishment. AB 2223 would ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. Additionally, AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts.

4. Is there a budget request associated with this bill?

N/A

5. Please cite existing law.

Existing Law:
Cal. Pen. § 187(b)(3)

Additional Case Law:
People v. Jaurigue (Super. Ct. San Benito County, 1992, No. 18988)
People v. Jones (Justice Ct., Yreka Judicial Dist., Siskiyou County, 1993, No. 93-5)
People v. Johnson (Mun. Ct., Contra Costa County, 1995, No. 096001-3)
McCormack v. Hiedeman, 694 F.3d 1004 (9th Cir. 2012)(finding Idaho criminal statute penalizing self-managed abortion unconstitutional)

6. Please present significant facts, research studies, and pertinent background information.

- *Office of the Attorney General, Legal Alert* - notifying all California district attorneys, police chiefs, and sheriffs that section 187 of the California Penal Code was intended to hold

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accountable those who inflict harm on pregnant individuals, resulting in miscarriage or stillbirth, not to punish people who suffer the loss of their pregnancy: https://oag.ca.gov/system/files/attachments/press-docs/Penal%20Code%20187%20Legal%20Alert.pdf

- *American Bar Association, Resolution 107A* - opposing the criminal prosecution of anyone who has an abortion or experiences a miscarriage or stillbirth: https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2021/107a-midyear-2021.pdf
- *American College of Obstetricians and Gynecologists, Opposition to Criminalization of Individuals During Pregnancy and the Postpartum Period*: https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2020/opposition-criminalization-of-individuals-pregnancy-and-postpartum-period
- *American College of Obstetricians and Gynecologists, Position Statement on Self-induced Abortion*: https://www.acog.org/clinical-information/policy-and-position-statements/position-statements/2017/decriminalization-of-self-induced-abortion
- *American Medical Association, Resolution to Oppose the Criminalization of Self-induced Abortion*: https://www.ama-assn.org/sites/ama-assn.org/files/corp/media-browser/public/wps/a18-wps-resolution-007.pdf
- *American Public Health Association, official stances against punishment/ criminalization for pregnancy outcomes generally*: https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2014/07/14/14/03/Renouncing-Laws-to-Recognize-Fetuses-as-Independent-of-Pregnant-Women
- *American Public Health Association, Policy Statement on Decriminalization of and Support for Self-Managed Abortion*: https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2022/01/07/Decriminalization-of-and-Support-for-Self-Managed-Abortion
- *If/When/How: Lawyering for Reproductive Justice, Roe's Unfinished Promise: Decriminalizing Abortion Once and For* All: is the first comprehensive paper about the criminalization of non-clinical abortion in the U.S. and efforts to eliminate threats, while increasing protections, for people who end pregnancies outside the formal healthcare system. It includes a chart listing problematic laws state by state, maps highlighting the places where people who self-induce abortion are most at risk of an unjustified arrest, excerpts from relevant statutes, and case summaries. https://www.ifwhenhow.org/resources/roes-unfinished-promise/
- *If/When/How: Lawyering for Reproductive Justice, Roe's Unfinished Promise: Decriminalizing Abortion Once and For All, 2019 Update*: https://www.ifwhenhow.org/resources/roes-unfinished-promise-2019-update/
- *National Advocates for Pregnant Women (NAPW), Arrests and Other Deprivations of Liberty of Pregnant Women, 1973-2020* - summary of research by NAPW documenting 1,667 instances of women who were arrested, detained, or forced to undergo medical interventions between 1973 and 2020 and that would not have occurred but for their status as pregnant persons. https://www.nationaladvocatesforpregnantwomen.org/wp-content/uploads/2021/09/FINAL_1600Cases-Factsheet.docx.pdf

7. Are any amendments planned for this bill?

Yes.

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8. If yes, provide a brief summary of planned amendments.

- Changes to the intent language that raise recent misapplications of the law to demonstrate the necessity of AB 2223.
- Removal of antiquated and stigmatizing language referring to certain sex offenses as "crimes against nature."

9. Please include an author's statement explaining the need for this bill.

A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. In California, the misuse of state power to prosecute people for their pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions, and this threat of criminal prosecution has a harmful effect on individual and public health.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

10. Has a similar bill been introduced before in either this session or a previous session of the legislature?

AB 1666 (Bauer-Kahan), 2022: AB 1666 will protect patients and providers in CA from civil liability judgments for providing reproductive health care to patients when the claims are based on hostile laws in other states that are hostile to abortion rights and are contrary to the public policy of California.

AB 2091 (Bonta), 2022: AB 2091 would enhance privacy protections for medical records related to abortion care under California's Reproductive Privacy Act against disclosures to law enforcement and out-of-state third parties seeking to enforce hostile abortion bans in other states.

AB 2626 (Calderon), 2022: AB 2626 will protect abortion providers by preventing the Medical Board of CA from revoking or suspending a medical license for a licensee providing abortion care in CA and in other states.

SB XXX (Weiner), 2022: Bill to provide legal protections for trans kids, their parents, and providers who provide gender-affirming care in CA.

11. Has there been an interim committee report or subject hearing on this bill?

N/A

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12. Please specify the report or provide information from the subject hearing.

N/A

13. Please describe any concerns that you anticipate may be raised in opposition to your bill, and state your response to those concerns.

- Abortion opponents are likely to be concerned that this bill is further affirmation of people's reproductive freedom. The State of California has long supported the right of each person to make decisions about their reproductive lives, and has committed to keeping reproductive healthcare accessible without stigma or penalty for everyone within its borders.
- People opposed to LGBTQ equality are likely to be concerned that the use of gender-inclusive language affirms the dignity of trans, nonbinary, and other gender nonconforming people. The State of California is committed to the equal dignity under the law of all Californians, and celebrates the diversity of gender identities of people who can become pregnant.

14. The committee generally limits testimony to 2 witnesses, 3 minutes each. Please list the name and title of the witnesses:

1. TBD public health researcher
2. TBD health care provider specializing in reproductive healthcare

15. Which state agencies are affected by this bill? Have you met and/or discussed the bill with the agency?

N/A

COMMITTEE POLICY ON AUTHOR'S AMENDMENTS

Author's amendments must be submitted to the Committee Secretary (in Legislative Counsel Form) no later than 5:00 p.m. 10 calendar days preceding the hearing of your bill. We require the signed original and a copy of the "in context" version. (During the pandemic, hard copies will not be required.) If amendments are submitted after the deadline the Chair may reschedule the bill hearing and the "set" will count against the author's limit of three sets.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Date of Hearing: May 4, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 2223 (Wicks) – As Amended April 6, 2022

Policy Committee:	Judiciary	Vote:	7 - 2
	Health		11 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss and creates a new civil action that allows an individual to bring a civil action for damages against any state actor who violates the Reproductive Privacy Act. Specifically, this bill:

1) Allows a person alleging a violation of existing reproductive rights provisions to file suit pursuant to the Tom Bane Act and authorizes a civil action against a public entity notwithstanding statutory government immunity provisions.

2) Prohibits any medical examination of a fetus conducted by a coroner from being used to establish, bring or support a criminal prosecution or civil cause of action.

FISCAL EFFECT:

Cost pressures (Trial Court Trust Fund) in the mid-hundreds of thousands of dollars for trial courts to hear and adjudicate civil actions for any alleged violations of existing abortion protections. If five cases are filed in civil court annually requiring seven to ten days (56 to 80 hours) of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $280,000 and $400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties.

COMMENTS:

1) **Purpose.** This bill strengthens the protections in existing law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes and it creates a private right of action for violations of rights protected by the Reproductive Privacy Act. According to the author:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected

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about pregnancy loss is not used to target people through criminal or civil legal systems.

2) **Background.** Health and Safety Code section 123460, subdivision (c) prohibits any state actor from denying or interfering with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion. The Bane Act prohibits any state actor from interfering with a person's constitutional rights. Supporters contend this bill is necessary to shore up California's commitment to reproductive freedom in the face of a growing tide of reproductive rights restrictions in other states such as Texas and Oklahoma. In 2021, more than 40 organizations joined together to create the California Future of Abortion Council (CA FAB Council). The CA FAB Council works in collaboration with policy makers, researchers, advocates, providers, patients and key constituents to determine potential challenges in the state and recommend solutions that will continue to provide access and stability for both Californians and those who may seek services here from out of state. In December 2021, the CA FAB Council released 45 policy recommendations to ensure Californians are protected against the threat to abortion rights in other states. This bill includes many of the recommendations the CA FAB Council including increasing protections against civil and criminal penalties for those who suffer pregnancy loss, terminate a pregnancy or provide abortion services.

3) **Argument in Support.** According to NARAL Pro-Choice California:

> States hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted. AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

4) **Argument in Opposition.** According to the Pacific Justice Institute:

> As of January 1, 2023, actions that result in the deaths of newborns and today merit investigation and possible prosecution as infanticide will no longer be criminalized, if AB 2223 is adopted. As if that were not enough, the bill goes even further to protect even the most heinous abortionists who all but the most extreme abortionists agree should be prosecuted. What is more, the bill creates a new source of liability for public officials that will deter them from investigating and prosecuting even more dastardly crimes than those absolved by the bill.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

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Assembly Committee Rollcalls

Appropriations

Date of Hearing: May 19, 2022

BILL NO.	AB 2222	AB 2223	AB 2225	AB 2230
ACTION VOTED ON	Do pass	Do pass as amended	Do pass as amended	Do pass as amended
	Aye : No	Aye : No	Aye : No	Aye : No
Holden, Chair	X :	X :	X :	X :
Bigelow, V. Chair	X :	: X	Not Voting	: X
Bryan	X :	X :	X :	X :
Calderon	X :	X :	X :	X :
Carrillo	X :	X :	X :	X :
Megan Dahle	X :	: X	Not Voting	: X
Davies	X :	: X	Not Voting	: X
Mike Fong	X :	X :	X :	X :
Fong	X :	: X	Not Voting	: X
Gabriel	X :	X :	X :	X :
Eduardo Garcia	X :	X :	X :	X :
Levine	X :	X :	X :	X :
Quirk	X :	X :	X :	X :
Robert Rivas	X :	X :	X :	X :
Akilah Weber	X :	X :	X :	X :
Wilson	X :	X :	X :	X :
	Ayes : 16 Noes : 0	Ayes : 12 Noes : 4	Ayes : 12 Noes : 0	Ayes : 12 Noes : 4

RECEIVED: _____

_____, CHAIR

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

REPORTS OF STANDING COMMITTEES

Committee on Appropriations

¶ [t8] Date of Hearing: May 19, 2022 (_fr)

¶ Mr. Speaker: Your Committee on Appropriations reports:

AB	1959	(12-0)	AB	2185	(12-0)
AB	1965	(14-2)	AB	2189	(12-0)
AB	1972	(12-4)	AB	2204	(13-3)
AB	1981	(12-0)	AB	2223	(12-4)
AB	1998	(16-0)	AB	2225	(12-0)
AB	2016	(12-0)	AB	2230	(12-4)
AB	2021	(12-4)	AB	2232	(12-4)
AB	2022	(12-0)	AB	2237	(12-4)
AB	2026	(11-4)	AB	2239	(12-0)
AB	2042	(12-0)	AB	2242	(12-1)
AB	2043	(12-0)	AB	2243	(12-4)
AB	2046	(12-0)	AB	2247	(12-4)
AB	2053	(12-4)	AB	2251	(12-1)
AB	2076	(12-0)	AB	2257	(12-3)
AB	2080	(11-4)	AB	2259	(12-0)
AB	2106	(12-4)	AB	2264.	(12-0)
AB	2108	(12-4)	AB	2280	(12-0)
AB	2125	(16-0)	AB	2282	(12-0)
AB	2150	(16-0)	AB	2287	(12-0)
AB	2164	(14-1)	AB	2300	(13-1)

(fl) With the recommendation: Amend, and do pass as amended.

Chris Holden

HOLDEN, Chair (_fr)

¶ Above bills ordered to second reading.

CODE: 13

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COMMITTEE HISTORY ACTIONS REPORT

Committee on Appropriations

DATE OF HEARING: May 4, 2022

MEASURE NUMBER	ACTION	ACTION CODE
AB 1594	Set, **First** hearing. Referred to suspense file.	304
AB 1667		
AB 1679		
AB 1681		
AB 1723		
AB 1731		
AB 1773		
AB 1789		
AB 1841		
AB 1857		
AB 1867		
AB 1868		
AB 1872		
AB 1885		
AB 1892		
AB 1913		
AB 1921		
AB 1956		
AB 1958		
AB 2030		
AB 2046		
AB 2059		
AB 2103		
AB 2113		
AB 2146		
AB 2172		
AB 2187		
AB 2222		
AB 2223		
AB 2238		
AB 2250		
AB 2254		
AB 2255		
AB 2263		
AB 2266		
AB 2286		
AB 2320		
AB 2370		
AB 2375		
AB 2382		
AB 2401		
AB 2417		
AB 2421		

(05/04/2022 01:03:52 PM)

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Date of Hearing: May 4, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 2223 (Wicks) – As Amended April 6, 2022

Policy Committee:	Judiciary	Vote:	7 - 2
	Health		11 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss and creates a new civil action that allows an individual to bring a civil action for damages against any state actor who violates the Reproductive Privacy Act. Specifically, this bill:

1) Allows a person alleging a violation of existing reproductive rights provisions to file suit pursuant to the Tom Bane Act and authorizes a civil action against a public entity notwithstanding statutory government immunity provisions.

2) Prohibits any medical examination of a fetus conducted by a coroner from being used to establish, bring or support a criminal prosecution or civil cause of action.

FISCAL EFFECT:

Cost pressures (Trial Court Trust Fund) in the mid-hundreds of thousands of dollars for trial courts to hear and adjudicate civil actions for any alleged violations of existing abortion protections. If five cases are filed in civil court annually requiring seven to ten days (56 to 80 hours) of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $280,000 and $400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties.

COMMENTS:

1) **Purpose.** This bill strengthens the protections in existing law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes and it creates a private right of action for violations of rights protected by the Reproductive Privacy Act. According to the author:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected

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about pregnancy loss is not used to target people through criminal or civil legal systems.

2) **Background.** Health and Safety Code section 123460, subdivision (c) prohibits any state actor from denying or interfering with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion. The Bane Act prohibits any state actor from interfering with a person's constitutional rights. Supporters contend this bill is necessary to shore up California's commitment to reproductive freedom in the face of a growing tide of reproductive rights restrictions in other states such as Texas and Oklahoma. In 2021, more than 40 organizations joined together to create the California Future of Abortion Council (CA FAB Council). The CA FAB Council works in collaboration with policy makers, researchers, advocates, providers, patients and key constituents to determine potential challenges in the state and recommend solutions that will continue to provide access and stability for both Californians and those who may seek services here from out of state. In December 2021, the CA FAB Council released 45 policy recommendations to ensure Californians are protected against the threat to abortion rights in other states. This bill includes many of the recommendations the CA FAB Council including increasing protections against civil and criminal penalties for those who suffer pregnancy loss, terminate a pregnancy or provide abortion services.

3) **Argument in Support.** According to NARAL Pro-Choice California:

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Date of Hearing: May 4, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 2223 (Wicks) – As Amended April 6, 2022

Policy Committee:	Judiciary	Vote:	7 - 2
	Health		11 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

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> States hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted. AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

4) **Argument in Opposition.** According to the Pacific Justice Institute:

> As of January 1, 2023, actions that result in the deaths of newborns and today merit investigation and possible prosecution as infanticide will no longer be criminalized, if AB 2223 is adopted. As if that were not enough, the bill goes even further to protect even the most heinous abortionists who all but the most extreme abortionists agree should be prosecuted. What is more, the bill creates a new source of liability for public officials that will deter them from investigating and prosecuting even more dastardly crimes than those absolved by the bill.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

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AB 2223 - Reproductive health. (Version: 97 - Amended Assembly Apr 6, 2022)

SECTION 1. *The Legislature finds and declares all of the following:*

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

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(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; ~~deaths related to or following~~ known or suspected ~~self-induced or criminal abortion; known or suspected~~ homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged ~~rape or crime against nature;~~ *rape;* deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state ~~mental~~ hospitals serving the mentally ~~disabled~~ *disordered* and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under ~~such~~ circumstances ~~as to~~ *that* afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) ~~In any case in which~~ *If* the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of ~~his or her~~ *the* report to the state agency responsible for the state hospital.

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(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) ~~Any~~ *A* funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. ~~Any~~ *A* person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

~~**103000.** All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance.~~ delete.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. *(a)* The coroner ~~shall~~ *shall,* within three days after examination of the ~~fetus~~ *fetus,* state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner ~~shall~~ *shall,* within three days after examining the ~~body~~ *body,* deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections. cannot establish criminal / civil action.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive ~~decisions.~~ *decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.* Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

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(b) Every ~~woman~~ *individual* has the fundamental right to choose to bear a child or to choose *to have* and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with ~~a woman's~~ *an individual's* fundamental right to choose to bear a child or to choose to *have and to* obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state ~~may~~ *shall* not deny or interfere with a ~~woman's~~ *pregnant person's* right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the ~~woman.~~ *pregnant person.*

SEC. 7. *Section 123467 is added to the Health and Safety Code, to read:*

123467. *(a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.*

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if *performed by someone other than the pregnant person and if* either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant ~~woman.~~ *person.*

SEC. 9. *Section 123469 is added to the Health and Safety Code, to read:*

123469. *(a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a state superior court.*

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(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought. Judicial evaluation

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

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Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 2223 (Wicks) – As Amended March 17, 2022

As Proposed to be Amended

SUBJECT: REPRODUCTIVE HEALTH

KEY ISSUES:

1) SHOULD STATE LAWS THAT PROHIBIT THE IMPOSITION OF CIVIL AND CRIMINAL PENALTIES FOR PREGNANCY LOSS BE STRENGTHENED AND CLARIFIED?

2) SHOULD A NEW PRIVATE RIGHT OF ACTION BE CREATED IN THE LAW THAT ALLOWS INDIVIDUALS WHOSE RIGHTS TO BE FREE OF CIVIL AND CRIMINAL PENALTIES FOR PREGANCY LOSS ARE VIOLATED TO SEEK ACCOUNTABILITY FOR THOSE VIOLATIONS IN THE STATE'S CIVIL COURTS?

SYNOPSIS

This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and, allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. The analysis reviews how existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. Existing state law also prohibits a civil cause of action for prenatal torts (civil actions involving an unborn child). The analysis also points out that while other states are adopting increasingly aggressive measures to limit abortions, California continues to protect reproductive rights.

The bill has two main provisions. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second, it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act. The analysis points out that there are some issues with the wording of Sections 7 of the bill in print (the immunity provision) because it has (1) an unintended impact on child welfare laws; and (2) creates the mistaken and unintended impression that the bill's immunities could apply to cases where a newborn's death was the result of a cause that was not related to the parent's acts or omissions during pregnancy. Similarly, Section 9 of the bill in print (the private right of action) appears to (1) inappropriately dictate the parameters of federal court jurisdiction; (2) provide inadequate remedies to a plaintiff; and (3) inadequately address general and specific forms of governmental immunity. The author proposes amendments to address all of these issues. The amendments are incorporated into the Summary of the bill, below, and explained in the analysis.

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The bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. It is also supported by a large number of reproductive health advocates, public health associations, organizations advocating to improve maternal and infant health, as well as civil rights advocacy organizations. The bill is opposed by a large number of religious organizations, organizations that oppose abortion rights, and numerous individuals.

SUMMARY: Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, and limits the duties of coroners to be consistent with those laws. Specifically, **this bill**:

1) Makes the following findings and declarations on the part of the Legislature:

   a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

   b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

   c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

   d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

   e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

   f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

   g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

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h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

2) Repeals Government Code Section 103000, which provides that. "All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance." ?

3) Removes from existing law, under existing duties of the coroner, the duty to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

4) Clarifies that existing law, requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

5) States that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

6) Provides that notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy

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outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.

7) Provides that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

8) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law *and* it is performed by someone other than the pregnant person.

9) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act (Sections 123460 – 123468 of the Health & Safety Code) to bring a civil action against an offending state actor in a state superior court.

10) States that whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

   b) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice in violation of this article.

   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

11) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 9), above. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

12) Allows a party aggrieved by conduct or regulation in violation of this article to also bring a civil action pursuant to the Bane Civil Rights Act; and provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article. Provides, for purpose of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

13) Changes gendered terminology in relevant code sections and eliminates the offensive and outdated "crime against nature" from existing code.

14) Specifies that Sections 825, 825.2, 825.4, and 825.6 of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, shall

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apply to any cause of action brought under this section against an employee or former employee of a public entity.

EXISTING LAW:

1) Provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

2) Holds that the state cannot interfere with the fundamental right of a woman to control her life and future by restricting the right to obtain an abortion unless and until there is a compelling reason for doing so; and that a compelling interest in protecting the potential life of the fetus cannot be asserted until the fetus is "viable" (usually at the beginning of the last trimester of pregnancy), and even then a woman has to have access to an abortion if it were necessary to preserve her life or health. (*Roe v. Wade* (1973) 410 U.S. 113.)

3) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies. (Government Code Section 27491.)

4) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director. (Health & Safety Code Section 103005.)

5) Provides, in the Reproductive Privacy Act (Health & Safety Code Sections 123460 – 123468), that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control.

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.

   c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

6) Prohibits the State of California from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (Health & Safety Code Section 123466.)

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7) Provides that a public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause. (Government Code Section 821.6.)

8) Provides that a public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law, but is liable for false arrest or false imprisonment. (Government Code Section 820.4.)

9) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct. (Civil Code Section 52.1 (c).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. According to the author:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus. Because duties of coroners are in the jurisdiction of the Assembly Committee on Health, this analysis will not focus on those issues.

Existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. While California's murder statute, Penal Code Section 187, specifically applies to the unlawful killing of a fetus with malice aforethought, by its own terms, it is inapplicable "when the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Penal Code Section 187 (b)(3).) While the Legislature broadened the scope of section 187 to include the unlawful killing of a fetus in specific response to the California Supreme Court's decision in *Keeler v. Superior Court* (1970) 2 Cal.3d 619, the revised wording was intended to situations where a third party intended to cause the death of a fetus. In *Keeler*, the defendant was charged with murder after he attacked his pregnant ex-wife, intentionally causing the death of her fetus. The *Keeler* Court held that the then-existing wording of Section 187, defining murder as the unlawful "killing of a 'human being," did not encompass the killing of a

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fetus. In amending Section 187 in response to *Keeler*, the Legislature intended to criminalize only third-party violence against pregnant persons resulting in fetal death. There is no evidence of legislative intent to extend criminal liability to the mother of the unborn fetus.

Nevertheless, there apparently is confusion among some in law enforcement during the fifty-two years since *Keeler*. On January 6, 2022, Attorney General Rob Bonta issued a Legal Alert (OAG-2021-01) to all California District Attorneys, Police Chiefs, and Sheriffs, regarding "Penal Code 187 and 'the unlawful killing of . . .a fetus'." The alert informed law enforcement of the following:

> The Attorney General has construed Penal Code section 187 as it relates to the actions or inactions of a person carrying a fetus that are alleged to have caused the death of that fetus. The Attorney General's construction is contained in court documents filed in multiple cases, including the attached amicus brief filed in *In re Perez*, Case No. 21W-0033A, Kings Co. Sup. Court (June 25, 2021).

In *Perez,* the defendant experienced a stillbirth at 37 weeks gestation attributed to her methamphetamine use. She was charged with murder and pled guilty to the less serious crime of manslaughter, according to transcripts of her plea, "to avoid the possibility of getting the life sentence on the murder case." However, she could not have been convicted of (and should therefore should not have been charged with) murder pursuant to *Keeler*, given that the fetus was never alive; and there was no factual basis for her plea to manslaughter, given that the killing of a fetus does not constitute manslaughter (*People v. Dennis* (1998) 17 Cal.4th 468, 506). In an amicus brief supporting the release of Perez from prison after **11 years of incarceration**, the AG wrote, "The Attorney General agrees . . . that the text, purpose, and legislative history of California Penal Code section 187 demonstrate that a woman cannot be prosecuted for murder as a result of her own omissions or actions that might result in pregnancy loss."

> The Legislature's purpose in adding the killing of a fetus to Penal Code section 187 was not to punish women who do not--or cannot, because of addiction or resources- follow best practices for prenatal health. Nor did it intend to punish women who might in desperation seek to end their pregnancies outside normal medical channels. Rather, this addition was a focused response to *Keeler v. Superior Court* (1970) 2 Cal.3d 619, holding that the unlawful "killing of a human being" did not encompass a fetus. (See Assem. Com. on Crim. Procedure's Dig., Assem. Bill No. 816 (1970 Reg. Sess.) (July 15, 1970); Review of Selected 1970 California Legislation, Crimes (1971) 2 Pacific L. J. 275, 362-363 [amendment to section 187 "was enacted in response to a June 1970 decision of the California Supreme Court (Keeler v. Superior Court, 2 Cal.3d 619)").) Keeler was charged with the murder of a fetus after he attacked his pregnant ex-wife, intentionally causing a stillbirth. The court ordered that Keeler's prosecution for murder was barred under Section 187 as it was then written. (*Id.* at pp. 628, 631.)

As the AG also points out in his *Perez* amicus brief, the Legislature has repeatedly declined to extend the state's penal laws to encompass punishment of a pregnant woman who experiences a pregnancy loss. (See Sen. Bill No. 1465 (1989-1990 Reg. Sess.) [proposed bill that would have expanded manslaughter to include substance abuse during pregnancy]; Assem. Bill No. 650 (1990-199 1 Reg. Sess.) [proposed bill that would have made substance abuse during pregnancy a misdemeanor].) But under current law and its virtually complete liability shield for the exercise of prosecutorial discretion under Government Code Section 821.6, Perez would have no ability

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to sue those responsible for unlawfully imprisoning her for 11 years, despite the clearly invalidity of her prosecution and conviction. Her only remedy would be to submit a claim to the state for compensation pursuant to the state fund for erroneously convicted persons. (See Penal Code Sections 4900 *et seq.*) Pursuant to a 2016 amendment, the law provides a flat compensation rate of $140 per day for each day of incarceration served, including pre-conviction time spent in custody. Obviously, this does not take into account a person's individual damages that could include loss of income, loss of parenting rights, loss of reputation, and personal injuries suffered during incarceration.

Existing state law prohibits a civil cause of action for prenatal torts. A prenatal tort is a tort (a civil cause of action for damages based upon a wrongful act that causes injury) involving an unborn child. Prenatal tort causes of action include personal injury, wrongful birth, wrongful life, and wrongful pregnancy. But at common law, they do not include wrongful death or wrongful injury. Any right to recovery or cause of action belonged only to the mother because "the unborn child was a part of the mother at the time of the injury, any damage to it which was not too remote to be recovered for at all was recoverable by her." (*Dietrich v. Inhabitants of Northampton* (1884) 138 Mass. 14, 17.)

While some states have repudiated the reasoning of *Dietrich* and authorized civil actions for prenatal injuries caused by tortious conduct that occurs prior to birth, California law remains consistent with the theory expressed in *Dietrich.* Under California law, a fetus or embryo not born alive never attains the status of a "person;" and only a "person" can maintain a legal action or be the subject of a wrongful death claim. Thus, whether the alleged tortfeasor is a pregnant person or a third party, a civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian Enterprises, Inc.* (1991) 234 CA3d 1103, 1113 [a negligent motorist was found not legally liable to a child conceived after collision occurred].)

Other states are adopting increasingly aggressive measures to limit abortions. Following the appointment of several Supreme Court justices by former President Donald Trump, dozens of states have enacted legislation in an effort to test the limits, or outright overturn, the federally protected right to an abortion granted in the landmark ruling of *Roe v. Wade* (1973) 410 US 113. One of the first states to restrict abortion access was Mississippi, which enacted a ban on abortion after the fifteenth week of pregnancy. The Mississippi law authorizes the state's Attorney General, as well as the Mississippi State Department of Health or the Mississippi State Board of Medical Licensure, to impose professional sanctions, including fines and a loss of licensure, on any physician who performs an abortion after 15 weeks. (MS Code Section 41-41-191.) The constitutionality of that statute is currently under review by the United States Supreme Court, which is expected to rule in the matter of *Dobbs v. Jackson Women's Health Organization* (No. 19-1392) later in 2022.

Although several states have opted to follow Mississippi's lead and enact similar laws, in 2021, the State of Texas adopted a unique and far more menacing approach to restricting abortion access. Rather than directing state regulators or prosecutors to impose criminal or professional sanctions on persons receiving or performing an abortion, the Texas law permits the filing of a civil lawsuit against any person who performs an abortion or "aids or abets" a person receiving an abortion after a "fetal heartbeat" has been detected. (Texas Health and Safety Code Section 171.208.) As of March 2022, more than one dozen other states have moved to introduce their own versions of the Texas law.

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This bill. The bill has are two main provisions that are in the jurisdiction of this Committee. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act.

Prohibition on civil and criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. In Section 7, the bill in print provides the following protection from liability to a pregnant person relative to their pregnancy outcomes:

> (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

(The bill also specifies that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights.)

Unintended Impact on Child Welfare Laws - Subdivision (a) of Section 7 is arguably overbroad in at least two ways. First, it appears to immunize a pregnant person from not only all civil liability and criminal penalty for their pregnancy outcomes (consistent with existing law), but also from being "otherwise deprived of their rights" for any of their actions with respect to their pregnancy. This is not consistent with current law, given that child welfare laws allow consideration of a parent's dangerous acts during pregnancy because those acts could affect the welfare of a child who is born after the pregnancy, or other children who are in the person's household. Thus, a pregnant person's actions during pregnancy *could* ultimately affect their parenting rights and result in the deprivation of those rights. For example, reunification services are not required to be provided to a parent with a history of extensive, abusive, and chronic use of drugs or alcohol who has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brings a child to the court's attention. (Welfare & Institutions Code Section 361.5 (b)(13).) Likewise, drug use by a caretaker can be considered in evaluating the welfare of other children in the parent's custody or care. All States, the District of Columbia, Guam, and the U.S. Virgin Islands have provisions within their child protection statutes, regulations, or policies that address the issue of substance use by parents. (Child Welfare Information Gateway. (2020). *Parental substance use as child abuse.* Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, available at https://www.childwelfare.gov/pubPDFs/parentalsubstanceuse.pdf.)

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Given that existing law allows a pregnant person's actions during pregnancy to be considered in a manner that could impact their parenting rights, the grant of immunity in Section 7 of the bill in print arguably is overly broad. However, it should be pointed out that the bill, even as it is now in print, is not so broad that it would prevent CPS or law enforcement investigations of a child's death. The bill provides that "*a person* shall not be subject to civil or criminal liability or penalty . . .based on *their actions or omissions* with respect to their pregnancy or actual, potential, or alleged pregnancy outcome[.]" Therefore, the facts of a child's death could be investigated (whether it was born alive, when and how it died, etc.) but depending on the outcome of that investigation (whether the death was related to a pregnancy-related cause), further criminal investigation of the parent may be prohibited. In response to a question asked by Americans

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United for Life, "If a baby is found in a dumpster can law enforcement investigate the child's death?" the answer is yes.

In order to clarify that the immunity provided by the bill only extends to the deprivation of rights related to pregnancy, the author proposes the following amendment on Page 7, at line 7: insert the words "***under this article***" after the word "rights".

"Perinatal Death" - Second, the "perinatal death" language could lead to an unintended and undesirable conclusion. As currently in print, it may not be sufficiently clear that "perinatal death" is intended to be the consequence of a pregnancy complication. Thus, the bill could be interpreted to immunize a pregnant person from all criminal penalties for all pregnancy outcomes, including the death of a newborn for any reason during the "perinatal" period after birth, including a cause of death which is not attributable to pregnancy complications, which clearly is not the author's intent.

While the bill does not define "perinatal," the term is generally used to describe the period from approximately past 22 (or 28) completed weeks of pregnancy up to 7 completed days of life. (L.S.Bakketeig, P.Bergsjø, "Perinatal Epidemiology." International Encyclopedia of Public Health (2008), p. 45.) Welfare & Institutions Code Section 13134.5(b) defines perinatal as "the period from the establishment of pregnancy to one month following delivery."

In order to clarify that the bill's immunity provision is only intended to apply to a perinatal death after a live birth when the cause of death is directly attributable to pregnancy, the author proposes the following clarifying amendment on Page 7, at line 10: insert "***due to a pregnancy related cause***" at the end of the sentence. Reflecting both of the above-proposed amendments, the entire subdivision would read as follows:

> **123467.** (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights ***under this article***, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death ***due to a pregnancy-related cause***.

A new private right of action for violation of rights protected by the Reproductive Privacy Act. In Section 9, the bill in print authorizes a civil action against "an offending state actor" for violating rights protected under the Reproductive Privacy Act and attempts to establish grounds requiring a federal court to exercise its supplemental jurisdiction.

> 123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.

The language of Section 9 of the bill as it is now in print raises several issues and potential problems.

The bill in print appears to inappropriately dictate the parameters of federal court jurisdiction. The jurisdiction of federal courts is governed exclusively by federal law, primarily the Federal Rules of Civil Procedure. State law cannot supersede federal law to grant jurisdiction over state claims to a federal court. In general, U.S. district courts can exercise subject matter jurisdiction

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over a case when either a claim is pled that presents a federal question, or complete diversity exists between the parties and meets a minimum damages threshold. Supplemental jurisdiction over state law claims is just that: a supplement to the claim over which the district court has original jurisdiction, in instances where the state law claims are so closely related to the federal claim that the claims form a part of the same case or controversy. Supplemental jurisdiction is meant to ensure efficient use of judicial resources and to prevent inconsistent outcomes in state and federal cases arising from the same set of facts. These are all procedural considerations that are not raised and cannot be mandated by this bill.

Second, Section 9 provides few remedies to plaintiffs (other than attorney's fees and costs) and fails to address the governmental immunities in existing law that would prohibit most civil actions brought pursuant to the section. While neither the "conduct or regulation" nor the specific "state actor" is specified in the bill, the intent of the bill—as expressed in the bill's intent language set forth in Section 1—is focused on the unlawful criminal prosecution of pregnant women for their pregnancy outcomes. However, a new private right of action would have virtually no chance of success under the bill in print because of both general and specific immunities for public employees in existing state law, as explained in more detail below.

A civil suit based upon a state actor's violation of a plaintiff's fundamental rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California, such as the right to obtain an abortion, could be brought under existing law. The Tom Bane Civil Rights Act is one of the three major civil rights statutes in state law (along with the Unruh Civil Rights Act and the Ralph Act). The Bane Act makes it unlawful for any person, *whether or not acting under color of law,* to interfere, or attempt to interfere, by threat, intimidation, or coercion, with any other person in the exercise of any rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California. There are two important, and sometimes misunderstand points, to make about the Bane Act. First, the Bane Act is similar to Section 1983 of the federal Civil Rights Act of 1871 in that both permit a person to file a lawsuit against someone who interferes with the exercise of their civil and constitutional rights; indeed lawsuits against public employees, including peace officers, and the entities that employ them, often combine a Section 1983 claim and a Bane Act claim. However, there is also a significant difference: while a Section 1983 lawsuit must be filed against someone "acting under the color of law" (under the apparent authority of government), the Bane Act makes it unlawful for *any person* to interfere with the rights of another "whether or not acting under color of law." While this bill is targeted at "state actors," who presumably would be acting under color of law, the Bane Act is not limited to government actors. (*See e.g. Jones v. Kmart Corp.* (1998), 17 Cal. 4th 329 [ultimately finding Kmart not liable but not questioning that it could be a defendant in a Bane Act action].)

Second, the Bane Act is sometimes referred to as a "hate crime" statute, largely due to examples cited in support of the bill when it was enacted in 1987. However, unlike the Unruh Act and the Ralph Act, there is no reference in the Bane Act to "protected characteristics" that are typically required to make something a hate crime. In sum, one does not need to be a member of a protected group to bring an action under the Bane Act, not does the act of interference need to be based on the targeted person's protected characteristics. Originally, some courts held that the Bane Act required discriminatory animus on the basis of a protected characteristic, but in 2004, the California Supreme Court made clear that it was not the case, as the plain language of the statute, unlike the Unruh and Ralph Acts, does not mention any protected characteristics. (*See Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841-843 ("*Venegas I*") [overturning

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prior decisions to the extent that they assumed a Bane Act action needed to be based on animus toward a protected characteristic].) In sum, the Bane Act is a broad and potentially powerful civil rights statute that allows *any* person to bring a lawsuit against *any* other *person* (not just a person acting under color of law) who interferes with *any* legal or Constitutional right by means of threats, intimidation, or coercion, or who attempts to interfere with those rights by those means.

The Bane Act and sovereign (governmental) immunity. California's Government Claims Act (formerly known as the "Tort Claims Act") codifies the concept of "sovereign immunity," which essentially shields government from civil lawsuits, except under very limited circumstances. Rooted in the ancient principle that no one can drag the King into court – it was the "King's Court," after all – the concept morphed into the idea that even "non-monarchical" governments, and government employees acting within the scope of their duties, should enjoy at least a "qualified immunity" from civil suits. California's Government Claims Act starts with the broad claim that "a public entity is not liable for an injury" caused by the entity, *except* as otherwise provided by another statute. In short, we start with the assumption that the government is immune from liability *unless* the Legislature enacts a statute providing otherwise. Despite this broad assertion of immunity, the Legislature has used its power to enact exceptions over the years. Most significant, Government Code Section 815.2 (a) provides that a public entity may be liable for injuries caused by an act or omission of its employees acting within the scope of employment, if the employee's act would subject the employee to liability. However, even where existing law permits an action against a public entity, the Government Claims Act still includes a "presentation" requirement for most causes of action. Although there are important exceptions, as a general rule a person wishing to sue a government entity or government employee must first "present" a claim to the entity and, in many cases, exhaust all administrative remedies before bringing an action in court. (Government Code Section 910 *et seq.*) And even then, specific laws that immunize certain actions (such as a prosecutor's discretion whether to initiate criminal charges – set forth on Government Code Section 821.6, discussed in more detail below) may preclude the success of a civil action brought under the Bane Act. Therefore, government immunity has been the major stumbling block to persons seeking justice when their rights are violated, sometimes violently and fatally, such as by law enforcement officers.

Last year's SB 2 (Bradford) Chap. 409, Stats. 2021, amended the Bane Act to expressly provide that actions brought under its provisions are not subject to the government immunity provisions in Sections 821.6, 844.6, and 845.6 of the Government Code when a civil cause of action is "brought against any peace officer or custodial officer". These sections of the Government Claims Act grant immunity to public employees for injuries caused by instituting or prosecuting a judicial or administrative proceeding, even if the acts are malicious and without probable cause; to public entities for injuries caused to prisoners; to a public employee or a public entity for failure to provide medical care to a person in their custody. In addition, SB 2 specified that the provisions of the Government Claims Act that require public entities to indemnify and defend public employees for claims brought against the employee individually, apply to actions brought against public employees under the Bane Act. It should be pointed out that SB 2 did not affect the very broad immunity under Government Code Section 821.6 that applies to prosecutors and their exercise of prosecutorial discretion.

Prosecutorial Immunity. Government Code Section 821.6 states that, "A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause." This statute has been interpreted to offer extremely broad immunity to prosecutors and their

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discretionary acts, including whether to initiate criminal charges. In *Sullivan v. County of Los Angeles* (1974) 12 Cal. 3d 710, the California Supreme Court interpreted section 821.6 as providing immunity of public employees against malicious prosecution claims and noted that "no statute imposes liability on public entities for malicious prosecution." as "confining its reach to malicious prosecution actions." (*Id.* at p. 720.)

This is similar to the immunity that prosecutors have under federal law that protects them from liability for exercising their prosecutorial discretion, even when it violates federal civil rights. "State prosecutors are absolutely immune from § 1983 actions when performing functions 'intimately associated with the judicial phase of the criminal process,' [Citation omitted] or, phrased differently, "when performing the traditional functions of an advocate." (*Kalina v. Fletcher* (1997) 522 U.S. 118, 131.) "Prosecutors are entitled to qualified immunity, rather than absolute immunity, when they perform administrative functions, or 'investigative functions normally performed by a detective or police officer.'" (*Genzler v. Longanbach* (9th Cir. 2005) 410 F.3d 630, 636 [quoting *Kalina*, 522 U.S. at 126].) The rationale is that prosecutors must be able to pursue criminals with courage and independence, and without worrying about the threat of lawsuits. "The common-law immunity of a prosecutor is based upon . . . concern that harassment by unfounded litigation would cause a deflection of the prosecutor's energies from his public duties, and the possibility that he would shade his decisions instead of exercising the independence of judgment required by his public trust." (*Imbler v. Pachtman* (1976) 424 U.S. 409, 422-423.)

This broad prosecutorial immunity has given inadequate recourse to plaintiffs harmed (including by being imprisoned for decades) by unconscionable prosecutorial misconduct, including fabricating evidence and negotiating a plea deal for which there clearly is no factual basis (such as a manslaughter conviction based upon the death of an unborn fetus). In the *Perez* case, discussed above, it means that she has no recourse after spending 11 years in prison, locked up for a crime that does not exist, other than pursuing an inadequate amount of compensation from the state fund for erroneously convicted persons. So, granted to her (okay) but not to people killed by law enforcement?

Government Code Section 821.6 has never been amended or modified since it was enacted in 1963, despite the fact that appellate courts have confoundingly managed to expand its meaning beyond the parameters of *Sullivan.* (See, e.g., *Kayfetz v. State* (1984) 156 Cal. App. 3d 491, 497 ["section 821.6 is not limited to suits for damages for malicious prosecution, although that is a principal use of the statute"]; *Amylou R. v. Cty. of Riverside* (1994) 28 Cal. App. 4th 1205, 1211 [explaining that "the section clearly extends to proceedings which were not initiated out of a malicious intent, and thus would not constitute malicious prosecution"].) But that does not mean that Section 821.6 can't or shouldn't be amended or modified by the Legislature, just as the immunity for peace officers and custodial officers was modified last year by SB 2. (See also *Buckley v. Fitzsimmons* (1993) 509 U.S. 259, 268 [observing that because Congress could have abrogated prosecutorial immunity in Section 1983, but given that it did not do so explicitly and given the longevity of the concept, courts have assumed that it did intend to do so by implication].)

Arguably there is no public policy rationale for giving prosecutors immunity for acts that clearly are outside the normal scope of prosecutorial discretion, such as fabricating evidence. In fact, the U.S. Supreme Court held as much when it declined to apply absolute immunity to a prosecutor who fabricated evidence of a defendant's guilt on the basis that evidence gathering (and fabrication) is not a prosecutorial function. "When a prosecutor performs the investigative

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functions normally performed by a detective or police officer, it is 'neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other.'" (*Buckley, supra,* at pp. 273-274.)

Likewise, there is no public policy rationale for granting absolute immunity to prosecutors for a decision to prosecute a pregnant woman for a pregnancy outcome in direct violation of a legislative directive not to do so. Although filing criminal charges is an exercise of prosecutorial discretion, where the law clearly prohibits criminal charges – as existing law does now (and the Reproductive Privacy Act would do in an even more clear and adamant way under the bill) – there is no discretion to file charges. Thus, especially given the extremely narrow scope of the liability under the bill (only for decisions to pregnant women for the loss of their pregnancy when the law prohibiting such prosecutions has clearly prohibited such prosecutions for more than 50 years), modifying the immunity protection offered by Government Code Section 821.6 seems justified and appropriate.

Author's amendments. In order to address the issues about Section 9 of the bill discussed above, the author proposes the following clarifying amendments:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a ~~federal district court or~~ state superior court. ~~A state claim brought in federal district court shall be a supplemental claim to a federal claim.~~

(b) ***Whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:***

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice violation of this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(d)(1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, shall apply to any

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cause of action brought under this section against an employee or former employee of a public entity.

The damages and other remedies proposed to be added to the bill are identical to those provided in Section 52 of the Civil Code for violations of the Unruh Civil Rights Act (Civil Code Section 51), the Civil Rights Act (Civil Code Section 51.5), and the Gender Tax Repeal Act of 1995 (Civil Code Section 51.6). It seems appropriate that the bill would incorporate those remedies, given that it also seeks to protect and provide remedies for violations of personal rights.

A plaintiff would also be specifically authorized to bring an action under the Bane Act for violations of the Reproductive Privacy Act. And while a plaintiff could do so now, the bill would provide new tools to a future plaintiff in two forms. First, the amendments propose to clarify that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome would constitute "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code. It is obvious that a criminal investigation or prosecution, or threat thereof—with its potential impacts on employment, parental rights, social status and reputation, and loss of freedom by imprisonment—is threatening and intimidating. The prospect of criminal punishment can also be highly coercive, as demonstrated in the *Perez* case, where the threat of lifetime punishment was used to extract an admission of guilt to a lesser criminal charge for which there was no factual basis. The proposed amendments would merely clarify the point. The proposed amendments also clarify that if a public employee were sued under the bill, their employer would be obligated to indemnify and defend the employee. The same language was enacted relative to the Bane Act in last year's SB 2.

Finally, the proposed amendments remove an offensive and obsolete term, "crime against nature," from Section 27491 of the Government Code.

ARGUMENTS IN SUPPORT: The co-sponsors--ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California--all write in support of the bill that it "protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss." They observe that although it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss. .. [and] despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses." They observe that, "AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss." Black Women for Wellness Action Project point out that, "This bill is also particularly important to our organization our community, as we know that Black mommas and families are particularly and likely to be targeted." The California Women's Law Center observes that, "AB 2223 will protect reproductive freedom in California by clearly delineating that ending or losing a pregnancy is not a crime."

ARGUMENTS IN OPPOSITION: Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and

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postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide." Virtually all of the groups in opposition express strong opposition to the bill's current language regarding "perinatal death" and many conclude that it could decriminalize the killing of a newborn. Americans United for Life asks, "If a baby is found in a dumpster can law enforcement investigate the child's death? Probably not under AB 2223." California Family council observes, "California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. Mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location." The Fredrick Douglass Foundation of California writes the following in opposition to the bill: "AB 2223 continues the practice of eugenics on steroids. It targets the very population it pretends to protect, women of color."

REGISTERED SUPPORT / OPPOSITION:

Support

Access Reproductive Justice
ACLU California Action (co-sponsor)
Black Women for Wellness Action Project (co-sponsor)
California Coalition for Women Prisoners
California for Safety and Justice
California Latinas for Reproductive Justice (co-sponsor)
California Nurse Midwives Association (CNMA)
California Women's Law Center
Californians United for A Responsible Budget
Citizens for Choice
Courage California
Disability Rights California
Ella Baker Center for Human Rights
If/when/how: Lawyering for Reproductive Justice (co-sponsor)
Initiate Justice
Naral Pro-choice California (co-sponsor)
National Center for Youth Law
National Health Law Program
Planned Parenthood Affiliates of California (co-sponsor)
Smart Justice California
Survived & Punished
Urge: Unite for Reproductive & Gender Equity
Women's Foundation California

Opposition

Americans United for Life
California Capitol Connection
California Family Council
Calvary Chapel of Placerville
Capitol Resource Institute

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Concerned Women for America
Frederick Douglass Foundation of California
Liberty Baptist Church of Norwalk, CA
National Center for Law & Policy
Pacific Justice Institute
Real Impact
Right to Life League of Southern California
Right to Life of Kern County
The Salt & Light Council
Traditional Values for Next Generations
Numerous individuals

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334

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ASSEMBLY THIRD READING
AB 2223 (Wicks)
As Amended May 19, 2022
Majority vote

SUMMARY

Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, and limits the duties of coroners to be consistent with those laws.

Major Provisions

1) Makes numerous findings and declarations on the part of the Legislature, including about reproductive justice – the human right to control our bodies, sexuality, gender, work, and reproduction – that can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives; the need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system; the threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health; and opposition by the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association to civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

2) Repeals Government Code Section 103000, which provides that. "All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance."

3) Removes from existing law, under existing duties of the coroner, the duty to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

4) Clarifies that existing law, requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

5) Provides that notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

6) Provides that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be

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deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

7) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law *and* it is performed by someone other than the pregnant person.

8) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act (Health and Safety Code Sections 123460 to 123468) to bring a civil action against an offending state actor in a state superior court.

9) States that whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

   b) A civil penalty of $25,000 to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice in violation of this article.

   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

10) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 9), above.

11) Allows a party aggrieved by conduct or regulation in violation of this article to also bring a civil action pursuant to the Bane Civil Rights Act; and provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article. Provides, for purpose of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

12) Changes gendered terminology in relevant code sections and eliminates the offensive and outdated "crime against nature" from existing code.

13) Specifies that sections of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, shall apply to any cause of action brought under this section against an employee or former employee of a public entity.

COMMENTS

This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn

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fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion.

The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus.

Existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. While California's murder statute, Penal Code Section 187, specifically applies to the unlawful killing of a fetus with malice aforethought, by its own terms, it is inapplicable "when the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Penal Code Section 187(b)(3).) While the Legislature broadened the scope of section 187 to include the unlawful killing of a fetus in specific response to the California Supreme Court's decision in *Keeler v. Superior Court* (1970) 2 Cal.3d 619, the revised wording was intended to situations where a third party intended to cause the death of a fetus. In *Keeler*, the defendant was charged with murder after he attacked his pregnant ex-wife, intentionally causing the death of her fetus. The *Keeler* Court held that the then-existing wording of Section 187, defining murder as the unlawful "killing of a 'human being," did not encompass the killing of a fetus. In amending Section 187 in response to *Keeler*, the Legislature intended to criminalize only third-party violence against pregnant persons resulting in fetal death. There is no evidence of legislative intent to extend criminal liability to the mother of the unborn fetus.

Existing state law prohibits a civil cause of action for prenatal torts. A prenatal tort is a tort (a civil cause of action for damages based upon a wrongful act that causes injury) involving an unborn child. Prenatal tort causes of action include personal injury, wrongful birth, wrongful life, and wrongful pregnancy. But at common law, they do not include wrongful death or wrongful injury. Any right to recovery or cause of action belonged only to the mother because "the unborn child was a part of the mother at the time of the injury, any damage to it which was not too remote to be recovered for at all was recoverable by her." (*Dietrich v. Inhabitants of Northampton* (1884) 138 Mass. 14, 17.)

While some states have repudiated the reasoning of *Dietrich* and authorized civil actions for prenatal injuries caused by tortious conduct that occurs prior to birth, California law remains consistent with the theory expressed in *Dietrich.* Under California law, a fetus or embryo not born alive never attains the status of a "person;" and only a "person" can maintain a legal action or be the subject of a wrongful death claim. Thus, whether the alleged tortfeasor is a pregnant person or a third party, a civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian Enterprises, Inc.* (1991) 234 CA3d 1103, 1113 [a negligent motorist was found not legally liable to a child conceived after collision occurred].)

This bill. The bill has are two main provisions that are in the jurisdiction of the Judiciary Committee. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion.

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Arguably there is no public policy rationale for giving prosecutors immunity for acts that clearly are outside the normal scope of prosecutorial discretion, such as fabricating evidence. In fact, the United States Supreme Court held as much when it declined to apply absolute immunity to a prosecutor who fabricated evidence of a defendant's guilt on the basis that evidence gathering (and fabrication) is not a prosecutorial function. "When a prosecutor performs the investigative functions normally performed by a detective or police officer, it is 'neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other.'" (*Buckley*, *supra,* at pp. 273-274.)

Likewise, there is no public policy rationale for granting absolute immunity to prosecutors for a decision to prosecute a pregnant woman for a pregnancy outcome in direct violation of a legislative directive not to do so. Although filing criminal charges is an exercise of prosecutorial discretion, where the law clearly prohibits criminal charges – as existing law does now (and the Reproductive Privacy Act would do in an even more clear and adamant way under the bill) – there is no discretion to file charges. Thus, especially given the extremely narrow scope of the liability under the bill (only for decisions to pregnant women for the loss of their pregnancy when the law prohibiting such prosecutions has clearly prohibited such prosecutions for more than 50 years), modifying the immunity protection offered by Government Code Section 821.6 seems justified and appropriate.

According to the Author

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

Arguments in Support

The co-sponsors--ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California – write in support of the bill that although it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss. .. [and] despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses." They observe that, "AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss."

Arguments in Opposition

Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide."

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FISCAL COMMENTS

According to the Assembly Appropriations Committee, cost pressures (Trial Court Trust Fund) in the mid-hundreds of thousands of dollars for trial courts to hear and adjudicate civil actions for any alleged violations of existing abortion protections. If five cases are filed in civil court annually requiring seven to ten days (56 to 80 hours) of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $280,000 and $400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties.

VOTES

ASM JUDICIARY: 7-2-1
YES: Stone, Holden, Kalra, Maienschein, Reyes, Robert Rivas, Luz Rivas
NO: Davies, Mathis
ABS, ABST OR NV: Cunningham

ASM HEALTH: 11-3-1
YES: Wood, Aguiar-Curry, Arambula, Carrillo, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Kalra
NO: Waldron, Bigelow, Flora
ABS, ABST OR NV: Mayes

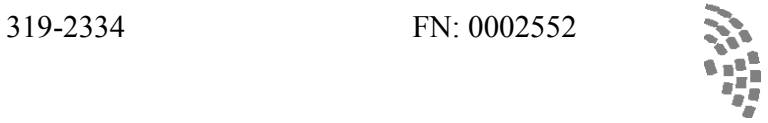
ASM APPROPRIATIONS: 12-4-0
YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson
NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: May 19, 2022

CONSULTANT: Alison Merrilees / JUD. / (916) 319-2334 FN: 0002552

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SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2223 (Wicks)
Version: May 19, 2022
Hearing Date: June 14, 2022
Fiscal: Yes
Urgency: No
AM

SUBJECT

Reproductive health

DIGEST

This bill prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as provided, and requires a court to award reasonable attorneys' fees and costs to a prevailing plaintiff upon a motion. The bill also authorizes a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be handled as a death without medical attendance.

EXECUTIVE SUMMARY

Even though existing state law does not criminalize a person's own actions that might result in a pregnancy loss, two women were recently charged and imprisoned for their pregnancy losses in California. In response to this, the bill reaffirms and strengthens protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. The bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act to: a) bring a civil action against an offending state actor, and b) bring a civil action pursuant to the Tom Bane Civil Rights Act, as provided. The bill also makes changes to statutes relating to coroner's duties in regards to fetal inquests.

The bill is sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. The

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bill is supported by Lieutenant Governor Eleni Kounalakis and numerous reproductive health advocates, public health associations, organizations advocating to improve maternal and infant health, as well as civil rights advocacy organizations. The bill is opposed by a large number of religious organizations, organizations that oppose abortion rights. If the bill is voted out of this Committee, it will be heard next in the Senate Health Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Provides that all people are by nature free and independent and have inalienable rights, including, among others, the right to privacy. (Cal. Const. art. I. § 1.)

2) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)*

3) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right to privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that:
    a) every individual has the fundamental right to choose or refuse birth control;
    b) every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions; and
    c) the state shall not deny or interfere with a person's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted (Health & Saf. Code § 123460 et. seq., § 123462.)

4) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123466.)

5) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Inquiries pursuant to this provision do not include those investigative functions usually performed by other law enforcement agencies. (Gov. Code § 27491.)

6) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health

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section data as may be required on the certificate, and shall sign the certificate in attest to these facts. (Health & Saf. Code § 103005.)

7) Provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Gov. Code § 821.6.)

8) Provides that public employees are not liable for their acts or omissions, exercising due care, in the execution or enforcement of any law, but are liable for false arrest or false imprisonment. (Gov. Code § 820.4.)

9) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct. (Civ. Code § 52.1(c).)

This bill:

1) Provides a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under the Reproductive Privacy Act (Act), based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.
    a) Specifies that a person who aids or assists a pregnant person in exercising their rights under the Act shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

2) Authorizes a party aggrieved by conduct or regulation in violation of the Act to bring a civil action against an offending state actor in a state superior court.
    a) Provides that whoever denies a right protected by the Act, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right.
    b) Authorizes a civil penalty of $25,000 to be awarded to a person denied their rights protected by the Act, and requires an action to be commenced within three years of the alleged practice in violation of the Act.

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c) Authorizes preventive relief, a including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.
d) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in such an action.
e) Specifies that Sections 825, 825.2, 825.4, and 825.6 of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, apply to any such cause of action against an employee or former employee of a public entity.

3) Authorizes a party aggrieved by conduct or regulation in violation of the Act to also bring a civil action pursuant to the Bane Civil Rights Act.
    a) Provides that, notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of the Act.
    b) Provides, for purposes of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

4) Specifically includes the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care under legislative findings and declarations that every individual possesses a fundamental right of privacy with respect to reproductive decisions.

5) Deletes the existing duty of the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.
    a) Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death certain things may not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus.
    b) Repeals a provision of law requiring all other fetal deaths required to be registered under provisions of law related to registering fetal deaths to be be handled as deaths without medical attendance.

6) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law and it is performed by someone other than the pregnant person.

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7) Changes gendered terminology in relevant code sections and eliminates the phrase "crime against nature" from existing code.

8) Makes various legislative findings and declarations.

COMMENTS

1. Stated need for the bill

The author writes:

> A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes.
>
> Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss.
>
> AB 2223 protects reproductive freedom and decisionmaking by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

2. Reproductive freedom

a. Reproductive freedom is a fundamental right in California

The California Supreme Court held in 1969 that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)* Existing California statutory law provides, under the Reproductive Privacy Act, that that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and the right to choose to bear a child or to choose to obtain an abortion. (Health & Safe. Code § 123462(a)-(b).) The Act further provides that it is the public policy of the state that the state shall not deny or interfere with a person's fundamental right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the pregnant person. (Health & Safe. Code § 123462(c) & § 123466.) In 2019 Governor Newsom issued a proclamation reaffirming California's commitment to

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making reproductive freedom a fundamental right in response to the numerous attacks on reproductive rights across the nation.[1]

b. Access to abortion is a constitutional right under Roe v. Wade – for now

Roe v. Wade is the landmark U.S. Supreme Court decision holding that the implied constitutional right to privacy extends to a person's decision whether to terminate a pregnancy; while allowing that some state regulation of abortion access could be permissible. ((1973) 410 U.S. 113.) Specifically, the Court found for the first time that the constitutional right to privacy is "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." *Roe* has been one of the most debated Supreme Court decisions, and its application and validity continue to be challenged. For example, in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) 505 U.S. 833, the Court reaffirmed the basic holding of *Roe,* yet also permitted states to impose restrictions on abortion as long as those restrictions do not create an undue burden on a person's right to choose to terminate a pregnancy. Most significantly is the currently pending case of *Dobbs v. Jackson Women's Health* where the court is deciding whether all pre-viability prohibitions on elective abortions are unconstitutional. (*Dobbs v. Jackson Women's Health* (2021) ___U.S.___ (141 S.Ct. 2619).)

On May 3, 2022, Politico reported that that the Court had voted to strike down the holding in *Roe* and *Casey* according to a leaked draft of the initial majority opinion, which was written by Justice Alito.[2] The opinion has not been officially published but an official opinion in the case is expected by the end of the Court's term in June 2022. In the leaked opinion, the majority upholds the Mississippi law finding that, contrary to 50 years of precedent, there is no fundamental constitutional right to have an abortion. The opinion further provides that states should be allowed to decide how to regulate abortion and that a strong presumption of validity should be afforded to those state laws.[3]

c. New challenges to exercising one's constitutional right to an abortion

Recently, Texas perniciously enacted a law with an enforcement scheme that was designed to avoid judicial scrutiny of its clearly unconstitutional provisions under the holding of *Roe* and *Casey*.[4] Texas abortion providers filed a case in an attempt to stop the

[1] California Proclamation on Reproductive Freedom (May 31, 2019) available at https://www.gov.ca.gov/wp-content/uploads/2019/05/Proclamation-on-Reproductive-Freedom.pdf.
[2] Josh Gerstein and Alexander Ward, *Supreme Court has voted to overturn abortion rights, draft opinion shows*, Politico (May, 3, 2022), available at https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473.
[3] Leaked 1st Draft of *Dobbs v. Jackson Women's Health* (2022) _ U.S. _ (141 S.Ct. 2619) at p. 66, as reported by Politico (May 2, 2022), available at https://www.politico.com/news/2022/05/02/read-justice-alito-initial-abortion-opinion-overturn-roe-v-wade-pdf-00029504 (as of June 4, 2022).
[4] *See Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, at 543 (conc. opn. Roberts, C.J., Breyer, Sotomayor, & Kagan) that states Texas has passed a law that is contrary to *Roe* and *Casey* because it has

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law before it took effect seeking pre-enforcement review of the law and an injunction barring its enforcement. On certiorari from the Fifth Circuit, the U.S. Supreme Court held that a pre-enforcement challenge to the law under the U.S. Constitution may only proceed against certain defendants but not others.[5] The court did not address whether the law was constitutionally sound. However, the court's ruling essentially insulated the private enforcement of the law from challenge, allowing the law to remain in effect. The inability to challenge the law pre-enforcement allows it to stand as an ominous threat to all persons seeking or performing an abortion. If *Roe* is overturned by the Court, the Texas law may very well be found to be constitutional under the holding of *Dobbs*.

The Texas law prohibits a physician from knowingly performing or inducing an abortion on a pregnant woman if the physician detected a fetal heartbeat for the unborn child, as specified, or failed to perform a test to detect a fetal heartbeat. (Tex. Health & Safety Code § 171.201 et seq. (enacted through Texas Senate Bill 8).) This law essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period, which is before many people even realize they are pregnant and occurs months before fetal viability.[6] It should be noted that proponents of these laws refer to them as fetal heartbeat laws but medical professionals who specialize in reproductive health believe this is misleading, noting that at six weeks "'valves [of the heart] don't exist' and that the 'flickering we're seeing on the ultrasound that early in the development of the pregnancy is actually electrical activity, and the sound that you "hear" is actually manufactured by the ultrasound machine' and 'in no way is [it] detecting a functional cardiovascular system or a functional heart.'"[7]

The Texas law has far-reaching implications, not solely for the person receiving an abortion or performing abortion services. This is evidenced in the provisions that prohibit anyone from "aiding and abetting" a person in obtaining an abortion, which could implicate and impose significant civil liability upon a person providing transportation to or from an abortion clinic, a person donating to a fund to assist individuals receiving an abortion, or even a person who simply discusses getting an abortion with someone. (Tex. Health & Safety Code § 171.208.) The Texas law provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action to enforce its provisions, which includes liability of $10,000 plus costs and fees if a plaintiff prevails while a defendant is

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"the effect of denying the exercise of what we have held is a right protected under the Federal Constitution" and was "designed to shield its unconstitutional law from judicial review." (footnote omitted).

[5] *Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, 530.

[6] *See Whole Woman's Health v. Jackson* (2021) 141 S. Ct. 2494, at 24998 (dis. opn. Sotomayor, Breyer, & Kagan).

[7] Selena Simmins-Duffin & Carrie Feibel, *The Texas Abortion Ban Hinges On 'Fetal Heartbeat.' Doctors Call That Misleading*, NPR (May 3, 2022), available at https://www.npr.org/sections/health-shots/2021/09/02/1033727679/fetal-heartbeat-isnt-a-medical-term-but-its-still-used-in-laws-on-abortion.

prohibited from recovering their own costs and fees if they prevail. (*Id*. at § 171.201(b) & (i).) Other states are already following suit. Idaho enacted a similar law via Idaho Senate Bill 1309; however, the implementation of that bill has been stayed by the Idaho Supreme Court pending further action of that court.[8] Similar legislation has also been introduced in Arizona, Florida, Minnesota, and Wisconsin.[9] In Missouri, an amendment was introduced that expressly allows civil suits to punish those who would help a person obtain an abortion out of state.[10]

d. Two women were imprisoned for the death of their unborn fetus even though California law prohibits this

California's murder statute provides that murder is the unlawful killing of a human being, or a fetus, with malice aforethought but specifically provides that it does not apply when "the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Pen. Code § 187(a) & (b)(3). However, two women were recently charged and imprisoned for their pregnancy losses in California.[11] Eventually their charges were dismissed, but not until after one of the woman spent 16 months in jail and the other nearly four years.[12] One of the District Attorneys has already avowed to refile charges.

As noted in a press release from the Attorney General's Office:

> In December 2017, Ms. Perez suffered a stillbirth at a hospital in Kings County. Shortly after, she was wrongfully charged by the District Attorney with murder under California Penal Code section 187 (PC 187), allegedly for causing the death of a fetus through drug use. To avoid the potential penalties associated with that murder charge, Ms. Perez originally pled to a voluntary manslaughter charge under California Penal Code section 192 (PC 192) and was sentenced to 11 years in prison. During the course of Ms. Perez's challenges to her convictions, Attorney General Bonta argued that both the text of the statutes and evidence of the intent of the Legislature confirm that California's laws do not criminalize a person's own actions that might result in a pregnancy loss.

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[8] Order Granting Motion to Reconsider, Idaho Supreme Court, Docket No. 49615-2022, Apr. 8, 2022 *available at https://coi.isc.idaho.gov/docs/Supreme/49615-2022/040822%20Order%20Granting%20Motion%20to%20Reconsider.pdf*.

[9] Alison Durkee, *Idaho Enacts Law Copying Texas' Abortion Ban – And These States Might Be Next*, Forbes (Mar. 23, 2022) available at https://www.forbes.com/sites/alisondurkee/2022/03/23/idaho-enacts-law-copying-texas-abortion-ban---and-these-states-might-be-next/?sh=340dc49425c0.

[10] Caroline Kirchener, *Missouri lawmaker seeks to stop residents from obtaining abortion out of state*, Washington Post (Mar. 8, 2022), available at https://www.washingtonpost.com/politics/2022/03/08/missouri-abortion-ban-texas-supreme-court/.

[11] Sam Levin, *She was jailed for losing a pregnancy. Her nightmare could become more common*, The Guardian (Jun. 4, 2022), available at https://www.theguardian.com/us-news/2022/jun/03/california-stillborn-prosecution-roe-v-wade; Nigel Duara, *Prosecutor vows to refile murder charge against woman who delivered stillbirth*, CalMatter (May 10, 2022), available at https://calmatters.org/justice/2022/05/stillbirth-murder-perez-prosecutor-abortion/.

[12] *Ibid*.

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> In March 2022, the Kings County Superior Court issued a decision ruling that the conviction under PC 192 is unlawful and ordered further proceedings in superior court. The court directed the parties to appear for a subsequent hearing that would have allowed Ms. Perez to argue that murder under PC 187 does not cover the conduct or omissions of pregnant persons resulting in stillbirth. Today, the Kings County District Attorney entirely dismissed the charge originally brought against Ms. Perez.[13]

Existing state law provides that all fetal deaths at or after 20 weeks, with the exception of abortions, are treated as "unattended deaths" and require a coroner to investigate. According to the sponsors of the bill these provisions lead to health care providers and institutions reporting people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions:

> This threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities[14] and also more likely to be under scrutiny of punitive state systems.[15] It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

3. <u>The bill seeks to strengthen the right reproductive freedom</u>

This bill, in response to all the issues raised above, seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is protected.

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[13] Attorney General, *Attorney General Bonta Issues Statement on Dismissal of Murder Charge Against Adora Perez for Loss of Pregnancy* (May 9, 2022), available at https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-statement-dismissal-murder-charge-against-adora.
[14] E.g., Pruitt et al. Racial and Ethnic Disparities in Fetal Deaths — United States, 2015–2017, 69 MMWR Morb Mortal Wkly Rep 1277 (2020).
[15] See Hinton et al., Vera Institute of Justice Evidence Brief, An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System (May 2018); Bridges, Privacy Rights and Public Families, 34 Harvard J. L. & Gender 113 (2011); Children's Bureau, U.S. Dept. of Health & Human Servs., Child Welfare Practice to Address Racial Disproportionality and Disparity (April 2021).

a. Authorizes a private right of action for violation of rights under the Reproductive Privacy Act

The bill authorizes a civil action against an offending state actor in state superior court for violating rights protected under the Reproductive Privacy Act, with the goal of allowing persons who have had their rights violated by a state actor to seek some accountability. Specifically the bill:

- Authorizes a party aggrieved by conduct or regulation in violation of the Act to bring a civil action against an offending state actor in a state superior court.
- Provides that whoever denies a right protected by the Act, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right.
- Authorizes a civil penalty of $25,000 to be awarded to a person denied their rights protected by the Act, and requires an action to be commenced within three years of the alleged practice in violation of the Act.
- Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in such an action.
- Specifies that Sections 825, 825.2, 825.4, and 825.6 of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, apply to any such cause of action against an employee or former employee of a public entity.
- Authorizes preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct.

Additionally, the bill specifically includes the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care within the legislative findings and declarations of the Reproductive Privacy Act that every individual possesses a fundamental right of privacy with respect to reproductive decisions. The bill also restates in the Reproductive Privacy Act that a person shall not be subject to civil or criminal liability or penalty, or be otherwise deprived of their rights under that act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

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b. Authorizes cause of action under the Bane Civil Rights Act for violation of rights under the Reproductive Privacy Act

The Bane Act provides a right of action against a person who interferes with the rights of an individual afforded by the United States and California constitutions, and other federal and state laws. The Bane Act states that the interference, or attempted interference, with an individual's rights must be by "threat, intimidation, or coercion." An action can be brought by the Attorney General or any district attorney or city attorney in California for injunctive and other equitable relief, "in order to protect the peaceable exercise or enjoyment of the right or rights secured." The prosecuting entity may also seek a civil penalty of $25,000 to be assessed individually against each person violating this law. Such penalties are provided to the individuals whose rights are determined to have been violated.

Last year in SB 2 (Bradford, Ch. 409, Stats. 2021), the Bane Act was amended to provide that the immunity provisions in Government Code sections 821.6, 844.6, and 845.6 do not apply to Bane Act claims brought against any peace officer or custodial officer, or directly against a public entity that employs such officers. Section 821.6 provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause." The courts have interpreted this section to grant extremely broad immunity to prosecutors and their discretionary acts, including whether to initiate criminal charges. In *Sullivan v. County of Los Angeles* (1974) 12 Cal. 3d 710, the California Supreme Court interpreted section 821.6 as providing immunity of public employees against malicious prosecution claims and noted that "no statute imposes liability on public entities for malicious prosecution." as "confining its reach to malicious prosecution actions." (*Id.* at p. 720.)

This bill specifically authorizes a person to bring an action under the Bane Act for violations of the Reproductive Privacy Act. A person could bring such an action already; however, the bill makes several changes to the existing provisions of the Bane Act to address the unique circumstances the bill is trying to address. First, the bill specifies that, for purposes of establishing liability, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act. Second, the bill provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to the Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of the Reproductive Privacy Act.

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As the Assembly Judiciary Committee analysis notes, the broad immunity granted by Section 821.6 of the Government Code:

> […] has given inadequate recourse to plaintiffs harmed (including by being imprisoned for decades) by unconscionable prosecutorial misconduct, including fabricating evidence and negotiating a plea deal for which there clearly is no factual basis (such as a manslaughter conviction based upon the death of an unborn fetus). In the *Perez* case,[referenced] […] above, it means that [Ms. Perez] has no recourse after spending 11 years in prison, locked up for a crime that does not exist, other than pursuing an inadequate amount of compensation from the state fund for erroneously convicted persons.[16]

c. Changes statutes related to coroner's duties regarding fetal deaths

The bill deletes the existing duty of the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion by repealing Section 103000 of the Health and Safety Code. The bill clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death certain information, such as the time of fetal death and the direct causes of the fetal death, cannot be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. The author may wish to clarify that this change is not intended to prevent the information included by the coroner from being used to support a criminal prosecution when the fetal death was not the result of an act solicited, aided, abetted, or consented to by the mother of the fetus to align the bill's provisions more closely with the author's stated intent and the current provisions in Section 187 of the Penal Code.[17]

4. Statements in support

The sponsors of the bill—ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California—write in support:

> […] It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their

[16] Asm. Judiciary Comm. Analysis of Asm. Bill 2223 (2021-2022 Reg. Sess.) as amended Mar. 17, 2022 at p. 13.

[17] A civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian Enterprises, Inc.* (1991) 234 CA3d 1103.)

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> pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again. […]
>
> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.
>
> It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.
>
> AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

5. Statements in opposition

The Right to Life League writes in opposition:

> In its attempt to protect women from prosecution for abortion, AB 2223's overbroad language creates a host of unforeseen legal ramifications. The bill potentially de-regulates abortion and overrides existing medical protections for women by creating a class of cooperating individuals unaccountable to state licensing agencies or regulations.
>
> AB 2223 goes much further than simply shielding pregnant people from prosecution; it provides total civil and criminal immunity for the actions (whether legal or illegal) of anyone who aids and assists the pregnant person from civil and criminal liability - so long as the pregnant person consents.
>
> AB 2223 will chill proper investigations of abortion cooperators (not just the pregnant person) by granting penalties, including attorney's fees against anyone who even threatens an investigation including law enforcement, medical professionals and mandated reporters.
>
> AB 2223 should be rejected as incompatible with existing laws protecting women's health. (emphasis omitted)

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SUPPORT

ACLU California Action (sponsor)
Black Women for Wellness Action Project (sponsor)
California Latinas for Reproductive Justice (sponsor)
If/When/How: Lawyering for Reproductive Justice (sponsor)
NARAL Pro-choice California (sponsor)
Planned Parenthood Affiliates of California (sponsor)
Access Reproductive Justice
American Association of University Women
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice – California
California Coalition for Women Prisoners
California for Safety and Justice
California Nurse Midwives Association (CNMA)
California Women's Law Center
Californians United for a Responsible Budget
Citizens for Choice
Courage California
Culver City Democratic Club
Disability Rights California
Ella Baker Center for Human Rights
Fund Her
Initiate Justice
Lieutenant Governor Eleni Kounalakis
Nevada County Citizens for Choice
National Center for Youth Law
National Health Law Program
Physicians for Reproductive Health
Public Health Advocates
Smart Justice California
Stronger Women United
Survived & Punished
Tides Advocacy
Urge: Unite for Reproductive & Gender Equity
Voices for Progress Education Fund
Women's Foundation California

OPPOSITION

Americans United for Life
California Capitol Connection
California Family Council
California ProLife Council
Californians for Life

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Calvary Chapel of Placerville
Capitol Resource Institute
Catholic Families 4 Freedom CA
Children's Health Defense, California Chapter
City of Fillmore
Concerned Women for America
Defending Constitutional Rights
Eagle Forum of California
Faith Baptist Church of Wheatland
Feather River Tea Party Patriots
Frederick Douglass Foundation of California
Freedom of Religion – United Solution
Liberty Baptist Church of Norwalk, CA
NorthCreek Church
Pacific Justice Institute
Real Impact
Right to Life League
Right to Life of Kern County
Siskiyou Conservative Republicans
The American Council for Evangelicals
The Center for Bio-Ethical Reform
The National Center for Law & Policy
The Salt and Light Council
The Turning Point Church
Traditional Values for Next Generations

RELATED LEGISLATION

Pending Legislation:

SCA 10 (Atkins & Rendon, 2022) expressly provides that the state shall not deny or interfere with an individual's reproductive freedom in their most intimate choices, which includes the fundamental right to choose to have an abortion and the fundamental right to choose or refuse contraceptives. SCA 10 is set to be heard on the same day as this bill.

AB 1666 (Bauer-Kahan, 2022) prohibits the enforcement of out-of-state fetal heartbeat abortion restriction laws in California. AB 1666 is set to be heard on the same day as this bill.

AB 2091 (Mia Bonta, 2022), among other things, prohibits compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another

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state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action. AB 2091 is set to be heard on the same day as this bill.

Prior Legislation:

SB 2 (Bradford, Ch. 409, Stats. 2021), see comment 3)b) above.

SB 1301 (Sheila Kuehl, Ch. 385, Stat. 2002) enacted the Reproductive Privacy Act, which provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and the fundamental right to choose to bear a child or obtain an abortion.

PRIOR VOTES:

Assembly Floor (Ayes 48, Noes 21)
Assembly Appropriations Committee (Ayes 12, Noes 4)
Assembly Health Committee (Ayes 11, Noes 3)
Assembly Judiciary Committee (Ayes 7, Noes 2)

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SENATE COMMITTEE ON HEALTH
Senator Dr. Richard Pan, Chair

BILL NO: AB 2223
AUTHOR: Wicks
VERSION: June 20, 2022
HEARING DATE: June 29, 2022
CONSULTANT: Melanie Moreno

SUBJECT: Reproductive health

SUMMARY: Deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be treated as a death without medical attendance. Prohibits using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person. Prohibits a person from being subject to civil or criminal liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. Clarifies that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. Authorizes an individual aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor.

Existing law:

1) Requires a coroner to inquire into and determine the circumstances, manner, and cause of certain types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion, except for investigative functions usually performed by other law enforcement agencies. [HSC §27491]

2) Requires a coroner, within three days after examination of a fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and to sign the certificate to attest to these facts. [HSC §103005]

3) Establishes the Reproductive Privacy Act, which prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. [HSC §123460, et seq.]

4) Makes the performance of an abortion unauthorized if either of the following is true:

   a) The person performing the abortion is not a health care provider authorized to perform an abortion, as specified; or,
   b) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable, and, continuation of the pregnancy posed no risk to life or health of the pregnant woman. [HSC §123468]

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This bill:

1) Deletes the requirement for a coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

2) Repeals a provision of existing law requiring certain fetal deaths registered by a coroner to be handled as are deaths without medical attendance. Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, is prohibited from being used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus.

3) Prohibits a person from being subject to civil or criminal liability or penalty, or otherwise deprived of their rights under the Reproductive Privacy Act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

4) Prohibits a person who aids or assists a pregnant person in exercising their rights under the Reproductive Privacy Act from being subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

5) Clarifies that an abortion is unauthorized if it meets the criteria specified in 4) of existing law above, and it is performed by someone other than the pregnant person.

6) Permits a party whose reproductive rights are protected by the Reproductive Privacy Act and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of it to bring a civil action against an offending state actor in a state superior court.

7) Makes whoever denies a right protected by the Reproductive Privacy Act, or aids, incites, or conspires in that denial, liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages;
   b) A civil penalty of $25,000, to be awarded to the person denied the right; and,
   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights;

8) Requires a court, upon a motion, to award reasonable attorney's fees and costs, as specified, to a plaintiff who is a prevailing party in an action brought pursuant to this bill. Requires an action under this bill to be commenced within three years of the alleged practice violation. Permits a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act to also bring a civil action under the Bane Civil Rights Act (Bane Act), as specified. Provides, for purposes of establishing liability, that the criminal investigation, arrest, or

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prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

9) Adds to existing legislative findings and declarations contained in the Reproductive Privacy Act regarding a fundamental right to privacy with respect to personal reproductive decisions, that this entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

FISCAL EFFECT: According to the Assembly Appropriations Committee, cost pressures (Trial Court Trust Fund) in the mid-hundreds of thousands of dollars for trial courts to hear and adjudicate civil actions for any alleged violations of existing abortion protections. If five cases are filed in civil court annually requiring seven to ten days (56 to 80 hours) of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $280,000 and $400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties.

PRIOR VOTES:

Assembly Floor:	48 - 21
Assembly Appropriations Committee:	12 - 4
Assembly Judiciary Committee:	7 - 2

COMMENTS:

1) *Author's statement.* According to the author, a critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss. This bill protects reproductive freedom and decision making by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

2) *Abortion*. According to the Center for Disease Control and Prevention (CDC), a legal induced abortion is defined as an intervention performed by a licensed clinician that is intended to terminate an ongoing pregnancy. Ending a pregnancy with medications is an option for women who are less than ten weeks pregnant and would like to have an abortion at home with a less invasive procedure. The CDC reports that a total of 629,898 abortions were reported nationally from 49 reporting areas in 2019. From 2018 to 2019, the total number of abortions increased 2%, and from 2010 to 2019, the total number of reported abortions decreased 18%. In 2019, women in their 20s accounted for more than half of abortions (56.9%). By contrast, adolescents under 15 years (0.2%) and women over 40 (3.7%) years accounted for the lowest percentages of abortions. In 2019, nearly all abortions (92.7%) were performed at or less than 13 weeks gestation. In 2019, the highest proportion of abortions were performed by surgical abortion at or less than13 weeks gestation (49.0%), followed by

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early medication abortion at or less than 9 weeks' gestation (42.3%), surgical abortion at more than 13 weeks gestation (7.2%), and medication abortion at more than nine weeks gestation (1.4%). In 2018, the most recent year for which data were reviewed for pregnancy-related deaths, two women died as a result of complications from legal induced abortion.

According to the Guttmacher Institute, in 2017, there were 1,587 facilities providing abortion in the U.S., representing a 5% decrease from the 1,671 facilities in 2014. Sixteen percent of facilities in 2017 were abortion clinics (i.e., clinics where more than half of all patient visits were for abortion), 35% were nonspecialized clinics, 33% were hospitals and 16% were private physicians' offices. Sixty percent of all abortions were provided at abortion clinics, 35% at nonspecialized clinics, 3% at hospitals and 1% at physicians' offices. In 2017, 89% of U.S. counties had no clinics providing abortions. Any of the 38% of reproductive-age women living in those counties who needed an abortion during that time would have had to travel out of their county to obtain an abortion. Of patients who had an abortion in 2014, one-third had to travel more than 25 miles one way to reach a facility.

3) *California data*. According to the Guttmacher Institute, in 2017, 132,680 abortions were provided in California, though not all abortions that occurred in California were provided to state residents. There was a 16% decline in the abortion rate in California between 2014 and 2017, from 19.5 to 16.4 abortions per 1,000 women of reproductive age. Abortions in California represent 15.4% of all abortions in the United States. There were 419 facilities providing abortion in California in 2017, and 161 of those were clinics. These numbers represent a 6% increase in clinics from 2014, when there were 512 abortion-providing facilities overall, of which 152 were clinics. In 2017, some 40% of California counties had no clinics that provided abortions, and 3% of California women lived in those counties.

4) *Other states.* According to a January 2022 report from the Guttmacher Institute, 108 abortion restrictions had been enacted in 19 states in 2021. This is the highest total in any year since abortion rights were affirmed by the US Supreme Court in 1973. In addition to abortion bans of all types, restrictions on medication abortion were passed by many state legislatures prior to the U.S. Supreme Court striking down Roe v. Wade on June 24, 2022. Some examples include:

   a) Abortion bans: Texas' six-week abortion ban drastically reduced access to care starting on September 1, 2021, after the US Supreme Court refused to block it. Since 2013, 13 states have enacted bans on abortion at six or eight weeks of pregnancy. Texas' ban is the only one in effect. In the other states, courts have blocked enforcement or the ban has yet to take effect.

      Several states enacted other types of bans this year. Among these, only the South Dakota prohibition is in effect. Arkansas enacted a ban that prohibits all abortions except in cases of life endangerment, and Oklahoma enacted a prohibition that has exceptions only if the patient's life is endangered or there are serious threats to the patient's physical health. Montana enacted an abortion ban at 20 weeks after the last menstrual period, while New Hampshire adopted a ban on abortion at 24 weeks. Arizona enacted an abortion ban in cases of genetic indication, and South Dakota banned abortion if the fetus has Down syndrome. Oklahoma and Texas also enacted bans that would go into effect if Roe is overturned.

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b) Medication abortion restrictions: Now that telehealth has been integrated into medical care as part of the COVID-19 pandemic response—and the US Food and Drug Administration (FDA) has eased some of the restrictions placed on medication abortion by allowing mailing of the pills and expanding access through pharmacies—abortion opponents are enacting additional burdensome and medically unnecessary restrictions on medication abortion. Many of the 2021 restrictions are based on existing and previous FDA protocols, but some states have attempted to further impede access to care. In 2021, eight states (Arizona, Arkansas, Indiana, Montana, Ohio, Oklahoma, South Dakota and Texas) enacted restrictions on medication abortion. Some of these restrictions are not in effect because they have been challenged in court, including the Montana, Ohio and Oklahoma restrictions.

5) *California Future of Abortion Council (CA FAB Council).* According to the CA FAB Council website, in September 2021, with the constitutional right to abortion facing the most severe threats since Roe v. Wade, the CA FAB Council convened to identify the most pressing barriers to care for patients seeking abortion services in California. More than 40 organizations representing sexual and reproductive health care providers, reproductive rights and reproductive justice advocacy organizations, legal and policy experts, researchers, and advocates, with the support of California policymakers, joined together to recommend policy proposals supporting equitable and affordable access to abortion care for Californians and all who seek care here. The CA FAB Council made 45 policy recommendations relating to seven main areas of focus: a) Investment in abortion funds, direct practical support, and infrastructure to support patients seeking abortion care; b) Cost barriers and adequate reimbursement for abortion and abortion-related services; c) Investment in a diverse California abortion provider workforce and an increase in training opportunities for BIPOC and others historically excluded from health care professions; d) Reducing administrative and institutional barriers to care; e) Legal protections for abortion patients, providers, and supporting organizations, and individuals; f) Addressing misinformation and disinformation and ensuring access to medically accurate, culturally relevant, and inclusive education about abortion and access to care is widely and equitably available; and g) Efforts to collect data, conduct research, and distribute reports to assess and inform abortion care and education needs in California.

6) *Double referral.* This bill was heard in the Senate Judiciary Committee on June 14, 2022, and passed with a 9-2 vote.

7) *Related legislation. Related legislation.* SB 1142 (Caballero) requires the California Health and Human Services Agency (CHHSA), or a designated entity, to establish a website where the public can access specified information about abortion services. SB 1142 establishes the Abortion Practical Support Fund (Fund) for the purpose of providing grants to nonprofit entities for abortion supportive services and to public research institutions for research to support equitable access to abortion. Requires the Commission on the Status of Women and Girls to administer the Fund and to provide grants to increase access to abortion services. *SB 1142 passed the Assembly Health Committee with an 11-3 vote on June 21, 2022.*

SB 1245 (Kamlager) establishes the Los Angeles (LA) County Abortion Access Safe Haven Pilot Program for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in LA County. *SB 1245 passed the Assembly Health Committee with an 11-3 vote on June 21, 2022.*

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AB 2205 (Carillo) requires health plans and insurers providing a qualified health plan through Covered California to report the total amount of funds for abortion services maintained in a segregated account pursuant to federal law. AB 2205 *passed by a vote of 7-2 when it was heard in this Committee on June 8, 2022.*

AB 2134 (Weber): a) establishes the California Reproductive Health Equity Program (Program) to ensure abortion and contraception services are affordable for and accessible to all patients; b) permits Medi-Cal providers to apply for grant funding to provide abortion and contraception at no cost to certain uninsured or underinsured individuals; c) requires health plans and insurers that provide coverage to employees of a religious employer that does not include coverage for abortion and contraception to provide written information on the excluded benefits and services and that the abortion and contraception benefits and services may be available at no cost through the Program; d) requires an employer that provides health coverage that does not include coverage for abortion and contraception to provide the same information in writing to its employees; and, e) requires the Department of Industrial Relations to impose an annual fee on those employers, excluding religious employers, and to deposit revenues into the California Reproductive Health Equity Fund. *AB 2134 passed by a vote of 8-1 when it was heard in this Committee on June 22, 2022.*

AB 2320 (C. Garcia) requires the California Health and Human Services agency, or its designated entity, to establish and administer a pilot program to direct funds to primary care clinics that provide reproductive health care services in five counties that agree to participate. *AB 2320 passed by a vote of 7-2 when it was heard in this Committee on June 15, 2022.*

AB 2586 (C. Garcia) Requires CDPH to convene a working group to examine the root causes of the reproductive health and sexual health inequities in the state, and requires the workgroup to submit a report to the Legislature with recommendations of how to meaningfully address and eliminate reproductive health and sexual health inequities. Establishes the California Reproductive Justice and Freedom Fund (RJ Fund), and specifies that the goal of the RJ Fund is to dismantle historic and standing systemic reproductive and sexual health inequities. Requires CDPH, upon appropriation by the Legislature, to award grants from the RJ Fund to eligible organizations over a three-year period. Requires grant recipients to use any grant funds to implement a program or fund an existing program that provides and promotes medically accurate, comprehensive reproductive and sexual health education. *AB 2586 passed by a vote of 8-1 when it was heard in this Committee on June 22, 2022.*

AB 1666 (Bauer-Kahan, Chapter 42, Statutes of 2022) prohibits the enforcement of out-of-state fetal heartbeat abortion restriction laws in California.

AB 2205 (Carillo) requires health plans and insurers providing a qualified health plan through Covered California to report the total amount of funds for abortion services maintained in a segregated account pursuant to federal law. *AB 2205 passed the Senate Health Committee by a vote of 7-2 on June 8, 2022.*

8) *Prior legislation.* SB 245 (Gonzalez, Chapter 11, Statutes of 2022) prohibits cost-sharing, restrictions, delays, prior authorization and annual or lifetime limits on all abortion services.

AB 133 (Committee on Budget, Chapter 143, Statutes of 2021) requires Covered California, upon appropriation by the Legislature, to make payments to qualified health plan issuers that

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equal the cost of providing abortion services for which federal funding is prohibited to individuals enrolled in a qualified health plan through Covered California in the individual market. Prohibits the payments from being less than $1 per enrollee per month.

SB 24 (Leyva, Chapter 740, Statutes of 2019) requires University of California or California State University student health centers to offer abortion by medication onsite.

AB 775 (Chiu and Burke, Chapter 700, Statutes of 2015) enacted the Reproductive Freedom, Accountability, Comprehensive Care, and Transparency (FACT) Act and required clinics and other facilities that provide family planning or pregnancy-related services to provide specified notices to clients about available family planning services (including all FDA-approved methods of contraception), prenatal care, and abortion for eligible women. AB 775 also required specified "unlicensed facilities" (crisis pregnancy centers) to disseminate to clients on site and in any print and digital advertising materials the following notice: "This facility is not licensed as a medical facility by the State of California and has no licensed medical provider who provides or directly supervises the provision of services." *AB 775 was struck down by the U.S. Supreme Court in June 2018.*

SB 1053 (Mitchell, Chapter 576, Statutes of 2014) requires health plans and insurers to cover a variety of FDA-approved contraceptive drugs, devices, and products for women, as well as related counseling and follow-up services and voluntary sterilization procedures. SB 1053 prohibits cost-sharing, restrictions, or delays in the provision of covered services, but allows cost-sharing and utilization management procedures if a therapeutic equivalent drug or device is offered under the plan or policy with no cost sharing.

SB 1301 (Kuehl, Chapter 385, Statutes of 2002) enacts the Reproductive Privacy Act.

9) *Support.* This bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. The co-sponsors state that it is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again. The co-sponsors note that the threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible. The co-sponsors conclude that states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

10) *Opposition*. The California Family Council (CFC) is opposed to this bill and states that this bill would legalize infanticide by the mother or any accomplice. Killing or letting a newborn

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die will no longer have any criminal penalties associated with it if this bill passes. It is the government's job to protect vulnerable human beings from harm. Newborns are valuable human beings who should be protected and that doesn't change simply because their mother doesn't want them. California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. CFC concludes that mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location.

Traditional Values for Next Generations (TVNG) is opposed to this bill and states that California may follow the steps of former Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, and could not be prosecuted. This bill expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. That means, there is a great possibility to remove much needed civil and criminal penalties for killing babies born alive under almost any circumstances. This is the most extreme, anti-life bill in California's history. TVNG concludes that this bill legalizes infanticide and we absolutely cannot agree with the use of euphemisms like "personal reproductive decisions" and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb.

SUPPORT AND OPPOSITION:

Support: ACLU California Action (co-sponsor)
Black Women for Wellness Action Project (co-sponsor)
California Latinas for Reproductive Justice (co-sponsor)
If/when/how: Lawyering for Reproductive Justice (co-sponsor)
NARAL Pro-Choice California (co-sponsor)
Planned Parenthood Affiliates of California (co-sponsor)
ACCESS Reproductive Justice
American Atheists
American Association of University Women
American College of Obstetricians and Gynecologists District IX
California Medical Association
California Nurses Association
American Association of University Women, California Chapter
Asian American's Advancing Justice
California Coalition for Women Prisoners
California Nurse Midwives Association
California ProLifeCouncil
Californians for Safety and Justice
Californians United for a Responsible Budget
Citizens for Choice
Citizens for Choice Nevada County
City of Los Angeles
Courage California
Culver City Democratic Club
Disability Rights California
Eleni Kounalakis – Lieutenant Governor of California
Ella Baker Center for Human Rights
Initiate Justice

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League of Women Voters of California
National Center for Youth Law
National Health Law Program
National Center for Youth Law
Physicians for Reproductive Health
Public Health Advocates
San Francisco City Attorneys Office
Smart Justice California
Stronger Women United
Survived and Punished
Tides Advocacy
URGE: Unite for Reproductive & Gender Equity
Voices for Progress
Western Center on Law and Poverty
Women's Foundation California
Women's Health Specialists

Oppose: American Center for Law and Justice
American Council for Evangelicals
American's United for Life
California Capitol Connection
California Family Council
California ProLife Council
Californians for Life
Capitol Resource Institute
Catholic Families 4 Freedom CA
Children's Health Defense California Chapter
Concerned Women for America
Cure America Action
Eagle Forum of California
Faith Baptist Church of Wheatland
Frederick Douglas Foundation of California
Liberty Baptist Church
Life Legal Defense Foundation
National Center for Law and Policy
Pacific Justice Institute
Right to Life League
Siskyou Conservative Republicans
Traditional Values for Next Generations
32 Individuals

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SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2223 (Wicks) - Reproductive health

Version: June 20, 2022
Urgency: No
Hearing Date: August 1, 2022

Policy Vote: JUD. 9 - 2, HEALTH 7 - 2
Mandate: No
Consultant: Matthew Fleming

Bill Summary: AB 2223 would, in addition to other provisions, prohibit a person from being subject to civil or criminal liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights.

Fiscal Impact:

- DOJ: The Department of Justice (DOJ) reports costs of $27,000 in Fiscal Year (FY) 2022-23, $57,000 in FY 2023-24 and FY 2024-24, and $27,000 in FY 2025-26 (General Fund).

- Judicial Branch: Unknown, potentially significant cost pressures due to increased court workload to adjudicate civil actions that are filed as a result of this measure (Special Fund – Trial Court Trust Fund, General Fund).

Background: The California Supreme Court held in 1969 that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.) Existing California statutory law provides, under the Reproductive Privacy Act, that that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and the right to choose to bear a child or to choose to obtain an abortion. The Act further provides that it is the public policy of the state that the state shall not deny or interfere with a person's fundamental right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the pregnant person.

In 1973, the U.S. Supreme Court decided *Roe v. Wade* (1973) 410 U.S. 113). In *Roe*, the Court held that access to an abortion before fetal viability is a constitutional right. Specifically, the Court held that the implied constitutional right to privacy extends to a person's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. This summer, on June 24, 2022, the Supreme Court overruled *Roe*, and its progeny, *Planned Parenthood vs. Casey* (1992) 505 U.S. 833.

In *Dobbs vs. Jackson Women's Health Org.* (2022) 597 U.S. ___. The Court held that the United States Constitution does not confer a right to abortion and that the authority

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to regulate an abortion is up to the people of the states and their elected representatives. This bill is one of several legislative efforts that has been introduced in response to the *Dobbs* case.

AB 2223 would authorize a civil action against an offending state actor in state superior court for violating rights protected under the Reproductive Privacy Act, with the goal of allowing persons who have had their rights violated by a state actor to seek some accountability. The bill also includes the right to make and effectuate decisions about all matters relating to pregnancy within the legislative findings and declarations of the Reproductive Privacy Act that every individual possesses a fundamental right of privacy with respect to reproductive decisions. The bill also restates in the Reproductive Privacy Act that a person shall not be subject to civil or criminal liability or penalty, or be otherwise deprived of their rights under that act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero. The bill would also repeal existing law that requires the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

Proposed Law:

- Prohibits using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act.

- Prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights.

- Authorizes a party whose rights are protected by the Reproductive Privacy Act to bring a civil action against an offending state actor, actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act. Requires a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff.

- Authorizes a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act.

- Provides for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

- Deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion.

- Deletes the requirement that an unattended fetal death be handled as a death without medical attendance.

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- Clarifies that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Related Legislation:

- SCA 10 (Atkins) Ch. 97, Stats. of 2022, resolves to enact a constitutional amendment, expressly providing that the state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. SCA 10 has qualified for the November ballot, and will be voted on by the people of the State on November 8, 2022.

- AB 1666 (Buaer-Kahan) Ch. 42, Stats. of 2022 provides that a law of another state that authorizes a person to bring a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions, is contrary to the public policy of this state. Ab 1666 would prohibit the state from applying such laws of another state to a case or controversy heard in state court and the enforcement or satisfaction of a civil judgment received under that law.

- AB 1242, an urgency measure, would prohibit law enforcement from making an arrest for performing or aiding an abortion, and would also prohibit law enforcement from cooperating with law enforcement from another state regarding law abortions, with some exceptions. AB 1242 is pending in this Committee.

Staff Comments: According to the DOJ, the Healthcare Rights and Access Section (HRA), within the Public Rights Division, anticipates legal challenges against AB 2223. To address the increase in litigation workload, HRA will require the following resources in each fiscal year:

  - FY 2022-23: 296 Deputy Attorney General (DAG) hours
  - FY 2023-24: 592 DAG hours
  - FY 2024-25: 592 DAG hours
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Although litigation costs are speculative, the topic of abortion is arguably the most controversial legal topic of the past half century. Beginning with *Roe v. Wade*, the United States Supreme Court has heard ten cases that directly deal with the issue of abortion in the past 50 years. Thousands of abortion lawsuits have been filed in the lower courts in that same time period.

It is unknown how many additional civil actions would be brought as a result of the implementation of this bill. However, it generally costs about $8,000 to operate a courtroom for one eight-hour day. Consequently, if aggrieved parties were to file suit under the provisions of this measure and combined, those additional cases take 50 or more hours of court involvement, the cost pressures of this measure to the courts would surpass the Suspense File threshold.

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Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the 2022-23 budget includes an ongoing annual allocation of $151.5 million and a one-time allocation of $10.3 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

-- END --

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SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2223 (Wicks) - Reproductive health

Version: June 20, 2022
Urgency: No
Hearing Date: August 1, 2022

Policy Vote: JUD. 9 - 2, HEALTH 7 - 2
Mandate: No
Consultant: Matthew Fleming

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- Authorizes a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act.
- Provides for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.
- Deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion.
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It is unknown how many additional civil actions would be brought as a result of the implementation of this bill. However, it generally costs about $8,000 to operate a courtroom for one eight-hour day. Consequently, if aggrieved parties were to file suit under the provisions of this measure and combined, those additional cases take 50 or more hours of court involvement, the cost pressures of this measure to the courts would surpass the Suspense File threshold.

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California Alliance for Retired Americans®

July 27th, 2022

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol Room 412
Sacramento, CA 95814

CC: The Honorable Buffy Wicks

RE: AB 2223 (Wicks) Decriminalization of Abortion and Pregnancy Loss - Support

Chair Portantino,

The California Alliance for Retired Americans strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The California Alliance for Retired Americans (CARA) is California's largest grassroots senior advocacy organization, representing over 1,000,000 seniors and their families through our affiliated union and community organizations. The guarantee of reproductive health care rights has always been a priority for CARA and is especially so now, since the Supreme Court of the United States overturned Roe v. Wade and left it to the States to decide whether to protect these rights or not. Some may wonder why an organization for retired Americans is prioritizing the protection of reproductive health care rights. Who better than seniors remember what it was like before Roe v. Wade when the right to an abortion was not constitutionally protected? Many of us chose to have illegal abortions when pregnant or decided to continue the pregnancy, though our preference was to terminate it for a multitude of reasons. The secrecy and shame associated with pre-Roe v. Wade abortions haunt some of us to this day. We do not wish any female and their families to go through what we endured before 1973. In addition to the protection of abortion rights, we seniors may also use reproductive health care services that may no longer be available when clinics may close due to fear of the interference of the law enforcement and judicial systems.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a

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concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, the California Alliance for Retired Americans supports AB 2223 and respectfully requests your AYE vote.

Sincerely,

Hene Kelly
Chair, Legislative Committee
California Alliance for Retired Americans (CARA)

Keith Umemoto
Co-Chair, Legislative Committee
California Alliance for Retired Americans (CARA)

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

July 20, 2022

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
1021 O Street, Suite 7630
Sacramento, CA 95814

RE: AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss - Support

Dear Chair Portantino,

The California Nurse Midwives Association strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the California Nurse Midwives Association supports AB 2223.

Sincerely,

Paris Maloof-Bury
President, California Nurse Midwives Association

CC: Chair, Members and Committee Staff, Senate Appropriations Committee

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California Nurses Association
National Nurses United

OUR PATIENTS. OUR UNION. OUR VOICE.

OAKLAND
155 Grand Avenue
Suite 100
Oakland CA 94612
800-287-5021
510-663-1623

SACRAMENTO
Government Relations
980 9th Street
Suite 700
Sacramento CA 95814
916-446-5011
916-446-3690

July 15, 2022

The Honorable Anthony J. Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, California 95814

RE: AB 2223 (Wicks) – Decriminalization of Abortion and Pregnancy Loss – SUPPORT

Dear Senator Portantino,

The California Nurses Association/National Nurses United (CNA), representing more than 100,000 California registered nurses, writes in support of AB 2223 (Wicks), which protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Nurses know full well the consequences of eliminating access to family health services that extend to health dangers linked to unwanted or high-risk pregnancies, access to contraception, and the economic calamity that can be imposed on women and families already struggling in a country with massive disparities in income and wealth.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, CNA supports AB 2223 and respectfully asks for your "Aye" vote when this bill comes before you in the Senate Appropriations Committee.

Respectfully,

Curtis Lang, Jr.
Legislative Advocate
California Nurses Association/ National Nurses United

cc: Members, Senate Appropriations Committee
Assemblymember Buffy Wicks

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DEMOCRATIC PARTY
of CONTRA COSTA COUNTY

July 28, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The Democratic Party of Contra Costa County strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The Democratic Party of Contra Costa County is in strong support of reproductive freedom. This bill would ensure that no person in Contra Costa County or California will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

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AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the Democratic Party of Contra Costa County supports AB 2223.

Sincerely,

Katie Ricklefs

Katie Ricklefs, Chair
Democratic Party of Contra Costa County

CC: Chair, Members and Committee Staff, Senate Judiciary Committee
Chair, Members and Committee Staff, Senate Health Committee
Chair, Members and Committee Staff, Senate Appropriations Committee

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LEAGUE OF WOMEN VOTERS® OF CALIFORNIA

July 17, 2022

VIA Online Portal to Author and Senate Committee on Appropriations

The Honorable Buffy Wicks
California State Assembly
1021 O Street, Suite 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) – Reproductive Health – SUPPORT

Dear Assemblymember Wicks:

The League of Women Voters of California writes to support AB 2223 (Wicks), which would protect people from criminal prosecution for self-administered abortions, miscarriages, stillbirths, or infant death due to pregnancy-related causes. It further clarifies that no one will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. It makes explicit that the Reproductive Privacy Act prohibits pregnancy criminalization and creates a private right of action in civil courts for people whose rights have been violated.

The League of Women Voters of California is committed to protecting the constitutional right of privacy of individuals to make reproductive choices. Criminalization impedes choice and deters people from accessing medical care. It also has a disproportionate impact on Black, Indigenous, and other people of color due to the double-whammy of over-policing and incarceration in those communities, and the fact that racial inequities already create a higher likelihood of adverse pregnancy outcomes. Finally, criminalization inequitably burdens immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Despite existing laws that protect the right to choose in California, people have been charged with homicide for pregnancy losses. Those criminally charged have had very few ways in which to address their victimization by the legal system. As other states enact regressive laws and create barriers to reproductive health, California must ensure that the right to choose is not impeded by the criminal legal process.

The League of Women Voters of California is in strong support of AB 2223 (Wicks). Thank you for authoring this important legislation.

Sincerely,

Carol Moon Goldberg

Carol Moon Goldberg
President

921 11th Street, Suite 700 • Sacramento, CA 95814
916-442-7215 • 916-442-7362 (fax) • lwvc.org

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Los Angeles County
DEMOCRATIC PARTY

July 11, 2022

The Honorable Buffy Wicks
State Capitol
Sacramento, CA 95814

RE: AB 2223: Reproductive Health - SUPPORT

Dear Assemblymember Wicks,

The Los Angeles County Democratic Party (LACDP) considers and debates many bills submitted by legislators and organizations and has voted overwhelmingly in support of AB 2223.

California and Los Angeles County have always been at the forefront of cutting-edge and progressive policies that can lead the way for America. America calls out to be led now. Our members are outraged at the assaults on women's rights unleashed by The Supreme Court of the United States and the laws that decision has "triggered" in at least 10 Republican controlled states so far, that have stripped women of their constitutionally protected right to privacy.

AB 2223 is one of a quartet of bills the LACDP is proud to endorse which are asserting women's rights to bodily autonomy free from interference by the state and standing in opposition to the criminalization of the everyday reproductive realities of women's lives. We thank you for your leadership.

LACDP is the official governing body of the Democratic Party in the County of Los Angeles and works in cooperation with the State and National Democratic Committees. LACDP is the largest local Democratic Party entity in the United States, representing more than 3 million registered Democrats.

If the LACDP can be of assistance, please contact Elizabeth Hennes, LACDP Director of Operations at Elizabeth.Hennes@LACDP.org or 213-770-0198.

Sincerely,

Mark J. Gonzalez, Chair

533 S Fremont Ave Suite 410 Los Angeles, CA 90071 · www.lacdp.org info@lacdp.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION IN SUPPORT OF AB 2223 (WICKS) WHICH REMOVES THE REQUIREMENT THAT A CORONER INVESTIGATE DEATHS RELATED TO OR FOLLOWING A SUSPECTED SELF-INDUCED OR CRIMINAL ABORTION AND PROHIBIT USING THE CORONER'S STATEMENT ON THE CERTIFICATE OF FETAL DEATH TO ESTABLISH, BRING OR SUPPORT CRIMINAL PROSECUTION OR CIVIL CAUSE OF DAMAGES AGAINST A PERSON OR A PERSON WHO AIDS A PREGNANT PERSON

WHEREAS, reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society; and

WHEREAS, reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives; and

WHEREAS, at the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities; and

WHEREAS, across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion, and California has not been exempt despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses; and

WHEREAS, in California, the District Attorney in the County of Kings prosecuted two women for murder after they suffered stillbirths; and

WHEREAS, every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability; and

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WHEREAS, the threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions; and

WHEREAS, civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration; and

WHEREAS, existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion; and

WHEREAS, existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion; and

WHEREAS, if a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance; and

WHEREAS, existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes; and

WHEREAS, under existing law, the Reproductive Privacy Act provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions and prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person; and

WHEREAS, under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable; and

WHEREAS, this bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance; and

WHEREAS, this bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act, as specified; and

WHEREAS, this bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights; and

WHEREAS, the bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

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WHEREAS, the bill would authorize a party whose rights are protected by the Reproductive Privacy Act to bring a civil action against an offending state actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff; and

WHEREAS, the bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment; now therefore be it

RESOLVED: That the City of Oakland supports AB 2223 (Wicks); and be it

FURTHER RESOLVED: That the City Council directs the Administrator or his designee to distribute this Resolution upon its adoption to Governor Gavin Newsom, Assembly member Buffy Wicks, and state legislators representing the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

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ELENI KOUNALAKIS
LIEUTENANT GOVERNOR

July 21, 2022

The Honorable Anthony J. Portantino
Senate Appropriations Committee, Chair
State Capitol, Room 412
Sacramento CA 95814

Re: Assembly Bill 2223 (Wicks) Decriminalization of Abortion and Pregnancy Loss - SUPPORT

Dear Chair Portantino:

I am proud to **support Assembly Bill (AB) 2223,** a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

In the past two decades, at least 1,300 pregnant people have been criminally prosecuted for having miscarriages or stillbirths or self-managing an abortion. California has not been exempt despite clear law that ending or losing a pregnancy is not a crime, prosecutors have charged people with homicide offenses for pregnancy losses.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss. This bill eliminates out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, I am proud to support AB 2223. Should you have any questions regarding my support of this legislation, please do not hesitate to reach Genesis Gonzalez, Policy Analyst at genesis.gonzalez@ltg.ca.gov or by calling (916) 445-8994.

Sincerely,

Ambassador Eleni Kounalakis (RET.)
Lieutenant Governor

cc: Assemblymember Buffy Wicks

1021 O Street, Suite 8730, Sacramento, California 95814 · Phone (916) 445-8994
www.ltg.ca.gov

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Stanford
HEALTH CARE
STANFORD MEDICINE

July 29, 2022

Honorable Anthony Portantino
Chair, Senate Appropriations Committee
1021 O Street, Suite 7630
Sacramento, CA 95814

RE: **AB 2223 (Wicks) Reproductive Health.**
Stanford Health Care Position: **Support**

Dear Senator Portantino:

Stanford Health Care is pleased to support Assembly Bill 2223, legislation to ensure that no one in the state is investigated, prosecuted, or incarcerated from ending a pregnancy, or experiencing a pregnancy loss, and that their right to reproductive freedom is protected.

This bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill also prohibits the use of the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a pregnant person or a person who aids a pregnant person in exercising their rights under the Reproductive Privacy Act. We are also pleased to support legislation that authorizes a person aggrieved by a violation of the Reproductive Privacy Act to pursue civil action, and that this bill authorizes the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

Stanford Health Care thanks you for your leadership on this issue and the interest of a patient's fundamental right to privacy with respect to personal reproductive decisions. We look forward to working with you to see AB 2223 enacted into law.

Sincerely,

Jason J Hill

Jason Hill
Associate Vice President, Stanford Health Care Government Affairs Stanford University
Jjhill1@stanford.edu

cc. Assemblymember Buffy Wicks
Chair and members, Senate Appropriations Committee
Republican Consultant

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UNIVERSITY OF CALIFORNIA

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE PRESIDENT

BRENT COLBURN
Senior Vice President, External Relations and Communications

Office of State Governmental Relations
1130 K Street, Suite 340
Sacramento, California 95814
(916) 445-9924
Kieran Flaherty, Associate Vice President & Director

SENATE FLOOR ALERT
AB 2223 (Wicks) – Third Reading

August 18, 2022

To: Members of the California State Senate

RE: Assembly Bill 2223 (Wicks), as amended on June 20, 2022
Position: SUPPORT

The University of California (UC) proudly supports Assembly Bill 2223 by Assemblymember Wicks. UC is deeply concerned about the restricted availability of reproductive healthcare throughout the nation as a result of the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, and this important bill affirms and strengthens protections for people in California from being investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing a pregnancy loss.

UC's six academic health centers and health professional schools are heeding state leaders' calls to ensure that access to reproductive health services, including abortion, is preserved in California and available to all. Each of our academic health centers and our student health centers offer reproductive services, and remain committed to do so. Further, four UC Obstetrics and Gynecology departments have accredited Complex Family Planning fellowship programs located at the Davis, San Francisco, Los Angeles and San Diego campuses, preparing future reproductive healthcare practitioners and leaders.

Many states are now seeking to impose criminal or civil penalties on people who assist others in obtaining an abortion. We cannot allow Californians to be similarly targeted. Fortunately, AB 2223 seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is protected.

UC Urges a "YES" Vote on AB 2223 (Wicks)

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917



California ProLife Council and Right to Life Federation
500 Capitol Mall #2350
Sacramento, CA 95814
800-924-2490

July 11, 2022

Senate Committee on Appropriations
State Capitol, Room 412
Sacramento, CA 95814

RE: Position Letter on Assembly Bill 2223

Dear Committee Members:

The California ProLife Council ("CPLC") CPLC hereby registers its opposition to Assembly Bill 2223 ("AB 2223") for the following reasons:

1. Section 7 of AB 2223 endangers the lives of infants born with life-threatening conditions.
Section 7 of AB 2223 would bar civil or criminal penalties for a variety of "pregnancy outcome[s]," including "perinatal death due to causes that occurred in utero." This most recent amendment still fails to protect vulnerable newborns from death resulting from medical neglect. The language "in utero" modifies the words immediately preceding it, "causes that occurred," and therefore refers to a *cause* of death which arose in utero. The assertion of the bill's proponents that the addition of this language limits the effect of this section to perinatal deaths that occur in utero is grammatically unsupportable. In addition, since miscarriages, stillbirths and abortions cover all deaths that occur in utero, the words "perinatal death" are redundant, unless the intent is to include deaths that occur after birth.

Infants who are born alive with injuries from an abortion attempt, or with other life-threatening conditions, could die very quickly from those "causes that occurred in utero" if they do not receive prompt medical attention, as is currently required by CA Health and Safety Code Section 123435. The broad grant of immunity given by Section 7(a) of AB 2223 is "Notwithstanding any other law," so it nullifies the protections of HSC Section 123435. Although Section 7(b) does not include the "Notwithstanding" language, by extending immunity to persons who aid or assist a pregnant woman, it creates an immediate conflict with HSC Sec. 123435. This ambiguity, coupled with the civil penalties of Section 9, will have a chilling effect on the enforcement of Sec. 123435. These newborn babies need a strong advocate to protect their rights after birth. The State is abandoning them to abortionists who have been hired to kill them sometimes minutes before birth.

The following amendment could address this objection:

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"Nothing in this article shall be construed as granting immunity from civil or criminal penalties in cases of perinatal death due to neglect or abuse of newborn infants, including, but not limited to, disabled infants and infants born alive in the course of an abortion, per CA Health and Safety Code Section 123435."

2. Section 7 of AB 2223 also potentially endangers the life and health of pregnant women. The broad grant of immunity in this section granted to any person who aids or assists a woman in the exercise of her "reproductive privacy" would prevent the woman, her family if she died, or the State from holding accountable anyone who injured or killed her in the process of aiding her in the abortion attempt.

3. The civil cause of action created by Section 9 of the bill would have a chilling effect against state actors seeking to investigate suspected cases of abuse or neglect of women and newborns. Section 9 provides for a civil cause of action against any "state actor" who "denies a right protected by this article, or aids, incites, or conspires in that denial." Per Section 7, individuals that help a woman obtain an abortion enjoy the same grant of immunity as the woman herself. This means that district attorneys, coroners and other state actors would be deterred from investigating cases of medical malpractice. or any other cases involving a bad actor who harmed a woman in the course of "helping" her self-abort. It would also chill investigations into cases of possible medical neglect of newborn babies.

4. Section 4 of the bill, which prohibits the use of a coroner's certificate of fetal death in "criminal prosecution(s) or civil cause(s) of action seeking damages against any person who is immune from liability under Section 123467," would inhibit investigations into cases of medical neglect of the pregnant woman and of a newborn infant. The State has no interest in hampering such cases. As these death certificates are public records, and informational copies are available to anyone who asks, preventing their use in court cases does little to safeguard a woman's privacy.

6. The addition of self-abortion to Health and Safety Code Section 123468 could result in more maternal deaths from unsafe abortions. The justification for the push to legalize medical abortion was to keep women from resorting to dangerous self-abortion techniques. With no limitations at all, this amendment is reckless and would likely result in needless deaths, with no legal repercussions against anyone responsible for "assisting" a woman. We therefore request that abortions always be attended to by medical personnel.

We ask that the Committee seriously consider our position before advancing this bill any further.

Sincerely,

Sheila Green

Sheila Green, Esq.
Central Vice President
California ProLife Council

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

Case No. B355195

MAX DAVID BORENSTEIN,

Respondent,

v.

SOFIYA ALEXANDRA GOLDSHTEYN,

Appellant.

Appeal from the Superior Court of California,
County of Los Angeles - Case No. 22STFL08826

Hon. Scott J. Nord, Judge

APPELLANT'S APPENDIX
VOLUME 11 OF 11

Pages 2253-2542

Counsel for Appellant
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Carly Joanne Timm-Bijold (SBN 361335)
Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90024-4321

REALIMPACT

A Ministry of Calvary Chapel Chino Hills

July 12, 2022

Senator Anthony Portantino
Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

RE: A.B. 2223 – LETTER OF OPPOSITION

Dear Honorable Anthony Portantino & Committee Members,

Real Impact monitors legislation for a coalition of people of faith throughout California. Our advocacy reaches tens of thousands of voters to educate, equip, and encourage them to advocate for policies and issues which they consider important. These issues and policies include the protection of life, strengthening the family institution, and upholding religious liberty in California.

A.B. 2223 was recently amended to remove infanticide – "perinatal death due to a pregnancy-related cause"; yet it is now stating "perinatal death due to a cause that occurred in utero." This means that a mother and anyone assisting her can be shielded from civil or criminal charges for the death of her newborn baby if that death was a result of something that took place while the baby was still in the womb. While the amendment may have made the bill less dangerous, A.B. 2223 is far from being supportable.

A.B. 2223 in its entirety puts babies and women at high risk of injury and abuse, all in the name of "women's healthcare."

For these reasons, we urge you to oppose A.B. 2223.

Sincerely,

Gina Gleason
Director, Real Impact

cc: Senator Patricia C. Bates (Vice Chair)
Senator Steven Bradford
Senator Brian W. Jones
Senator Sydney Kamlager
Senator John Laird
Senator Bob Wieckowski

P.O. Box 1273, Chino Hills, CA 91709 · Realimpact.us · 909.393.4711

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2223
Author: Wicks (D), et al.
Amended: 6/20/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HEALTH COMMITTEE: 7-2, 6/30/22
AYES: Pan, Eggman, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 48-21, 5/26/22 - See last page for vote

SUBJECT: Reproductive health

SOURCE: ACLU California Action
Black Women for Wellness
California Latinas for Reproductive Justice
If/When/How: Lawyering for Reproductive Justice
NARAL Pro-Choice California
Planned Parenthood Affiliates of California

DIGEST: This bill prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising

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their reproductive rights. This bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act (Act) to bring a civil action against an offending state actor, as provided, and also authorizes a person so aggrieved to bring a civil action pursuant to the Tom Bane Civil Rights Act (Bane Act). This bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be handled as a death without medical attendance.

ANALYSIS:

Existing law:

1) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954*.)*

2) Establishes the Act and provides that the Legislature finds and declares that every individual possesses a fundamental right to privacy with respect to personal reproductive decisions. (Health & Saf. Code § 123460 et. seq., § 123462.)

3) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123466.)

4) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including deaths related to or following known or suspected self-induced or criminal abortion. Inquiries pursuant to this provision do not include those investigative functions usually performed by other law enforcement agencies. (Gov. Code § 27491.)

5) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. (Health & Saf. Code § 103005.)

6) Provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Gov. Code § 821.6.) Provides that public employees are not liable for

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their acts or omissions, exercising due care, in the execution or enforcement of any law, but are liable for false arrest or false imprisonment. (Gov. Code § 820.4.)

7) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States or of this state that have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured. (Civ. Code § 52.1(c).)

This bill:

1) Provides a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under the Act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero. Specifies that a person who aids or assists a pregnant person in exercising their rights under the Act shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

2) Authorizes a party aggrieved by conduct or regulation in violation of the Act to bring a civil action against an offending state actor in a state superior court for actual damages and a civil penalty a civil penalty of $25,000.

   a) Authorizes preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

   b) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in such an action.

3) Authorizes a party whose reproductive rights are protected and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of those protections to also bring a civil action pursuant to the Bane Act.

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4) Includes, specifically, the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care under legislative findings and declarations that every individual possesses a fundamental right of privacy with respect to reproductive decisions.

5) Deletes the existing duty of the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion. Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death certain things may not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, as provided. Repeals a provision of law requiring all other fetal deaths required to be registered under provisions of law related to registering fetal deaths to be handled as deaths without medical attendance.

6) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law and it is performed by someone other than the pregnant person.

7) Changes gendered terminology in relevant code sections and eliminates the phrase "crime against nature" from existing code.

Comments

Even though existing state law does not criminalize a person's own actions that might result in a pregnancy loss, two women were recently charged and imprisoned for their pregnancy losses in California. In response to this, the bill reaffirms and strengthens protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Additionally, On June 24, 2022, the U.S. Supreme Court published its official opinion in *Dobbs v. Jackson Women's Health* and voted 6-3 to overturn the holding in *Roe*, overturning almost 50 years of precedent that the right to an abortion was protected under the U.S. Constitution. Texas recently enacted a law that essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period. This law has far-reaching implications, not solely for a person obtaining an abortion or performing abortion services, as it prohibits anyone from "aiding and abetting" a person in obtaining an abortion. (Tex. Health & Safety Code § 171.208.)

In response to all of these issues, this bill seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is

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protected. This bill authorizes a civil action against an offending state actor in state superior court for violating rights protected under the Act, with the goal of allowing persons who have had their rights violated by a state actor to seek some accountability. Additionally, this bill specifically includes the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care within the legislative findings and declarations of the Act that every individual possesses a fundamental right of privacy with respect to reproductive decisions. This bill also restates in the Act that a person shall not be subject to civil or criminal liability or penalty, or be otherwise deprived of their rights under that act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

This bill specifically authorizes a person to bring an action under the Bane Act for violations of the Act. A person could bring such an action already; however, the bill makes several changes to the existing provisions of the Bane Act to address the unique circumstances the bill is trying to address. First, this bill specifies that, for purposes of establishing liability, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act. Second, this bill provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to the Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of the Act.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee

- The Department of Justice reports costs of $27,000 in Fiscal Year (FY) 2022-23, $57,000 in FY 2023-24 and FY 2024-24, and $27,000 in FY 2025-26 (General Fund).

- *Judicial Branch*: Unknown, potentially significant cost pressures due to increased court workload to adjudicate civil actions that are filed as a result of this bill (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/11/22)

ACLU California Action (co-source)

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Black Women for Wellness (co-source)
California Latinas for Reproductive Justice (co-source)
If/When/How: Lawyering for Reproductive Justice (co-source)
NARAL Pro-Choice California (co-source)
Planned Parenthood Affiliates of California (co-source)
Lieutenant Governor Eleni Kounalakis
Attorney General Rob Bonta
State Controller Betty T. Yee
Access Reproductive Justice
American Association of University Women
American Atheists
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice – California
California Coalition for Women Prisoners
California for Safety and Justice
California Nurse Midwives Association
California Nurses Association
California Women's Law Center
Californians United for a Responsible Budget
Citizens for Choice
City of Los Angeles
City of Oakland
Courage California
Culver City Democratic Club
Democratic Party of Contra Costa County
Disability Rights California
Ella Baker Center for Human Rights
Fund Her
Initiate Justice
League of Women Voters of California
National Center for Youth Law
National Health Law Program
Nevada County Citizens for Choice
Physicians for Reproductive Health
Public Health Advocates
San Francisco City Attorney's Office
Smart Justice California
Stanford Health Care
Stronger Women United
Survived & Punished

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Tides Advocacy
University of California
URGE: Unite for Reproductive & Gender Equity
Voices for Progress Education Fund
Western Center on Law & Poverty
Women's Health Specialists
Women's Foundation California

OPPOSITION: (Verified 8/11/22)

American Center for Law and Justice
Americans United for Life
California Capitol Connection
California Family Council
California ProLife Council
Californians for Life
Calvary Chapel of Placerville
Capitol Resource Institute
Catholic Families 4 Freedom CA
Children's Health Defense, California Chapter
City of Fillmore
Concerned Women for America
Cure America Action, Inc.
Defending Constitutional Rights
Eagle Forum of California
Faith Baptist Church of Wheatland
Feather River Tea Party Patriots
Frederick Douglass Foundation of California
Freedom of Religion – United Solution
Greater Bakersfield Republican Assembly
Liberty Baptist Church of Norwalk, CA
Life Legal Defense Foundation
NorthCreek Church
Pacific Justice Institute
Real Impact
Republican Club of Laguna Woods
Right to Life League
Right to Life of Central California
Right to Life of Kern County
Siskiyou Conservative Republicans
The American Council for Evangelicals

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Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2223
Author: Wicks (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HEALTH COMMITTEE: 7-2, 6/30/22
AYES: Pan, Eggman, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 48-21, 5/26/22 - See last page for vote

SUBJECT: Reproductive health

SOURCE: ACLU California Action
Black Women for Wellness
California Latinas for Reproductive Justice
If/When/How: Lawyering for Reproductive Justice
NARAL Pro-Choice California
Planned Parenthood Affiliates of California

DIGEST: This bill prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising

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their reproductive rights. This bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act (Act) to bring a civil action against an offending state actor, as provided, and also authorizes a person so aggrieved to bring a civil action pursuant to the Tom Bane Civil Rights Act (Bane Act). This bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be handled as a death without medical attendance.

Senate Floor Amendments of 8/25/22 add chaptering out amendments with AB 2091 (Mia Bonta, 2022) and co-authors.

ANALYSIS:

Existing law:

1) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)*

2) Establishes the Act and provides that the Legislature finds and declares that every individual possesses a fundamental right to privacy with respect to personal reproductive decisions. (Health & Saf. Code § 123460 et. seq., § 123462.)

3) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123466.)

4) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including deaths related to or following known or suspected self-induced or criminal abortion. Inquiries pursuant to this provision do not include those investigative functions usually performed by other law enforcement agencies. (Gov. Code § 27491.)

5) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. (Health & Saf. Code § 103005.)

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6) Provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Gov. Code § 821.6.) Provides that public employees are not liable for their acts or omissions, exercising due care, in the execution or enforcement of any law, but are liable for false arrest or false imprisonment. (Gov. Code § 820.4.)

7) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States or of this state that have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured. (Civ. Code § 52.1(c).)

This bill:

1) Provides a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under the Act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero. Specifies that a person who aids or assists a pregnant person in exercising their rights under the Act shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

2) Authorizes a party aggrieved by conduct or regulation in violation of the Act to bring a civil action against an offending state actor in a state superior court for actual damages and a civil penalty a civil penalty of $25,000.

   a) Authorizes preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

   b) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in such an action.

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3) Authorizes a party whose reproductive rights are protected and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of those protections to also bring a civil action pursuant to the Bane Act.

4) Includes, specifically, the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care under legislative findings and declarations that every individual possesses a fundamental right of privacy with respect to reproductive decisions.

5) Deletes the existing duty of the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion. Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death certain things may not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, as provided. Repeals a provision of law requiring all other fetal deaths required to be registered under provisions of law related to registering fetal deaths to be handled as deaths without medical attendance.

6) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law and it is performed by someone other than the pregnant person.

7) Changes gendered terminology in various code sections and eliminates the phrase "crime against nature" from existing code.

Comments

Even though existing state law does not criminalize a person's own actions that might result in a pregnancy loss, two women were recently charged and imprisoned for their pregnancy losses in California. In response to this, the bill reaffirms and strengthens protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Additionally, On June 24, 2022, the U.S. Supreme Court published its official opinion in *Dobbs v. Jackson Women's Health* and voted 6-3 to overturn the holding in *Roe*, overturning almost 50 years of precedent that the right to an abortion was protected under the U.S. Constitution. Texas recently enacted a law that essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period. This law has far-reaching implications, not solely for a person obtaining an abortion or performing abortion services, as it

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prohibits anyone from "aiding and abetting" a person in obtaining an abortion. (Tex. Health & Safety Code § 171.208.)

In response to all of these issues, this bill seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is protected. This bill authorizes a civil action against an offending state actor in state superior court for violating rights protected under the Act, with the goal of allowing persons who have had their rights violated by a state actor to seek some accountability. Additionally, this bill specifically includes the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care within the legislative findings and declarations of the Act that every individual possesses a fundamental right of privacy with respect to reproductive decisions. This bill also restates in the Act that a person shall not be subject to civil or criminal liability or penalty, or be otherwise deprived of their rights under that act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

This bill specifically authorizes a person to bring an action under the Bane Act for violations of the Act. A person could bring such an action already; however, the bill makes several changes to the existing provisions of the Bane Act to address the unique circumstances the bill is trying to address. First, this bill specifies that, for purposes of establishing liability, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act. Second, this bill provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to the Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of the Act.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee

- The Department of Justice reports costs of $27,000 in Fiscal Year (FY) 2022-23, $57,000 in FY 2023-24 and FY 2024-24, and $27,000 in FY 2025-26 (General Fund).

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- *Judicial Branch*: Unknown, potentially significant cost pressures due to increased court workload to adjudicate civil actions that are filed as a result of this bill (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/25/22)

ACLU California Action (co-source)
Black Women for Wellness (co-source)
California Latinas for Reproductive Justice (co-source)
If/When/How: Lawyering for Reproductive Justice (co-source)
NARAL Pro-Choice California (co-source)
Planned Parenthood Affiliates of California (co-source)
Attorney General Rob Bonta
Lieutenant Governor Eleni Kounalakis
State Controller Betty T. Yee
Access Reproductive Justice
American Association of University Women
American Atheists
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice – California
California Coalition for Women Prisoners
California for Safety and Justice
California Nurse Midwives Association
California Nurses Association
California Women's Law Center
Californians United for a Responsible Budget
Citizens for Choice
City of Los Angeles
City of Oakland
Courage California
Culver City Democratic Club
Democratic Party of Contra Costa County
Disability Rights California
Ella Baker Center for Human Rights
Fund Her
Initiate Justice
League of Women Voters of California
National Center for Youth Law
National Health Law Program
Nevada County Citizens for Choice
Physicians for Reproductive Health

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Public Health Advocates
San Francisco City Attorney's Office
Smart Justice California
Stanford Health Care
Stronger Women United
Survived & Punished
Tides Advocacy
University of California
URGE: Unite for Reproductive & Gender Equity
Voices for Progress Education Fund
Western Center on Law & Poverty
Women's Health Specialists
Women's Foundation California

OPPOSITION: (Verified 8/25/22)

American Center for Law and Justice
Americans United for Life
California Capitol Connection
California Family Council
California ProLife Council
Californians for Life
Calvary Chapel of Placerville
Capitol Resource Institute
Catholic Families 4 Freedom CA
Children's Health Defense, California Chapter
City of Fillmore
Concerned Women for America
Cure America Action, Inc.
Defending Constitutional Rights
Eagle Forum of California
Faith Baptist Church of Wheatland
Feather River Tea Party Patriots
Frederick Douglass Foundation of California
Freedom of Religion – United Solution
Greater Bakersfield Republican Assembly
Liberty Baptist Church of Norwalk, CA
Life Legal Defense Foundation
NorthCreek Church
Pacific Justice Institute
Real Impact

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Republican Club of Laguna Woods
Right to Life League
Right to Life of Central California
Right to Life of Kern County
Siskiyou Conservative Republicans
The American Council for Evangelicals
The Center for Bio-Ethical Reform
The National Center for Law & Policy
The Salt and Light Council
The Turning Point Church
Traditional Values for Next Generations
11 Individuals

ARGUMENTS IN SUPPORT: The author writes:

> A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss.
>
> AB 2223 protects reproductive freedom and decisionmaking by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

The sponsors of this bill—ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California—write in support:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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> It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. […]

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition:

> In its attempt to protect women from prosecution for abortion, AB 2223's overbroad language creates a host of unforeseen legal ramifications. The bill potentially de-regulates abortion and overrides existing medical protections for women by creating a class of cooperating individuals unaccountable to state licensing agencies or regulations.
>
> AB 2223 goes much further than simply shielding pregnant people from prosecution; it provides total civil and criminal immunity for the actions (whether legal or illegal) of anyone who aids and assists the pregnant person from civil and criminal liability - so long as the pregnant person consents.
>
> AB 2223 will chill proper investigations of abortion cooperators (not just the pregnant person) by granting penalties, including attorney's fees against anyone who even threatens an investigation including law enforcement, medical professionals and mandated reporters. (emphasis omitted)

ASSEMBLY FLOOR: 48-21, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

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NO VOTE RECORDED: Berman, Daly, Gray, Grayson, McCarty, O'Donnell, Ramos, Salas, Villapudua

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/26/22 15:41:26

****** END ******

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The Center for Bio-Ethical Reform
The National Center for Law & Policy
The Salt and Light Council
The Turning Point Church
Traditional Values for Next Generations
11 Individuals

ARGUMENTS IN SUPPORT: The author writes:

> A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss.
>
> AB 2223 protects reproductive freedom and decisionmaking by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

The sponsors of this bill—ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California—write in support:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.
>
> It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. […]

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ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition:

> In its attempt to protect women from prosecution for abortion, AB 2223's overbroad language creates a host of unforeseen legal ramifications. The bill potentially de-regulates abortion and overrides existing medical protections for women by creating a class of cooperating individuals unaccountable to state licensing agencies or regulations.
>
> AB 2223 goes much further than simply shielding pregnant people from prosecution; it provides total civil and criminal immunity for the actions (whether legal or illegal) of anyone who aids and assists the pregnant person from civil and criminal liability - so long as the pregnant person consents.
>
> AB 2223 will chill proper investigations of abortion cooperators (not just the pregnant person) by granting penalties, including attorney's fees against anyone who even threatens an investigation including law enforcement, medical professionals and mandated reporters. (emphasis omitted)

ASSEMBLY FLOOR: 48-21, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Daly, Gray, Grayson, McCarty, O'Donnell, Ramos, Salas, Villapudua

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/13/22 9:34:53

****** END ******

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CONCURRENCE IN SENATE AMENDMENTS
AB 2223 (Wicks)
As Amended August 25, 2022
Majority vote

SUMMARY

Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, and limits the duties of coroners to be consistent with those laws.

Major Provisions

1) Makes numerous findings and declarations on the part of the Legislature, including about reproductive justice – the human right to control our bodies, sexuality, gender, work, and reproduction – that can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives; the need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system; the threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health; and opposition by the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association to civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

2) Repeals Government Code Section 103000, which provides that. "All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance."

3) Removes from existing law, under existing duties of the coroner, the duty to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

4) Clarifies that existing law, requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

5) Provides that notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

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6) Provides that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

7) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law *and* it is performed by someone other than the pregnant person.

8) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act (Health and Safety Code Sections 123460 to 123468) to bring a civil action against an offending state actor in a state superior court.

9) States that whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

   b) A civil penalty of $25,000 to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice in violation of this article.

   c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

10) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 9), above.

11) Allows a party aggrieved by conduct or regulation in violation of this article to also bring a civil action pursuant to the Bane Civil Rights Act; and provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article. Provides, for purpose of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

12) Changes gendered terminology in relevant code sections and eliminates the offensive and outdated "crime against nature" from existing code.

13) Specifies that sections of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, shall apply to any cause of action brought under this section against an employee or former employee of a public entity.

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Senate Amendments

1) Add additional factual findings, including about the District Attorney in the County of Kings recently prosecuting two women who suffered stillbirths for the crime of murder.

2) Add chaptering language to avoid conflicts with **an**other bill.

3) Make other technical and non-substantive changes.

COMMENTS

This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion.

The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus.

Existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. While California's murder statute, Penal Code Section 187, specifically applies to the unlawful killing of a fetus with malice aforethought, by its own terms, it is inapplicable "when the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Penal Code Section 187(b)(3).) While the Legislature broadened the scope of section 187 to include the unlawful killing of a fetus in specific response to the California Supreme Court's decision in *Keeler v. Superior Court* (1970) 2 Cal.3d 619, the revised wording was intended to situations where a third party intended to cause the death of a fetus. In *Keeler*, the defendant was charged with murder after he attacked his pregnant ex-wife, intentionally causing the death of her fetus. The *Keeler* Court held that the then-existing wording of Section 187, defining murder as the unlawful "killing of a 'human being," did not encompass the killing of a fetus. In amending Section 187 in response to *Keeler*, the Legislature intended to criminalize only third-party violence against pregnant persons resulting in fetal death.

Existing state law prohibits a civil cause of action for prenatal torts. A prenatal tort is a tort (a civil cause of action for damages based upon a wrongful act that causes injury) involving an unborn child. Prenatal tort causes of action include personal injury, wrongful birth, wrongful life, and wrongful pregnancy. But at common law, they do not include wrongful death or wrongful injury. Any right to recovery or cause of action belonged only to the mother because "the unborn child was a part of the mother at the time of the injury, any damage to it which was not too remote to be recovered for at all was recoverable by her." (*Dietrich v. Inhabitants of Northampton* (1884) 138 Mass. 14, 17.)

While some states have repudiated the reasoning of *Dietrich* and authorized civil actions for prenatal injuries caused by tortious conduct that occurs prior to birth, California law remains consistent with the theory expressed in *Dietrich.* Under California law, a fetus or embryo not born alive never attains the status of a "person;" and only a "person" can maintain a legal action or be the subject of a wrongful death claim. Thus, whether the alleged tortfeasor is a pregnant person or a third party, a civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian*

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Enterprises, Inc. (1991) 234 CA3d 1103, 1113 [a negligent motorist was found not legally liable to a child conceived after collision occurred].)

This bill. The bill has are two main provisions that are in the jurisdiction of the Judiciary Committee. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion.

Arguably there is no public policy rationale for giving prosecutors immunity for acts that clearly are outside the normal scope of prosecutorial discretion, such as fabricating evidence. In fact, the United States Supreme Court held as much when it declined to apply absolute immunity to a prosecutor who fabricated evidence of a defendant's guilt on the basis that evidence gathering (and fabrication) is not a prosecutorial function.

Likewise, there is no public policy rationale for granting absolute immunity to prosecutors for a decision to prosecute a pregnant woman or pregnant person for a pregnancy outcome in direct violation of a legislative directive not to do so. Although filing criminal charges is an exercise of prosecutorial discretion, where the law clearly prohibits criminal charges, there is no discretion to file charges. Thus, especially given the extremely narrow scope of the liability under the bill (only for decisions to pregnant women for the loss of their pregnancy when the law prohibiting such prosecutions has clearly prohibited such prosecutions for more than 50 years), modifying the immunity protection offered by Government Code Section 821.6 seems justified and appropriate.

According to the Author
AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

Arguments in Support
The co-sponsors – ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California – write in support of the bill that although it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss. .. [and] despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses." They observe that, "AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss."

Arguments in Opposition
Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize

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child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

1) *DOJ*: The Department of Justice (DOJ) reports costs of $27,000 in Fiscal Year (FY) 2022-23, $57,000 in FY 2023-24 and FY 2024-24, and $27,000 in FY 2025-26 (General Fund).
2) *Judicial Branch*: Unknown, potentially significant cost pressures due to increased court workload to adjudicate civil actions that are filed as a result of this measure (Special Fund – Trial Court Trust Fund, General Fund).

VOTES:

ASM JUDICIARY: 7-2-1
YES: Stone, Holden, Kalra, Maienschein, Reyes, Robert Rivas, Luz Rivas
NO: Davies, Mathis
ABS, ABST OR NV: Cunningham

ASM HEALTH: 11-3-1
YES: Wood, Aguiar-Curry, Arambula, Carrillo, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Kalra
NO: Waldron, Bigelow, Flora
ABS, ABST OR NV: Mayes

ASM APPROPRIATIONS: 12-4-0
YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson
NO: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 48-21-9
YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
ABS, ABST OR NV: Berman, Daly, Gray, Grayson, McCarty, O'Donnell, Ramos, Salas, Villapudua

SENATE FLOOR: 30-9-1
YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
ABS, ABST OR NV: Hurtado

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UPDATED

VERSION: August 25, 2022

CONSULTANT: Alison Merrilees / JUD. / (916) 319-2334 FN: 0002552 FN:

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Asm. Wicks, Reproductive Health Advocates Celebrate Signing of AB 2223 | Official Website

New law will ensure that no one in California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss

For immediate release:

Tuesday, September 27, 2022

- Erin Ivie
- Director of Communications, Office of Assemblymember Buffy Wicks
- 510-619-8495
- erin.ivie@asm.ca.gov

SACRAMENTO – Governor Newsom today signed Assembly Bill 2223, strengthening California's role as a reproductive freedom state and ensuring that no one will ever again be prosecuted or imprisoned in California for a miscarriage, stillbirth, or abortion in California.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. The bill will also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

"Every Californian should feel secure that they can seek reproductive healthcare – regardless of the outcome of their pregnancy – without fear of becoming the subject of a criminal investigation," said **Assemblymember Buffy Wicks (D-Oakland)**. "Today, we cement this right for millions of Californians, ensuring that no one will ever again face the trauma of having their pregnancy policed by state systems."

In the past two decades, at least 1,300 pregnant people have been criminally prosecuted for having miscarriages or stillbirths, or self-managing an abortion. California has not been exempt: despite clear law that ending or losing a pregnancy is not a crime, prosecutors have charged people with homicide offenses for pregnancy losses. Two women from California's Central Valley – Adora Perez and Chelsea Becker – spent 4 years and 1 year respectively behind bars after delivering stillborn babies.

In California, this misuse of state power is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions have reported people who have just given birth, had an abortion, or experienced a pregnancy loss to police, triggering harmful investigations and even unlawful prosecutions.

"AB 2223 sends a clear message that California will protect our right to decide if and when to become a parent and our ability to seek care with dignity and without fear of criminalization," said **Laura Jiménez, Executive Director, California Latinas for Reproductive Justice**. "This is especially important at a time when the bodily autonomy and lives of our communities across the country – Black, Indigenous, other communities of color, people with disabilities, immigrants, people living in poverty, young people, and LGBTQIA+ communities – continue to be under attack."

And with states hostile to abortion rights attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, Californians will now be better able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

"Every person should have the right to make decisions about their body and get the care they need without fear. Still, there are growing efforts in California to interrogate, prosecute, and incarcerate people for their pregnancy outcomes," said **Onyemma Obiekea on behalf of the AB 2223 coalition**, **a group that includes ACLU California Action, Black Women for Wellness Action Project, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California**. "AB 2223 fights back by creating a shield to separate reproductive healthcare

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from policing systems that discriminate based on race and wealth. By signing this bill, Governor Newsom is bringing California one step closer to its values. It's legislation that every progressive state should model."

About Assemblymember Buffy Wicks

Assemblymember Buffy Wicks represents California's 15th Assembly District, which includes all or portions of the cities of Oakland, Richmond, Berkeley, Emeryville, Albany, El Cerrito, San Pablo, Pinole, El Sobrante, Hercules, Kensington, and Piedmont. You can learn more about Assemblymember Wicks at http://a14.asmdc.org.

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New Protections for People Who Need Abortion Care and Birth Control

Bill package builds upon more than $200 million in state funding to create abortion.ca.gov, cover uninsured care, support providers, bolster security and more

SACRAMENTO – As other states throughout the country outlaw abortion and criminalize patients and doctors, California continues to lead the nation's fight for reproductive health care access and privacy.

Today, Governor Gavin Newsom signed additional bills into law to further protect people from legal retaliation and prohibit law enforcement and corporations from cooperating with out-of-state entities regarding lawful abortions in California, while also expanding access to contraception and abortion providers in California.

"An alarming number of states continue to outlaw abortion and criminalize women, and it's more important than ever to fight like hell for those who need these essential services. We're doing everything we can to protect people from any retaliation for accessing abortion care while also making it more affordable to get contraceptives," said Governor Newsom. "Our Legislature has been on the frontlines of this fight, and no other legislative body in the country is doing more to protect these fundamental rights – I'm proud to stand with them again and sign these critical bills into law."

The package signed today includes:

- **PROTECTIONS FROM CRIMINAL & CIVIL LIABILITIES:** AB 2223 by Assemblymember Buffy Wicks (D-Oakland) helps to ensure that pregnancy loss is not criminalized, prohibiting a person from being criminally or civilly liable for miscarriage, stillbirth, abortion, or perinatal death due to causes that occurred in utero.
- **KEEPS MEDICAL RECORDS PRIVATE:** AB 2091 by Assemblymember Mia Bonta (D-Oakland) prohibits a health care provider from releasing medical information on an individual seeking abortion care in response to a subpoena or request from out-of-state.
- **PROHIBITS COOPERATION WITH OUT-OF-STATE ENTITIES:** AB 1242 by Assemblymember Rebecca Bauer-Kahan (D-Orinda) prohibits law enforcement and California corporations from cooperating with out-of-state entities regarding a lawful abortion in California. It also prohibits law enforcement from knowingly arresting a person for aiding in a lawful abortion in California.
- **EXPANDS BIRTH CONTROL ACCESS:** SB 523 by Senator Connie Leyva (D-Chino) expands birth control access – regardless of gender or insurance coverage status – by requiring health plans to cover certain over-the-counter birth control without cost sharing. It also prohibits employment-related discrimination based on reproductive health decisions.

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- **MORE HEALTH CARE PROVIDERS:** SB 1375 by Senate President pro Tempore Toni G. Atkins (D-San Diego) expands training options for Nurse Practitioners and Certified Nurse-Midwives for purposes of performing abortion care by aspiration techniques.



Governor Newsom signs legislation to advance California's leadership on reproductive health care access and privacy.

"During this unprecedented time, I'm grateful to the Governor and the California Legislature for taking critical measures to protect a woman's right to choose and to enshrine the right to reproductive freedom into California's constitution," said First Partner Jennifer Siebel Newsom. "No person should be denied access to contraceptive services and abortion care because of a lack of resources or a fear of retribution. And we will not accept the status quo of rendering women powerless to determine their own destiny. In California, we trust women, we believe in women, and we see their value beyond their reproductive capabilities."

"My colleagues and I saw the imminent danger headed for national abortion access more than a year ago and have spent every day since working to not only protect reproductive rights, but expand them. Our package of bills ensures that all Californians, and anyone who needs to come here, will receive the essential health care they need and the respect they deserve. Creating laws is like a marathon and today, we are only able to cross the finish line because of months of hard work, and leadership from the Legislative Women's Caucus and our partners on the California Future of Abortion Council." – Senate President pro Tempore Toni Atkins.

In addition to the bills detailed above, the Governor also signed into law:

- **AB 657 by Assemblymember Jim Cooper (D-Elk Grove):** Expedites licensure for health care practitioners that come to California to provide abortion care services.
- **AB 2626 by Assemblymember Lisa Calderon (D-Whittier):** Prohibits specified licensing boards from suspending or revoking a license solely for performing an abortion in accordance with the licensee's practice act.
- **AB 2205 by Assemblymember Wendy Carrillo (D-Los Angeles):** Requires Covered California plans to report annually the total amounts of funds collected in special accounts for abortion care which was established under the ACA to hold premium payment of $1 per member per month and from which claims for

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abortion care must be paid.

- **SB 1142 by Senator Anna Caballero (D-Merced) and Senator Nancy Skinner (D-Berkeley):** Requires the establishment of an abortion care services website and an evaluation of the Abortion Practical Support Fund.
- **SB 1245 by Senator Sydney Kamlager (D-Los Angeles):** Establishes a reproductive health pilot project in LA County to support innovative approaches and collaborations to safeguard abortion access.
- **AB 1918 by Assemblymember Cottie Petrie-Norris (D-Laguna Beach):** Creates the CA Reproductive Health Scholarship Corps to recruit, train and retain a diverse workforce of health care professionals who will provide reproductive health services in underserved areas of the state.
- **AB 2134 by Assemblymember Dr. Akilah Weber (D-San Diego):** Establishes the CA Reproductive Health Equity Program which will provide grants to providers who provide uncompensated care to patients with low-incomes and those who face other financial barriers.
- **AB 2586 by Assemblymember Cristina Garcia (D-Bell Gardens):** Establishes the CA Reproductive Justice and Freedom Fund to support CBOs in providing comprehensive reproductive/sexual health education, inclusive of abortion care, to disproportionately impacted communities.

The Governor previously signed SB 245 to eliminate cost-sharing for abortion services and AB 1666, which seeks to protect those in California from civil liability for providing, aiding, or receiving abortion care in the state.

"As extreme politicians across the country pursue personal political agendas seeking to restrict and criminalize people seeking and providing abortion services – essential health care that should be available to people where they live and when they want or need it – California is showing what is possible when leaders listen to experts, facts, science and from the people who are directly impacted," said Jodi Hicks, President and CEO of Planned Parenthood Affiliates of California. "Patients and providers across California and the country are living in a state of fear and confusion as we collectively try to navigate this new post-Roe reality. Today's bold and comprehensive actions provide reassurance to all that California is a Reproductive Freedom state and all are welcome to seek the care they want or need here in California."

"California continues to take historic steps towards its promise to be a Reproductive Freedom state – not just protecting access to abortion care in the face of *Roe v. Wade* being overturned, but moving forward centering equity and expanding access to help people, regardless of where they call home, get the essential care they want or need here in California. This bill package, in addition to the $200+ million in new funding, will go a long way in helping people seeking care in California and the community organizations and providers already on the ground doing the work across the state. By signing this bill package, Governor Newsom is putting an exclamation mark on a year-long effort by California reproductive health, rights, and justice leaders and policymakers to prepare and respond to the U.S Supreme Court overturning 50 years of precedent and eliminating the federally protected right to abortion." – Steering Committee of the California Future of Abortion Council.

"California is committed to upholding and expanding protections that ensure

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reproductive health care is a right and not a privilege. The legislative package signed into law today strengthens the budget actions taken by the Governor earlier this summer to protect and expand reproductive care in California, while also breaking down barriers that have caused historic inequities in access and the health outcomes of our most vulnerable communities," said Secretary of the California Health & Human Services Agency, Dr. Mark Ghaly. "We stand ready to deliver on this vision of a Healthy California for All, which protects the health and wellbeing of anyone seeking critical reproductive services in California."

These actions build upon California's nation-leading actions to cut costs, expand access and strengthen protections for abortion care:

- Allocated more than $200 million to help pay for travel costs, cover uninsured care, support health care facilities and providers, bolster security and more.
- Signed legislation to help protect patients and providers in California from civil liability for providing, aiding or receiving abortion care in the state.
- Launched a new Multi-State Commitment to defend access to reproductive health care and protect patients and providers.
- Signed an executive order preventing medical records, patient data and other information from being shared by state agencies in response to inquiries or investigations brought by other states or individuals within those states looking to restrict abortion access, and declining to extradite any person in California sought by another state for lawful abortion services provided in California.
- Eliminating copays for abortion care services and signed into law a legislative package to further strengthen access and protect patients and providers.
- In November, California voters will have an opportunity to amend the state's constitution to enshrine the right to an abortion following the introduction of a constitutional amendment by state leaders.

###

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Assembly Committee on Judiciary

2021-2022
Bill Summary

A Comprehensive Breakdown of Legislation Considered by the Committee in 2021-2022

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Staff

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Chief Counsel

Leora Gershenzon
Deputy Chief Counsel

Nicholas Liedtke
Counsel

Jith Meganathan
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Manuela Boucher-De La Cadena
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November 2022

The counsel and staff of the Assembly Judiciary Committee have prepared this comprehensive report of bills considered by the Committee during the 2021-22 legislative session. Because of the COVID-19 pandemic, the Committee heard somewhat fewer bills than usual in 2021, but it made up for the shortfall in 2022. The Committee was responsible for one of the largest and most complex bill loads in the Legislature, encompassing virtually all areas of our civil justice and legal system. Some of the highlights of the session are described below. A more detailed summary of all bills referred to the Committee follows.

Immigration and State-Federal Relations. *The Committee heard a number of bills and resolutions this session relating to immigrants and immigration policy. One bill that is symbolically important and became law strikes the offensive and dehumanizing term "alien" from multiple California Code. Another important bill, that would have eliminated the ability that law enforcement agencies have under existing law (the Values Act) to cooperate with federal immigration authorities and prohibited all state and local agencies from assisting, in any manner, the detention, deportation, or interrogation, of an individual by immigration enforcement, did not move to the Governor's desk. However, the Committee and Legislature approved a bill prohibiting discrimination on the basis of immigration status in legal services offered via the Shriver Act, which was signed into law.*

Courts, Civil Procedure and Practice, and Related Matters. *The Committee heard many bills this session seeking to address the impacts of the COVID-19 pandemic on California courts and civil justice system. To that end, the Committee heard and approved several measures that authorized remote proceedings in courts, expanded the use of electronic filing of litigation documents, and protected the public's health and safety when accessing court proceedings regardless of whether a legal proceeding was held in-person or remotely. The Committee passed a measure to require specified law enforcement departments to accept remote requests for service of process. Finally, the Committee authored a bill that removed the presentation requirement present under the Government Claims Act for those asserting claims against State employees, an obstacle that has not existed for victims making claims against local public agencies since 2018.*

Family Law, Children, and Related Matters. *As in the past, the Committee heard many bills relating to family law, domestic violence, and juvenile dependency. The Committee passed and the Governor signed legislation requiring information provided to youth in foster care, including the Foster Youth Bill of Rights, to be provided in the youth's primary language. Other bills becoming law this session ensure that children are not brought into the juvenile dependency system due solely to the family's indigence or financial difficulty; create a presumption that, when a child is in foster care, a court order requiring the parent to pay child support for that child is likely to impose a barrier to the family's efforts to reunify; and prohibit the Department of Child Support Services, effective 2025, from denying, withholding, or suspending a low-income child support obligor's driver's license. The Committee passed legislation to expand domestic violence and child abuse educational requirements for judges and other court-connected personnel involved in domestic violence and child custody proceedings, but it did not become law.*

Conservatorships and Mental Health. *Conservatorships were in the news a great deal in recent years and were also the subject of numerous proposals in the Legislature. The Committee and Legislature passed, legislation*

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that revised how probate conservatorships are investigated, established, and terminated; required the Judicial Council, subject to an appropriation, to establish a conservatorship alternatives program within each self-help center; established voluntary supported decisionmaking to support individuals with disabilities; and required the State Council on Developmental Disabilities, subject to an appropriation, to administer a statewide Supported Decisionmaking Technical Assistance Program, which was signed into law. A bill to implement the Community Assistance, Recovery, and Empowerment (CARE) Act, authorizing specified people to petition a civil court to create a CARE plan and implement services by county behavioral health agencies or others--including behavioral health care, stabilization medication, and housing--to adults who are suffering from schizophrenia spectrum and other psychotic disorders was a noteworthy bill that became law. Other bills that were passed and signed into law clarify when mental health holds under the Lanterman-Petris-Short Act begin and when due process oversight hearings must be provided; and allow an additional 30 days of involuntary commitment and intensive treatment to persons needing them, but only if a court grants the 30-day extension after making required findings.

Business and Consumer Protection, including Creditor-Debtor Relations. *As is typical, the Committee heard several bills regulating the relationship between creditors and debtors. Among those signed into law were measures that updated the amounts that debtors can protect from creditors in bankruptcy; provided a means for debtors to address debts which they were coerced into entering due to domestic, elder, or dependent abuse; increased the amount of wages shielded from garnishment; reduced the interest available on, and the ability for creditors to renew, judgments for consumer and medical debt; and declared confessions of judgment unlawful in California. In addition, the Committee heard, and the Governor signed, consumer protection measures enhancing the rights of car buyers who purchase guaranteed asset protection (GAP) waivers and car owners whose automobiles are the subject of vehicle history reports; increasing opportunities for prospective owner-occupants and tenants to buy foreclosed-on properties; and permitting veterans who are the victims of unfair or deceptive acts and practices to obtain increased civil damages and penalties.*

Employee Rights. *The Committee heard several important measures this session designed to protect and enforce the rights of employees. Among the measures passed by the Committee and signed into law were significant protections for the rights of garment workers, domestic workers, and fast food workers. Other noteworthy measures passed by the Committee and signed by the Governor expand access to pay data and require publication of pay scale information on certain job postings; protect employees' privacy while engaging in lawful use of cannabis away from work; grant public employee unions the right to bring a claim for employer behaviors deterring union participation; and give workers the right to five days of job-protected bereavement leave. The Committee passed other significant bills that did not become law, including a bill that would have expanded the list of protected characteristics under FEHA to include "family responsibilities" and required employers to make an effective accommodation for obligations arising from an unforeseen need to care for a qualifying family member. A bill that would have imposed accountability measures on the University of California's Equal Pay for Equal Work policy was approved by the Legislature, but vetoed by the Governor.*

Landlord-Tenant. *In the area of landlord-tenant law, a subject over which the Committee has primary jurisdiction, the Committee passed and the Governor signed an urgency measure that extended existing COVID-19-related eviction protection measures until the end of June 2022. Other bills signed into law include a novel measure authorizing courts to order a partial eviction in response to domestic violence (removing an abuser from the premises while allowing victims to remain on the lease), and a bill establishing a framework for landlords to rely on reusable tenant screening reports. Bills in this area that were approved by the Committee but failed elsewhere in the Legislature, included measures meant to close loopholes in 2019 legislation establishing just cause eviction protections and imposing caps on rent*

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increases for most rental housing in the state; stemming exploitation of the Ellis Act by speculators; and limiting landlords' consideration of prospective tenants' criminal background information.

Civil and Constitutional Rights. *In the wake of the United States Supreme Court's unprecedented decision to eliminate a previously held constitutional right in the* Dobbs v. Jackson Women's Health *decision, the Committee heard several measure seeking to protect reproductive rights in California. These measures included a constitutional amendment to enshrine the right to an abortion in the California Constitution; a bill to prohibit California courts from enforcing out-of-state fetal heartbeat civil actions; and measures to shield medical records for reproductive healthcare received in California from being subpoenaed by out-of-state individuals and law enforcement agencies. Additionally, in response to several other states' efforts to enact draconian anti-transgender laws, this Committee heard and approved several measures to protect transgender persons and their families coming to California for gender-affirming medical treatments. Finally, reflecting high-profile issues facing the state and the nation, this Committee heard several measures related to gun control and gender-based equity.*

Civil Liability and Immunity. *As always, the Committee heard many bills related to liability and immunity. In relation to the COVID-19 pandemic, such measures addressed the liability of health care providers providing care to at-risk patients. In order to protect pregnant persons from civil and criminal liability for their pregnancy outcomes, the Committee passed and the Governor signed an important measure that strengthened the state's existing prohibitions on the imposition of civil and criminal penalties for pregnancy loss. The new law, among other things, will allow persons whose rights are violated to seek accountability by means of a new civil action against a prosecutor who brings criminal charges based upon a pregnancy loss. Continuing a trend from recent sessions before and after the COVID-19 pandemic, a growing number of these measures seek to impose civil liability for conduct that may cause environmental harms. To that end, the Committee heard several measure seeking to reduce plastics, propane tanks, and paint products from consumer products. Additionally, as a result of the growing impact of climate change in California, the Committee evaluated several measures regarding liability related to wildfire risk, liability related to state-approved takeovers of small, failing, water districts, and several measures related to air and water pollution from hydrocarbons.*

Open Government and the Public Records Act. *The Committee heard and passed several bills relating to the California Public Records Act (CPRA) this session. Most significantly, the Committee passed and the Governor approved bills that recodify the CPRA and expand the categories of police personnel records that are subject to disclosure under the CPRA. Specifically, that latter bill makes public new types of personnel records related to sustained findings of an officer's bias or use of excessive or unreasonable force; extends the time period for agencies to retain records; prohibits destruction of records that are subject to a CPRA request or litigation; and clarifies what costs an agency may charge a requester of public records.*

The following report contains a summary of each bill referred to the Committee, as well as helpful statistical data regarding the disposition of the bills assigned to the Committee during the 2021-22 legislative session. We hope you find this information useful.

Sincerely,

Alison Merrilees
Chief Counsel, Assembly Judiciary Committee

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minor child. This bill would also have required a charter school, school district, or county office of education to, among other things, provide parents and guardians with opportunities to participate in schools to improve parent and teacher cooperation in areas including homework, school attendance, and discipline. Status: Dead, Asm Education.

AB 2091 (Bonta) Reproductive health and privacy. *See Civil Procedure.*

AB 2223 (Wicks) Reproductive health. This bill strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action allowing individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, including by bringing a civil action against a prosecutor who abuses their discretion by bringing criminal charges based upon a pregnancy loss, and limits the duties of coroners in a manner consistent with other provisions of the bill. Status: Chap. 629, Stats. 2022.

AB 2312 (Lee) Nonprescription contraception: access. This bill would have, with certain exceptions, prohibited a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of their age or other protected characteristic. A retail establishment would have been subject to a civil penalty in the amount of $25,000 for each violation. The bill would have authorized a local health officer, a city attorney, a district attorney, or the Attorney General to cooperate with the State Public Health Officer in the enforcement of these provisions. Status: Dead, Asm Health.

AB 2959 (Committee on Judiciary) Childhood sexual assault claims. See *Civil Procedure.*

HR 78 (Bauer-Kahan) Reproductive health care. This resolution marks the 49th anniversary of *Roe v. Wade,* which recognized that the constitutional right to privacy limits a state's power to restrict a woman's fundamental right to terminate a pregnancy prior to viability. This resolution also acknowledges that, with three conservative judges appointed under the former president, the *Roe v. Wade* decision is now at its biggest risk. Given the very significant challenges to the constitutional right of women to control their reproductive health decisions, this resolution urges the President and Congress to express their support for abortion, as well as their support for access to comprehensive reproductive health care. Status: Adopted.

SB 380 (Eggman) End of life. This bill extends the January 1, 2026 sunset date of the End of Life Option Act (EOLA) to January 1, 2031; permits an individual to make a second oral request for medical aid in dying a minimum of 48 hours from the first request; eliminates the final attestation form required to be filled out by the qualified individual within 48 hours prior to self-administering the aid-in-dying medication; and requires health care providers who elect not to participate in EOLA to inform a patient and transfer records to another health care provider. Status: Chap. 542, Stats. 2021.

SB 518 (Laird) Office of the Self-Determination Ombudsperson. As referred to this Committee, this bill would have, upon appropriation by the Legislature, created the Office of the Self-Determination Ombudsperson. The bill was subsequently amended to require any information contained in a winegrower's alcoholic beverage tax returns and accompanying schedules to be made public upon request, removing the bill from this Committee's jurisdiction. Status: Chap. 702, Stats. 2022.

SB 1142 (Caballero, Skinner) Abortion services. This bill requires the California Health and Human Services Agency, or a designated entity, to establish a website where the public can access specified

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California Legislature



Assembly Committee on Health

2021-22

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AB-2199 (Wicks) - Birthing Justice for California Families Pilot Project.
Would have established the Birthing Justice for California Families Pilot Project, which requires the Department of Public Health (DPH) to implement a three-year program to provide grants to community-based doula groups, local public health departments, and other entities, to provide full-spectrum doula care to members of communities with high rates of adverse birth outcomes who are not eligible for Medi-Cal and in/8carcerated people. Would have established standards for payment rates for doula care, and would have required DPH to provide free training for certain doulas, as specified.
Status: Vetoed

AB-2205 (Carrillo) - California Health Benefit Exchange: abortion services coverage reporting.
Requires, beginning July 1, 2023, a health plan or health insurer offering qualified health plans, as defined, to annually report the total amount of funds in the segregated account maintained pursuant to the federal Patient Protection and Affordable Care Act. Requires the annual report to include the ending balance of the account and the total dollar amount of claims paid during a reporting year.
Status: Chapter 563, Statutes of 2022

AB-2223 (Wicks) - Reproductive health.
Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated, to seek accountability, and limits the duties of coroners to be consistent with those laws.
Status: Chapter 629, Statutes of 2022

AB-2312 (Lee) - Nonprescription contraception: access.
Would have prohibited a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of age or other specified characteristics by requiring the customer to present identification.
Status: Died in Assembly Health

AB-2320 (Cristina Garcia) - Reproductive health care pilot program.
Would have required, until January 1, 2028, the Department of Health Care Access and Information, to establish and administer a pilot program to direct funds to licensed primary care clinics that provide reproductive health care services in five counties that agree to participate. Would have required a participating primary care clinic to implement at least one of the following to improve health care delivery for marginalized patients:
1) Implement staff trainings on reproductive justice principles and trauma-informed care, with a focus on serving historically marginalized patients, including people of color,

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CALIFORNIA STATE LEGISLATURE

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2021–22 Legislative Bill Summaries

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CALIFORNIA LEGISLATURE

Senate Judiciary Committee

2021 - 22 Legislative Bill Summaries

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Author's Note

During the 2021-22 Regular Legislative Session 591 measures were referred to the Senate Judiciary Committee. This report contains summaries of the bills referred to the Judiciary Committee during the 2021-22 Regular Legislative Session. Bills that were passed by the Legislature and became law are followed by the chapter number and year enacted. For bills that did not become law, the last location of the bill in the legislative process is shown. Veto messages are included for bills vetoed by Governor Gavin Newsom. Bills are listed categorically based on the main subjects of the bill.

Additional information on these measures may be obtained online at http://leginfo.legislature.ca.gov/ or by calling the Senate Committee on Judiciary at (916) 651-4113.

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Status: Chapter 30, Statutes of 2021

AB-1666 (Bauer-Kahan) - Abortion: civil actions.
This bill declares that a law of another state that authorizes a person to bring a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions, is contrary to the public policy of this State. This bill prohibits this State from applying that law to a case or controversy heard in state court and the enforcement or satisfaction of a civil judgment received under that law.
Status: Chapter 42, Statutes of 2022

AB-2091 (Mia Bonta) - Disclosure of information: reproductive health and foreign penal civil actions.
This bill prohibits the validation of foreign subpoenas pertaining to a foreign penal civil action, as defined. This bill prohibits the sharing of specified information in response to subpoenas related to out-of-state anti-abortion statutes or foreign penal civil actions. This bill authorizes the Insurance Commissioner to issue civil penalties against health insurers who violate the confidentiality of an insured's medical information. This bill also prohibits prison staff from disclosing identifying medical information related to an incarcerated person's right to seek and obtain an abortion if the information is being requested is based on out-of-state anti-abortion statutes or foreign penal civil actions.
Status: Chapter 628, Statutes of 2022

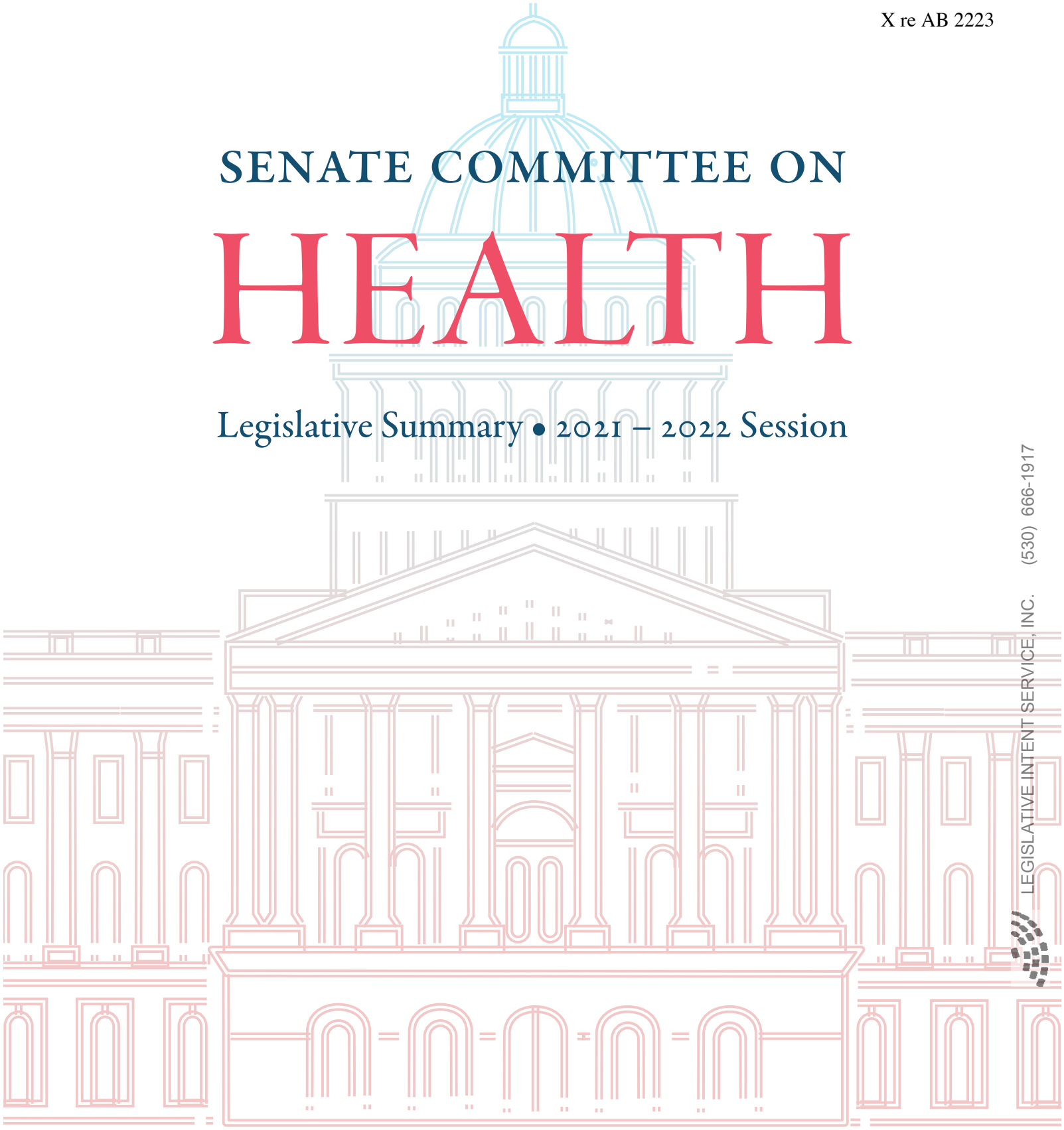
AB-2223 (Wicks) - Reproductive health.
This bill prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. This bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as provided, and also authorizes a person so aggrieved to bring a civil action pursuant to the Tom Bane Civil Rights Act. This bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be handled as a death without medical attendance.
Status: Chapter 629, Statutes of 2022

AB-2317 (Ramos) - Children's psychiatric residential treatment facilities.
This bill requires the State Department of Health Care Services to license and establish regulations for psychiatric residential treatment facilities that provide inpatient psychiatric services to individuals under 21 years of age in a nonhospital setting, as specified.
Status: Chapter 589, Statutes of 2022

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SENATE COMMITTEE ON HEALTH

Legislative Summary • 2021 – 2022 Session



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2021-2022 LEGISLATIVE SUMMARY

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AB-2134 (Akilah Weber) - Reproductive health care.
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AB-2199 (Wicks) - Birthing Justice for California Families Pilot Project.
Establishes the Birthing Justice for California Families Pilot Project, upon an appropriation, to be administered by the California Department of Public Health (CDPH) that includes a three-year grant program to fund specified entities to provide doula care to members of communities with high rates of negative birth outcomes who are not eligible for Medi-Cal, including incarcerated people. Sunsets these provisions on January 1, 2029. ***Vetoed.***

AB-2205 (Carrillo) - California Health Benefit Exchange: abortion services coverage reporting.
Requires health plans and health insurers providing a qualified health plan through Covered California to report to the Department of Managed Health Care director or Insurance Commissioner the total amount of funds maintained in a segregated account pursuant to federal law. This bill requires this annual report to contain the ending balance of the account and the total dollar amount of claims paid during the reporting year. ***Chapter 563, Statutes of 2022.***

AB-2223 (Wicks) - Reproductive health.
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Requires the California Health and Human Services Agency, or its designated entity, to establish and administer a pilot program to direct funds to primary care clinics that provide reproductive health care services in five counties that agree to participate. ***Vetoed.***

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CAPITOL ALERT

Capitol Alert

Fact Check: Do California lawmakers want to decriminalize infanticide? Here's what we found

BY ANDREW SHEELER

UPDATED APRIL 19, 2022 11:44 PM

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California lawmakers have sought to turn the Golden State into a refuge for abortion rights, as states like Texas, Florida and Mississippi pass laws that heavily restrict when a person can get an abortion.

"We'll be a sanctuary," Gov. Gavin Newsom told the Associated Press in an interview in December. "We are looking at ways to support that inevitability and looking at ways to expand our protections."

One such bill, Assembly Bill 2223, authored by Assemblywoman Buffy Wicks, D-Oakland, aims to shield women and other birthing people from criminal and civil liability in the event of a miscarriage, self-induced or criminal abortion or infant death due to pregnancy-related causes.

At least two women, both in Kings County, have been prosecuted in California for having a miscarriage. Charges were dropped against one woman, but another woman — Adora Perez — remains in custody as her case is returned to the courts for a new trial.

On Tuesday, hundreds of protesters are expected to turn up at the Capitol to protest the bill, including the congregations of several California churches.

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Claim: The California Family Council and other anti-abortion groups contend that AB 2223 would decriminalize infanticide — the killing of newborn infants.

"We are thrilled to see Californians all over the state traveling hundreds of miles to tell legislators decriminalizing infanticide is

barbaric and indefensible," said California Family Council President Jonathan Keller in a statement. "A political culture that justifies killing millions of children in the womb is now declaring open season on unwanted newborns. Every Californian must oppose this heinous bill."

Rating: False

Details: Neither the language of the bill, nor the lawmaker's stated intent, supports the allegation that AB 2223 would decriminalize infanticide.

The proposed statute specifies that no one shall be subject to a civil or criminal penalty based on their actions with respect to their pregnancy or pregnancy outcome, "including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause."

Critics have focused on the term "perinatal death." The perinatal period is defined by the California Welfare & Institutions Code as being "the period from the establishment of pregnancy to one month following delivery."

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In response to those concerns, Assemblywoman Wicks agreed to amend the bill to specify that it only applies to perinatal deaths stemming from pregnancy-related causes.

"Anti-abortion activists are peddling an absurd and disingenuous argument that this bill is about killing newborns, when ironically, the part of the bill they're pointing to is about protecting and supporting parents experiencing the grief of pregnancy loss," Wicks said in a

statement. "No person should face prison time for a tragic pregnancy outcome, and this bill will ensure that prosecutions and investigations have no place in reproductive health care."

According to an Assembly Judiciary Committee analysis of the bill, AB 2223 would not prevent authorities from being able to investigate the facts of a newborn child's death, including whether the child was born alive, and when and how the child died. The bill would only prevent further criminal investigation of the parent in the event that the death was determined to have a pregnancy-related cause.

This story was originally published April 19, 2022, 5:00 AM.

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False claims about California abortion-related bill spread thousands of times on social media



Disinformation about California's AB 2223 has gone viral online. (Gregory Bull / Associated Press)

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By Justin Ray

May 5, 2022 6:30 AM PT

Good morning, and welcome to the Essential California newsletter. It's **Thursday, May 5.** I'm Justin Ray.

As The Times has reported, California intends to become a haven for those seeking reproductive health care in America if the U.S. Supreme Court's leaked draft opinion overturning Roe vs. Wade becomes the law of the land. This may make the state a target, as it has been in the past for its progressive laws on immigration, the environment and other policy areas.

One way that people can attack the state is through misinformation and disinformation. A misinterpretation of a California bill has already gone viral online.

The misinformation appears to have originated from multiple questionable websites that published stories claiming that California bill AB 2223 legalizes infanticide. One site said it would "legalize the murder of children up to nine months gestation and in the week(s) after birth."

The false claims have been posted and reshared thousands of times on Twitter with language such as, "California introduces bill to legalize infanticide before and after birth"; "Killing babies up to 28 days old!"; and "An abortion bill that will essentially legalize a form of infanticide." (When asked for a response to the tweets, Twitter said the posts were "not found to be in violation of the Twitter Rules," adding that "our misinformation policies apply to COVID-19, civic integrity and synthetic and manipulated media.")

What does the bill actually do?

The bill, which you can read here, removes the requirement that a coroner has to investigate "deaths related to or following known or suspected self-induced or criminal abortion." The bill prohibits using a coroner's statements on the certificate of fetal death "to establish, bring, or support a criminal prosecution or civil cause of damages against any person."

"Basically the whole point is we want to make sure that if you do experience a miscarriage, if you experience a stillbirth, if you experience a self-induced abortion, you have a self-induced abortion, that you are not criminally prosecuted for that," said Assemblywoman Buffy Wicks, the Democrat representing the East Bay and one of the bill's sponsors. But it still allows authorities "to be able to investigate the facts of a newborn child's death, including whether the child was born living and when and how the child died."

She brought up two recent cases in the state that prompted the bill: Chelsea Becker, a Central Valley woman who was charged with murder after delivering a stillborn baby who tested positive for methamphetamine (a judge dismissed the charge last May); and Adora Perez, who was sentenced to 11 years in prison for "manslaughter of a fetus." (The sentence was overturned in March.)

"Those are the types of things we're trying to stop, especially when we now live in an era of 'Handmaid's Tale' where, who knows what's happening?" Wicks said. "You look at the examples of Chelsea and Adora in California in the year 2022. We actually do have to put in statutes to ensure that women are protected in these circumstances."

The section that appears to have caused controversy states, "Notwithstanding any other law, a person shall not

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be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death."

The word "perinatal" seems to have sparked the misinformation. The section was amended on April 6 to read "perinatal death due to a pregnancy-related cause." Wicks says, "Anti-abortion activists are peddling an absurd and disingenuous argument that this bill is about killing newborns, when ironically, the part of the bill they're pointing to is about protecting and supporting parents experiencing the grief of pregnancy loss."

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Wicks says this legislation is one of the ways the state is preparing to help women in America access reproductive care.

"What we will not do in California is sit back while the rest of the nation is experiencing what they're experiencing," Wicks said. "What we're going to do is make sure that we're ready for the 1.4 million women that we expect to come to California."

And now, **here's what's happening across California:**

Note: Some of the sites we link to may limit the number of stories you can access without subscribing.

Why so many people in L.A. are heading to this hidden modern utopia by the sea: "The stress of the drive just fades away when you open the car door, hear the ocean and settle by the fire." Los Angeles Times

CALIFORNIA GLOBE

California's Newly Amended 'Infanticide' Bill Headed to Senate

californiaglobe.com/fl/californias-newly-amended-infanticide-bill-headed-to-senate/

Katy Grimes



Assembly Bill 2223 by Assemblywoman Buffy Wicks (D-Oakland), is an abortion bill misleadingly labeled "Reproductive health," which actually seeks/sought to legalize infanticide to expand the killing of infants past the moment of birth up to weeks after, the Globe reported.

Assemblywoman Wicks insisted in a hearing in the Assembly Judiciary Committee in April that AB 2223 does not support infanticide, and has only been labeled such because of the spread of misinformation by those who oppose the bill. Wicks said while other states are adopting increasingly aggressive measures to limit abortions, California continues to protect reproductive rights.Wicks says "women should not be prosecuted for a pregnancy loss."

This bill plays right into Gov. Gavin Newsom's and Democrats' plan to promote abortion tourism, inviting tourists to visit California and get an abortion if their own state has abortion restrictions.

Gov. Newsom and the State Legislature are offering taxpayer funds to help out-of-state residents obtain abortions, as well as legalizing infanticide through recently amended legislation. So they need to make sure nothing gets in the way of abortions for all, at any time during the pregnancy.

"Infanticide" is defined as:

1. The act of killing an infant.
2. The practice of killing newborn infants.
3. One who kills an infant.

AB 2223 Amended

AB 2223, passed the Assembly Appropriations Committee in May after

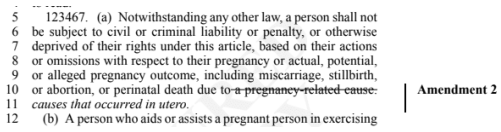
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approval of an amendment that mostly removed the verbiage decriminalizing infanticide, the California Family Council reported. "Legislators made the change after thousands of pro-life advocates came to Sacramento on April 19 to oppose the bill."

"The amendment confirmed the concerns California Family Council raised regarding the section that decriminalized 'perinatal death.' The change came despite multiple media outlets offering "fact checks" attempting to dismiss California Family Council's warnings that AB 2223 would decriminalize killing newborns up to 30 days after birth."

Is AB 2223 still a threat to unborn and newly born infants?

The amendment changes the bill to read, "perinatal death due to causes that occurred in utero."


123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to ~~a pregnancy-related cause.~~ *causes that occurred in utero.*
(b) A person who aids or assists a pregnant person in exercising

Amendment 2

Pregnancy loss" is how Wicks and proponents describe a fetal or infant death, even if the mother caused the death through "self-managing an abortion," and even after the baby is born alive.

Assembly Bill 2223 passed the Assembly and is now headed to the Senate.

AB 2223 seeks to change Penal Code section 187, which defines murder as "the unlawful killing of a human being, or a fetus, with malice aforethought." Reference to "a fetus" was added in 1970 when the California Legislature amended section 187. Attorney General Rob Bonta issued an alert in January stating he "reiterates that the Legislature did not intend to include a pregnant person's own actions that might result in a miscarriage or stillbirth."

Despite his interpretation and proclamation, the Attorney General can't change the Penal Code without passage of Assemblywoman Wicks' AB 2223.

Even more concerning, according to AB 2223, law enforcement will be barred from investigating an infant death. Bill analysis says, "The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus.

"So if a coroner investigates the alleged 'stillborn' baby's body and discovers the baby was not still-born, but born breathing and died of asphyxiation, that evidence couldn't be used to prosecute anyone for

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A-1654

infanticide," the California Family Council explains.

How exactly will law enforcement determine if the death was due to causes in utero or after, without an investigation? Answer: They can't. "The bill still decriminalizes back-alley abortions by removing punishment for anyone violating any abortion health and safety standards for any reason when performing an abortion on a woman through all nine months of pregnancy, right up to the moment of birth," the California Family Council said.

Another complication is the language used in the bill.

Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods. . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide.

According to the bill's author, Assemblywoman Buffy Wicks, the bill is about "reproductive justice, pregnancy criminalization, reproductive freedom, and pregnancy loss:

A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes.

Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss.

AB 2223 protects reproductive freedom and decisionmaking by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

California Family Council sums up the bill and amendment best:

"Even with the new amendment narrowing the meaning of 'perinatal death,' AB 2223 will still prohibit prosecution of a mother or someone assisting her for causing the death of her born or unborn child if the child

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died because of injuries sustained while in the womb. That would include injuries caused by a botched abortion, illegal drugs such as meth or heroin, or even a beating by a boyfriend, if the woman refuses to press charges."

Here is how members of the Assembly voted on AB 2223:

Yes on AB 2223 – Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon.

No on AB 2223 – Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron.

No Vote Recorded – Berman, Daly, Gray, Grayson, McCarty, O'Donnell, Ramos, Salas, Villapudua.

The Globe will follow AB 2223 through the Senate and report back.



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California passes 'historic' legislative package protecting or expanding abortion access

Veronica Stracqualursi

CNN —

The California Legislature this week passed about a dozen bills in what proponents call a "historic" legislative package to protect and expand abortion access in the state, as its Democratic leaders seek to make California a "reproductive freedom" state.

Lawmakers approved the bills in the final days of their legislative session, which ended Wednesday. The legislation now goes to Democratic Gov. Gavin Newsom, who has been supportive of abortion rights, for his signature.

Newsom has vowed to keep California as a safe haven for abortion seekers, as several Republican-led states have banned or severely restricted abortion after the US Supreme Court eliminated the federal right to the procedure.

Following the high court's ruling in June, Newsom signed a bill that aims to protect abortion providers and patients seeking abortion care in the state from civil action started in another state. "With today's Supreme Court decision to endanger the health and safety of millions of women across the country, California must do everything it can to protect the fundamental rights of all women – in California and beyond," he said in a statement at the time.

CNN has reached out to Newsom's office for comment on the bill package.

Most of the Democratic-sponsored bills were part of a legislative package introduced by the California Legislative Women's Caucus and backed by the California Future of Abortion Council, a coalition that includes abortion rights advocacy groups.

"We look forward to Governor Newsom continuing to provide and exemplify national leadership when it comes to protecting sexual and reproductive health care, including abortion, by signing this bold and historic bill package into law," Planned Parenthood Affiliates of California said in a tweet.

A number of the measures in the package seek to protect abortion patients and providers from potential prosecution or penalties brought by states, or civil action originating in states, where abortion is banned. The legislation aims to combat moves by other conservative states – including by lawmakers in Texas, Oklahoma and Idaho – that have sought to allow civil enforcement of abortion restrictions.

One such measure, AB 1242, would prohibit California law enforcement and other specified individuals from assisting or cooperating with other states' investigations related to abortion if

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the procedure was lawful under California statutes.

Under the bill, sponsored by California Attorney General Rob Bonta, the state would be barred from arresting someone who provides, supports or obtains an abortion that's legal in California. It would block tech companies in California from sharing digital reproductive information with out-of-state law enforcement seeking to enforce their abortion ban.

Another measure, AB 2091, aims to protect abortion-related medical information from being disclosed to other states seeking to enforce their abortion bans. And AB 2223 would remove the requirement in state law that a coroner investigate deaths related to self-induced or criminal abortion, and make it so that a coroner's statements about a fetal death certification could not be used to bring a criminal prosecution or civil action against a person for their pregnancy outcome. It also would prohibit a person from facing civil or criminal liability for getting an abortion or assisting someone in obtaining an abortion.

The latter bill drew fierce opposition, with opponents arguing the provision would hinder law enforcement's abilities to investigate and prosecute "infanticide" – something bill backers say mischaracterizes the legislation.

Proponents of the measure argue the legislation, which would allow civil actions to be brought against a state actor who interferes with a person's reproductive rights in California, would protect women from being criminally prosecuted for a miscarriage, abortion, perinatal death, or stillbirth.

Expanding access

Other bills in the legislative package seek to expand access to the procedure, including a proposal that would allow specifically trained nurse practitioners to provide abortions without a physician's supervision, and another that would prevent an abortion provider from losing or having their license or certification suspended if the abortion was legal under California law.

The California state budget, signed by Newsom in June, had allocated $20 million to the Abortion Practical Support Fund, a public-private fund that provides grants to nonprofit organizations that help Californians who are low-income obtain an abortion.

Lawmakers approved a separate bill that would expand the fund so the grants can be used to help out-of-state residents obtain an abortion in California. Another measure would create a state health website featuring information on California abortion services and connecting people to abortion providers.

Also included in the legislative package: a bill that would allow for grants to providers who provide abortion and contraception services for free or at low cost to low-income patients; a bill that would set up a reproductive health pilot project in Los Angeles County to safeguard patient access; and a bill that would award grants to programs that provide "medically accurate" reproductive education to at risk communities.

Californians will weigh in on the issue of abortion in the coming months, with voters set to consider a constitutional amendment on the November ballot that seeks to enshrine abortion rights in the state constitution.

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CAPITOL ALERT

Capitol Alert

California Gov. Gavin Newsom signs bill barring prosecution for pregnancy loss

BY ANDREW SHEELER

UPDATED SEPTEMBER 27, 2022 2:37 PM

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A rally coordinated by the California Family Council on Tuesday, April 19, 2022, protests Assembly Bill 2223, which aims to shield women from criminal charges for infant death due to pregnancy-related causes. The bill cleared its committee hearing. BY SARA NEVIS

California Gov. Gavin Newsom signed a bill into law Tuesday that shields from prosecution those who have lost pregnancies.

Assembly Bill 2223, authored by Assemblywoman Buffy Wicks, was part of a package of bills signed by Newsom aimed at shoring up abortion and reproductive health rights in California.

"An alarming number of states continue to outlaw abortion and criminalize women, and it's more important than ever to fight like hell for those who need these essential services. We're doing everything we can to protect people from any retaliation for accessing abortion care while also making it more affordable to get contraceptives," Newsom said in a statement.

Under AB 2223, which goes into effect Jan. 1, pregnant people are shielded from both criminal and civil liability in the event of a miscarriage, stillbirth or self-managed abortion.

"Every Californian should feel secure that they can seek reproductive healthcare —

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regardless of the outcome of their pregnancy — without fear of becoming the subject of a criminal investigation," Wicks said in a statement.

The law came in response to the prosecution of two Kings County women who were criminally charged after having miscarriages. Though charges in both cases were dismissed, one woman spent 16 months in jail and the other spent nearly four years. The Kings County District Attorney has vowed to bring new charges in one case, according to CalMatters.

According to Wicks' office, at least 1,300 people have been criminally prosecuted for having miscarriages, stillbirths or self-managed abortions in the last 20 years.

AB 2223 and its author drew heavy criticism from the conservative anti-abortion movement, with some organizations, such as the California Family Council, alleging that the bill would effectively decriminalize infanticide. That is not true. The law does prevent pregnant people from being criminally charged in the event that an infant dies due to pregnancy-related causes. It does not decriminalize the killing of infants.

Other bills signed by Newsom on Tuesday include Assembly Bill 2091, prohibiting health care providers from releasing medical information about abortion-seekers in response to a subpoena or out-of-state request; Assembly Bill 1242, barring California law enforcement and corporations from cooperating with out-of-state entities regarding a lawful abortion in California; Senate Bill 523, requiring health plans to cover certain forms of over-the-counter birth control without cost, and Senate Bill 1375, expanding training options for nurse practitioners and certified nurse-midwives for abortion care.

The bills were championed by Planned Parenthood Affiliates of California. In a statement, the organization praised Newsom for signing the bills into law.

"As extreme politicians across the country pursue personal political agendas seeking to restrict and criminalize people seeking and providing abortion services — essential health care that should be available to people where they live and when they want or need it — California is showing what is possible when leaders listen to experts, facts, science, and from the people who are directly impacted," said PPAC

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

President Jodi Hicks.

This story was originally published September 27, 2022, 2:26 PM.

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ANDREW SHEELER
THE SACRAMENTO BEE
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Andrew Sheeler covers California’s unique political climate for The Sacramento Bee. He has covered crime and politics from interior Alaska to North Dakota’s oil patch to the rugged coast of southern Oregon. He attended the University of Alaska Fairbanks.

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EXHIBIT

B

Res. Ch. 97

Senate Constitutional Amendment No. 10

Adopted in Senate June 20, 2022

Secretary of the Senate

Adopted in Assembly June 27, 2022

Chief Clerk of the Assembly

This resolution was received by the Secretary of State this 29th day of June, 2022, at 11:30 o'clock a. M.

Deputy Secretary of State

B-1

RESOLUTION CHAPTER _____

Senate Constitutional Amendment No. 10—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 1.1 to Article I thereof, relating to fundamental rights.

LEGISLATIVE COUNSEL'S DIGEST

SCA 10, Atkins. Reproductive freedom.

The California Constitution declares that defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy are inalienable rights, and that a person may not be deprived of life, liberty, or property without due process of law or equal protection of the laws. Existing law, the Reproductive Privacy Act, declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and prohibits the state from denying or interfering with a person's right to choose or obtain an abortion before viability of the fetus, or when the abortion is necessary to protect the life or health of the person.

This measure would amend the California Constitution to prohibit the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2021–22 Regular Session commencing on the seventh day of December 2020, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 1.1 is added to Article I thereof, to read:

SEC. 1.1. The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. This section is intended to further the constitutional right to privacy guaranteed by Section 1, and the constitutional right to not be denied equal protection guaranteed by Section 7. Nothing herein narrows or limits the right to privacy or equal protection.

B-2

FILED
in the office of the Secretary of State
of the State of California

JUN 29 2022

By _____
Deputy Secretary of State

Attest:

_____
Secretary of State

B-3

General Election

Tuesday, November 8, 2022

Official Voter Information Guide

Don't Delay, Vote Today!

Early vote-by-mail ballot voting period is from October 11 through November 8, 2022.

Polls are open from 7:00 a.m. to 8:00 p.m. on November 8, 2022, Election Day!

VOTE SAFE CALIFORNIA

Every registered voter in California will receive a vote-by-mail ballot.

Vote-by-mail ballots are mailed on or before October 10.

Vote-by-mail ballots can be voted and returned as soon as they are received.

Vote-by-mail drop boxes open October 11.

In-person voting options will be available in all counties.

Learn more inside.



Certificate of Correctness

I, Shirley N. Weber, Secretary of State of the State of California, do hereby certify that the information included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 8, 2022, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 15th day of August, 2022.

Shirley N. Weber, Ph.D.
Secretary of State

★ You may request additional copies of the Official Voter Information Guide by contacting your county elections official or by calling (800) 345-VOTE (8683). ★

VOTER BILL OF RIGHTS

YOU HAVE THE FOLLOWING RIGHTS:

1. **The right to vote if you are a registered voter.** You are eligible to vote if you are:
   - a U.S. citizen living in California
   - at least 18 years old
   - registered where you currently live
   - not currently serving a state or federal prison term for the conviction of a felony, and
   - not currently found mentally incompetent to vote by a court

2. **The right to vote if you are a registered voter even if your name is not on the list.** You will vote using a provisional ballot. Your vote will be counted if elections officials determine that you are eligible to vote.

3. **The right to vote if you are still in line when the polls close.**

4. **The right to cast a secret ballot** without anyone bothering you or telling you how to vote.

5. **The right to get a new ballot if you have made a mistake,** if you have not already cast your ballot. You can:

   Ask an elections official at a polling place for a new ballot,
   Exchange your vote-by-mail ballot for a new one at an elections office, or at your polling place, or
   Vote using a provisional ballot.

6. **The right to get help casting your ballot** from anyone you choose, except from your employer or union representative.

7. **The right to drop off your completed vote-by-mail ballot at any polling place** in California.

8. **The right to get election materials in a language other than English** if enough people in your voting precinct speak that language.

9. **The right to ask questions to elections officials about election procedures** and watch the election process. If the person you ask cannot answer your questions, they must send you to the right person for an answer. If you are disruptive, they can stop answering you.

10. **The right to report any illegal or fraudulent election activity** to an elections official or the Secretary of State's office.

    On the web at **www.sos.ca.gov**
    By phone at **(800) 345-VOTE (8683)**
    By email at **elections@sos.ca.gov**

IF YOU BELIEVE YOU HAVE BEEN DENIED ANY OF THESE RIGHTS, CALL THE SECRETARY OF STATE'S CONFIDENTIAL TOLL-FREE VOTER HOTLINE AT **(800) 345-VOTE (8683).**

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Top Contributors to State Candidates and Ballot Measures

When a committee (a person or group of people who receive or spend money for the purpose of influencing voters to support or oppose candidates or ballot measures) raises at least $1 million, it must report its top 10 contributors to the California Fair Political Practices Commission (FPPC). The committee must update the list when there is any change.

These lists are available on the FPPC website at *http://www.fppc.ca.gov/transparency/top-contributors.html*.

To research campaign contributions for candidates or ballot measures, visit the Secretary of State's website at *powersearch.sos.ca.gov*.



Secretary of State

Dear Californian,

While many of the hard-won advances in voting rights have been rolled back in other states, California remains committed to expanding access to voting by making universal vote-by-mail ballots permanent, increasing the number of in-person voting options, offering same-day registration and provisional voting, and expanding the number of days available to vote.

Because attacks on elections and voting rights continue, we are counting on you to vote for what matters to you and your family, to vote for the needs of your communities, and to vote for the health of our democracy.

This Voter Information Guide can help you make decisions about the candidates and issues on the statewide ballot for the November 8, 2022, General Election. In addition to information about how to cast your ballot, this guide includes statewide candidate statements, information about state propositions, and your rights as a California voter.

Below is information I wanted to highlight for you:

Propositions—These are proposed state policies placed on the ballot so voters have the opportunity to vote for or against them. The Legislature has the ability to place constitutional amendments, bond measures, and other proposed changes in law on the ballot, while any California voter can put an initiative or a referendum on the ballot.

In the following pages, you will find a summary of each proposition along with arguments for and against the measure and contact information for the supporters and opponents. You may also find this information at the Secretary of State's website: *voterguide.sos.ca.gov*.

Vote-By-Mail Now Permanent, But You Still Have In-Person Options!—The Legislature passed AB 37 in 2021, which ensures every active registered voter will be sent a vote-by-mail ballot with the option to return their ballot by mail, in person, or at a secure drop box. Whichever option you choose, remember to sign and seal your ballot before you return it!

Track Your Ballot—Track your vote-by-mail ballot by signing up at *WheresMyBallot.sos.ca.gov* to receive text, email, or voice status alerts.

More Days, More Ways to Vote in Voter's Choice Act Counties—There are now 27 Voter's Choice Act counties (VCA). For more information, visit *www.sos.ca.gov/elections/voters-choice-act*.

Make A Plan To Vote—Making a plan makes it more likely you will vote. Will you return your ballot by mail? Drop it at a drop box? Or vote in person at a neighborhood polling place or vote center? Research your options and make a plan today!

Thank you for keeping our democracy strong!

QUICK REFERENCE GUIDE

PROP 1 — CONSTITUTIONAL RIGHT TO REPRODUCTIVE FREEDOM. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY — *Put on the Ballot by the Legislature*

Amends California Constitution to expressly include an individual's fundamental right to reproductive freedom, which includes the fundamental right to choose to have an abortion and the fundamental right to choose or refuse contraceptives. This amendment does not narrow or limit the existing rights to privacy and equal protection under the California Constitution. **Fiscal Impact:** No direct fiscal effect because reproductive rights already are protected by state law.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The California Constitution would be changed to expressly include existing rights to reproductive freedom—such as the right to choose whether or not to have an abortion and use contraceptives.

NO A NO vote on this measure means: The California Constitution would not be changed to expressly include existing rights to reproductive freedom. These rights, however, would continue to exist under other state law.

ARGUMENTS

PRO Yes on 1 places the fundamental right to abortion and the fundamental right to contraceptives in the Constitution. Yes on 1 protects individual choices on reproductive care and the right to choose to have an abortion, keeping medical decisions where they belong—between a patient and their provider. YESon1CA.com

CON Proposition 1 is an extreme law that allows late-term abortions at taxpayer expense up to the moment of birth—even if the baby is healthy and the mother's health is not threatened. Current California law already guarantees a woman's right to choose, making this extreme and costly proposal unnecessary.

FOR ADDITIONAL INFORMATION

FOR

Yes on Prop. 1, Protect Abortion Rights
(916) 238-8392
info@YESon1CA.com
YESon1CA.com

AGAINST

K. Reid
California Together, No on Proposition 1
P.O. Box 13813
Sacramento, CA 95853
(916) 484-4008
info@NoProposition1.com
www.NoProposition1.com

PROP 26 — ALLOWS IN-PERSON ROULETTE, DICE GAMES, SPORTS WAGERING ON TRIBAL LANDS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY — *Put on the Ballot by Petition Signatures*

Also allows: sports wagering at certain horseracing tracks; private lawsuits to enforce certain gambling laws. Directs revenues to General Fund, problem-gambling programs, enforcement. **Fiscal Impact:** Increased state revenues, possibly reaching tens of millions of dollars annually. Some of these revenues would support increased state regulatory and enforcement costs that could reach the low tens of millions of dollars annually.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Four racetracks could offer in-person sports betting. Racetracks would pay the state a share of sports bets made. Tribal casinos could offer in-person sports betting, roulette, and games played with dice (such as craps) if permitted by individual tribal gambling agreements with the state. Tribes would be required to support state sports betting regulatory costs at casinos. People and entities would have a new way to seek enforcement of certain state gambling laws.

NO A NO vote on this measure means: Sports betting would continue to be illegal in California. Tribal casinos would continue to be unable to offer roulette and games played with dice. No changes would be made to the way state gambling laws are enforced.

ARGUMENTS

PRO YES on 26 authorizes sports wagering in-person at tribal casinos. Limits sports wagering to adults only. Prop. 26 supports Indian self-reliance by providing revenue for tribal education, healthcare and other vital services. Prop. 26 promotes safe, responsible gaming and helps stop and prevent illegal gambling. Stand with Tribes: YES on 26.

CON Prop. 26 is a massive expansion of gambling that will lead to more underage gambling and addiction. Prop. 26 is sponsored by five wealthy gaming tribes who want to expand their monopoly on gambling to include sports betting. At the same time, Prop. 26 will devastate other communities of color. No on Prop. 26.

FOR ADDITIONAL INFORMATION

FOR

Coalition for Safe, Responsible Gaming
1017 L Street #408
Sacramento, CA 95814-3805
(888) 256-8602
info@YESon26.com
YESon26.com

AGAINST

No on 26—Taxpayers Against Special Interest Monopolies
(916) 237-7398
Info@VoteNoOnProp26.org
www.VoteNoOnProp26.org

PROPOSITION 1

CONSTITUTIONAL RIGHT TO REPRODUCTIVE FREEDOM. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on page 77 and the Secretary of State's website at *voterguide.sos.ca.gov.*

- Existing California laws provide that every individual has a fundamental right to privacy in their personal reproductive decisions, which includes the fundamental right to choose to have an abortion and the fundamental right to choose or refuse contraceptives.
- This measure would amend the California Constitution to expressly include these fundamental rights and prohibit the State from denying or interfering with an individual's reproductive freedom in their most intimate decisions.
- This amendment is intended to further the existing California constitutional rights to privacy and equal protection, and does not narrow or limit these rights.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- No direct fiscal effect because reproductive rights already are protected by state law.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 10 (PROPOSITION 1)
(CHAPTER 97, STATUTES OF 2022)

Senate:	Ayes 29	Noes 8
Assembly:	Ayes 58	Noes 17

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

FEDERAL LAW

Due to Recent Court Case, Right to Abortion No Longer Protected by U.S. Constitution. In the past, the U.S. Supreme Court found that the U.S. Constitution generally protected the right to abortion. As a result, states had limited ability to place restrictions on abortions. However, in June 2022, the U.S. Supreme Court decided that the U.S. Constitution does not protect the right to abortion. As such, states now have more flexibility to decide whether to allow, limit, or ban abortions.

Federal Law Protects Rights to Contraceptives. The U.S. Supreme Court has found that the U.S. Constitution protects the right to buy and use contraceptives (such as condoms, birth control pills, and other birth control products). In addition, federal law requires most health insurance plans to pay for contraceptives.

STATE LAW

State Law Provides Right to Reproductive Privacy. The California Constitution guarantees everyone the right to privacy but does not define what this right includes. However, the California Supreme Court has found that this right to privacy includes the

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

right to make reproductive choices, such as whether or not to have an abortion or use contraceptives. In addition, state law was later passed to expressly protect these rights.

State Law Places Some Restrictions on Abortions. Because of the way California courts have interpreted the right to privacy, the state can only restrict abortions when needed to meet certain state interests such as public health and safety. For example, California law requires abortion providers to be licensed. In addition, abortions can only be performed on a viable fetus if the pregnancy puts the health or life of the person who is pregnant at risk. Under state law, a fetus is considered viable if the fetus likely would be able to survive outside the uterus.

STATE HELPS PAY FOR HEALTH CARE FOR MANY CALIFORNIANS

California Provides Health Care to Many Low-Income Californians. The federal-state Medicaid program, known as Medi-Cal in California, provides health coverage to eligible low-income California residents. Health care services covered by Medi-Cal include abortions and contraceptives. The state and federal government share the cost of most Medi-Cal services including contraceptives. However, the state pays the full cost of abortions provided through Medi-Cal.

Many Californians Purchase Health Insurance Through Covered California. About 2 million Californians buy health insurance plans through the state's health insurance market, Covered California. Health care services covered by these plans include abortions and contraceptives. For most people enrolled in Covered California, the state and federal government help pay for at least some of the cost of buying these plans. However, the state alone pays for the cost of the plans to cover abortions for these people.

PROPOSAL

Proposition 1 changes the California Constitution to say that the state cannot deny or interfere with a person's reproductive freedom and that people have the fundamental right to choose:

- Whether or not to have an abortion.
- Whether or not to use contraceptives.

FISCAL EFFECTS

No Direct Fiscal Effect. Proposition 1 would change the California Constitution to expressly include existing rights to reproductive freedom. Because these rights already exist in California, the proposition would have no direct fiscal effect. However, whether a court might interpret the proposition to expand reproductive rights beyond existing law is unclear. If a court finds that the proposition expands these rights, there could be fiscal effects to the state.

Visit *https://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2022-ballot-measure-contribution-totals* for a list of committees primarily formed to support or oppose this measure.

Visit *https://www.fppc.ca.gov/transparency/top-contributors.html* to access the committee's top 10 contributors.

For the full text of Proposition 1, see page 77.

1

★ ARGUMENT IN FAVOR OF PROPOSITION 1 ★

VOTE YES ON PROP. 1.

It's simple: Proposition 1 will enshrine the fundamental right to an abortion and a fundamental right to contraceptives in the California State Constitution.

For nearly 50 years, Americans have relied on the legal principle set by *Roe v. Wade* that allowed individuals to make their own reproductive health decisions privately. Access to abortion is no longer federally protected and is under attack across the country.

YES ON PROP. 1 PROTECTS THE RIGHT TO REPRODUCTIVE FREEDOM.

Prop. 1 amends the California State Constitution to explicitly prohibit interference with individual choices on reproductive health. It ensures a fundamental right to choose to have an abortion and protects access to contraceptives. These rights are consistent with existing state constitutional rights to privacy and equal protection under the law.

YES ON PROP. 1 WILL ENSURE THE CHOICE TO SEEK COMPREHENSIVE REPRODUCTIVE HEALTH CARE, INCLUDING ABORTION, WILL ALWAYS BE PROTECTED IN CALIFORNIA.

Millions in other states have already lost their right to an abortion. In those states, patients could be sent to prison for seeking abortions even in the case of miscarriages. And most will be prevented from having abortions even in cases of rape or incest. Their health care providers could also be held criminally liable.

DOCTORS, NURSES AND HEALTH PROVIDERS ALL AGREE.

Yes on Prop. 1 is necessary to keep reproductive medical decisions where they belong—with individuals and their health care providers, based on scientific facts, not political agendas.

Prop. 1 will also protect how a person decides to use contraceptives and establishes guardrails that allow a person to make the choice themselves on how to use or to refuse contraceptives, based on their individual needs.

WE CANNOT—AND MUST NOT—GO BACKWARDS.

Before 1973, women needing essential reproductive health care were often forced to travel long distances or made to seek illegal care, even in the most extreme cases.

Children growing up today should not have fewer rights than their grandparents. But unless we pass Prop. 1, our rights in California could be at risk.

Access to affordable, comprehensive reproductive health care, including abortion, allows people to plan their lives and achieve their dreams. Yes on Prop. 1 protects access to the care that will give individuals and families the freedom to make those choices.

The California Medical Association, Planned Parenthood Affiliates of California, and the League of Women Voters of California support Prop. 1 because no matter who or what political party controls the government, a person's right to an abortion or contraceptives should be protected in California.

We must lead the way to ensure that those who need access to care can get it in California.

Learn more at *YESon1CA.com*.

VOTE YES ON PROP. 1.

Shannon Udovic-Constant, **M.D.**, Board Chair
California Medical Association

Jodi Hicks, President
Planned Parenthood Affiliates of California

Carol Moon Goldberg, President
League of Women Voters of California

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 1 ★

Proposition 1 is NOT needed to protect abortion rights. But it WILL cost California taxpayers millions.

"California law already allows access to abortion and contraception," says constitutional attorney Heather Hacker. "But unlike state law, which limits late-term abortions unless medically necessary, Proposition 1 has no limit on late-term abortions."

Like other constitutional amendments, Proposition 1 will face numerous lawsuits and court challenges, leaving its fate subject to judicial interpretation.

Do we really want judges deciding this issue?

Equally untrue are claims that Proposition 1 limits late-term abortions. It does not.

Read Proposition 1 for yourself. It contains NO language limiting late-term abortions, nor does it prevent tax money from being used to fund abortions.

The Legislature has already INCREASED abortion funding by $200 million this year. But advocates of Proposition 1 say that may not be enough. With Proposition 1, the number of abortion seekers from other states will soar, at the expense of California taxpayers.

This is blatantly unfair.

According to *The San Jose Mercury News*, clinics in San Diego, Riverside and Imperial counties have already seen a 1,246% increase in women seeking abortions—just from Arizona.

Proposition 1 is a multi-million-dollar waste of tax money that is not needed to protect women's reproductive freedom. It allows late-term abortions without limitation, and will ignite a protracted legal battle that could take years and cost millions.

To protect taxpayers and existing abortion rights, and to preserve reasonable limits on late-term abortions, vote "NO" on Proposition 1.

Allison Martinez, Executive Director
California Alliance of Pregnancy Care

Brad Dacus, President
Pacific Justice Institute

Dr. Vansen Wong, Gynecologist

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 1 ★

Those of us signing this argument have differing views on many issues, including abortion.

But we all agree Proposition 1 is an extreme, expensive, and pointless waste of tax money that will allow unrestricted late-term abortions costing taxpayers millions. This is not the answer.

Proposition 1 was put on the ballot for one reason—to score political points, not to make serious policy.

Women already have the right to choose under current California law. The recent U.S. Supreme Court ruling did not and will not change this. Proposition 1 is NOT needed to protect women's health or their reproductive rights.

Abortions are already legal in California with reasonable limits on late-term abortions, which are allowed if medically necessary to protect the life or health of the mother.

Proposition 1 will destroy this important balance and bake the most extreme abortion law possible into our state constitution.

Proposition 1 will allow late-term abortions at taxpayer expense WITHOUT limitation for any reason at any time up to the moment of birth—even when the mother's life is not in danger, even when the healthy baby could survive outside the womb.

Instead of preserving our state's compassionate and carefully balanced limits on late-term abortions, Proposition 1 will push California far outside the mainstream. Today, most states and 47 European countries limit late-term abortions, including California. A recent Harris Poll found that 90% of Americans support limits on late-term abortions. Likewise, recent polling shows that most California voters support limitations on late-term abortions, as well.

By allowing abortion without limit, Proposition 1 will turn California into a "sanctuary state" for thousands, possibly millions, of abortion seekers from other states, at a staggering cost to taxpayers.

The pro-abortion Guttmacher Institute estimates that California could see a nearly 3,000% increase in the number of people from other states seeking abortions here, with many coming for more expensive late-term abortions. According to the report, California's annual out-of-state patient load could climb from 46,000 people a year to 1.4 million.

Without limits on late-term abortions, Proposition 1 will push these numbers even higher, draining millions of tax dollars at a time when taxpayers are struggling with inflation and sky-high gas prices.

The Legislature has already committed over $200 million this year to expand abortion and reproductive services, including tens of millions to pay the expenses for abortion seekers from other states. With a 3,000% increase in the number of people from other states wanting abortions, millions of dollars more will be required to meet soaring demand.

Proposition 1 is an extreme and costly proposal that does nothing to advance women's health or their right to choose. It punishes taxpayers and eliminates all limits on late-term abortions in defiance of what most voters want.

Proposition 1 is a cynical political stunt that was put on the ballot to score political points, not make sensible policy. As usual, taxpayers will pay the price.

We urge a "NO" vote on Proposition 1. It deserves defeat.

Dr. Anne Marie Adams, Gynecologist

Tak Allen, President
International Faith Based Coalition

Assemblymember Jim Patterson

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 1 ★

Proposition 1 ensures that reproductive health care—including the right to an abortion—is protected in the State Constitution. This amendment explicitly defines in the State Constitution that people have the freedom to access abortions and contraceptives. This would prevent those rights from being taken from Californians just as it was recently stripped by the conservative U.S. Supreme Court.

Don't be misled by opponents. We can't go back.

Prop. 1 does not change how or when a person can access an abortion in California.

Existing California law provides that women have the right to choose to have an abortion prior to viability, or to protect the woman's life or health. Proposition 1 will not change that.

Don't fall for scare tactics from opponents.

Prop. 1 simply amends the State Constitution to prohibit interference with individual choices on reproductive health care and the fundamental right to choose to have an abortion.

Decisions about abortion and contraception are deeply personal. They are best made with a health care provider who can provide expert guidance and are bound by professional and ethical standards. Prop. 1 protects that right.

Don't let California go backwards. While the U.S. Supreme Court has turned its back on science, safety and equality with a reversal of *Roe v. Wade*, Prop. 1 ensures that the choice to seek comprehensive reproductive health care will always be protected in California.

Reproductive medical decisions should be made with health care providers, based on scientific facts, free of politics.

YESon1CA.com

Vote YES on Prop. 1.

Sandy Reding, **R.N.**, President
California Nurses Association

Kelly McCue, **M.D.**, District IX Chair
American College of Obstetricians and Gynecologists

Cary Franklin, **J.D.**, Faculty Director
UCLA Center on Reproductive Health, Law and Policy

PROPOSITION 1

This amendment proposed by Senate Constitutional Amendment 10 of the 2021–2022 Regular Session (Resolution Chapter 97, Statutes of 2022) expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE I

That Section 1.1 is added to Article I thereof, to read:

SEC. 1.1. The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. This section is intended to further the constitutional right to privacy guaranteed by Section 1, and the constitutional right to not be denied equal protection guaranteed by Section 7. Nothing herein narrows or limits the right to privacy or equal protection.

PROPOSITION 26

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution and adds sections to the Business Professions Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known as the "California Sports Wagering Regulation and Unlawful Gambling Enforcement Act."

SEC. 2. Findings and Declarations.

(a) In May 2018, the United States Supreme Court eliminated the federal prohibition on sports wagering. As a result, states now have the freedom to authorize sports wagering within their borders and establish regulations, consumer protections, responsible gambling measures, and taxes on sports wagering. Already 20 states have chosen to regulate and tax sports wagering in a manner that provides for consumer protections, responsible gambling, and gives adults the choice to participate in this activity.

(b) Unregulated and untaxed sports wagering is happening throughout California without any consumer or responsible gambling protections. Leading economists and industry experts estimate that during the federal prohibition on sports wagering, a thriving black market flourished with billions of dollars wagered annually across the United States. The illegal sports wagering market in California continues to thrive and will continue to be an attractive option due to its untaxed, unregulated, and unlicensed nature.

(c) Unregulated gambling enterprises are a threat to public safety and public health as they are often conducted by criminal elements. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by federal, state, or local law.

(d) Leading economists and industry experts estimate a legal and regulated sports wagering market in California could generate hundreds of millions of dollars in economic activity in the initial years, which would result in tens of millions of dollars in annual tax revenue for the State of California.

(e) Sports wagering should be regulated and taxed in California to stamp out the black market of illegal gambling operations to allow adults the choice to participate in this activity with strong consumer protections.

(f) Taxing sports wagering would create new revenue to increase funding for programs related to preventing problems associated with problem gambling and mental health, and help finance the state's general fund priorities related to education and public safety.

(g) Californians 21 years of age or older should have the choice to participate in legal sports wagering in highly regulated and safe facilities that are experienced in gaming operations and are in good standing with the appropriate federal, state, and local regulatory agencies.

(h) In keeping with our California values of protecting our children and young people, sports wagering must be tightly regulated. It must be limited to only adults 21 years old or older. Existing law recognizes that gambling can become addictive and is not an activity to be promoted or legitimized as entertainment for children and families. Accordingly, there shall be no advertising or marketing of sports wagering directed to children.

(i) In order to protect our students and our colleges and universities, sports wagering on high school sports and on California-based college teams must also be strictly prohibited.

(j) To prevent the exploitation of animals, sports wagering will not be allowed on any currently prohibited form of animal contests, such as greyhound or other dog races.

(k) Public confidence that legal gambling, including sports wagering, will not endanger public health, safety, or welfare requires that comprehensive measures be enacted and enforced to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted only at suitable locations. The California gaming industry must be held accountable to ensure they are complying with

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

Assisted Reproductive Technology Informed Consent

PATIENT NAME: SONA GOLDSTEIN (please print) DOB: 11-30-1982

PARTNER NAME: MAX BORENSTEIN (please print) DOB: 6-20-1981

DESCRIPTION OF RISKS TO THE PATIENT:

1. All fertility drugs may cause ovarian hyperstimulation.This means that the ovary may grow to a very large size. This is uncommon, but may be serious and may require hospitalization.
2. There are no known risks to ultrasound monitoring as it is used in our office.
3. Blood drawing may lead to the formation of a hematoma (large bruise) and pain. The total amount of blood drawn during a cycle is about one cup (250cc).This is not enough to cause anemia (thin or weak blood) unless you have an underlying condition.
4. If you have ultrasound-guided follicle aspiration, a needle will be introduced into the ovary through the bladder or vagina.The risks of this procedure are mainly internal bleeding and possible infection. Each of these may require hospitalization.You will be given sedative drugs prior to the procedure and these may lead to unexpected reactions.
5. If pregnancy ensues, a miscarriage may result which may require hospitalization and a surgical procedure called a D&C, dilation and curettage.
6. The risks of fetal abnormality or malformation are thought to be about the same with IVF as in the general population; therefore, they may occur. Prenatal diagnosis with (3D or 4D) ultrasound and blood tests are strongly recommended for all IVF patients, even if preimplantation genetic screening (PGS) is performed.
7. Although, SCCRM strictly adheres to the policy recommendations of the Society for Assisted Reproductive Technologies (SART) regarding the maximum number of embryos to transfer by age group, multiple births may still occur. Multiple births are associated with increased risk to the fetuses prior to delivery, during delivery, and during early life. Only when single embryo transfer (SET) is applied is the risk of multiple birth significantly reduced, while potentially decreasing your chance for pregnancy success, too.
8. Ectopic or tubal pregnancies occur rarely with IVF. If this happens, a surgical procedure will be required to remove the tubal pregnancy.
9. No guarantees are being made as to the success of the procedure.

HOW THE CYCLE MAY FAIL:

1. Poor ovarian response to medications may lead to cycle cancellation.
2. Only one or two follicles may develop.
3. Eggs may be ovulated prematurely, thus preventing retrieval.
4. Technical problems and/or pelvic scarring may prevent retrieval of eggs by preventing access to the follicles.
5. Aspirated follicles may not contain eggs.
6. The eggs may be abnormal.
7. The eggs may not fertilize.
8. Fertilized eggs may not divide.
9. Transferred embryos may not implant.
10. Implanted embryos may be miscarried.
11. Multiple births can occur.
12. The embryos may develop abnormally.
13. Genetic malformation may occur.

GENERAL CONSENT IVF

I/We Sofiya Goldstein (Recipient) and Max Bronstein (Recipient's partner), the undersigned, are over 18 years of age.

I/We hereby request to be entered into the In-Vitro Fertilization Program with Southern California Center For Reproductive Medicine (SCCRM) in Suite #333 and its affiliated Laboratory Ovation Fertility in Suite #433.

I/We have read the description of risks and the attached patient information materials and all of my/our questions have been answered to my/our satisfaction.

I/We understand that some of this data generated by my/our participation in this program may help other infertile couples. I/We consent to the recording and publication of laboratory data generated by my/our participation in the program for the purpose if advancing medical education and research providing my/our identity is not disclosed. With my/our prior consent, my/our identity may be disclosed.

I/We understand the risks, the benefits, and the alternatives of this procedure and wish to enter into the program.

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

STORAGE FEES AND ADDITIONAL EXPENSES

I/We understand that there are fees and expenses associated with the storage of eggs and embryos. In the event that we fail to pay these costs for 90 days after receipt of the first renewal invoice, the account will be sent to a collection agency for payment. The annual storage fee is subject to change without notice. If I/We wish to donate or discard the eggs or embryos, I/We will contact Ovation Fertility or the Financial Department for instructions. I/We understand that there are additional fees above and beyond the costs associated with our IVF cycle for laboratory procedures such as ICSI and Assisted Hatching. These procedures may not be covered by our insurance plan. I/We understand that we are financially responsible for all costs related to the IVF cycle, including any costs related to additional laboratory procedures. I/We have received the current Global IVF fee schedules and the Ovation (OFSS) Storage Plan Options, and have had the opportunity to speak with a financial counselor.

SOFIYA GOLDSHTEYN — [redacted] 7-10-21
FEMALE PARTNER — DATE

MAX BORENSTEIN — 7-10-21
MALE PARTNER — DATE

RESPONSIBILITY TO INFORM SCCRM/OVATION FERTILITY OF OUR ADDRESS

I/We understand and agree that it is our responsibility to keep SCCRM/Ovation Fertility informed at all times of our mailing address and phone number. I/We understand that we need to do so in writing within 30 days of any changes.

Our current address and phone number is:

11540 CLOVER AVE

LOS ANGELES, CA 90066

CONSENT TO USE DONOR SPERM FOR IN VITRO FERTILIZATION

Will donor sperm be used for this IVF cycle? ___X___**NO** _____**YES**

If yes, please complete the remainder of this form.

Patient Name: _____

Spouse/Partner: _____

I am aware that donor sperm from an outside facility or source will be used in the process of this in vitro fertilization cycle.

_____ 100% Donor Sperm _____ 50% Donor Sperm (Other % _____)

_____ 50% Spouse/Partner Sperm (Other % _____)

Donated Sperm Source:

_____ Anonymous Donor Sperm CryoBank _____ Donor ID#_____

_____ Known Donor Name of Directed Donor_____

_____ _____

Patient Signature Date

_____ _____

Spouse/Partner Signature Date

We encourage you to carefully consider the questions and information below.

Do you have any ethical, moral and/or religious objections to embryo cryopreservation?
Yes or (No) (circle answer)

The **maximum number of eggs** I/we wish to have inseminated (fertilized) ___ or (ALL)
(circle answer)

I/we have read and are informed of the ASRM / SART Guidelines above. It is my understanding that SCCRM /Ovation Fertility implements these guidelines, in our best interests, as the recommended number of embryos to transfer optimizes my chance of getting pregnant while minimizing my risks of having a high-order multiple pregnancy (i.e., greater than twins). The chance of a single embryo implanting is age dependent (progressively decreasing by age groups). For example, we anticipate a 10% decline/age group for Blastocyst ET, starting with a 50-60% implantation rate for Donor eggs[D]. It is theoretically possible that all embryos that are transferred may implant. Additionally, any implanting embryo could split into identical twins, and thus produce a multiple gestation. As discussed, I understand that a single embryo transfer (SET) is the best option to minimize my risk of establishing a multiple gestation to less than 2% (risk of identical twinning).

It is my further understanding that even with modern obstetrical methods, multiple gestations are associated with premature labor, necessitating in some cases neonatal intensive care for the babies that are born. Additionally, virtually every obstetrical complication has a higher likelihood of occurring if the gestation is multiple. As a result, gestations of three or more fetuses are occasionally reduced to twins by a process called Selective Reduction. This method involves the insertion of a needle through the mother's abdomen into the developing sacs, and the injection of a toxic substance (potassium salt solution) into one or more of the sacs, so that only twins remain. This procedure has proven to be effective and relatively safe when performed by a qualified specialist, with up to a 5% risk of pregnancy loss. The possibility that Selective Reduction will result in loss of all the fetuses must be considered, especially if performed in conjunction with other genetic testing procedures (e.g., chorionic villi sampling{CVS} or aminocentesis).

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

I/we have read the previous information and are informed on the issues and choices

I/we have pertaining to Embryo Transfer.

FEMALE PARTNER — DATE 7-10-21

MALE PARTNER — DATE 7-10-21

I/We consent to the performance of ICSI (Intracytoplasmic Sperm Injection)

FEMALE PARTNER — DATE 7-10-21

MALE PARTNER — DATE 7-10-21

I/We consent to the performance of LAH (Laser Assisted Hatching) if medically indicated (e.g., Day 3 ET, FET, Embryo biopsy)

FEMALE PARTNER — DATE 7-10-21

MALE PARTNER — DATE 7-10-21

Please select one of the following options:

Option A: Yes

I/We wish to have all embryos which are not replaced during the IVF cycle cryopreserved and stored.

Option B: ____

I/We do not wish to have any embryos cryopreserved (in this case other arrangements must be made prior to starting a cycle).

FEMALE PARTNER — DATE 7/10/21

MALE PARTNER — DATE 7/10/21

EMBRYO & EGG CRYOPRESERVATION INFORMATION AND EMBRYO VITRIFICATION INFORMED CONSENT

When a human sperm enters a human egg, the egg is said to be fertilized, and is called an embryo. The resulting embryo may be viewed as potential human life, or in the view of some, as human life. During the course of clinical human in-vitro fertilization, embryos may be produced in the laboratory, which cannot immediately be replaced in the uterus. This occurs principally as a result of multiple eggs being fertilized, and the current practice of replacing no more than a specified limited number of embryos in the uterus at one time. It is our typical practice to cryopreserve (freeze) all embryos which develop into blastocysts for future use. Each couple must read the following and decide about embryo freezing prior to follicle aspiration in each cycle that they attempt.

Today, in the In-Vitro Fertilization Laboratory (i.e.,Ovation Fertility), we cryopreserve all embryos and eggs by a process known as "vitrification (VTF)",which forms a metastable glass without the damaging formation of ice crystals. Embryos are quickly diluted in a concentrated VTF solution and placed in special holding containers ("VTF tips within high security straws"), suspended in a small volume of VTF solution, sealed in an aseptic & closed manner prior to direct placement in liquid nitrogen at -196 degrees Celsius. Embryos can be stored in liquid nitrogen indefinitely, although ASRM guidelines recommend that embryos be used within a 5 year period. Embryos may be vitrified at any stage of development, from one cell to blastocyst, or from one to six days after fertilization. Currently,we typically grow all embryos to the blastocyst stage on Day 5 or 6 for determination of potentially viable embryos for cryopreservation. On average, we expect about 50% of your embryos to grow into Blastocysts that can be transferred or vitrified.
In order for frozen embryos to produce a pregnancy, they must be thawed out and then replaced in the uterus at the correct time of the cycle, which means a time when the uterus is at the same stage as the frozen embryos. Therefore, the day of embryo replacement varies with the stage of which the embryos were cryopreserved. If you have embryos vitrified, you will be informed of the exact day of the cycle when the embryos will be replaced. If you have several embryos cryopreserved, you may need more than one transfer cycle to replace all of them.

When embryos are cryopreserved, their viability and consequently their likelihood of producing a pregnancy may be reduced, primarily because the best embryos are transferred during the fresh state. However, patients who fail to achieve pregnancy with the fresh embryos can get pregnant during the subsequent frozen embryo transfer. Typically, over 90% of vitrified embryos survive a thaw completely intact, being highly viable and capable of establishing a pregnancy. Although technology has improved, not all embryos survive the thaw process. On occasion, the thawed embryo is noted to have suffered so much damage that it likely is no longer viable. Such embryos are not transferred, and are discarded in the discretion of the experienced and skilled Ovation Fertility staff, upon consulting your physician.

If you decide that you wish to have extra embryos cryopreserved, the final number of vitrified embryos will not be known until one week after follicle/egg aspiration (Day 6 of embryo development). Since human in-vitro fertilized embryos represent potential human life, their cryopreservation and storage in liquid nitrogen should be considered carefully. Couples who choose to have embryos cryopreserved should do so with full intent of having those embryos

replaced in the uterus at the earliest possible convenience. Additionally, and indicated on this form, below, a disposition for the frozen embryos must be chosen upon various conditions that may arise in the future, during their cryostorage.

If you do not wish to have embryos cryopreserved, you will also have to make a decision about how many embryos you wish to have transferred and how many eggs you wish to have inseminated (refer to Page 5). For example, patients who do not find Selective Termination to be an option for moral or philosophical reasons, and who do not want to leave any embryos behind in the laboratory, should choose to have a portion of their eggs inseminated and another group cryopreserved.

****If you forsee giving your excess embryos up for adoption in the future, both the female and male partner will be required to undergo additional blood screening prior to the initial embryo transfer. Effective May 25, 2005, the Food and Drug Administration requires this additional testing, which will result in slightly increased lab fees. If you are interested in this option, please contact a nurse for information.**

YES We plan to cryopreserve our embryos.

_____ We choose to have a portion of our eggs cryopreserved due to ethical, moral and religious reasons opposing cryopreservation of a human life (i.e., embryo, affording issues their possible indefinite cryostorage. The number of eggs to be inseminated and those potentially cryopreserved will be determined by my physician based on our consultation and expressed wishes.

_____ We choose not to cryopreserve any eggs or embryos.

In the event of our death, we select the following disposition for all cryopreserved embryos in storage at that point and time (Please check ONE only):
(both partners must initial below)

SG MB All embryos are to be discarded.

____ ____ All embryos are to be given up for adoption. The recipients of these embryos may be chosen by the physician in the Program. **Additional blood screening required to meet FDA requirements.**

____ ____ All embryos are to be donated to medical research.

____ ____ We have selected another disposition for our frozen embryos and have indicated our wishes in our will.

In the event of divorce, dissolution or legal separation, we select the following disposition for all cryopreserved embryos in storage (Please check ONE only):
(both partners must initial below)

____ ____ All embryos are to be discarded.

____ ____ All embryos are to be given up for adoption. The recipients of these embryos may be chosen by the physician in the Program. **Additional blood screening required to meet FDA requirements.**

SG MB All embryos are to be donated to medical research.

____ ____ All embryos are to be transferred to the FEMALE partner.

____ ____ All embryos are to be transferred to the MALE partner.

(initial – initial)

GENERAL TREATMENT PROVISIONS

- I authorize and do hereby request that the Physician, or his or her Designee, and any and all medical assistants, laboratory technicians or associates as may be necessary, and/or whom the Physician shall designate to assist him or her, perform the Medical Procedures described in this Agreement.

- The Patient acknowledges that SCCRM/Ovation Fertility may, in its discretion, refuse to use or transfer the resulting Embryos to the uterus of the Patient, for any reason, and that its refusal to do so shall not constitute a breach of this Agreement.

- The Patient agrees to indemnify and hold harmless SCCRM/Ovation Fertility, its principals, employees, agents, representatives, heirs, and assigns from any liabilities, claims, losses, costs, and damages, for any acts or omissions relating to this Agreement, and agree to pay all court costs and attorneys' fees incurred in connection with any such proceedings in which the undersigned physician(s) or Ovation Fertility are named or are required to pay on matters connected with this Agreement, or which arise out of any acts or omissions relating to this Agreement, including but not limited to any claim made against the undersigned physician(s) by a child or offspring or by any heirs or administrators of a child born as a result of the procedures described in this Agreement, and any non-negligent loss of the Oocytes byOvation Fertility. However, such indemnity shall not extend to any negligent acts or negligent omissions, or willful misconduct, of the Physician, his or her Designee(s), the staff or other employees of Ovation Fertility.

- Any and all disputes relating to this Agreement or its breach shall be settled by binding arbitration in Newport Beach, California, in accordance with the then-current rules of the American Arbitration Association, and judgement upon the award entered by the arbitrators may be entered in any Court having jurisdiction hereof. Costs of arbitration, including

reasonable attorneys' fees incurred in arbitration, as determined by the arbitrator, together with any reasonable attorneys' fees incurred by the prevailing party in Court enforcement of the arbitration award after it is rendered by the arbitrator, must be paid to the prevailing party by the Party designated by the Arbitrator or Court. Said arbitration shall be conducted in the English language and the award rendered in the United States dollars. Service of the Petition to Confirm the Award of the Arbitrator shall be made in the manner provided herein for all notice. Such services shall be complete on personal delivery or the deposit of the Petition and notice in the United States mail. Should one party either dismiss or abandon the claim or counterclaim before hearing thereon, the other Party shall be deemed the "Prevailing Party" pursuant to this Agreement. Should both parties receive judgment or award on their respective claims, the Party in whose favor the larger judgment or award is rendered shall be deemed the "Prevailing Party" pursuant to this Agreement.

- I acknowledge that I have read this General ART Informed Consent and Agreement for Cryopreservation, and fully understand all risks outlined therein. Additionally, I understand the medical and other terms contained in this Agreement. I have had an opportunity to ask questions, and now hereby consent to the Medical Procedure to be performed in accordance with this Agreement. I understand that a copy of this Informed Consent and Agreement is available to me.

- I will notify Ovation Fertility of address changes. In the event I cannot be located, I authorize Ovation Fertility to contact the following persons, in order to locate me:

Our signatures below indicate that we have read, understood, and agreed to all of the terms contained herin.We have had the opportunity to ask questions and such questions have been answered to our satisfaction. We hereby give our authorization and consent to the terms described above:

FEMALE PARTNER	DATE 7-10-21
MALE PARTNER	DATE 7-10-21
WITNESS	DATE 7-10-21

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

Finally, we are requesting that you provide to us the name, permanent address and phone numbers of two family members or friends that will be likely to have your new address. Volunteering this information is completely optional but strongly recommended. Should we need to contact anyone on your contact list, we would simply identify ourselves as your doctor's office in Newport Beach, and would not identify ourselves as a Fertility Center, in order to maintain your confidentiality and our anonminity.

Contact #1:
Name: LAURA BORENSTEIN Relationship: MOTHER

Address: 5401 ZELZAH AVE #110

City, State, Zip: ENCINO, CA 91316

Phone Number: 818-615-5729

Contact #2:
Name: KLAUDIA GOLDSHTEIN Relationship: MOTHER

Address: 8505 GULANA AVE #4106

City, State, Zip: PLAYA DEL REY CA 90293

Phone Number: 323-839-9960

I authorize Ovation Fertility to contact the above listed person(s) in an attempt to locate us, in reference to the disposition of cryopreserved embryos, if Ovation Fertility is unable to contact me directly despite reasonable efforts.

SOFIYA GOLDSHTEIN
Patient Name (printed)

Signature

7-10-2021
Date

MAX BORENSTEIN
Partners' Name (printed)

Signature

7-10-2021
Date

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

Assisted Reproductive Technology Informed Consent

PATIENT NAME: (please print) MAX BORENSTEIN **DOB:** 6-20-1981

PARTNER NAME: (please print) SOFIYA GOLOSHTEYN **DOB:** 11-30-1982

DESCRIPTION OF RISKS TO THE PATIENT:

1. All fertility drugs may cause ovarian hyperstimulation.This means that the ovary may grow to a very large size. This is uncommon, hut may be serious and may require hospitalization.
2. There are no known risks to ultrasound monitoring as it is used in our office.
3. Blood drawing may lead to the formation of a hematoma (large hruise) and pain. The total amount of blood drawn during a cycle is ahout one cup (250cc).This is not enough to cause anemia (thin or weak hlood) unless you have an underlying condition.
4. If you have ultrasound-guided follicle aspiration, a needle will be introduced into the ovary through the hladder or vagina.The risks of this procedure are mainly internal bleeding and possible infection. Each of these may require hospitalization.You will be given sedative drugs prior to the procedure and these may lead to unexpected reactions.
5. If pregnancy ensues, a miscarriage may result which may require hospitalization and a surgical procedure called a D&C, dilation and curettage.
6. The risks of fetal ahnormality or malformation are thought to be about the same with IVF as in the general population; therefore, they may occur. Prenatal diagnosis with (3D or 4D) ultrasound and hlood tests are strongly recommended for all IVF patients, even if preimplantation genetic screening (PGS) is performed.
7. Although, SCCRM strictly adheres to the policy recommendations of the Society for Assisted Reproductive Technologies (SART) regarding the maximum numher of embryos to transfer by age group, multiple births may still occur. Multiple hirths are associated with increased risk to the fetuses prior to delivery, during delivery, and during early life. Only when single embryo transfer (SET) is applied is the risk of multiple birth significantly reduced, while potentially decreasing your chance for pregnancy success, too.
8. Ectopic or tubal pregnancies occur rarely with IVF. If this happens, a surgical procedure will be required to remove the tuhal pregnancy.
9. No guarantees are heing made as to the success of the procedure.

HOW THE CYCLE MAY FAIL:

1. Poor ovarian response to medications may lead to cycle cancellation.
2. Only one or two follicles may develop.
3. Eggs may be ovulated prematurely, thus preventing retrieval.
4. Technical problems and/or pelvic scarring may prevent retrieval of eggs by preventing access to the follicles.
5. Aspirated follicles may not contain eggs.
6. The eggs may be abnormal.
7. The eggs may not fertilize.
8. Fertilized eggs may not divide.
9. Transferred embryos may not implant.
10. Implanted embryos may be miscarried.
11. Multiple births can occur.
12. The embryos may develop abnormally.
13. Genetic malformation may occur.

GENERAL CONSENT IVF

I/We MAX BORENSTEIN (Recipient) and SOFIA GOLDSTEIN (Recipient's partner), the undersigned, are over 18 years of age.

I/We hereby request to be entered into the In-Vitro Fertilization Program with Southern California Center For Reproductive Medicine (SCCRM) in Suite #333 and its affiliated Laboratory Ovation Fertility in Suite #433.

I/We have read the description of risks and the attached patient information materials and all of my/our questions have been answered to my/our satisfaction.

I/We understand that some of this data generated by my/our participation in this program may help other infertile couples. I/We consent to the recording and publication of laboratory data generated by my/our participation in the program for the purpose if advancing medical education and research providing my/our identity is not disclosed. With my/our prior consent, my/our identity may be disclosed.

I/We understand the risks, the benefits, and the alternatives of this procedure and wish to enter into the program.

STORAGE FEES AND ADDITIONAL EXPENSES

I/We understand that there are fees and expenses associated with the storage of eggs and embryos. In the event that we fail to pay these costs for 90 days after receipt of the first renewal invoice, the account will be sent to a collection agency for payment. The annual storage fee is subject to change without notice. If I/We wish to donate or discard the eggs or embryos, I/We will contact Ovation Fertility or the Financial Department for instructions. I/We understand that there are additional fees above and beyond the costs associated with our IVF cycle for laboratory procedures such as ICSI and Assisted Hatching. These procedures may not be covered by our insurance plan. I/We understand that we are financially responsible for all costs related to the IVF cycle, including any costs related to additional laboratory procedures. I/We have received the current Global IVF fee schedules and the Ovation (OFSS) Storage Plan Options, and have had the opportunity to speak with a financial counselor.

MAX BORENSTEIN — 6-20-1981
PATIENT — DATE

SOFIYA GOLDSTEIN — 11-3-1982
PARTNER — DATE

RESPONSIBILITY TO INFORM SCCRM/OVATION FERTILITY OF OUR ADDRESS

I/We understand and agree that it is our responsibility to keep SCCRM/Ovation Fertility informed at all times of our mailing address and phone number. I/We understand that we need to do so in writing within 30 days of any changes.

Our current address and phone number is:

11540 CLOVER AVE
LOS ANGELES, CA 90064
818-613-5544 / 310-460-9179

Initials MB/SG
Eivf Doc: 1286

CONSENT TO USE DONOR SPERM FOR IN VITRO FERTILIZATION

Will donor sperm be used for this IVF cycle? X **NO** _____ **YES**

If yes, please complete the remainder of this form.

Patient Name: _____

Spouse/Partner: _____

I am aware that donor sperm from an outside facility or source will be used in the process of this in vitro fertilization cycle.

_____ 100% Donor Sperm _____ 50% Donor Sperm (Other % _____)

_____ 50% Spouse/Partner Sperm (Other % _____)

Donated Sperm Source:

_____ Anonymous Donor Sperm CryoBank _____ Donor ID#_____

_____ Known Donor Name of Directed Donor_____

_____ 2/8/22
Patient Signature Date

_____ 2/8/22
Spouse/Partner Signature Date

We encourage you to carefully consider the questions and information below.

Do you have any ethical, moral and/or religious objections to embryo cryopreservation?
Yes or (No) (circle answer)

The **maximum number of eggs** I/we wish to have inseminated (fertilized) _____or (ALL).
(circle answer)

I/we have read and are informed of the ASRM / SART Guidelines above. It is my understanding that SCCRM /Ovation Fertility implements these guidelines, in our best interests, as the recommended number of embryos to transfer optimizes my chance of getting pregnant while minimizing my risks of having a high-order multiple pregnancy (i.e., greater than twins). The chance of a single embryo implanting is age dependent (progressively decreasing by age groups). For example, we anticipate a 10% decline/age group for Blastocyst ET, starting with a 50-60% implantation rate for Donor eggs[9]. It is theoretically possible that all embryos that are transferred may implant. Additionally, any implanting embryo could split into identical twins, and thus produce a multiple gestation. As discussed, I understand that a single embryo transfer (SET) is the best option to minimize my risk of establishing a multiple gestation to less than 2% (risk of identical twinning).

It is my further understanding that even with modern obstetrical methods, multiple gestations are associated with premature labor, necessitating in some cases neonatal intensive care for the babies that are born. Additionally, virtually every obstetrical complication has a higher likelihood of occurring if the gestation is multiple. As a result, gestations of three or more fetuses are occasionally reduced to twins by a process called Selective Reduction. This method involves the insertion of a needle through the mother's abdomen into the developing sacs, and the injection of a toxic substance (potassium salt solution) into one or more of the sacs, so that only twins remain. This procedure has proven to be effective and relatively safe when performed by a qualified specialist, with up to a 5% risk of pregnancy loss. The possibility that Selective Reduction will result in loss of all the fetuses must be considered, especially if performed in conjunction with other genetic testing procedures (e.g., chorionic villi sampling{CVS} or aminocentesis).

SOUTHERN CALIFORNIA CENTER FOR REPRODUCTIVE MEDICINE

I/we have read the previous information and are informed on the issues and choices

I/we have pertaining to Embryo Transfer.

MAX BORNSTEIN — 2-8-2022
PATIENT — DATE

2-8-2022
PARTNER — DATE

I/We consent to the performance of ICSI (Intracytoplasmic Sperm Injection)

2-8-2022
PATIENT — DATE

2-8-2022
PARTNER — DATE

I/We consent to the performance of LAH (Laser Assisted Hatching) if medically indicated (e.g., Day 3 ET, FET, Embryo biopsy)

2-8-2022
PATIENT — DATE

2-8-2022
PARTNER — DATE

Please select one of the following options:

Option A: X

I/We wish to have all embryos which are not replaced during the IVF cycle cryopreserved and stored.

Option B: ___

I/We do not wish to have any embryos cryopreserved (in this case other arrangements must be made prior to starting a cycle).

2-8-2022
PATIENT — DATE

2-8-2022
PARTNER — DATE

EMBRYO & EGG CRYOPRESERVATION INFORMATION AND EMBRYO VITRIFICATION INFORMED CONSENT

When a human sperm enters a human egg, the egg is said to be fertilized, and is called an embryo. The resulting embryo may be viewed as potential human life, or in the view of some, as human life. During the course of clinical human in-vitro fertilization, embryos may be produced in the laboratory, which cannot immediately be replaced in the uterus. This occurs principally as a result of multiple eggs being fertilized, and the current practice of replacing no more than a specified limited number of embryos in the uterus at one time. It is our typical practice to cryopreserve (freeze) all embryos which develop into blastocysts for future use. Each couple must read the following and decide about embryo freezing prior to follicle aspiration in each cycle that they attempt.

Today, in the In-Vitro Fertilization Laboratory (i.e.,Ovation Fertility), we cryopreserve all embryos and eggs by a process known as "vitrification (VTF)",which forms a metastable glass without the damaging formation of ice crystals. Embryos are quickly diluted in a concentrated VTF solution and placed in special holding containers ("VTF tips within high security straws"), suspended in a small volume of VTF solution, sealed in an aseptic & closed manner prior to direct placement in liquid nitrogen at -196 degrees Celsius. Embryos can be stored in liquid nitrogen indefinitely, although ASRM guidelines recommend that embryos be used within a 5 year period. Embryos may be vitrified at any stage of development, from one cell to blastocyst, or from one to six days after fertilization. Currently,we typically grow all embryos to the blastocyst stage on Day 5 or 6 for determination of potentially viable embryos for cryopreservation. On average, we expect about 50% of your embryos to grow into Blastocysts that can be transferred or vitrified.
In order for frozen embryos to produce a pregnancy, they must be thawed out and then replaced in the uterus at the correct time of the cycle, which means a time when the uterus is at the same stage as the frozen embryos. Therefore, the day of embryo replacement varies with the stage of which the embryos were cryopreserved. If you have embryos vitrified, you will be informed of the exact day of the cycle when the embryos will be replaced. If you have several embryos cryopreserved, you may need more than one transfer cycle to replace all of them.

When embryos are cryopreserved, their viability and consequently their likelihood of producing a pregnancy may be reduced, primarily because the best embryos are transferred during the fresh state. However, patients who fail to achieve pregnancy with the fresh embryos can get pregnant during the subsequent frozen embryo transfer. Typically, over 90% of vitrified embryos survive a thaw completely intact, being highly viable and capable of establishing a pregnancy. Although technology has improved, not all embryos survive the thaw process. On occasion, the thawed embryo is noted to have suffered so much damage that it likely is no longer viable. Such embryos are not transferred, and are discarded in the discretion of the experienced and skilled Ovation Fertility staff, upon consulting your physician.

If you decide that you wish to have extra embryos cryopreserved, the final number of vitrified embryos will not be known until one week after follicle/egg aspiration (Day 6 of embryo development). Since human in-vitro fertilized embryos represent potential human life, their cryopreservation and storage in liquid nitrogen should be considered carefully. Couples who choose to have embryos cryopreserved should do so with full intent of having those embryos

replaced in the uterus at the earliest possible convenience. Additionally, and indicated on this form, below, a disposition for the frozen embryos must be chosen upon various conditions that may arise in the future, during their cryostorage.

If you do not wish to have embryos cryopreserved, you will also have to make a decision about how many embryos you wish to have transferred and how many eggs you wish to have inseminated (refer to Page 5). For example, patients who do not find Selective Termination to be an option for moral or philosophical reasons, and who do not want to leave any embryos behind in the laboratory, should choose to have a portion of their eggs inseminated and another group cryopreserved.

****If you forsee giving your excess embryos up for adoption in the future, both the female and male partner will be required to undergo additional blood screening prior to the initial embryo transfer. Effective May 25, 2005, the Food and Drug Administration requires this additional testing, which will result in slightly increased lab fees. If you are interested in this option, please contact a nurse for information.**

X We plan to cryopreserve our embryos.

_____ We choose to have a portion of our eggs cryopreserved due to ethical, moral and religious reasons opposing cryopreservation of a human life (i.e., embryo, affording issues their possible indefinite cryostorage. The number of eggs to be inseminated and those potentially cryopreserved will be determined by my physician based on our consultation and expressed wishes.

_____ We choose not to cryopreserve any eggs or embryos.

In the event of our death, we select the following disposition for all cryopreserved embryos in storage at that point and time (Please check ONE only):
(both partners must initial below)

____ ____ All embryos are to be discarded.

____ ____ All embryos are to be given up for adoption. The recipients of these embryos may be chosen by the physician in the Program. **Additional blood screening required to meet FDA requirements.**

____ ____ All embryos are to be donated to medical research.

MB SG We have selected another disposition for our frozen embryos and have indicated our wishes in our will.

In the event of divorce, dissolution or legal separation, we select the following disposition for all cryopreserved embryos in storage (Please check ONE only):
(both partners must initial below)

_____ _____ All embryos are to be discarded.

_____ _____ All embryos are to be given up for adoption. The recipients of these embryos may be chosen by the physician in the Program. **Additional blood screening required to meet FDA requirements.**

_____ _____ All embryos are to be donated to medical research.

_____ _____ All embryos are to be transferred to the FEMALE partner.

MB SG All embryos are to be transferred to the MALE partner.
(initial – initial)

GENERAL TREATMENT PROVISIONS

- I authorize and do hereby request that the Physician, or his or her Designee, and any and all medical assistants, laboratory technicians or associates as may be necessary, and/or whom the Physician shall designate to assist him or her, perform the Medical Procedures described in this Agreement.

- The Patient acknowledges that SCCRM/Ovation Fertility may, in its discretion, refuse to use or transfer the resulting Embryos to the uterus of the Patient, for any reason, and that its refusal to do so shall not constitute a breach of this Agreement.

- The Patient agrees to indemnify and hold harmless SCCRM/Ovation Fertility, its principals, employees, agents, representatives, heirs, and assigns from any liabilities, claims, losses, costs, and damages, for any acts or omissions relating to this Agreement, and agree to pay all court costs and attorneys' fees incurred in connection with any such proceedings in which the undersigned physician(s) or Ovation Fertility are named or are required to pay on matters connected with this Agreement, or which arise out of any acts or omissions relating to this Agreement, including but not limited to any claim made against the undersigned physician(s) by a child or offspring or by any heirs or administrators of a child born as a result of the procedures described in this Agreement, and any non-negligent loss of the Oocytes byOvation Fertility. However, such indemnity shall not extend to any negligent acts or negligent omissions, or willful misconduct, of the Physician, his or her Designee(s), the staff or other employees of Ovation Fertility.

- Any and all disputes relating to this Agreement or its breach shall be settled by binding arbitration in Newport Beach, California, in accordance with the then-current rules of the American Arbitration Association, and judgement upon the award entered by the arbitrators may be entered in any Court having jurisdiction hereof. Costs of arbitration, including

reasonable attorneys' fees incurred in arbitration, as determined by the arbitrator, together with any reasonable attorneys' fees incurred by the prevailing party in Court enforcement of the arbitration award after it is rendered by the arbitrator, must be paid to the prevailing party by the Party designated by the Arbitrator or Court. Said arbitration shall be conducted in the English language and the award rendered in the United States dollars. Service of the Petition to Confirm the Award of the Arbitrator shall be made in the manner provided herein for all notice. Such services shall be complete on personal delivery or the deposit of the Petition and notice in the United States mail. Should one party either dismiss or abandon the claim or counterclaim before hearing thereon, the other Party shall be deemed the "Prevailing Party" pursuant to this Agreement. Should both parties receive judgment or award on their respective claims, the Party in whose favor the larger judgment or award is rendered shall be deemed the "Prevailing Party" pursuant to this Agreement.

- I acknowledge that I have read this General ART Informed Consent and Agreement for Cryopreservation, and fully understand all risks outlined therein. Additionally, I understand the medical and other terms contained in this Agreement. I have had an opportunity to ask questions, and now hereby consent to the Medical Procedure to be performed in accordance with this Agreement. I understand that a copy of this Informed Consent and Agreement is available to me.

- I will notify Ovation Fertility of address changes. In the event I cannot be located, I authorize Ovation Fertility to contact the following persons, in order to locate me:

Greg Borenstein greg.borenstein@gmail.com

Our signatures below indicate that we have read, understood, and agreed to all of the terms contained herin.We have had the opportunity to ask questions and such questions have been answered to our satisfaction. We hereby give our authorization and consent to the terms described above:

PATIENT _____ DATE 2/8/2022

PARTNER _____ DATE 2/8/2022

Treena Rapaport
WITNESS _____ DATE 2/14/22

Finally, we are requesting that you provide to us the name, permanent address and phone numbers of two family members or friends that will be likely to have your new address. Volunteering this information is completely optional but strongly recommended. Should we need to contact anyone on your contact list, we would simply identify ourselves as your doctor's office in Newport Beach, and would not identify ourselves as a Fertility Center, in order to maintain your confidentiality and our anonminity.

Contact #1:
Name: LAURA BORENSTEIN Relationship: MOTHER
Address: 5401 ZELZAH AVE #110
City, State, Zip: ENCINO, CA 91316
Phone Number: 818 613-5729

Contact #2:
Name: GREG BORENSTEIN Relationship: COUSIN
Address: 5601 SUNLIGHT PL
City, State, Zip: LOS ANGELES, CA 90016
Phone Number: 503 784-9133

I authorize Ovation Fertility to contact the above listed person(s) in an attempt to locate us, in reference to the disposition of cryopreserved embryos, if Ovation Fertility is unable to contact me directly despite reasonable efforts.

MAX BORENSTEIN	SOFIA GOLDSTEIN
Patient Name (printed)	Partners' Name (printed)
Signature	Signature
2-8-2022	2-8-2022
Date	Date

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 35, Stanley Mosk Dept. - 35,

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

February 24, 2026
8:30 AM

Honorable Scott J. Nord, Judge

K. Hernandez, Judicial Assistant

Jaime Derderian (#14258), Court Reporter

NATURE OF PROCEEDINGS: Trial

The following parties are present for the aforementioned proceeding:

Max David Borenstein, Petitioner
Sofiya Alexandra Goldshteyn, Respondent
Garry Mark Gekht, Attorney for Petitioner
Carly Joanne Timm-Bijold, Attorney for Petitioner (via LACC)
Jimmy Ray Howell, Attorney for Respondent

The matter is called for hearing.

Counsel addresses the Court.

Petitioner is called, affirmed and begins testimony.

The following exhibits are admitted:

Exhibit 1) Assisted Reproductive Technology Informed Consent (11 pages)

Exhibit 4) Assisted Reproductive Technology Informed Consent (Page 5)

Petitioner is cross-examined by Respondent's Attorney.

Petitioner is re-directly examine by Petitioner's Attorney.

Petitioner is thanked and concludes testimony.

Respondent is called, affirmed and begins testimony.

With the Court's permission, Petitioner's Attorney begins 776 as well as cross-examine of Respondent.

Respondent is re-directly examine by Respondent's Attorney.

Respondent is thanked and concludes testimony.

The parties make final statements to the Court.

The Court orders the parties to file closing briefs no later than April 10, 2026.

Responses to the briefs are to be filed no later than April 17, 2026.

The closing briefs are not to exceed 15 pages.

The Court sets the case for Order to Show Cause Hearing re: Non-Appearance Under Submission Ruling on April 20, 2026 at 8:30 AM in Department 35.

Notice is waived.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Santa Monica Dept. - F

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 2, 2026
8:30 AM

Honorable Joshua D. Wayser, Judge

C. Thorne, Judicial Assistant — Not Reported, Court Reporter

NATURE OF PROCEEDINGS: Order to Show Cause re: Entry of Judgment

The following parties are present for the aforementioned proceeding:

Max David Borenstein, Petitioner
Sofiya Alexandra Goldshteyn, Respondent
Garry Mark Gekht, Attorney for Petitioner
Jimmy Ray Howell, Attorney for Respondent
*All appear via LACourtConnect

The matter is not called for hearing.

The parties advise that they have an outstanding issue regarding pets. They agree to participate in a follow-up settlement conference with the Court and to trail the OSC to follow the settlement conference.

The Court sets the case for Settlement Conference on **April 6, 2026 at 12:00 PM in Department F.**

The Order to Show Cause re: Entry of Judgment is continued to **April 6, 2026 at 12:00 PM in Santa Monica Dept. - F.**

Notice is waived.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Santa Monica Dept. - F

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 6, 2026
12:00 PM

Honorable Joshua D. Wayser, Judge

C. Thorne, Judicial Assistant — Not Reported, Court Reporter

NATURE OF PROCEEDINGS: Order to Show Cause re: Entry of Judgment

The following parties are present for the aforementioned proceeding:

Max David Borenstein, Petitioner
Sofiya Alexandra Goldshteyn, Respondent
Garry Mark Gekht, Attorney for Petitioner
Jimmy Ray Howell, Attorney for Respondent
*Appear via LACourtConnect

The matter is not called for hearing.

The parties will be submitting a proposed judgment.

Order to Show Cause re: Entry of Judgment goes off calendar for the time.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Santa Monica Dept. - F

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 6, 2026
12:00 PM

Honorable Joshua D. Wayser, Judge

C. Thorne, Judicial Assistant — Not Reported, Court Reporter

NATURE OF PROCEEDINGS: Settlement Conference

The following parties are present for the aforementioned proceeding:

Max David Borenstein, Petitioner
Sofiya Alexandra Goldshteyn, Respondent*
Garry Mark Gekht, Attorney for Petitioner
Jimmy Ray Howell, Attorney for Respondent*
*Appear via LACourtConnect

The matter is not called for hearing.

At the settlement conference, the parties resolve issues relating to pet custody.

Garry M. Gekht, Esq. (SBN 321424)
Carly J. Timm-Bijold, Esq. (SBN 361335)
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Attorneys for Petitioner,
Max David Borenstein

Electronically FILED by
Superior Court of California,
County of Los Angeles
4/10/2026 6:43 PM
David W. Slayton, Clerk of Court

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In re Marriage of: MAX DAVID BORENSTEIN Petitioner and SOFIYA ALEXANDRA GOLDSHTEYN Respondent.	Case No. 22STFL08826 *[Assigned to Dept. 35, Hon. Scott J. Nord]* **PETITIONER'S CLOSING BRIEF FOR TRIAL REGARDING DISPOSITION OF CRYOPRESERVED EMBRYOS** DATE: February 24, 2026 TIME: 8:30 AM DEPT: ST35 (Hon. Scott J. Nord)

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I. INTRODUCTION

Petitioner Max David Borenstein ("Max")[1] submits the following brief in connection with the trial that took place on February 24, 2026 in the marital dissolution proceeding between he and Respondent Sofiya Alexandra Goldshteyn ("Sofiya") (collectively, "the Parties").

Max and Sofiya were married in 2014. Prior to their separation, they participated in two cycles of in-vitro fertilization ("IVF") at the Southern California Center for Reproductive Medicine ("SCCRM"), which resulted in a total of 20 embryos (collectively, "the embryos"): one embryo from a cycle in 2021 that is the product of Max's sperm and Sofiya's egg, and 19 embryos from a cycle in 2022 that are the products of Max's sperm and donor eggs. The embryos are currently held in cryopreservation storage by Ovation Fertility Storage Solutions, SCCRM's laboratory affiliate.

Prior to each cycle, the Parties executed Assisted Reproductive Technology ("ART") contracts with SCCRM that identified—among other things—specific options for the disposition of the embryos upon the happening of certain adverse events. The embryo remaining from the 2021 cycle is governed by the ART contract executed on July 10, 2021, in which the Parties agreed that in the event of divorce, dissolution, or legal separation, all cryopreserved embryos in storage are to be donated to medical research. (Exhibit 1, Bates Page 000009.) The 19 embryos remaining from the 2022 cycle are governed by the ART contract executed on February 8, 2022, in which the Parties agreed that in the event of divorce, dissolution, or legal separation, all cryopreserved embryos in storage are to be transferred to the male partner. (Exhibit 4, Bates Page 000009.)

Following the 2022 cycle, Max and Sofiya separated and subsequently initiated the instant dissolution proceeding. At a confidential settlement conference conducted off the record on December 29, 2025, the Parties reached a settlement that has since been memorialized in a deal memorandum. The sole issue before the Court is the disposition of the embryos: Max seeks an order disposing of the embryos pursuant to the terms of the 2021 and 2022 ART contracts,

1. In accordance with appellate court practices, the Parties are referred to by their first names. (*In re Marriage of Smith* (1990) 225 Cal.App.3d 469, 475, fn.1.) In doing so, no disrespect is intended.

while Sofiya requests an order granting her exclusive control over and use of the embryos, of which she intends to bring one or more to term.

II. THE DISPOSITION OF THE EMBRYOS SHOULD BE GOVERNED BY THE CONTRACTUAL APPROACH

California's appellate courts took up for the first time the disposition of embryos created and stored under a written IVF agreement in the context of divorce in their opinion in *Pham v. Superior Court of Orange County* (2025) 117 Cal.App.5th 115 (*Pham*). In *Pham*, a husband and wife signed an IVF consent agreement that complied with the requirements of section 125315, wherein they agreed that any embryos that remained in cryopreservation if and when they ever chose to divorce would be "[m]ade available to the partner if he/she wishes". However, in the course of their dissolution proceeding, Husband attempted to prevent Wife from exercising her contractual prerogative to use the embryos and later appealed the trial court's decision to award them to her. In rejecting Husband's attempt to deviate from the terms of the parties' contract, the *Pham* court set forth the clear analytical framework of the so-called "contractual approach", whereunder, if "the parties have entered into a valid contract specifying how frozen embryos created by IVF shall be treated in the event of divorce, the parties' contract governs." (*Pham*, *supra*, 117 Cal.App.5th at p. 207.)

A. <u>The 2021 and 2022 ART Contracts Are Valid.</u>

The elements of a valid contract are: (1) parties capable of contracting; (2) their consent; (3) a lawful object; and (4) a sufficient cause or consideration. (Civ. Code, § 1550.)

1. The Parties are capable of contracting.

Under section 1556 of the Civil Code, "[a]ll persons are capable of contracting, except minors, persons of unsound mind, and persons deprived of civil rights." Here, neither Party argued that any of the parties to either the 2021 or 2022 ART contract met any of the foregoing disqualifying criteria. Therefore, the Court should find that the Parties were capable of contracting on the dates of their respective executions of each contract.

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2. The Parties consented to the contracts at issue.

The consent of both Parties to all the terms of the ART contracts is reflected by the presence of their respective initials and/or signatures on each individual page thereof. (Exhibit 1; Exhibit 4.) Moreover, not only did neither party introduce any evidence or made any argument to suggest that they were confused by any of the contracts' terms or were denied the opportunity to inquire about any confusion they may have had, but Sofiya testified at trial that: (1) she had reviewed and discussed the contracts with Max prior to signing them; (2) she understood what she was signing at the time of her signature; and (3) the contracts correctly stated her intention of what would happen to the embryos in the event of her and Max's future divorce. (Trial Transcript, Pages 69–73.)

3. The objects of the contracts at issue are lawful.

The objects of the ART contracts at issue in this proceeding—the provisions regarding embryo disposition—are not only lawful, they are statutorily required.

The choices available to couples regarding the disposition of embryos created through ART are codified under section 125315 of the Health and Safety Code, which provides, in relevant part:

> "(a) A physician and surgeon or other health care provider delivering fertility treatment shall provide his or her patient with timely, relevant, and appropriate information to allow the individual to make an informed and voluntary choice regarding the disposition of any human embryos remaining following the fertility treatment.
>
> […]
>
> "(b) Any individual to whom information is provided pursuant to subdivision (a) shall be presented with the option of storing any unused embryos, donating them to another individual, discarding the embryos, or donating the remaining embryos for research. When providing fertility treatment, a physician and surgeon or other health care provider shall provide a form to the male and female partner, or the individual without a partner, as applicable, that sets forth advanced written directives regarding the disposition of embryos. This form shall indicate the time limit on storage of the embryos at the clinic or storage facility and shall provide, at a

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minimum, the following choices for disposition of the embryos based on the following circumstances:

[…]

(3) In the event of separation or divorce of the partners, the embryos shall be disposed of by one of the following actions:

(A) Made available to the female partner.

(B) Made available to the male partner.

(C) Donation for research purposes.

(D) Thawed with no further action taken.

(E) Donation to another couple or individual.

(F) Other disposition that is clearly stated."

4. The contracts at issue are supported by sufficient consideration.

Civil Code section 1605 defines "good consideration" as: "Any benefit conferred, or agreed to be conferred, upon the promisor, by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered, or agreed to be suffered, by such person, other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise."

Both of the ART contracts introduced at trial evidence the presence of the foregoing type of exchange. In exchange for their transfer to SCCRM of resources to which it was not otherwise lawfully entitled—specifically: money, eggs purchased with community property, and their own genetic material—Max and Sofiya received the possibility of an otherwise-unlikely medical outcome (a child that was, in part if not in whole, biologically theirs) and the mental, emotional, and financial security of predetermining the fates of any embryos that remained under SCCRM's control at the time of their divorce. (Exhibit 1; Exhibit 4.) When directly questioned by the Court at trial as to how Max would get the benefit of this bargain were the Court to rule in Sofiya's favor, Sofiya was unable to provide an answer. (Trial Transcript, Page 83.)

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B. <u>The 2021 and 2022 ART Contracts Have Not Been Voided, Rescinded, Modified, or Cancelled</u>

While contracts that satisfy the above criteria can later be voided, rescinded, modified, or cancelled, neither Party made any such claims with regard to either of the two contracts at trial.

In light of the foregoing, the Court should find that the disposition of each of the 20 embryos at issue in this trial are governed by one or the other of two valid contracts, neither of which provide for disposition in the manner sought by Sofiya.

III. SOFIYA'S POSITION IS NOT SUPPORTED BY LEGAL AUTHORITY OR THE FACTS OF THIS CASE

Sofiya's attempts to circumvent the legal framework definitively established under *Pham* coalesce around two main themes, neither of which may properly form the basis for the Court's decision on the issue before it.

1. Sofiya's Desire for a Biologically Related Child

Sofiya argues that she should be granted control over the embryos because they are her only remaining path to a biologically related child. Notwithstanding the lack of credible evidence regarding the medical accuracy of this claim, Sofiya has offered no legal support for the position that it would—if true—constitute grounds for the modification of the contracts she is seeking.

In addition to being legally unpersuasive and factually unsubstantiated, the sincerity and feasibility of Sofiya's stated objectives are undercut by her acknowledgement at trial that: only one of the embryos at issue contains her genetic material (Trial Transcript, Page 73); the viability assessment of that one embryo is only "fair" (Trial Transcript, Page 50); she cannot carry a pregnancy to term (Trial Transcript, Page 51); the cost of bringing an embryo to term through the surrogacy process is at least $30,000 (Trial Transcript, Page 64); and she does not have $30,000 available to spend on a surrogate (Trial Transcript, Page 65)[2].

2. Sofiya's testimony on this point was impeached by her acknowledged receipt of a $2 million equalization payment from Max in January 2026.

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Therefore, even if the Court were to order the exact relief Sofiya is seeking, her ability to achieve her desired result would almost certainly be precluded by the statistical realities of medical science and her own financial ability.

2. California Law Neither Recognizes Nor Protects Sofiya's Right to Bear a Child Under the Instant Circumstances

The only legal authorities offered by Sofiya in support of her drastic change in position since the time she entered into the ART contracts are Article 1, section 1.1 of the California Constitution (which provides that "the state shall not deny or interfere with an individual's reproductive freedom"), and Section 123462 of the California Health and Safety Code (which provides that "every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child […] the state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child").

Both these statutory invocations are red herrings, as freedom from state interference does not equal freedom from private contractual obligations. Ultimately, it is Sofiya who is seeking to weaponize the power of the state to undermine Max's right—as a party to an enforceable contract—to obtain the benefit of his bargain thereunder.

Sofiya's proposed course of action would force Max—the only Party whose DNA is part of all the embryos—to father one or more children against his will, an outcome specifically criminalized under the Penal Code[3] and denounced by California's courts[4]. Moreover, it would also deprive Max of the very reproductive freedom purportedly championed by Sofiya.[5]

3. "It shall be unlawful for anyone to knowingly use sperm, ova, or embryos in assisted reproduction technology, for any purpose other than that indicated by the sperm, ova, or embryo provider's signature on a written consent form." (Pen. Code, § 367g, subd. (a).)

4. "[Husband's] right not to be compelled to be a parent with [Wife] outweighs [Wife's] right to have a biologically related child". (*Findley v. Lee* (2016 WL 270083), p. 39.)

5. Under Article 1, Section 1.1 of the California Constitution, "[t]he state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions".

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IV. GRANTING SOFIYA'S RELIEF WOULD DIRECTLY CONTRADICT THE PUBLIC POLICY OF THE STATE OF CALIFORNIA REGARDING REPRODUCTIVE RIGHTS

In addition to the catastrophic precedential domino effect it could have on basic contract law, a ruling in Sofiya's favor would undermine California's deliberately crafted statutory and decisional paradigm surrounding the emotionally charged issue of assisted reproduction. The *Pham* court expanded on the necessity of enforcing ART contracts like those at issue in the instant case, holding, in relevant part:

> "The contractual approach "'minimize[s] misunderstandings and maximize[s] procreative liberty by reserving to the progenitors the authority to make what is in the first instance a quintessentially personal, private decision.'" (Rooks, supra, 429 P.3d at p. 592.) There are also "significant benefits to making this decision in advance, rather than at the moment of disposition. Preexisting agreements 'promote serious discussions between the parties prior to participating in in vitro fertilization'; [citation]; and manifest choices 'made before disputes erupt' [Citation.] This 'minimize[s] misunderstandings' that might arise in the future, provides certainty for progenitors and fertility clinics, and decreases the likelihood of litigation." (*Bilbao*, *supra*, 217 A.3d at p. 986.) Moreover, the contractual approach is consistent with California's articulated public policy. California law requires a health care provider that is providing fertility treatments to give "a form to the male and female partner, or the individual without a partner, as applicable, that sets forth advanced written directives regarding the disposition of embryos," including certain choices in the event the partners separate or divorce. (Health & Saf. Code, § 125315, subd. (b).) Even if that statute is not dispositive of the issue here, it strongly supports the contractual approach.
>
> […]
>
> As discussed above, Health and Safety Code section 125315, subdivision (b) supports a conclusion that California public policy favors the contractual approach. In the face of a legislative requirement that IVF providers give their patients forms to specify in advance how frozen embryos would be treated in the event of separation or divorce, it would be nonsensical for us to conclude it would be contrary to the policy of this state to enforce the parties' resulting advance directives. Here, [Husband] acknowledged in

> writing that he "freely consent[ed] to undergo an IVF procedure to attempt to obtain a pregnancy" and agreed the resulting frozen embryos would be made available to [Wife], if she wished, in the event of divorce or legal separation. We find no policy in California that is antithetical to the enforcement of such an agreement." (*Pham*, *supra*, 117 Cal.App.5th at pp. 212–213.)

V. CONCLUSION

While Sofiya may sincerely and deeply desire biological children, she does not have a right to them. Instead, what she has is the right to exercise the contractual prerogatives available to her as a legal adult with capacity, which she did when she entered the contracts on which the resolution of this issue hinges.

For the reasons set forth above, the Court should order that the cryopreserved embryo containing both Max and Sofiya's respective genetic material be donated to medical research (per the terms of the Parties' 2021 ART contract), and that the cryopreserved embryos containing only Max's genetic material be transferred to Max (per the terms of the Parties' 2022 ART contract).

Respectfully Submitted: KAPLAN, TROPE, GEKHT & DECAROLIS, LLP

DATE: April 10, 2026 BY: _____

Garry M. Gekht, Esq.
Attorneys for Petitioner,
Max David Borenstein

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David W. Slayton,
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In re Marriage of: MAX DAVID BORENSTEIN Petitioner and SOFIYA ALEXANDRA GOLDSHTEYN Respondent.	Case No. 22STFL08826 *[Assigned to Dept. 35, Hon. Scott J. Nord]* **NOTICE OF RESPONDENT'S NON-BRIEFING AND WAIVER OF CLOSING ARGUMENT AND MOTION TO STRIKE ANY LATE-FILED BRIEF** DATE: February 24, 2026 TIME: 8:30 AM DEPT: ST35 (Hon. Scott J. Nord)

TO THE COURT, AND TO RESPONDENT SOFIYA ALEXANDRA GOLDSHTEYN AND HER ATTORNEY(S) OF RECORD:

Petitioner Max David Borenstein ("Max") respectfully requests that the Court take notice that Max did not receive a closing trial brief from Respondent Sofiya Alexandra Goldshteyn ("Sofiya") in connection with the trial that took place on February 24, 2026, in the above-entitled marital dissolution proceeding, nor did Sofiya file such a closing trial brief with the Court.

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I.

RELEVANT FACTS

A marital dissolution proceeding has been pending between the Parties for nearly four years. The sole remaining disputed issue is the disposition of the cryopreserved embryos created during the Parties' marriage. Trial was held on that issue on February 24, 2026.

As reflected in the Minute Order and transcript of the February 24, 2026 trial, the Court ordered the Parties to file their respectively closing briefs no later than April 10, 2026: "The Court orders the parties to file closing briefs no later than April 10, 2026. Responses to the briefs are to be filed no later than April 17, 2026. The closing briefs are not to exceed 15 pages." (2/24/26 Minute Order, Page 2.)

While Max timely filed and served his closing trial brief, as of the execution of this Notice, Sofiya has neither served her closing trial brief on Max, nor filed one with the Court.

II.

APPLICABLE LEGAL AUTHORITY

The Court's broad authority over the matters before it is set forth under Code of Civil Procedure section 128, which provides, in relevant part:

> "(a) Every court shall have the power to do all of the following:
>
> (1) To preserve and enforce order in its immediate presence.
>
> (2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.
>
> (3) To provide for the orderly conduct of proceedings before it, or its officers.
>
> (4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.
>
> (5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.

[…]

(8) To amend and control its process and orders so as to make them conform to law and justice."

In addition to this broad statutory grant of authority, numerous provisions of the Family Code—including, without limitation, sections 2121, 2125–2126, and 2556—affirm the Court's power to grant relief based on "equitable considerations" and/or "good cause shown" and/or what "the interests of justice require".

III.

CONCLUSION

In light of Sofiya's failure to comply with the Court's order regarding the filing and service of a closing trial brief, the Court should—in the interests of equity—exercise its prerogatives under Code of Civil Procedure section 128 and refuse to receive or consider: (1) any closing brief hereafter filed or served by Sofiya; or (2) any brief hereafter filed or served by Sofiya responsive to the closing trial brief filed and served by Max on April 10, 2026.

KAPLAN, TROPE, GEKHT & DECAROLIS, LLP

DATED: April 14, 2026

BY: _____

Garry M. Gekht, Esq.
Attorney for Petitioner,
Max David Borenstein

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10866 Wilshire Blvd., Suite 1650
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10866 Wilshire Boulevard, Suite 1650, Los Angeles, California 90024.

On April 14, 2026, I served the foregoing document described as: **NOTICE OF RESPONDENT'S NON-BRIEFING AND WAIVER OF CLOSING ARGUMENT AND MOTION TO STRIKE ANY LATE-FILED BRIEF** on the interested parties in this action by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows: ☒ by attaching a digital copy of the document to the email address provided as follows:

J.R. Howell, Esq.
Law Office of J.R. Howell
2219 Main Street, Suite 436
Santa Monica, CA 90405

Anne E. Grover, Esq.
Grover & Badalian
11 N. Washington St., Suite 630
Rockville, MD 20850

Jason P. Koch, Esq.
The Law Office of Jason P. Koch
3 West Carrillo Street, Suite 216
Santa Barbara, California 93101

[ ] BY MAIL: I deposited such envelope(s) with the United States Postal Service at Los Angeles, California with the postage fully prepaid.

[ ] BY CAUSING TO BE PERSONALLY SERVED: I caused delivery of such envelope by hand to the offices of the addressee.

[ ] VIA OVERNIGHT DELIVERY: : I enclosed the documents in an envelope or package by an overnight delivery carrier and addressed to the person(s) at the address(es) above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier. The envelope or package was designated for next business day delivery, with all charges billed to sender.

[XX] BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the following electronic notification addresses: jr@lojrh.com; **agrover@gbfamilylawyers.com; jason@jasonkochlaw.com; rdavies@gbfamilylawyers.com.** I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 14, 2026, at Los Angeles, California.

Maria Morales
Maria Morales

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER:
NAME: GARRY M. GEKHT, ESQ. 321424
FIRM NAME: KAPLAN, TROPE, GEKHT & DECAROLIS, LLP
STREET ADDRESS: 10866 WILSHIRE BLVD., SUITE 1650
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E-MAIL ADDRESS: garry@ktg.law
ATTORNEY FOR (name): Petitioner, Max David Borenstein

FOR COURT USE ONLY

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David W. Slayton, Clerk of Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 N. HILL STREET
MAILING ADDRESS: SAME
CITY AND ZIP CODE: LOS ANGELES, 90012
BRANCH NAME: CENTRAL DISTRICT

PETITIONER: MAX DAVID BORENSTEIN
RESPONDENT: SOFIYA ALEXANDRA GOLDSHTEYN

DECLARATION FOR DEFAULT OR UNCONTESTED

☒ DISSOLUTION ☐ LEGAL SEPARATION

CASE NUMBER: 22STFL08826

(NOTE: Items 1 through 12 apply to both dissolution and legal separation proceedings.)

1. I declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. I agree that my case will be proven by this declaration and that I will not appear before the court unless I am ordered by the court to do so.
3. All the information in the ☐ amended ☒ Petition ☐ Response is true and correct.
4. **Type of case** *(check a, b, or c):*
   a. ☐ **Default without agreement**
      (1) No response has been filed and there is no written agreement or stipulated judgment between the parties;
      (2) The default of the respondent was entered or is being requested, and I am not seeking any relief not requested in the petition; and
      (3) The following statement is true *(check one):*
         (A) ☐ There are no assets or debts to be disposed of by the court.
         (B) ☐ The community and quasi-community assets and debts are listed on the **completed** current *Property Declaration* (form FL-160), which includes an estimate of the value of the assets and debts that I propose to be distributed to each party. The division in the proposed *Judgment* (form FL-180) is a fair and equal division of the property and debts, or if there is a negative estate, the debts are assigned fairly and equitably.
   b. ☐ **Default with agreement**
      (1) No response has been filed and the parties have agreed that the matter may proceed as a default matter without notice; and
      (2) The parties have entered into a written agreement regarding their property and their marriage or domestic partnership rights, including support, the original of which is being or has been submitted to the court. I request that the court approve the agreement.
   c. ☒ **Uncontested**
      (1) Both parties have appeared in the case; and
      (2) The parties have entered into a written agreement regarding their property and their marriage or domestic partnership rights, including support, the original of which is being or has been submitted to the court. I request that the court approve the agreement.
5. **Declaration of disclosure** *(check a, b, c, or d):*
   a. ☒ Both the parties have filed, or are filing concurrently, a *Declaration Regarding Service of Declaration of Disclosure* (form FL-141) and an *Income and Expense Declaration* (form FL-150).
   b. ☐ This matter is proceeding by default. I am the petitioner in this action and have filed a proof of service of the preliminary *Declaration of Disclosure* (form FL-140) with the court. I hereby waive receipt of the final *Declaration of Disclosure* (form FL-140) from the respondent.
   c. ☐ This matter is proceeding by default. I am the petitioner in this action, and service of the summons on respondent was done by publication or posting under court order. Service of the preliminary *Declaration of Disclosure* (form FL-140) is not required. I hereby waive receipt of the final *Declaration of Disclosure* (form FL-140) from the respondent.

PETITIONER: MAX DAVID BORENSTEIN RESPONDENT: SOFIYA ALEXANDRA GOLDSHTEYN	CASE NUMBER: 22STFL08826

d. ☒ This matter is proceeding as an uncontested action. Service of the final *Declaration of Disclosure* (form FL-140) is mutually waived by both parties. A waiver provision executed by both parties under penalty of perjury is contained on the *Stipulation and Waiver of Final Declaration of Disclosure* (form FL-144), in the settlement agreement or proposed judgment, or in another, separate stipulation.

6. ☐ **Child custody and visitation (parenting time)** should be ordered as set forth in the proposed *Judgment* (form FL-180).
   a. ☐ The information in *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA) (form FL-105) ☐ has ☐ has not changed since it was last filed with the court. *(If changed, attach updated form.)*
   b. ☐ There is an existing court order for custody/parenting time in another case in *(county):*
      The case number is *(specify):*
   c. ☐ The current custody and visitation (parenting time) previously ordered in this case, or the current schedule is *(specify):*

      ☐ Contained on Attachment 6c.
   d. ☐ The facts that support the requested judgment are (*In a default case, state your reasons below):*

      ☐ Contained on Attachment 6d.
7. ☐ **Child support** should be ordered as set forth in the proposed *Judgment* (form FL-180).
   a. If there are minor children, check and complete item (1) if applicable and item (2) or (3):
      (1) ☐ Child support is being enforced in another case in *(county):*
      The case number is *(specify):*
      (2) ☐ The information in the child support calculation attached to the proposed judgment is correct based on my personal knowledge.
      (3) ☐ I request that this order be based on the ☐ Petitioner's ☐ Respondent's earning ability. The facts in support of my estimate of earning ability are *(specify):*

      ☐ Continued on Attachment 7a(3).
   b. Complete items (1) and (2) regarding public assistance.
      (1) I ☐ am receiving ☐ am not receiving ☐ intend to apply for public assistance for the child or children listed in the proposed order.
      (2) To the best of my knowledge, the other party ☐ is ☐ is not receiving public assistance.

      ☐ Petitioner ☐ Respondent is presently receiving public assistance, and all support should be made payable to the local child support agency at the address set forth in the proposed judgment. A representative of the local child support agency has signed the proposed judgment.

8. **Spousal, Partner, and Family Support** *(If a support order or attorney fees are requested, submit a completed* Income and Expense Declaration *(form FL-150) unless a current form is on file. Include your best estimate of the other party's income. Check at least one of the following.)*
   a. ☒ I knowingly give up forever any right to receive spousal or partner support.
   b. ☐ I ask the court to reserve jurisdiction to award spousal or partner support in the future to:
      ☐ Petitioner ☐ Respondent
   c. ☒ I ask the court to terminate forever spousal or partner support for: ☒ Petitioner ☒ Respondent
   d. ☒ Spousal support or domestic partner support should be ordered as set forth in the proposed *Judgment* (form FL-180) based on the factors described in:
      ☐ *Spousal or Partner Support Declaration Attachment* (form FL-157)
      ☒ written agreement
      ☐ attached declaration *(Attachment 8d)*
   e. ☐ Family support should be ordered as set forth in the proposed *Judgment* (form FL-180).
   f. ☐ Other *(specify):*

PETITIONER: MAX DAVID BORENSTEIN RESPONDENT: SOFIYA ALEXANDRA GOLDSHTEYN	CASE NUMBER: 22STFL08826

9. ☐ **Parentage** of the children of the petitioner and respondent born prior to their marriage or domestic partnership should be ordered as set forth in the proposed *Judgment* (form FL-180).
   a. ☐ A voluntary declaration of parentage or paternity is attached.
   b. ☐ Parentage was previously established by the court in *(county):*
      The case number is *(specify):*
      ☐ The written agreement of the parties regarding parentage is attached here (Attachment 9b) or to the proposed *Judgment* (form FL-180).
10. ☒ **Attorney fees** should be ordered as set forth in the proposed *Judgment* (form FL-180).
   ☐ The facts in support of this request are on *Request for Attorney's Fees and Costs Attachment* (form FL-319).
   ☐ Other *(specify facts below)*:

11. ☐ The judgment should be entered nunc pro tunc for the following reasons *(specify)*:

12. ☐ Petitioner ☐ Respondent requests restoration of the former name as set forth in the proposed *Judgment* (form FL-180) *(proceedings for dissolution or nullity of marriage only).*
13. Irreconcilable differences have led to the irremediable breakdown of the marriage or domestic partnership, and there is no possibility of saving the marriage or domestic partnership through counseling or other means.
14. This declaration may be reviewed by a commissioner sitting as a temporary judge, who may determine whether to grant this request or require my appearance under Family Code section 2336.

STATEMENTS IN THIS BOX APPLY ONLY TO DISSOLUTIONS

15. If this is a dissolution of a marriage or domestic partnership created in another state, the petitioner or the respondent has been a resident of this county for at least three months and of the state of California for at least six months continuously and immediately preceding the date of the filing of the petition for dissolution of marriage or domestic partnership.
16. I ask that the court grant the request for a judgment of dissolution of marriage or domestic partnership based on irreconcilable differences and that the court make the orders set forth in the proposed *Judgment* (form FL-180) submitted with this declaration.
17. ☐ **Status only judgment:** This declaration is only for the termination of marital or domestic partner status. I ask the court to reserve jurisdiction over all other issues not requested in this declaration for later determination.

THIS STATEMENT APPLIES ONLY TO LEGAL SEPARATIONS

18. I ask that the court grant the request of a judgment for legal separation based on irreconcilable differences and that the court make the orders set forth in the proposed *Judgment* (form FL-180) submitted with this declaration.

    I understand that a judgment of legal separation does not terminate a marriage or domestic partnership, and that I am still married or a partner in a domestic partnership.

19. ☐ Other *(specify):*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date: April 16, 2026

MAX DAVID BORENSTEIN ▶ Max D Borenstein
Max D Borenstein (Apr 16, 2026 11:23:14 PDT)

(TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

J.R. HOWELL (State Bar No. 268086)
jr@lojrh.com
LAW OFFICE OF J.R. HOWELL
2219 Main Street
Suite 436
Santa Monica, CA 90405
Tel: (323) 897-8656

ATTORNEY FOR RESPONDENT,
SOFIYA A. GOLDSHTEYN

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County of Los Angeles
4/16/2026 11:28 AM
David W. Slayton, Clerk of Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, FAMILY LAW DIVISION

IN RE MARRIAGE OF: MAX D. BORENSTEIN, Petitioner, v. SOFIYA A. GOLDSHTEYN, Respondent.	Case No. 22STFL08826 **RESPONDENT'S REPLY TO PETITIONER'S CLOSING TRIAL BRIEF** Trial Date: February 24, 2026 Time: 8:30AM Place: Dept. 35

LAW OFFICE OF J.R. HOWELL

I. Introduction

The issue in this Los Angeles family-law trial is not whether courts should enforce a clear, mutually agreed-upon contract, as in *Pham v. Superior Court* (2025) 117 Cal.App.5th 115. Rather, the case presents a first-impression constitutional dispute over whether state power may be used to extinguish Sofiya A. Goldshteyn's last realistic chance to bear a child. The evidence shows that multiple rounds of in-vitro fertilization (IVF) produced embryos stored at different facilities under conflicting and incomplete disposition directives. The alleged directives contain blanks and were not timely produced during discovery. Some forms were signed years after the embryos were created; Max admitted that he initialed certain lines, while Sofiya testified that not all initials were hers. There is no single, unambiguous "contract" that can be tied to the embryos at issue, and the record fails to establish how many embryos exist, where they are stored, or which directives apply to which embryos. In this context, Petitioner's request for an order directing the destruction of the embryos seeks to use the court's coercive power to strip Sofiya of fundamental rights recognized by California's Constitution and human rights laws, including the right to choose to bear a child and to obtain infertility care.

Max urges the Court to follow the contractual approach announced in *Pham* and enforce clinic forms that purport to dispose of all embryos. That argument fails for two reasons. First, *Pham* involved a single, clearly identified IVF agreement that both parties acknowledged as their sole disposition directive; the appellate court found the agreement unambiguous and held that it governed. Here, Max posits that the parties signed multiple, conflicting forms that cannot be linked to specific embryos—or specific disposition directives relevant to any specific embryo. Second, *Pham* never addressed the constitutional protections enacted by Proposition 1 and the amended Reproductive Privacy Act. As set forth more fully in Respondent's opening Trial Brief, those measures provide that California shall not deny or interfere with a woman's right to choose to bear a child and that every individual has a fundamental right to make and effectuate decisions about pregnancy—including infertility care. Enforcing a disputed directive to destroy or transfer embryos is state action that permanently deprives Sofiya of her fundamental right to procreate. The Court should reject Max's contract-based approach, affirm the trial court's denial of the motion to destroy

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the embryos, and award Sofiya exclusive control over the embryos with appropriate protective orders.

II. Facts and Procedural Posture

1. **Multiple cycles and storage facilities.** During their marriage Max and Sofiya pursued fertility treatment over several years, creating embryos in at least two cycles. Max's closing brief asserts that the 2021 cycle produced one embryo using Sofiya's egg, while the 2022 cycle produced nineteen embryos using donor eggs. The embryos are stored at least two different locations Southern California Center for Reproductive Medicine (SCCRM) and Ovation Fertility Storage Solutions. Despite years of litigation, no complete inventory exists showing how many embryos remain or where they are stored.

2. **Conflicting and incomplete directives.** Max relies on clinic forms from different years that contain conflicting disposition options—donation to research, transfer to the male partner, or thaw and discard. Some forms omit key information such as the identification of the embryos to which they apply. Others were signed years after the embryos were created. Respondent's motion in limine established that several of these forms were withheld from discovery and only produced days before trial. The trial transcript shows that Max initialed sections of at least one directive and that he may have filled in Sofiya's initials on others. Sofiya testified that her initials on certain pages were not signed by her and that Max completed the documents. These irregularities defeat any claim that the forms reflect contemporaneous mutual consent to a single disposition plan and support Sofiya's claim that they be treated as interspousal transfers per Family Code § 721.

3. **Lack of linkage to specific embryos.** Max's own brief admits that the parties executed an "ART contract" prior to ***each*** IVF cycle. The 2021 form calls for donation of embryos to medical research, while the 2022 form calls for transfer to the male partner. Yet there is no evidence identifying which form applies to which embryo. The forms do not list embryo identification numbers, and the parties created embryos in earlier years (including 2016) for which Max produced no directive. The record contains no evidence that any directive covers all embryos created across all cycles.

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4. **Time-sensitive context.** Sofiya underwent years of cancer and fertility treatment. She testified that the embryos represent her last realistic opportunity to have a biologically related child. She selected a donor with similar traits and wishes to bring the embryos to term. The relief she seeks does not require Max to undergo any procedure or provide additional genetic material—it simply allows her to use embryos that already exist.

5. **Procedural posture.** The trial was limited to embryo-related issues. The Court considered the competing directives and heard extensive testimony. Sofiya filed a detailed request for a statement of decision, identifying issues including state action, constitutional rights, reproductive autonomy, equal protection, fiduciary duties, and least-restrictive-means alternatives. The Court has not yet entered judgment on these issues.

III. Argument

A. If the Court Places Any Embryo Beyond Respondent's Use, It Should Order a Meaningful Equalization Payment of $100,000 Per Embryo.

What the Court takes, it must measure. What it destroys, it must account for.

If the Court declines to award Respondent exclusive control of the remaining cryopreserved embryos and instead orders their destruction, donation, indefinite withholding, or any other disposition that places them beyond Respondent's use, the Court should order an equalization payment of $100,000 for each embryo so affected. This is an equitable request tied to the unequal allocation and destruction of a community-created reproductive asset in an amount supported by the evidentiary record.

The record established that the parties' embryo-creation efforts required extraordinary expenditures over many years, including IVF retrievals, laboratory services, embryo creation and preservation, and related reproductive costs. Respondent testified that the process cost in the hundreds of thousands of dollars, and the Court itself focused closely on that testimony. Sofiya further testified that the process, which occurred amid her cancer diagnosis and treatment, came at substantial risk to her health and potentially her life. The evidence further showed that Respondent cannot simply recreate these reproductive opportunities on her own. Any order that destroys an embryo, or places it beyond her use, therefore does not merely dispose of an abstract item of

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property. It unequally allocates to Respondent the loss of a community-created asset that required extraordinary community expenditure to create and preserve.

California family law requires an equal division of the community estate. (Fam. Code, § 2550.) Even if embryos are not treated as ordinary property in every respect, the costs incurred to create and preserve them were community expenditures, and the parties' interests in them were acquired and maintained during marriage through community effort and community funds. Because these embryos cannot be divided in kind, any order that places them beyond Respondent's use necessarily deprives Respondent of her share of that community-created asset. Equity therefore requires an offset. A contrary result would allow Petitioner to obtain the practical benefit of extinguishing the asset while leaving Respondent to absorb the entire economic loss.

The Court should therefore make an express finding as to the number of embryos affected by its ruling and apply a multiplier of $100,000 per embryo. If the Court finds, based on the evidence, that there are 19 embryos that will be destroyed or otherwise placed beyond Respondent's use, the resulting equalization payment should be $1,900,000.00. If the Court finds a different number, the same per-embryo valuation should apply to the number the Court finds proven. What the Court should not do is enter an order that extinguishes these community-created assets while awarding Respondent nothing.

This requested equalization payment is especially appropriate here because the Court's ruling, if adverse to Respondent, will not merely distribute property. It will permanently foreclose Respondent's ability to use embryos created through substantial community effort and expense, including the embryo that represents her last chance at genetic motherhood.

If the Court is going to extinguish 19 embryos created through years of effort—including the risk Sofiya took to her health and ultimately her life—and hundreds of thousands of dollars of their money to make them, then the law requires that loss to be accounted for. At $100,000 per embryo, that is $1.9 million. That is not a windfall. That is the bare cost of what is being taken.

For whatever is destroyed, equity requires a reckoning. Destruction of potential life is consequence-free for no one.

B. This Case Is Not Controlled By Pham Because There Is No Clear, Unambiguous

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Contract Governing All Embryos.

1. **Multiple conflicting writings defeat the contract predicate.** *Pham* held that when parties enter a single, clear and unambiguous contract specifying how frozen embryos shall be treated in the event of divorce, that contract governs. The court emphasized that the disposition clause was clear and unambiguous and that no extrinsic evidence was needed to interpret it.

Here, by contrast, the record contains multiple forms with conflicting options—donation to research, transfer to the male partner, discard, or other options. None of these forms identifies the embryos to which it applies. Some forms were signed years after the embryos were created. Some contain blanks and omissions. Max admitted during cross-examination that he initialed parts of a directive, and Sofiya testified that some initials attributed to her are not hers. These inconsistencies show there was no meeting of the minds. Moreover, competent credible evidence exists that the parties did, in fact, sign other disposition directives for embryos created at other time periods that Max curiously omitted from the record. Because Petitioner cannot tie any directive to any specific embryo, and where evidence exists that disposition directives exist as to those embryos, he fails to carry his burden of proving a valid, unambiguous contract.

2. **Clinic forms mandated by statute are not ordinary contracts.** Max argues that the forms are statutorily required under Health & Safety Code § 125315 and therefore must be enforced. Section 125315 requires fertility providers to provide patients with a form that presents options for the disposition of unused embryos, including making the embryos available to the female or male partner, donating them for research, thawing and discarding, or donating them to another person. Nothing in the statute states that selecting an option creates a binding contract enforceable against a spouse years later, nor does it prioritize destruction over other options. The forms at issue here were produced by private clinics; they do not contain the material terms necessary for a contract (such as identification of the embryos) and include blanks related to essential terms. Because there is no clear directive, the Court cannot enforce a request for destruction.

3. **Pham did not address constitutional claims.** In *Pham*, the husband challenged enforcement of the contract on privacy grounds but failed to raise or develop constitutional arguments. The appellate court deemed the arguments forfeited. The court therefore did not decide whether

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enforcing an embryo disposition clause could violate fundamental rights. Here, Sofiya has timely raised constitutional claims. The state constitution and the Reproductive Privacy Act now explicitly protect reproductive freedom. And, unlike the situation in *Pham* where the man sought control of the embryos, here, Sofiya is asserting her right to choose to bear a child including through the legally protected use of infertility care. Even if the forms were contracts, their enforcement would still be subject to constitutional scrutiny.

C. Enforcing A Disputed Embryo Directive Constitutes State Action That Implicates Constitutional Rights.

1. **State action.** Courts are state actors. In *Shelley v. Kraemer* (1948) 334 U.S. 1, the U.S. Supreme Court held that while private parties may voluntarily adhere to discriminatory covenants, judicial enforcement of those covenants constitutes state action and violates the Fourteenth Amendment. The Court emphasized that private agreements, standing alone, do not violate constitutional rights, but state enforcement of those agreements can. Similarly, ordering the destruction of embryos or transferring them beyond Sofiya's control would be an act of the state, effectuated through judicial process, that deprives her of the ability to procreate, as set forth more fully in Respondent's Opening Trial Brief. Max's suggestion that the decision is purely private ignores that he seeks an order from the Court to effectuate the destruction.

2. **Fundamental right to make and effectuate reproductive decisions.** California's Constitution and statutes provide greater protection for reproductive freedom than federal law. Proposition 1 added Article I, section 1.1 to the state constitution, declaring that the state shall not deny or interfere with an individual's reproductive freedom, including the fundamental right to choose to have an abortion and the fundamental right to choose or refuse contraceptives. The Reproductive Privacy Act (Health & Saf. Code § 123462) provides that every individual possesses a fundamental right of privacy regarding personal reproductive decisions, including prenatal care, childbirth, contraception, sterilization, abortion care, miscarriage management and infertility care. It further states that every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child and that the state shall not deny or interfere with that right. These protections extend to individuals pursuing IVF as infertility treatment is expressly

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included in the statute. Destroying or transferring embryos against Sofiya's wishes interferes with her ability to bear a child and obtain infertility care and therefore implicates fundamental rights.

3. **Strict scrutiny applies.** When state action infringes a fundamental right, the Court must apply strict scrutiny and determine whether the action is narrowly tailored to serve a compelling interest. The Reproductive Privacy Act prohibits state interference with the right to bear a child "except as specifically permitted by this article." There is no statutory provision authorizing the state to destroy embryos over the objection of the person who may become pregnant. Max's desire not to procreate may be accommodated without destroying the embryos, as discussed below. Because Sofiya's fundamental rights are at stake and there is no compelling state interest requiring destruction, strict scrutiny bars enforcement of the disputed directives.

4. **Right to procreate.** The U.S. Supreme Court has long recognized procreation as a basic human right. In *Skinner v. Oklahoma* (1942) 316 U.S. 535, the Court struck down a compulsory sterilization law, holding that marriage and procreation are "fundamental to the very existence and survival of the race" and that the state's power to sterilize has "subtle, far-reaching and devastating effects" and "forever deprive[s] prisoners of a basic liberty." Enforcing a directive that permanently destroys Sofiya's embryos would likewise irreversibly deprive her of the ability to procreate and should be treated with the same constitutional skepticism.

D. Reproductive Autonomy Requires Respecting Sofiya's Right To Use The Embryos And Rejecting A Spousal Veto.

1. **Asymmetrical burden.** Allowing Max to veto the use of the embryos places an unequal burden on Sofiya. Max's requested remedy (destruction or transfer to him) imposes no physical or medical demands on him but would deprive Sofiya of her last chance to bear a child. The California Constitution's equal-protection guarantee prohibits state action that discriminates based on sex or the ability to become pregnant. A spousal veto operates only against the person who can carry a pregnancy and therefore is discriminatory.

2. **Least-restrictive-means alternatives exist.** Even if the Court finds a compelling interest in respecting Max's desire not to parent, there are less restrictive means than destroying the embryos. For the embryos in question, Max need not be declared a parent. California's Uniform

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Parentage Act allows intended parents in assisted reproduction to agree in writing that a spouse will not be a parent (Fam. Code § 7613(e)). The Court may issue a protective order confirming that Max has no parental or financial obligations. Such measures would fully protect Max's legally cognizable interests while preserving Sofiya's reproductive autonomy. The availability of less restrictive means reinforces that destruction is unconstitutional.

E. Fiduciary Duties And Presumption Of Undue Influence Bar Enforcement Of The Disputed Directives.

Spouses owe each other the highest duty of good faith and fair dealing. Family Code § 721 provides that, in transactions between themselves, spouses are subject to the general rules governing fiduciaries and must not take unfair advantage of one another. The statute requires each spouse to provide full information on transactions affecting community property and to account for any benefit derived without the other spouse's consent. When one spouse gains an advantage over the other in a transaction, there is a presumption of undue influence. The advantaged spouse bears the burden of proving the transaction was freely and knowingly made.

Here, Max prepared and initialed the directives, withheld them during discovery, and signed Sofiya's initials on relevant pages. He has withheld from Sofiya, and the Court, the disposition directives concerning the other embryos as reflected in the trial transcript. The directives purportedly give him sole control over the embryos while the directives he has concealed from the record may be contradictory. Because he was advantaged, the law presumes undue influence, and he has not rebutted that presumption. The Court therefore should not enforce the directives.

F. The Court Should Adopt A Constitutional Rule Giving Control Of Embryos To The Party Who Wishes To Use Them.

In disputes involving embryos created through IVF, courts across the country have used different approaches. Many jurisdictions follow a contractual approach when a single, clear directive exists. Others, recognizing the profound personal interests at stake, award control to the party who wishes to use the embryos to procreate rather than to the party who wishes to destroy them. California's new constitutional and statutory guarantees support a rule that favors procreative use when no clear directive exists and when the non-consenting party can be protected through

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waivers of parentage. Such a rule prevents the state from unnecessarily denying or interfering with reproductive freedom and comports with the equal-protection and privacy guarantees of the California Constitution.

IV. Remedies

A. Primary Remedy: Grant Sofiya Exclusive Control And Decision-Making Authority.

The Court should grant Sofiya exclusive control over and use of all embryos created during the marriage. This remedy enables Sofiya to exercise her fundamental right to procreate and to access infertility care, while imposing no medical or financial burdens on Max. Protective orders can address parentage and support, ensuring that Max's interests are fully protected without destroying the embryos.

B. Alternative Remedy: Equalization Payment.

If the Court declines to award Sofiya exclusive control and orders destruction or transfer of any embryos beyond her control, it should award an equalization payment. Sofiya presented evidence that the embryos are unique and irreplaceable, representing her last opportunity to have a child. She seeks an equalization payment of $100,000 per embryo, reflecting the financial and emotional investment in creating them and the cost of alternative infertility treatment such as gestational surrogacy. Based on the record, there may be up to nineteen embryos. An equalization payment is necessary to compensate for the irreversible loss of the embryos and to ensure a fair distribution of community assets.

V. Conclusion

Max's request to enforce incomplete, conflicting clinic forms and destroy Sofiya's embryos is not supported by California law. There is no single, unambiguous contract governing the embryos, the forms are incomplete, conflicting, and were selectively produced to the exclusion of other disposition directives Max has not produced to Sofiya or the Court. The Court's enforcement of these private forms would constitute state action that violates Sofiya's fundamental rights under the California Constitution and the Reproductive Privacy Act. Sofiya respectfully requests that the Court grant her exclusive control over the embryos and issue any necessary protective orders. In the alternative, if any embryo is destroyed or placed beyond her use, she requests an equalization

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payment of $100,000 per embryo.

Respectfully submitted,

J.R. HOWELL,
LAW OFFICE OF J.R. HOWELL

Date: April 16, 2026

J.R. Howell (Cal. Bar No. 268086)
Attorney for Respondent

LAW OFFICE OF J.R.HOWELL

Received: 4/16/2026 2:26 PM

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*
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ATTORNEY FOR *(Name):* Petitioner, Max David Borenstein

FOR COURT USE ONLY

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Superior Court of California
County of Los Angeles
4/17/2026 7:26 AM
David W. Slayton
Executive Officer/Clerk of Court,
By A. Tham, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 N. HILL STREET
MAILING ADDRESS: SAME
CITY AND ZIP CODE: LOS ANGELES, 90012
BRANCH NAME: CENTRAL DISTRICT

MARRIAGE OR PARTNERSHIP OF
PETITIONER: MAX DAVID BORENSTEIN
RESPONDENT: SOFIYA ALEXANDRA GOLDSHTEYN

JUDGMENT

CASE NUMBER: 22STFL08826

☒ **DISSOLUTION** ☐ **LEGAL SEPARATION** ☐ **NULLITY**
☐ **Status only**
☐ **Reserving jurisdiction over termination of marital or domestic partnership status**
☐ **Judgment on reserved issues**
Date marital or domestic partnership status ends: 04/17/2026

1. ☐ This judgment ☐ contains personal conduct restraining orders ☐ modifies existing restraining orders. The restraining orders are contained on page(s) of the attachment. They expire on *(date):*

2. This proceeding was heard as follows: ☒ Default or uncontested ☐ By declaration under Family Code section 2336 ☐ Contested ☐ Agreement in court
   a. Date: 04/17/2026 Dept.: 35 Room: 411
   b. Judicial officer *(name):* Scott J Nord ☐ Temporary judge
   c. ☐ Petitioner present in court ☐ Attorney present in court *(name):*
   d. ☐ Respondent present in court ☐ Attorney present in court *(name):*
   e. ☐ Claimant present in court *(name):* ☐ Attorney present in court *(name):*
   f. ☐ Other *(specify name):*

3. The court acquired jurisdiction of the respondent on *(date):* 10/14/2022
   a. ☐ The respondent was served with process.
   b. ☒ The respondent appeared.

THE COURT ORDERS, GOOD CAUSE APPEARING

4. a. ☒ Judgment of dissolution is entered. Marital or domestic partnership status is terminated and the parties are restored to the status of single persons
      (1) ☒ on *(specify date):* 04/17/2026
      (2) ☐ on a date to be determined on noticed motion of either party or on stipulation.
   b. ☐ Judgment of legal separation is entered.
   c. ☐ Judgment of nullity is entered. The parties are declared to be single persons on the ground of *(specify):*
   d. ☐ This judgment will be entered nunc pro tunc as of *(date):*
   e. ☐ Judgment on reserved issues.
   f. The ☐ petitioner's ☐ respondent's former name is restored to *(specify):*
   g. ☐ Jurisdiction is reserved over all other issues, and all present orders remain in effect except as provided below.
   h. ☐ This judgment contains provisions for child support or family support. Each party must complete and file with the court a *Child Support Case Registry Form* (form FL-191) within 10 days of the date of this judgment. The parents must notify the court of any change in the information submitted within 10 days of the change, by filing an updated form. The *Notice of Rights and Responsibilities—Health-Care Costs and Reimbursement Procedures and Information Sheet on Changing a Child Support Order* (form FL-192) is attached.

Form Adopted for Mandatory Use
Judicial Council of California
FL-180 [Rev. July 1, 2012]
CEB ceb.com | Essential Forms

JUDGMENT
(Family Law)

Family Code, §§ 2024, 2340, 2343, 2346
www.courts.ca.gov

Borenstein, Max

CASE NAME (Last name, first name of each party): BORENSTEIN, MAX AND GOLDSHTEYN, SOFIYA	CASE NUMBER: 22STFL08826

4. i. ☐ The children of this marriage or domestic partnership are:
   (1) ☐ Name Birthdate

   (2) ☐ Parentage is established for children of this relationship born prior to the marriage or domestic partnership

j. ☐ Child custody and visitation (parenting time) are ordered as set forth in the attached
   (1) ☐ Settlement agreement, stipulation for judgment, or other written agreement which contains the information required by Family Code section 3048(a).
   (2) ☐ *Child Custody and Visitation Order Attachment* (form FL-341).
   (3) ☐ *Stipulation and Order for Custody and/or Visitation of Children* (form FL-355).
   (4) ☐ Previously established in another case. Case number: Court:

k. ☐ Child support is ordered as set forth in the attached
   (1) ☐ Settlement agreement, stipulation for judgment, or other written agreement which contains the declarations required by Family Code section 4065(a).
   (2) ☐ *Child Support Information and Order Attachment* (form FL-342).
   (3) ☐ *Stipulation to Establish or Modify Child Support and Order* (form FL-350).
   (4) ☐ Previously established in another case. Case number: Court:

l. ☒ Spousal, domestic partner, or family support is ordered:
   (1) ☐ Reserved for future determination as relates to ☐ petitioner ☐ respondent
   (2) ☒ Jurisdiction terminated to order spousal or partner support to ☒ petitioner ☒ respondent
   (3) ☐ As set forth in the attached *Spousal, Partner, or Family Support Order Attachment* (form FL-343).
   (4) ☒ As set forth in the attached settlement agreement, stipulation for judgment, or other written agreement.
   (5) ☐ Other *(specify):*

m. ☒ Property division is ordered as set forth in the attached
   (1) ☒ Settlement agreement, stipulation for judgment, or other written agreement.
   (2) ☐ *Property Order Attachment to Judgment* (form FL-345).
   (3) ☐ Other *(specify):*

n. ☒ Attorney fees and costs are ordered as set forth in the attached
   (1) ☒ Settlement agreement, stipulation for judgment, or other written agreement.
   (2) ☐ *Attorney Fees and Costs Order* (form FL-346).
   (3) ☐ Other *(specify):*

o. ☐ Other *(specify):*

Each attachment to this judgment is incorporated into this judgment, and the parties are ordered to comply with each attachment's provisions. Jurisdiction is reserved to make other orders necessary to carry out this judgment.

Date: / / / / / / / / / / / / / / / / /　　　/ / / / / / / / / / / / / / / / / / / /
JUDICIAL OFFICER

5. Number of pages attached: 30　　☒ SIGNATURE FOLLOWS LAST ATTACHMENT

NOTICE

Dissolution or legal separation may automatically cancel the rights of a spouse or domestic partner under the other spouse's or domestic partner's will, trust, retirement plan, power of attorney, pay-on-death bank account, transfer-on-death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar property interest. It does not automatically cancel the rights of a spouse or domestic partner as beneficiary of the other spouse's or domestic partner's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions.
A debt or obligation may be assigned to one party as part of the dissolution of property and debts, but if that party does not pay the debt or obligation, the creditor may be able to collect from the other party.
An earnings assignment may be issued without additional proof if child, family, partner, or spousal support is ordered.
Any party required to pay support must pay interest on overdue amounts at the "legal rate," which is currently 10 percent.

STIPULATED JUDGMENT (Attachment to FL-180)

PURSUANT TO RULE 5.411 OF THE CALIFORNIA RULES OF COURT, Petitioner MAX DAVID BORENSTEIN (hereinafter "Petitioner"), appearing individually and by and through his attorney of records, Garry M. Gekht, Esq. of Kaplan, Trope, Gekht & DeCarolis, LLP, and Respondent SOFIYA ALEXANDRA GOLDSHTEYN (hereinafter "Respondent"), appearing individually and by and through her attorneys of record, J.R. Howell, Esq. of the Law Office of J.R. Howell, hereby stipulate to the following Judgment of Dissolution of Marriage ("Stipulated Judgment"):

1. PARTIES

The Parties subject to and bound by this Stipulated Judgment are Petitioner MAX DAVID BORENSTEIN and Respondent SOFIYA ALEXANDRA GOLDSHTEYN, collectively referred to herein as the "Parties," or individually as a "Party".

2. RECITALS

2.1 Each Party has acknowledged and represented for himself or herself, for the other to rely upon in agreeing to this Stipulated Judgment, and for the Court to rely upon in approving and signing this Stipulated Judgment, that the following facts are true and correct:

2.2 Petitioner and Respondent were married on December 31, 2014 ("Date of Marriage"). The Parties have a dispute as to the date of separation. Petitioner alleges that the Parties separated in April of 2022. Respondent alleges that the Parties separated in August of 2022. For the purposes of this Stipulated Judgment, the date of separation is immaterial.

2.3 There are no minor children of the marriage.

2.4 On August 11, 2022, Petitioner filed a Petition for Dissolution of Marriage ("Petition") in the Superior Court of the State of California in and for the County of Los Angeles, bearing case number 22STFL08826. On October 14, 2022, Respondent filed a Response and Request for Dissolution of Marriage ("Response").

2.5 At the time of filing the Petition, Petitioner and Respondent have each been residents of the State of California for at least six (6) months, and of the County of Los Angeles for at least three (3) months.

2.6 The Superior Court of California, County of Los Angeles, has exclusive jurisdiction over the Parties and over the subject matter of the Parties' dissolution of marriage.

2.7 Except as otherwise set forth herein, the terms and the provisions of this Stipulated Judgment supersede all other oral and/or written agreements between the Parties and/or the Parties' counsel.

2.8 By entering into this Stipulated Judgment, the Parties intend to resolve all issues in this proceeding and to effect a full, complete, and final settlement of their respective claims regarding property rights, spousal support, attorneys' fees and costs, and any and all other financial rights and obligations, and interests in claims between the Parties, under the terms set forth herein and except as modifiable under California law. Except as otherwise set forth herein, the Parties intend to irrevocably adjust and determine all legal obligations of any nature which may exist with respect to one another at this time, by reason of the Parties' marriage, or otherwise, and to fully and completely resolve any and all issues relating to division of property and support. Further, this Stipulated Judgment contains provisions which are a compromise of the respective claims of Petitioner and Respondent.

2.9 Petitioner and Respondent each acknowledge and agree that the award, confirmation, and transfer of all property pursuant to the terms and provisions of this Stipulated Judgment are being made pursuant to *Internal Revenue Code* §1041 as a tax-free transfer between spouses.

2.10 Petitioner and Respondent each acknowledge that he or she is aware of the provisions set forth in *Family Code* §2104, *et. seq*., which specifically require each Party to serve a Preliminary Declaration of Disclosure upon the other Party and either serve a Final Declaration of Disclosure upon the other Party, or mutually waive service, prior to the Parties entering into an enforceable agreement. Petitioner served his Preliminary Declaration of Disclosure and Final Declaration of Disclosure on Respondent on November 18, 2022 and December 24, 2025, respectively. Respondent served her Preliminary Declaration of Disclosure on Petitioner on February 3, 2023. Further, the Parties have stipulated and agreed to waive the service and exchange of their respective Final Declarations of Disclosure upon the other.

2.11 The Court further finds that in negotiating the economic terms of this Stipulated Judgment, each Party acknowledges that she or he has had an opportunity to be advised by competent family law counsel of their choice and that she or he has had the opportunity to determine, both on a voluntary basis and through formal discovery procedures, all the financial circumstances of the other Party, and the income which each is likely to derive from the property acquired by each hereunder. Each of the Parties has warranted and represented that she or he desires a settlement of all matters set forth in this Stipulated Judgment and that she or he has chosen not to further exercise all of the formal or informal discovery rights available to her or him including, without limitation, serving special interrogatories, requests for production of documents, requests for admissions, issuing subpoenas, and/or taking and completing the depositions of one another and/or third parties, and obtaining expert appraisals of real, personal, and/or business properties and assets.

2.12 The Court finds that each Party knowingly waives his or her rights to conduct discovery, both formal and informal, and to fully investigate the financial circumstances of the other Party prior to the execution of this Stipulated Judgment. The Court further finds that the Parties acknowledge that by entering into a negotiated settlement of all financial issues between them, each has knowingly waived her or his right to a full evidentiary hearing or trial on the merits with respect to those issues. The Court further finds that each Party acknowledges that the economic benefits conferred on each by this Stipulated Judgment may be better or worse than the economic benefits that would be conferred after such a full evidentiary hearing or trial. Nevertheless, both Parties have considered the risk of litigation and the costs thereof and have decided that it is preferable to settle all the issues rather than to be subjected to the uncertainties associated with the litigation process.

2.13 Petitioner and Respondent each acknowledge for herself or himself, and for the other Party to rely upon in agreeing to this Stipulated Judgment, that she or he was made aware of her or his right to conduct further discovery and she or he has voluntarily chosen not to do so, and she or he has elected to proceed with the settlement contained in this Stipulated Judgment without resorting to any further discovery, motions, hearing, and/or trial. Each Party accepts the economic terms of this Stipulated Judgment with knowledge of her or his rights in light of the foregoing waiver.

2.14 Petitioner and Respondent each acknowledge for herself and himself, and for the other to rely upon in agreeing to this Stipulated Judgment, and for the Court to rely upon in signing this Stipulated Judgment, that she or he has entered into this Stipulated Judgment voluntarily and free from any fraud, duress, or other undue influence of which she or he is aware, and each Party has had sufficient time to consider all terms and conditions throughout the negotiation process.

2.15 Petitioner and Respondent each acknowledge for herself or himself, and for the other to rely upon in agreeing to this Stipulated Judgment, and for the Court to rely upon in signing this Stipulated Judgment, that there is sufficient mutual consideration for her or him to enter into this Stipulated Judgment.

2.16 Petitioner and Respondent each acknowledge for herself or himself, and for the other and the Court to rely upon, that she/he did not rely on any statement, warranty, or representation of any other Party, except as provided in the Parties' respective Declarations of Disclosure and/or as expressly set forth in this Stipulated Judgment. The Parties shall be free from interference, restraint, authority, or control by the other Party, and each may conduct, carry on, and engage in any employment, business, or trade which to her or him shall seem advisable for her or his sole and separate use and benefit. Notwithstanding any other provision contained herein, should the Parties at any time after the entry of this Stipulated Judgment reconcile, whether conditionally or unconditionally, or should they cohabit with each other or, from time to time, sojourn together or remarry then, notwithstanding any such reconciliation, cohabitation, sojourning, or remarriage, this Stipulated Judgment as it pertains to spousal support, attorney's fees and costs, forensic fees, and the division of community property as set forth herein including, without limitation, any attendant property transfers, shall remain in full force and effect until modified by other cohabitation, sojourning, and/or remarriage contract signed, executed and acknowledged by both Petitioner and Respondent.

3. FINDINGS

3.1 The Court finds that irreconcilable differences have arisen between the Parties that have led to the irremediable breakdown of their marriage. The Parties agree that no further waiting

period, marriage counseling, or conciliation efforts would save their marriage, and the Parties have filed for dissolution of their marriage.

3.2 Petitioner and Respondent each represent and warrant to the other that she or he is not aware of any outstanding obligations of Petitioner and Respondent incurred prior to the date of their separation, other than the obligations described in this Stipulated Judgment.

3.3 The Court finds that upon execution of this Stipulated Judgment, each Party is deemed notified and aware that even though an obligation is to be assigned to, or assumed by, one Party as part of the division of community property, in the event that such Party defaults on the contract or obligation, the creditor may have a cause of action against the other Party. The defaulting Party shall indemnify, defend, and hold the other Party harmless in the event that a creditor claims, alleges, or pleads a cause of action against the non-defaulting Party, and the defaulting Party shall reimburse the non-defaulting Party for any loss, including, but not limited to, the amount of the creditor's claims and reasonable attorneys' fees and costs. Each Party shall make reasonable efforts to remove the other Party from any debts assigned to the owing Party.

3.4 Except as set forth in this Stipulated Judgment, the Court finds that each Party warrants that she or he has not incurred, and neither shall incur, any liability or obligation for which the other may be liable. If any claim, action, or proceeding shall be brought seeking to hold the other Party liable on account of such liability, obligation, act, or omission, the obligated Party shall, at her or his sole expense, defend the other Party against any such claim, liability, or obligation (whether or not well founded) and shall hold the other Party free and harmless from it. The Court further finds that the Parties understand that any orders contained in this Stipulated Judgment for one Party to assume the obligation of the community or post-separation debts of the other Party may not be binding on creditors and that a creditor may have rights to seek payment against either Party.

3.5 Petitioner and Respondent each acknowledge that she or he approves this Stipulated Judgment based upon her or his own understanding of her or his own circumstances, and the circumstances of the other Party, that she or he is satisfied to rely upon her or his own understanding of their respective circumstances and that the other Party has relied upon such approval in agreeing to this Stipulated Judgment.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

4. CUSTODY OF DOG, MUNCH

4.1 The Parties shall share custody of their dog, Munch ("Munch") on the following schedule:

4.2 Munch shall remain in Respondent's care through January 19, 2026. Beginning May 16, 2026, the Parties shall alternate physical custody in eight (8)-week blocks, commencing with Petitioner's custodial period from May 16, 2026 through July 11, 2026, followed by Respondent's custodial period from July 11, 2026 through September 5, 2026, and continuing thereafter unless modified by written agreement of the Parties. The parties shall alternate transporting Munch as follows: Respondent shall be solely responsible for receiving Munch from Petitioner's residence in Los Angeles County for the exchanges at the end of his custodial time. Petitioner shall be solely responsible for receiving Munch from Respondent's residence in Portland, Oregon, at the end of her custodial time. Munch shall not travel by airplane.

4.3 Exchanges. The relinquishing party shall confirm, in writing, no later than 7 days prior to any exchange of Munch, the exchange date, time and location. The receiving party shall respond within 48 hours. The parties shall meet and confer to make any reasonable changes to the schedule, consent for which shall not be unreasonably withheld. All communications shall take place via Our Family Wizard ("OFW"). If either party fails to abide by the provisions of the herein paragraph 4 and its subparts, they shall a) not exercise the first four weeks of their next eight-week stretch of custody with Munch and b) be responsible for any transportation costs incurred by the other party as a result of the failure to abide by the provisions of the herein paragraph 4 and its subparts. Should a party's custodial time with Munch be not exercised pursuant to the preceding sentence, the forfeiting party shall be free to visit with Munch during the non-exercised period (but no more than one four-our visit per week), consent for which shall not be unreasonably withheld. Exchanges shall be conducted in a reasonable manner and in the best interest of Munch.

4.4 Meet and Confer. The Parties shall meet and confer on other provisions related to

Munch's care via OFW.. In the case of dispute, the Parties shall participate in no less than a half-day mediation with Judge Joshua D. Wayser. The Court retains jurisdiction on the specifics of Munch's care should the Parties be unable to reach an agreement.

5. RESERVATION OF JUSRIDICTION OVER EMBRYOS AND THEIR DISPOSITION

The Parties expressly reserve to the Los Angeles Superior Court the adjudication of all claims and issues relating to any and all embryos created, generated, stored, maintained, or preserved during the marriage in connection with the Parties' reproductive efforts, including, without limitation, embryos created using Respondent's eggs, embryos created using Petitioner's sperm, and embryos created using donor genetic material, collectively referred to herein as the "Embryos." This reservation of jurisdiction is intended to be inclusive and shall not be construed as, and neither Party makes, any admissions or waiver regarding the nature, scope, or existence of either Party's rights, interests, or claims in or to any Embryos, regardless of genetic origin. The Embryos issue shall be tried in the Los Angeles Superior Court at 8:30 a.m. on February 24, 2026 before Judge Scott Nord, or as otherwise scheduled by the Court.

6. IDENTIFICATION AND DIVISION OF COMMUNITY PROPERTY AND CONFIRMATION OF SEPARATE PROPERY

6.1 The Court finds that the Parties have agreed upon the confirmation and division of property as set forth in this Stipulated Judgment and accept the same as the confirmation and division of their property, to avoid further litigation and expense and to resolve this proceeding amicably and in a manner each Party believes is fundamentally fair. The Parties agree, and the Court finds, that many of the assets set forth herein have not been formally appraised. The fact that certain assets have not been formally appraised by an expert shall not at any time in the future constitute a basis for setting aside this Stipulated Judgment, or for either Party to move to set aside this Stipulated Judgment. The fact that a Party relied upon his or her own opinion of value, or the other Party's opinion of value, and that opinion is wrong, also shall not be a basis for setting aside this Stipulated Judgment. Accordingly, in agreeing upon the division of property set forth herein, the Parties have reached certain compromises regarding the approximate or estimated values for some of the assets,

whether said assets were appraised or not. The Parties further agree that if, at any time in the future, it is determined that the actual value(s) of these assets is/are different, that fact shall not be a basis in and of itself for setting aside this Stipulated Judgment or for either Party to move to set aside this Stipulated Judgment.

6.2 **PROPERTY AWARDED AND/OR CONFIRMED TO PETITIONER**. The following assets are awarded, confirmed, and transferred to Petitioner as Petitioner's sole and separate property, with the right of immediate sole possession free and clear of any claim, right, title, or interest of Respondent. Petitioner shall solely assume, pay, defend, indemnify, and hold Respondent free and harmless from any and all encumbrances, debts, obligations, income, estate, property and capital gain taxes, third party claims, and liabilities in connection with these assets, no matter when incurred, and any reasonable attorneys' fees and costs incurred as a result thereof. Respondent hereby disclaims and waives all right, title, and interest in and to the following assets hereby confirmed and transferred to Petitioner:

6.2.1 Real Property. Petitioner is awarded/confirmed the following real property:

6.2.1.1 The real property located at 11540 Clover Avenue, Mar Vista, California, 90066 and legally described as follows:

Lot 192 of Tract No. 14318, in the City of Los Angeles, County of Los Angeles, State of California, as per Map recorded in Book 302, Pages 45 to 49 inclusive of Maps, in the Office of the County Recorder of said County.

A.P.N.: 4250-016-014.

Respondent shall permanently vacate the property on or before January 15, 2026. Respondent shall provide access to the property between December 31, 2025 and January 15, 2026 for Petitioner and his contract labor professionals to install the necessary insurance alarms and technology as required by the insurance carrier on the property. Petitioner shall be able to access the property on 12-hours' written notice to Respondent for the purposes of the insurance compliance install.

6.2.1.2 The real property located at 20830 Pacific Coast Highway, Malibu,

CA 90049, including all paid and unpaid insurance proceeds related thereto, and legally described as follows:

Lot 26 of Tract No. 12634, in the City of Malibu, County of Los Angeles, State of California, as per Map recorded in Book 260, Pages 25 to 27 of Maps, in the Office of the County Recorder of said County.

A.P.N.: 4450-008-038.

6.2.1.3 The real property located at 3778 Stewart Avenue, Los Angeles, California 90066 and legally described as follows:

Lot 53 of Tract No. 7626, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 101, Pages 89-91 inclusive of Maps, in the office of the County Recorder of said County.

A.P.N.: 4246-028-020.

6.2.2 Personal Property. Petitioner is awarded/confirmed all furniture, furnishings, artwork, jewelry, clothing, watches, and other personal property in his possession.

6.2.3 Bank Accounts. Petitioner is awarded/confirmed the following bank accounts, including all monies held therein:

6.2.3.1 Chase Checking account ending xxx-4924;

6.2.3.2 Chase Checking account ending xxx-6182;

6.2.3.3 Chase Checking account ending xxx-5788;

6.2.3.4 Chase Checking account ending xxx-5721; and

6.2.3.5 Chase Checking account ending xxx-6997.

6.2.4 Investment/Stock/Retirements Accounts. Petitioner is awarded/confirmed the following investment/stock/retirement accounts, including all monies held therein:

6.2.4.1 Morgan Stanley account ending xxx-1656;

6.2.4.2 Morgan Stanley account ending xxx-1657;

6.2.4.3 Kerrisdale Capital account ending xxx-1714;

6.2.4.4 Morgan Stanley account ending xxx-1024;

6.2.4.5 Morgan Stanley Roth IRA account ending xxx-1647;

6.2.4.6 Morgan Stanley SEP IRA account ending xxx-1669;

6.2.4.7 Morgan Stanley 401(k) account ending xxx-1866;

6.2.4.8 Morgan Stanley RPM account ending xxx-1865;

6.2.4.9 Morgan Stanely account ending xxx-4376;

6.2.4.10 Morgan Stanely account ending xxx-0378; and

6.2.4.11 Morgan Stanely account ending xxx-4400.

6.2.5 Vehicles. Petitioner is awarded/confirmed all right, title, and interest in the 2025 Lucid vehicle lease. Petitioner shall promptly take over and be solely responsible for the auto insurance policy for this vehicle, and Respondent shall no longer pay, and or be responsible to pay, any expenses relating to the lease, maintenance and insurance of, and/or for Petitioner's operation of this vehicle.

6.2.6 Partnerships and Business Interests. Petitioner is awarded/confirmed all right, title, and interest in the following partnerships and business interests:

6.2.6.1 3778 Stewart LLC and all goodwill, assets, cash, accounts, and other ' assets associated therewith;

6.2.6.2 Steeplechase Amusements Inc. and all goodwill, assets, cash, accounts, and other assets associated therewith; and

6.2.6.3 Kerrisdale Partners LP and all goodwill, assets, cash, accounts, and other assets associated therewith.

6.2.7 Other Assets. Petitioner is awarded/confirmed all right, title, and interest in the following other assets:

6.2.7.1 MassMutual Life Insurance Policy ending xxx-0145;

6.2.7.2 All intellectual property held in the name of Petitioner or Steeplechase Amusements Inc.;

6.2.7.3 All post-separation royalties generated by Petitioner's efforts prior to, during, and after the marriage;

6.2.7.4 All airline miles or award points associated with the following credit

card accounts:

6.2.7.4.1 Chase credit card account ending xxx-2967; and

6.2.7.4.2 Chase credit card account ending xxx-5319.

6.3 **PROPERTY AWARDED AND/OR CONFIRMED TO RESPONDENT**. The following assets are awarded, confirmed, and transferred to Respondent pursuant to the Stipulated Judgment as Respondent's sole and separate property, with the right of immediate sole possession free and clear of any claim, right, title, or interest of Petitioner. Respondent shall solely assume, pay, defend, indemnify, and hold Petitioner free and harmless from any and all encumbrances, debts, obligations, income, estate, property and capital gain taxes, third party claims, and liabilities in connection with these assets, no matter when incurred, and any reasonable attorneys' fees and costs incurred as a result thereof. Petitioner hereby disclaims and waives all right, title, and interest in and to the following assets hereby confirmed and transferred to Respondent:

6.3.1 Real Property. Respondent is awarded/confirmed the following real property:

4.3.1.1 The real property located at 4536 N. Haight Avenue, Portland, Oregon 97217 and legally described as follows:

Subdivision CENTRAL ALBINA ADD, Block 17, Lot 8 in the City of Portland, County of Multnomah, State of Oregon, as reflected on Map Number 1N1E22AC-08500 of the Maps of the Multnomah County Recorder

A.P.N.: R131518; Alt. Acct. No. R147002230

6.3.2 Personal Property. Respondent is awarded/confirmed all furniture, furnishings, artwork, jewelry, clothing, watches, and other personal property in her possession.

6.3.3 Bank Accounts. Respondent is awarded/confirmed the following bank accounts, including all monies held therein:

6.3.3.1 Chase Savings account ending xxx-1162; and

6.3.3.2 Chase Checking account ending xxx-7974.

6.3.4 Investment/Stock/Retirements Accounts. Respondent is awarded/confirmed the following investment/stock/retirement accounts, including all monies held therein:

6.3.4.1 Morgan Stanley account ending xxx-2168; and

6.3.4.2 Morgan Stanley Liquidity Access Line account in her name.

6.3.5 Vehicles. Respondent is awarded/confirmed all right, title, and interest in the 2019 Honda Insight (VIN ending in 29520). Petitioner and Respondent stipulate and agree that Petitioner will provide any current license plate tabs and registration in his possession to Respondent, and Petitioner shall sign any forms necessary to transfer title of the vehicles to Respondent. The Parties stipulate and agree that Respondent shall promptly go to the DMV and forthwith transfer the car title to be in her sole name, and take over and be solely responsible for the auto insurance policy for these vehicles, and Petitioner shall no longer pay, and or be responsible to pay, any expenses relating to the maintenance and insurance of, and/or for Respondent's operation of these vehicles.

6.3.6 Partnerships and Business Interests. Respondent is awarded/confirmed all right, title, and interest in Odessa Mama Inc. and all goodwill, assets, intangible property, cash, accounts, and other assets associated therewith.

6.3.7 Other Assets. Respondent is awarded/confirmed all right, title, and interest in the following other assets:

6.3.7.1 All airline miles or award points associated with the following credit card accounts:

6.3.7.1.1 Chase credit card account ending xxx-7846; and

6.3.7.1.2 Chase credit card account ending xxx-9940.

6.3.7.2 All intellectual property held in the name of Respondent or Odessa Mama or other nom de plume/pseudonym used by Respondent, including without limitation, all material written before, during and after the parties' marriage.

6.4 **TRANSFER OF PROPERTY.**

6.4.1 All property divided herein, shall become the separate property and/or obligation of the Party so designated to receive same immediately upon entry of and pursuant to the terms of this Stipulated Judgment. The Party to whom the property is transferred shall receive from the other Party any and all documents and instruments necessary to effectuate the transfer of title.

Each Party must cooperate to sign and execute and provide all reasonably necessary documents to effectuate the transfer of property awarded herein. Except as otherwise set forth herein, the Party receiving specific property as a result of the terms of this Judgment shall pay all taxes assessed against such property and all costs of maintenance thereof that are payable after the date of signing of this Judgment.

6.4.2 Should a Party believe the other Party is required to execute and deliver a document, he/she shall provide such documents with any accompanying explanation to the other Party, along with prepaid postage for the return of such executed document(s) (with trackability). Within seven (7) days of receipt of the documents and any explanation, the receiving Party shall notify the sending Party if there is any dispute regarding such document and/or that Party believes such document is non-compliant with the Party's obligations hereunder. If there is a dispute as to such document, the Parties agree to use the Honorable Joshua Wayser to resolve such dispute. In the event there is no dispute, the receiving Party shall execute such document(s) and return to the other Party or as directed, within seven (7) days, using a trackable method of postage, and provide to the sending Party the tracking information for same.

6.4.3 The Parties acknowledge and agree that any transfers between them are in the nature of an inter-spousal transfer and are not taxable pursuant to *Internal Revenue Code* §1041. Additionally, neither Party will seek a new Federal or State tax basis for any asset transferred or to be transferred. Should either Party seek such a new tax basis for any asset transferred, that Party shall indemnify the other from any tax liability, attorney's fees, accountant fees, interest, penalties, and the like.

7. DEBTS AND OBLIGATIONS.

7.1 ASSUMPTION BY PETITIONER. Petitioner shall assume, indemnify, and hold Respondent harmless from and against the following debts, obligations, and/or liabilities:

7.1.1 Any and all debts from any obligation arising out of or relating to any property confirmed and/or awarded to Petitioner under the terms of this Stipulated Judgment.

7.1.2 Any and all debts, obligations, and/or liabilities incurred by Petitioner, in Petitioner's name alone or in conjunction with any third party and Petitioner, at any time (in whole or in part), including, but not limited to the following:

7.1.2.1 Chase credit card account ending xxx-2967; and

7.1.2.2 Chase credit card account ending xxx-5319.

7.2 ASSUMPTION BY RESPONDENT. Respondent shall assume, indemnify, and hold Petitioner harmless from and against the following debts, obligations, and/or liabilities:

7.2.1 Any and all debts from any obligation arising out of or relating to any property confirmed and/or awarded to Respondent under the terms of this Stipulated Judgment.

7.2.2 Any and all debts, obligations, and/or liabilities incurred by Respondent, in Respondent's name alone or in conjunction with any third party and Respondent, at any time (in whole or in part), including, but not limited to the following:

7.2.2.1 Chase credit card account ending xxx-7846; and

7.2.2.2 Chase credit card account ending xxx-9940.

7.3 UNKNOWN DEBTS; INDEMNITY. Petitioner and Respondent each represent and warrant to the other that she or he is not aware of any outstanding obligation of Petitioner or Respondent incurred prior to separation, other than the obligations described in this Stipulated Judgment. In the event any other outstanding obligations of Petitioner or Respondent which were incurred prior to separation are subsequently discovered, the Party incurring same shall indemnify the other from any and all liability arising therefrom or relating thereto and shall further hold the other Party harmless from and against any and all costs and expenses, including reasonable attorneys' fees relating thereto. The Court reserves jurisdiction to resolve all disputes regarding the outstanding obligations of either Party.

7.4 DEBTS SINCE SEPARATION; INDEMNITY. Petitioner and Respondent, respectively, shall each pay and hold the other harmless, respectively, from all outstanding debts and obligations not otherwise paid, incurred by her or him, respectively, since and after separation to third parties; and if any claim, action, or proceeding is hereafter sought seeking to hold the other Party liable on account of such debts or obligations, such Party will, at her or his sole expense, defend

the other Party against any such claim, action, or proceeding, and indemnify the other Party from any and all liability arising therefrom or relating thereto and shall further hold the other Party harmless from and against any and all costs and expenses, including reasonable attorneys' fees relating thereto.

7.5 CREDIT CARD ACCOUNTS. All existing charge and credit accounts in the name of Petitioner and Respondent, or in the name of either Party, under which the other can make purchases or secure credit, shall immediately be closed or changed to the name of the Party retaining that account without recourse against the other Party. Any outstanding indebtedness on these accounts, not otherwise specifically scheduled to be paid by one Party, shall be paid by the Party incurring the debt, notwithstanding the general allocation of debts provided above.

8. WAIVER OF CLAIM FOR REIMBURSEMENT, CREDIT, CLAIMS, AND RELEASES

8.1 Except as may be otherwise specifically set forth in this Stipulated Judgment in **Paragraph 9**, in consideration of the division of property as set forth in this Stipulated Judgment, and in consideration of each and every other term and condition of this Stipulated Judgment, each party waives all rights to payment or reimbursement of the following:

8.1.1 Rights under *Family Code* §§915, 916 and 920;

8.1.2 Pursuant to *Epstein* (credits) [*In re Marriage of Epstein* (1979) 24 Cal.3d 76, and its progeny], all rights to reimbursement for which a Party or the community may be entitled as a result of the payment of community obligations since separation;

8.1.3 Pursuant to *Watts* (charges) [*In re Marriage of Watts* (1985) 171 Cal.App.3d 366, and its progeny], all rights to reimbursement for which a Party or the community may be entitled as a result of one Party's use of community or co-owned assets since separation;

8.1.4 Pursuant to *Jeffries* (credit and reimbursements) [*In re Marriage of Jeffries* (1991) 228 Cal.App.3d 548], for the allocation or offset of *Epstein* credits and *Watts* reimbursements;

8.1.5 Pursuant to *Frick* (credits) [*In re Marriage of Frick* (1986) 181 Cal.App.3d 997], all rights of reimbursement to which a Party or the community may be entitled due to one Party's use of community assets for the improvement of separate property during the marriage;

8.1.6 Pursuant to *Wolfe* [*In re Marriage of Wolfe* (2001) 91 Cal.App.4th 962], all

rights of reimbursement to the community where community funds are consensually used to improve one spouse's separate property;

8.1.7 Pursuant to *Allen* [*In re Marriage of Allen* (2001) 96 Cal.App.4th 97], all rights of reimbursement to the community where community funds are used for the improvement of one spouse's separate property residence;

8.1.8 *Pereira/Van Camp/Beam* equitable apportionment rights [*Pereira v. Pereira* (1909) 156 Cal. 1; *Van Camp v. Van Camp* (1921) 53 CaI.App.17; and *Beam v. Bank of America* (1971) 6 Cal.3d 12] and all rights to which the community may be entitled as a result of efforts contributed by either spouse during marriage toward a spouse's interest in any separate property business;

8.1.9 Any claim that a portion of the increase in value of any business or professional interest is separate property pursuant to *In re Marriage of Imperato* (1975) 45 Cal.App.3d 433, and *In re Marriage of Barnert* (1978) 85 Cal.App.3d 413;

8.1.10 All rights to reimbursement under *Family Code*, §2640, or otherwise, for separate property contributed to the acquisition or maintenance of community or co-owned property, other than as provided for in this Stipulated Judgment;

8.1.11 All rights to reimbursement under *Family Code*, §2641, to either of the Parties for community contributions to the education or training of a Party;

8.1.12 *Moore/Marsden/Bono/Sherman* equitable apportionment rights [*In re Marriage of Moore* (1980) 28 Cal.3d 366; *In re Marriage of Marsden* (1982) 130 Cal.App.3d 425; *Bono v. Clark* (2002) 103 Cal.App.4th 1409; and *In re Marriage of Sherman* (2005) 133 Cal.App.4th 795] and all rights to which the community may be entitled as a result of community property contributed to the acquisition or improvement of a Party's separate property;

8.1.13 Claims against either Party for reimbursement to the community property estate for the improvement or investment of community property assets;

8.1.14 Claims for fair rental value of exclusive use and possession of community property post separation;

8.1.15 Claims against either Party to account for community property received,

possessed, or expended by either Party after separation;

8.1.16 Claims for voluntary payment of expenses incurred for and on behalf of the other Party post-separation;

8.1.17 Claims pursuant to *In re Marriage of Feldner* (1995) 40 Cal.App.4th 617, and other authority, for compensation to either Party by the community property estate for services rendered by such Party for the benefit of the community for which such Party has not been paid previously;

8.1.18 All rights to reimbursement for gifts of community property made to third parties;

8.1.19 Claims against either Party to account for community property received, possessed or expended by either Party after the Date of Separation, other than as provided for in this Stipulated Judgment;

8.1.20 All rights to reimbursement for any loans taken during marriage and post-separation, other than as set forth herein, if any;

8.1.21 All claims to reimbursements from the other Party and/or community estate regarding loans or payments made to or on behalf of either or both of the Parties and/or the community estate through the date of execution of this Stipulated Judgment by the Parties and their attorneys;

8.1.22 Use by either Party of the other's separate property for the benefit of the community or for the benefit of a Party's separate property whether before or after the Date of Separation;

8.1.23 Claims for liability, property, automobile or other insurance premiums paid in advance of the date of execution of this Stipulated Judgment;

8.1.24 Claims as to any and all child and spousal support arrears owed by either Party, other than as provided for in this Stipulated Judgment; and

8.1.25 Any other claims by or against either Party, or by or against the community estate, for any credit, reimbursement, or surcharge, other than as provided for in this Stipulated Judgment.

8.2 The Court finds that except as otherwise provided for herein, the waivers set forth in this **Paragraph 8** supersede all existing Court orders, stipulations, or agreements between the Parties and wherein Petitioner and/or Respondent reserved the right to repayment or reimbursement for payments made to or for the benefit of the other Party and/or the community estate. The Court finds that the Parties each have warranted and represented that said waivers are made as part of and in consideration for the division of assets and liabilities as provided for in this Stipulated Judgment.

9. REIMBURSEMENT, CREDIT, AND CLAIMS NOT WAIVED

9.1 The Parties agree that the following disputes exist between the Parties and have not been waived by the waivers set forth in **Paragraph 8**:

9.1.1 Petitioner's claim for a credit of $15,000 he paid as moving expenses; and

9.1.2 Respondent's claim for Petitioner's alleged underpayment of spousal support and deduction of mortgage expenses for the month in which Respondent agreed to vacate the real property located at 11540 Clover Avenue, Mar Vista, California, 90066.

9.2 The Parties agree that these disputes shall be submitted to Judge Joshua D. Wayser (or a jointly-selected neutral) for recommendation/decision, and that any amount determined to be owing, if any, shall be paid separately and shall not reduce the Equalization Payment set forth in **Paragraph 15**.

10. WAIVER OF INTEREST IN POST-SEPARATION EARNINGS, ACCUMULATIONS, AND ACQUISITIONS

Each Party shall own and hold all property received by her or him under the terms of this Stipulated Judgment, as well as all earnings, accumulations, and other property acquired after separation and thereafter acquired, as her or his sole and separate property, free from any claim of the other Party or of any creditor of the other Party by reason of the community property laws of the State of California, or by reason of any other law or fact. No Party shall be liable for any debt or obligation of the other unless said debt and/or obligation is specifically imposed by the terms and provisions of this Stipulated Judgment.

11. RECIPROCAL WAIVER AND MUTUAL RELEASE OF RIGHT TO INHERIT FROM THE ESTATE OF THE OTHER PARTY

The Court finds that each Party has effectively and knowingly waived, released, and relinquished any and all rights under and pursuant to *Probate Code* §141(a)(1) through (10). This **Paragraph 11** is intended to comply with the provisions of Sections 142, 143, and 144 of the *Probate Code* of the State of California. Each Party waives and releases any and all right to inherit any part of the estate of the other at his or her death, to receive property from the estate of the other, except under a will or codicil dated subsequent to the effective date of this Stipulated Judgment, to act as the personal representative of the estate of the other on intestacy, to act as the personal representative under the will of the other unless so nominated by a will or codicil dated subsequent or the effective date of this Stipulated Judgment, or to claim a family allowance or probate homestead in the other Party's estate.

12. WAIVER OF DISCOVERY, DISCLOSURE AND RELIANCE ON THE OTHER PARTY

12.1 The Court finds that the opportunity to conduct full and complete discovery was available to both Parties at all times and that neither Party desires to exercise any further discovery rights, including, but not limited to, rights regarding depositions, rights to subpoena records, rights to conduct business and/or property valuations, rights to conduct tax estimates and valuations, rights to actuaries, judicial determination of the characterization, valuation, and division of assets, the award of spousal support, and all other issues. The Court finds that each Party has waived all the foregoing rights and that each has specifically requested that no further rights of discovery be exercised on his or her behalf. Both Parties knowingly, intelligently, and willingly waive the right to conduct further discovery.

12.2 The Court finds that both Parties understand their above-described rights to further discovery proceedings. The Court further finds that neither Party has relied on the representations of opposing counsel in any manner or form with respect to the nature, extent, or value of the community assets or obligations. To the extent either Party has relied upon (or not relied upon) the representations of his or her own respective counsel or past counsel in any manner or form with respect to the nature, extent, or value of the community assets or obligations or separate property of the other Party, said reliance shall not be a basis for either Party to set aside this Stipulated Judgment.

12.3 Neither Party desires to exercise any additional discovery rights, including, but not limited to, rights regarding depositions, rights to subpoena records, rights to real property appraisals, rights to conduct tax estimates and valuations, rights to actuaries, judicial determination of the characterization, valuation, and division of assets, temporary and permanent award of spousal support, and all other issues, and each Party expressly waives those discovery rights. The Court finds that each Party has waived all the foregoing rights and that each has specifically requested no further discovery rights be exercised on his or her behalf. Both Parties knowingly, intelligently, and willingly waive the right to conduct further discovery in this proceeding.

13. FEDERAL AND STATE INCOME TAXES

13.1 For calendar year 2025 and subsequent years, the Parties shall file separate federal and state income tax returns. Petitioner and Respondent shall each be responsible for her or his income tax liability attributable to 2025 and thereafter (based upon her or his respective separate income and deductions).

13.2 For any tax year prior to entry of Judgment of Dissolution of Marriage in which the Parties filed separate federal and state income tax returns, Petitioner and Respondent shall be responsible for any liability in connection with any separately filed federal or state income tax returns and shall hold the other Party harmless and indemnify them for any and all liability arising therefrom.

13.3 For any tax year in which the Parties filed joint federal and state tax returns, in the event of any audit and/or corresponding assessment of liability for further taxes, penalties and/or interest assessed by a state or federal taxing authority, the Party that provided the information which gave rise to the audit and/or corresponding assessment of liability shall be responsible for the costs of such assessment and/or corresponding liability assessed and shall indemnify and hold harmless the other Party for any and all costs, including, without limitation, reasonable accounting and/or attorneys' fees, if any, and timely payment of further assessed liability. In the event of such an audit and/or corresponding assessment of liability for further taxes, the Parties can each hire their own independent accountant and/or attorney to represent him or her. In this regard, the court retains jurisdiction to determine the liability of the Party and/or Parties' responsible for providing the information upon which any such audit and or assessment herein references is based.

13.4 Each Party is ordered to send to the other Party, by certified mail or by overnight document delivery service or by personal delivery with written receipt confirmation and within ten (10) days of receipt, a copy of any deficiency notice or other correspondence received from the Internal Revenue Service, the California Franchise Tax Board, or any other taxing agency concerning taxes for which an individual return has been filed pertaining to the other party. Except as set forth below, in the event of a failure to inform the other Party at any time (not restricted to the ten (10) day notice set forth above) of said deficiency notice or other correspondence, the Party failing to notify shall pay all tax liabilities, including penalties, interest, and additional assessments asserted by said taxing authorities arising from such deficiency notice, including attorneys', accountants', and other experts' fees and costs incurred, provided said failure to give such notice resulted in said tax liabilities to the Party to whom notice was not given. Said notice shall be sent to the address set forth in the Notice provision in **Paragraph 17.22** below.

13.5 The Court shall retain jurisdiction as to tax liabilities owed by the community or either Party at such time as it is determined for any prior filed joint tax returns.

13.6 Petitioner and Respondent have acknowledged, and the Court finds that each Party agrees that the tax basis of each asset allocated to each Party under the terms of this Stipulated Judgment has not and will not change by reason of any of the provisions hereof. Petitioner and Respondent are enjoined and restrained from seeking and/or claiming any stepped-up or increased tax basis on any asset transferred to such Party by reason of this Stipulated Judgment. If either Party seeks any stepped-up or increased tax basis for any asset transferred pursuant to the provisions of this Stipulated Judgment and, as a result thereof, the other Party is assessed or sought to be assessed any tax liability, the Party seeking the stepped–up or increased tax basis is ordered to indemnify and hold the other Party free and harmless from and against any such tax liability, including interest and penalties, and all reasonable and necessary costs of defending against any such tax assessment, including reasonable and necessary attorneys' fees and costs. Petitioner and Respondent acknowledge, and the Court finds that the Parties have agreed that the transfers made pursuant to this Stipulated Judgment are transfers in settlement of their community property rights and as such as

governed by the provisions of Section 1041 of the *Internal Revenue Code* and corresponding provisions of the California *Revenue and Taxation Code*.

13.7 As used in this **Paragraph 13** herein, the words "tax," taxes," "deficiency," and or "refunds" shall include interest and penalties, if any, and accountants' fees or reasonable tax attorneys' fees.

13.8 Each Party has been advised by her or his counsel, if any, that present counsel are not tax experts, that there are certain tax consequences that may follow from this Stipulated Judgment, and that each Party has been advised to seek independent tax counsel to advise him or her of the tax consequences, and such counsel cannot make representations or render advice with respect to tax consequences to either Party as a result of the terms of this Stipulated Judgment.

14. SPOUSAL SUPPORT

14.1 With full understanding of their respective rights concerning spousal support, including, but not limited to, *Family Code* §§4320 and 4330, the Parties each hereby knowingly and voluntarily agree that the Court shall forever terminate jurisdiction to award spousal support to either Party regardless of any circumstances that may arise in the future. Each Party waives the right to receive spousal support from the other Party, forever.

14.2 The Parties have carefully bargained for the termination of support as provided in this Stipulated Judgment and the provisions of this Paragraph are intended to comply with the requirements of *In re Marriage of Vomacka*, (1984) 36 Cal.3d. 459 and *In re Marriage of Brown*, (1995) 35 Cal.App.4th. 785, and *In re Marriage of Iberti* (1997) 55 Cal. App. 4th 1434, to make clear that no Court shall have the authority to modify the amount, if any, or duration, if any, of spousal support for any reason, regardless of any alleged change(s) of circumstances that might arise or befall either Party.

14.3 Having entered into the forgoing agreement regarding spousal support and the elimination of the Court's jurisdiction over spousal support, each Party recognizes that he/she is precluded from making any subsequent claim for a different spousal support order. This may result in hardship to either Party at some time in the future.

14.4 Each Party has recognized the possible hardships that the aforesaid spousal support order herein may create in the future to each of them. Each Party has considered carefully all issues relating to each Party's ability and need for spousal support, including the issues of the duration and amount of spousal support. Based on the Parties' agreement, the spousal support provisions and the elimination of the Court's jurisdiction over spousal support, as referenced in this Paragraph herein, are absolute and irrevocable.

14.5 The Court shall retain no jurisdiction and does not retain jurisdiction to award spousal support payable by Petitioner to Respondent at any time under any circumstances, or by Respondent to Petitioner at any time under any circumstances.

14.6 The Parties acknowledge their understanding that the foregoing language concerning termination of spousal support is clear, explicit, and unequivocal within the meaning of *In re Marriage of Iberti,* (1997) 55 Cal.App.4th 1434 and *In re Marriage of Zlatnik,* (1988) 197 Cal.App.3dd 1284.

INITIALS: MDB MDB SAG SG

15. EQUALIZATION PAYMENT

15.1 As and or an equalization of community property and in consideration of the mutual waivers set forth herein, including the waiver of spousal support, Petitioner shall pay to Respondent the sum of $2,200,000 on or before January 31, 2026 (referred to as the "Equalization Payment.") No offset, deduction, or credit shall apply to the Equalization Payment absent a further written agreement signed by both Parties or an order of the Court.

15.2 The Equalization Payment constitute a transfer incident to divorce intended to be non-taxable under *internal Revenue Code* §1041.

15.3 Except as expressly reserved herein, including the Embryo issues set for trial, the Equalization Payment resolves all remaining property and support claims arising from the marriage.

16. NO DISPARAGING REMARK OR WRITINGS

16.1 Mutual Non-Disparagement: Each party agrees that they shall not make any public statements that disparage or criticize the other party, the other party's business, or the other party's reputation when identifying the other party by legal name. This provision shall not prohibit either

party from making truthful statements as required by law, court order, or in connection with legal, tax, or financial matters, or from responding truthfully to inquiries from counsel, accountants, or government authorities.

A. Creative Works Exception (Limited).

Nothing in this section shall prohibit a party from engaging in general creative, artistic, or expressive works that do not reference the other party by name or does not portray the other party in a false and defamatory way.

B. A knowing violation of this provision may be enforced by the court through all available legal and equitable remedies, including injunctive relief.

C. MISCELLANEOUS PROVISIONS

17.1 The Parties shall retain their respective Social Security and derivative Social Security rights, if any, as their respective sole and separate property.

17.2 The Parties hereby acknowledge and agree that there are no further agreements between them and that all other prior verbal agreements and/or oral contracts are hereby deemed void. Further, any further agreements between the Parties shall be in writing. No oral agreements and/or oral contracts between the Parties as to any matter and regardless of whether the alleged oral agreement pre- or post-dates this Stipulated Judgment shall be valid.

17.3 Each Party shall have the right, on a continuing and reasonable basis, to request confirmation of the other Party's compliance with all provisions under this Stipulated Judgment, and the other Party shall cooperate by doing all reasonable acts and supplying all appropriate documents to fully respond to any such request, including confirmation of his or her compliance with all provisions under this Stipulated Judgment.

17.4 All rights and remedies of the Parties hereto are separate and cumulative, and no one of them, whether exercised or not, shall be deemed to limit or exclude any other rights or remedies which the Parties hereby may have. The Parties shall not be deemed to waive any of their rights or remedies under this Stipulated Judgment except as indicated herein. No delay or omission on the

part of any Party exercising any right or remedy shall operate as a waiver of any such right or remedy. A waiver of any right or remedy on any one occasion shall not be construed as a bar to or a waiver of such right or remedy on any future occasion.

17.5 The Party receiving specific property under this Stipulated Judgment shall be entitled to, and the other Party shall promptly transfer and assign to him or her, all right, title, and interest in such property, as set forth herein in **Paragraph 6** above.

17.6 PARTIES BOUND. The terms and provisions of this Stipulated Judgment shall inure to the benefit of, and be binding upon, each Party and her or his respective heirs, successors, executors, administrators, conservators, guardians, and assigns.

17.7 CONSTRUCTION OF JUDGMENT. This Stipulated Judgment is prepared as a result of the joint efforts of Petitioner and Respondent, and this Stipulated Judgment is to be construed simply and fairly and not strictly for or against either of the Parties hereto in accordance with the ordinary and customary rules of construction. Each Party has acknowledged, for himself or herself, that she or he has read this Stipulated Judgment, has had a full and complete opportunity to discuss this Stipulated Judgment with competent family law counsel of their choice and each Party has done so, or has chosen not to do so, and each Party understands all of the terms and provisions of this Stipulated Judgment and its effect upon him or her.

17.8 SCOPE OF INDEMNIFICATIONS. All indemnifications under this Stipulated Judgment include indemnification for reasonable attorneys' fees and other costs and expense incurred by one person in whose favor the indemnification exists. Where applicable, if interest and/or penalties have been assessed against an indemnified Party for an indemnified matter, the indemnitor shall be liable for the payment of all such interest and/or penalties.

17.9 PAYMENT ON TAXES ON ASSETS RECEIVED. The Party receiving specific property as a result of the terms of this Stipulated Judgment shall pay all taxes assessed against such property and all costs of maintenance thereof that are payable after the date of signing this Stipulated Judgment.

17.10 Each Party recognizes and acknowledges by execution of this Stipulated Judgment that the division of community property as set forth in **Section 8** may or may not constitute an equal

division of community property, but each Party accepts the division of community property as a full and complete satisfaction of all community property rights.

17.11 Petitioner and Respondent each represent for herself or himself that the terms of this Stipulated Judgment were entered into by the Parties freely and voluntarily and with sufficient time to consider all terms and conditions and to confer with their respective attorneys, if any, throughout the negotiation process. Each Party represents and warrants that at the time of signing this Stipulated Judgment, she or he was not suffering from any mental or emotional condition which was severe enough to interfere with his or her ability to read, understand, and freely agree to the terms of this Stipulated Judgment. Each Party represents and warrants that at the time of signing of this Stipulated Judgment, he or she was not under the influence of any medication or substance which would have interfered with his or her ability to read, understand, and freely agree to the terms of this Stipulated Judgment.

17.12 The Court finds that this Stipulated Judgment, and each of the provisions herein, may not be altered, amended, terminated, modified, or waived, in whole or in part, except by an instrument in writing executed by both of the Parties hereto with the same formality as this Stipulated Judgment, or by further order of the Court.

17.13 In the event that either Party has executed a Durable Power of Attorney for Health Care pursuant to *Probate Code*, Sections 4670, *et. seq*., and has specified his or her spouse as the designated agent, upon dissolution of marriage, the designated spouse will become ineligible, as a matter of law, to act as the designated agent. For such purposes, it may be necessary for either or both of them to appoint a new designated agent for purposes of a Durable Power of Attorney for Health Care.

17.14 In the event that any portion or provision or clause or term of this Stipulated Judgment shall be held illegal, unenforceable, void, or voidable by any Court, each of the remaining provisions/terms hereof shall nevertheless remain in full force and effect.

17.15 No waiver of the breach of any of the terms or provisions of this Stipulated Judgment shall be construed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

17.16 The Court finds, and Petitioner and Respondent agree that this Stipulated Judgment is executed and intended to be performed in the State of California, and the law of the State of California shall govern its interpretation and effect.

17.17 Each Party warrants that she or he has read this Stipulated Judgment and has had the opportunity to have it fully explained to her or him by competent family law counsel of their choice. The Parties acknowledge that the provisions of this Stipulated Judgment are fair and reasonable.

17.18 All findings of the Court as set forth in this Stipulated Judgment are based solely on the Parties' stipulation. There has been no trial or evidentiary hearing.

17.19 SIGNATURE BY ATTORNEYS. The signatures of the Parties' respective attorneys on this Stipulated Judgment acknowledge each attorney's approval of this Stipulated Judgment as to form only. No attorney is deemed to have expressed any opinion as to the substance of the Stipulated Judgment by affixing their signature thereto. The signatures of the attorney are not to be construed as an endorsement of any or all the provisions of this Stipulated Judgment.

17.20 Notwithstanding that the respective attorneys of the Parties have signed this Stipulated Judgment, if any, nothing contained in this Stipulated Judgment shall be deemed to be a waiver of the attorney-client privilege or the attorney-client work-product doctrine. All confidential communications between the Parties and their respective attorneys, if any, shall remain subject to the attorney-client privilege and any other applicable privilege.

17.21 The Court reserves jurisdiction to make disposition of all after-discovered and/or undistributed community property not otherwise disposed of by this Judgment, and to implement the allocation, division, and distribution of community property set forth in this Judgment in the event disputes arise regarding the allocation, division, and implementation thereof pursuant thereto. In the event there arises a dispute, either Party may make application to the Court for resolution pursuant to this paragraph by setting a Request for Order on proper notice.

17.21.1 No waiver or release approved by or made an order of the Court, shall prevent a Party from asserting a claim to her or his interest in any undisclosed or undivided community or quasi-community property.

17.21.2 Pursuant to the provisions of *Family Code* §§721, 1100, 1101, 2100-2113, 2120-2129, and 2556 and associated case law, each Party shall have the right to claim her or his interest in any community and quasi-community property which has been omitted from this Judgment or otherwise un-adjudicated pursuant to this Judgment.

17.22 NOTICE. Any notice under this Stipulated Judgment must be in writing and shall be effective only upon delivery by hand or three (3) business days after deposit with a document delivery service for next day delivery, fees prepaid, addressed to the other Party to be delivered to him/her at the following addresses:

1. MAX DAVID BORENSTEIN

   c/o Garry M. Gekht, Esq., 10866 Wilshire Blvd., Suite 1650, Los Angeles, CA 90024

2. SOFIYA ALEXANDRA GOLDSHTEYN

   c/o J.R. Howell, Esq., 2219 Main Street, No. 436, Santa Monica, CA. 90405

17.23 SIGNED IN COUNTERPARTS. This Stipulated Judgment may be signed in counterparts, and a facsimile or photocopy signature may be treated for all purposes as if it were an ink-signed original signature.

D. ATTORNEYS' FEES AND COSTS.

18.1 Each Party shall be solely responsible for his or her attorneys' fees and costs through entry of judgment, and hereby waives any and all rights he or she might have for sanctions or contribution to same by the other Party.

E. GOVERNING LAW

19.1 This Stipulated Judgment shall be subject to, and interpreted under, the laws of the State of California, without regard to choice of law rules.

F. SIGNATURES OF THE PARTIES AND THEIR COUNSEL

I HAVE READ AND UNDERSTAND ALL OF THE PROVISIONS OF THE FOREGOING JUDGMENT AND APPROVE AND AGREE TO ALL OF THE TERMS

THEREOF. THE PARTIES MAY EXECUTE THIS JUDGMENT VIA FACSIMILE SIGNATURE OR VIA ELECTRONIC SIGNATURE PURSUANT TO CALIFORNIA RULES OF COURT, *RULE* 2.305.

APPROVED AS TO FORM AND CONTENT:

THE FOREGOING IS AGREED TO BY:

I, MAX DAVID BORENSTEIN, Petitioner, have fully and completely read the foregoing document. I understand the terms and conditions of said document and I do hereby stipulate that the Court should sign and cause this Stipulated Judgment to be entered. After due consideration, and examination into all the facts and circumstances of the case, and my knowledge of the facts, I believe that this document represents a fair and reasonable manner of effectuating the complete compromise, settlement, and release of all claims and rights that exist by and between the Parties with regard to the properties addressed herein and issues relating hereto. I request that the Court approve and sign this document because it represents my understanding of our agreement for the settlement of all matters referred to therein. I confirm that all representations herein stated are true and correct and that I intend the other person and the Court to rely thereon.

Dated: Apr 16, 2026,

Max D Borenstein
Max D Borenstein (Apr 16, 2026 11:26:28 PDT)

MAX DAVID BORENSTEIN,

Petitioner

I, SOFIYA ALEXANDRA GOLDSHTEYN, Respondent, have fully and completely read the foregoing document. I understand the terms and conditions of said document and I do hereby

stipulate that the Court should sign and cause this Stipulated Judgment to be entered. After due consideration, and examination into all the facts and circumstances of the case, and my knowledge of the facts, I believe that this document represents a fair and reasonable manner of effectuating the complete compromise, settlement, and release of all claims and rights that exist by and between the Parties with regard to the properties addressed herein and issues relating hereto. I request that the Court approve and sign this document because it represents my understanding of our agreement for the settlement of all matters referred to therein. I confirm that all representations herein stated are true and correct and that I intend the other person and the Court to rely thereon.

Dated: Apr 14, 2026,

Sofiya Goldshteyn (Apr 14, 2026 21:01:54 PDT)

SOFIYA ALEXANDRA GOLDSHTEYN,
Respondent

APPROVED AS TO FORM ONLY:

Dated: 04/16/2026

KAPLAN, TROPE, GEKHT & DECAROLIS LLP

By: _____
GARRY GEKHT, ESQ.
Attorney for Petitioner,
MAX DAVID BORENSTEIN

Dated: April 14, 2026

LAW OFFICE OF J.R. HOWELL

By: J.R. Howell
J.R. HOWELL, ESQ.
Attorney for Respondent,
SOFIYA ALEXANDRA GOLDSHTEYN

UPON GOOD CAUSE HAVING BEEN SHOWN, based upon the Stipulation of the parties, **IT IS SO ORDERED**.

DATED: 04/17/2026

Scott J. Nord
JUDGE

JUDGE OF THE SUPERIOR COURT

Received: 4/16/2026 2:26 PM

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)* :
GARRY M. GEKHT, ESQ. 321424
KAPLAN, TROPE, GEKHT & DECAROLIS, LLP
10866 WILSHIRE BLVD., SUITE 1650
LOS ANGELES, CA 90024
TELEPHONE NO.: (310) 473-0798 FAX NO.*(Optional)*:
E-MAIL ADDRESS *(Optional)* : garry@ktg.law
ATTORNEY FOR *(Name)* : Petitioner, Max David Borenstein

FOR COURT USE ONLY

Electronically FILED
Superior Court of California
County of Los Angeles
4/17/2026 7:27 AM
David W. Slayton
Executive Officer/Clerk of Court,
By A. Tham, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 N. HILL STREET
MAILING ADDRESS: SAME
CITY AND ZIP CODE: LOS ANGELES, 90012
BRANCH NAME: CENTRAL DISTRICT

PETITIONER: MAX DAVID BORENSTEIN

RESPONDENT: SOFIYA ALEXANDRA GOLDSHTEYN

NOTICE OF ENTRY OF JUDGMENT

CASE NUMBER:
22STFL08826

You are notified that the following judgment was entered on *(date)* : 04/17/2026

1. [X] Dissolution
2. [ ] Dissolution - status only
3. [ ] Dissolution - reserving jurisdiction over termination of marital status or domestic partnership
4. [ ] Legal separation
5. [ ] Nullity
6. [ ] Parent-child relationship
7. [ ] Judgment on reserved issues
8. [ ] Other *(specify)* :

Date: 04/17/2026

Clerk, by /s/ A.Tham, Deputy

-NOTICE TO ATTORNEY OF RECORD OR PARTY WITHOUT ATTORNEY-

Under the provisions of Code of Civil Procedure section 1952, if no appeal is filed the court may order the exhibits destroyed or otherwise disposed of after 60 days from the expiration of the appeal time.

STATEMENT IN THIS BOX APPLIES ONLY TO JUDGMENT OF DISSOLUTION

Effective date of termination of marital or domestic partnership status *(specify)* : 04/17/2026

WARNING: Neither party may remarry or enter into a new domestic partnership until the effective date of the termination of marital or domestic partnership status, as shown in this box.

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the *Notice of Entry of Judgment* was mailed first class, postage fully prepaid, in a sealed envelope addressed as shown below, and that the notice was mailed

at *(place)* : Los Angeles , California, on *(date)* : 04/17/2026

Date: 04/17/2026

Clerk, by /s/ A.Tham, Deputy

Name and address of petitioner or petitioner's attorney

MAX DAVID BORENSTEIN
C/O GARRY M. GEKHT, ESQ.
KAPLAN, TROPE, GEKHT & DECAROLIS, LLP
10866 WILSHIRE BLVD., SUITE 1650
LOS ANGELES, CA 90024

Name and address of respondent or respondent's attorney

SOFIYA ALEXANDRA GOLDSHTEYN
C/O J.R. HOWELL
LAW OFFICE OF J.R. HOWELL
2219 MAIN ST., UNIT 436
SANTA MONICA, CA 90405

Form Adopted for Mandatory Use
Judicial Council of California
FL-190 [Rev. January 1, 2005]

NOTICE OF ENTRY OF JUDGMENT
(Family Law-Uniform Parentage-Custody and Support)

Family Code, §§ 2338, 7636, 7637
www.courtinfo.ca.gov

CEB ceb.com | Essential Forms

Received: 4/22/2026 9:30 AM

PARTY WITHOUT ATTORNEY OR ATTORNEY
NAME: Garry M. Gekht, Esq.
FIRM NAME: Kaplan, Trope, Gekht & DeCarolis, LLP
STREET ADDRESS: 10866 Wilshire Blvd., Suite 1650
CITY: Los Angeles STATE: CA ZIP CODE: 90024
TELEPHONE NO.: (310) 473-0798 FAX NO.:
EMAIL ADDRESS: mbore@ktg.law
ATTORNEY FOR (name): Max David Borenstein
STATE BAR NUMBER: 321424

FOR COURT USE ONLY

Electronically FILED
Superior Court of California
County of Los Angeles
4/22/2026 1:53 PM
David W. Slayton
Executive Officer/Clerk of Court,
By A. Narayan, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: (same as above)
CITY AND ZIP CODE: Los Angeles, 90012
BRANCH NAME: Stanley Mosk Courthouse

PETITIONER: Max David Borenstein
RESPONDENT: Sofiya Alexandra Goldshteyn
OTHER PARENT/PARTY:

CASE NUMBER: 22STFL08826

REQUEST FOR ORDER ☐ **CHANGE** ☒ **TEMPORARY EMERGENCY ORDERS**

☐ Child Custody ☐ Visitation (Parenting Time) ☐ Spousal or Partner Support
☐ Child Support ☐ Property Control ☐ Attorney's Fees and Costs
☒ Other *(specify):* Motion to Strike Respondent's Reply to Petitioner's Closing Trial Brief

Note: Read form FL-300-INFO for information about how to complete this form. To ask to change or end an order that was granted in a Restraining Order After Hearing (form DV-130 or JV-255), read form FL-300-INFO and form DV-300-INFO

NOTICE OF HEARING

1. TO *(name):* Sofiya Alexandra Goldshteyn and her attorney(s) of record
   ☐ Petitioner ☒ Respondent ☐ Other Parent/Party ☐ Other *(specify):*

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

   a. Date: **04/22/2026** Time: **10:00 AM** ☒ Dept.: **35** ☐ Room.:
   b. Address of court ☒ same as noted above ☐ other *(specify):*

3. **WARNING to the person served with the *Request for Order:*** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. *(See form FL-320-INFO for more information.)*

COURT ORDER

It is ordered that: *(FOR COURT USE ONLY)*

4. ☐ Time ☐ for service ☐ until the hearing is shortened. Service must be on or before *(date):*
5. ☐ A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before *(date):*
6. ☐ The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows *(specify date, time, and location):*

7. ☐ The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8. ☒ Other *(specify):*

Denied. The Court will consider the filings as it deems appropriate.

Date: 04/22/2026

Scott J. Nord
JUDGE
JUDICIAL OFFICER

Form Adopted for Mandatory Use
Judicial Council of California
FL-300 [Rev. July 1, 2025]

Family Code, §§ 2045, 2107, 6224, 6226, 6320–6326, 6380–6383
Government Code, § 70612
Cal. Rules of Court, rule 5.92
courts.ca.gov

PETITIONER: Max David Borenstein RESPONDENT: Sofiya Alexandra Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

REQUEST FOR ORDER

Note: Place a mark **X** in front of the box that applies to your case or to your request. If you need more space, mark the box for "Attachment." For example, mark "Attachment 2a" to indicate that the list of children's names and birth dates continues on a paper attached to this form. Then, on a sheet of paper, list each attachment number followed by your request. At the top of the paper, write your name, case number, and "FL-300" as a title. (You may use *Attached Declaration* (form MC-031) for this purpose.)

1. ☐ RESTRAINING ORDER INFORMATION
One or more domestic violence restraining/protective orders are now in effect between *(specify):*
☐ Petitioner ☐ Respondent ☐ Other Parent/Party *(Attach a copy of the orders if you have one.)*
The orders are from the following court or courts *(specify county and state):*
a. ☐ Criminal: County/state *(specify):* Case No. *(if known)*:
b. ☐ Family: County/state *(specify):* Case No. *(if known)*:
c. ☐ Juvenile: County/state *(specify):* Case No. *(if known)*:
d. ☐ Other: County/state *(specify):* Case No. *(if known)*:

2. ☐ CHILD CUSTODY ☐ I request temporary emergency orders
☐ VISITATION (PARENTING TIME)
a. I request that the court make orders about the following children *(specify):*

Child's Name	Date of Birth	☐ Legal Custody to *(person who decides: health, education, etc):*	☐ Physical Custody to *(person with whom child lives):*

☐ Attachment 2a.

b. ☐ The orders I request for ☐ child custody ☐ visitation (parenting time) are:
(1) ☐ Specified in the attached forms:
☐ Form FL-305 ☐ Form FL-311 ☐ Form FL-312 ☐ Form FL-341(C)
☐ Form FL-341(D) ☐ Form FL-341(E) ☐ Other *(specify):*
(2) ☐ As follows *(specify):* ☐ Attachment 2b.

c. The orders that I request are in the best interest of the children because *(specify):* ☐ Attachment 2c.

PETITIONER: Max David Borenstein RESPONDENT: Sofiya Alexandra Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

2. d. ☐ This is a change from the current order for ☐ child custody ☐ visitation (parenting time).
(1) ☐ The order for legal or physical custody was filed on *(date)*: . The court ordered *(specify):*

(2) ☐ The visitation (parenting time) order was filed on *(date)*: . The court ordered *(specify):*

☐ Attachment 2d.

3. ☐ CHILD SUPPORT
(Note: An earnings assignment may be issued. See *Income Withholding for Support* (form FL-195))
a. I request that the court order child support as follows:

Child's name and age	☐ I request support for each child based on the child support guideline.	Monthly amount ($) requested (if not by guideline)

☐ Attachment 3a.

b. ☐ I want to change a current court order for child support filed on *(date):*
The court ordered child support as follows *(specify):*

c. I have completed and filed with this *Request for Order* a current *Income and Expense Declaration* (form FL-150) or I filed a current *Financial Statement (Simplified)* (form FL-155) because I meet the requirements to file form FL-155.

d. The court should make or change the support orders because *(specify)*: ☐ Attachment 3d.

4. ☐ SPOUSAL OR DOMESTIC PARTNER SUPPORT
(Note: An *Earnings Assignment Order for Spousal or Partner Support* (form FL-435) may be issued.)
a. ☐ Amount requested *(monthly):* $
b. ☐ I want the court to ☐ change ☐ end the current support order filed on *(date):*
The court ordered $ per month for support.
c. ☐ This request is to modify (change) spousal or partner support after entry of a judgment.
I have completed and attached *Spousal or Partner Support Declaration Attachment* (form FL-157) or a declaration that addresses the same factors covered in form FL-157.
d. I have completed and filed a current *Income and Expense Declaration* (form FL-150) in support of my request.
e. The court should make, change, or end the support orders because *(specify):* ☐ Attachment 4e.

PETITIONER: Max David Borenstein RESPONDENT: Sofiya Alexandra Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

5. ☐ PROPERTY CONTROL ☐ I request temporary emergency orders
   a. The ☐ petitioner ☐ respondent ☐ other parent/party be given exclusive temporary use, possession, and control of the following property that we ☐ own or are buying ☐ lease or rent *(specify):*

   b. The ☐ petitioner ☐ respondent ☐ other parent/party be ordered to make the following payments on debts and liens coming due while the order is in effect:
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____

   c. ☐ This is a change from the current order for property control filed on *(date):*

   d. Specify in Attachment 5d the reasons why the court should make or change the property control orders.

6. ☐ ATTORNEY'S FEES AND COSTS
   I request attorney's fees and costs, which total *(specify amount):* $. I filed the following to support my request:
   a. A current *Income and Expense Declaration* (form FL-150).
   b. A *Request for Attorney's Fees and Costs Attachment* (form FL-319) or a declaration that addresses the factors covered in that form.
   c. A *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) or a declaration that addresses the factors covered in that form.

7. ☒ OTHER ORDERS REQUESTED *(specify):* ☒ Attachment 7.

   See Attachment 7

8. ☐ TIME FOR SERVICE / TIME UNTIL HEARING I urgently need:
   a. ☐ To serve the *Request for Order* no less than *(number):* court days before the hearing.
   b. ☐ The hearing date and service of the *Request for Order* to be sooner.
   c. I need the order because *(specify):* ☐ Attachment 8.

9. ☒ FACTS TO SUPPORT the orders I request are listed below. The facts that I write in support and attach to this request cannot be longer than 10 pages, unless the court gives me permission. ☐ Attachment 9.

   See the attached Memorandum of Points and Authorities and Declaration of Garry M. Gekht, Esq.

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: April 21, 2026

Garry M. Gekht, Esq.
(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT)

Requests for Accommodations
Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to courts.ca.gov/forms for *Disability Accommodations Request* (form MC-410). (Civ. Code, § 54.8.)

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

ATTACHMENT 7 TO REQUEST FOR ORDER (FORM FL-300)

For the reasons set forth in the documents attached hereto, Petitioner Max David Borenstein ("Max") respectfully requests that the Court make the following findings and orders in connection with the ex parte Request for Order Regarding Motion to Strike Respondent's Reply to Petitioner's Closing Trial Brief, filed herewith ("this motion"):

1. Admit and receive into evidence the Declaration of Garry M. Gekht, Esq. attached hereto, and all its accompanying exhibits;
2. Either:
   a. Strike the document filed by Respondent Sofiya Alexandra Goldshteyn ("Sofiya") on April 16, 2026, titled Respondent's Reply to Petitioner's Closing Trial Brief ("Sofiya's Reply") in its entirety, or, in the alternative,
   b. Order that Max has seven (7) days from the date of the Court's ruling on this motion in which to file and serve a response to Sofiya's Reply.
3. Order any further relief the Court deems just and proper.

MEMORANDUM OF POINTS AND AUTHORITIES

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

This memorandum is offered in support of the concurrently-filed ex parte Request for Order ("RFO") Regarding Motion to Strike Respondent's Reply to Petitioner's Closing Trial Brief ("this motion") of Petitioner Max David Borenstein ("Max") in connection with the marital dissolution action pending between he and Respondent Sofiya Alexandra Goldshteyn ("the Parties") (collectively, "the Parties")[1] under Los Angeles Superior Court Case Number 24STFL06325 ("this case").

II.

STATEMENT OF FACTS

As described in the attached Declaration of Garry M. Gekht, Esq. ("Gekht Declaration") and reflected in the record of this case, a marital dissolution proceeding has been pending between the Parties for nearly four years. The sole remaining disputed issue is the disposition of the cryopreserved embryos created during the Parties' marriage. Trial was held on that issue on February 24, 2026. As reflected in the Minute Order and transcript of the February 24, 2026 trial, the Court ordered the Parties to file their respectively closing briefs no later than April 10, 2026: "The Court orders the parties to file closing briefs no later than April 10, 2026. Responses to the briefs are to be filed no later than April 17, 2026." (2/24/26 Minute Order, Page 2.)

While Max timely filed and served his closing trial brief on April 10, 2026, as of April 14, 2026, Sofiya had neither filed her closing trial brief, nor served it on Max's attorney of record –Garry M. Gekht, Esq. of Kapan, Trope, Gekht & DeCarolis, LLP ("KTGD"). In light of this apparent election not to submit a closing brief—and to ensure Max would not be prejudiced by same—on April 14, 2026, KTGD filed and served Notice of Respondent's Non-Briefing and Waiver of Closing Argument and Motion to Strike Any Late-Filed Brief ("Max's Notice").

///

1. In accordance with appellate court practices, the Parties are referred to by their first names. (*In re Marriage of Smith* (1990) 225 Cal.App.3d 469, 475, fn. 1.) In doing so, no disrespect is intended.

Despite Max's Notice, on April 16, 2026, Sofiya filed a document titled Respondent's Reply to Petitioner's Closing Trial Brief ("Sofiya's Reply"). As shown by the stamp affixed by the Clerk of Court to the upper-right-hand corner of the first page thereof, Sofiya's brief was filed with the Court at 11:28 AM on April 16, 2026. However, it wasn't until over 12 hours later—specifically, at 11:59 PM that evening—that Sofiya's brief was served on KTGD. (Exhibit 1.)

III.

THE COURT SHOULD STRIKE SOFIYA'S REPLY IN ITS ENTIRETY OR, ALTERNATIVELY, GRANT MAX SEVEN DAYS FROM THE DATE OF THE COURT'S RULING ON THIS MOTION IN WHICH TO FILE AND SERVE A RESPONSE

In addition to being untimely filed and served, a review of Sofiya's Reply Brief revealed it to be replete with material substantive defects including, but not limited to, the inclusion of new requests for relief and misrepresentations of the evidence and testimony offered at trial.

The foregoing are precisely the types of defects the Court intended to provide an opportunity for identification and redress by each Party in giving them seven days in which to respond to the closing brief filed by the other. Given the emotionally charged, life-altering, and financially significant nature of the triable issue before the Court, Max would be greatly prejudiced should said defects be allowed to remain on the record, or, at the very minimum, to remain on the record unchallenged by his own responsive briefing.

A. <u>The Court Has the Authority to Grant the Requested Relief.</u>

The Court's broad authority over the matters before it is set forth under Code of Civil Procedure section 128, which provides, in relevant part:

> "(a) Every court shall have the power to do all of the following:
>
> (1) To preserve and enforce order in its immediate presence.
>
> (2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.
>
> (3) To provide for the orderly conduct of proceedings before it, or its officers.

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

> (4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.
>
> (5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.
>
> […]
>
> (8) To amend and control its process and orders so as to make them conform to law and justice."

In addition to this broad statutory grant of authority, numerous provisions of the Family Code—including, without limitation, sections 2121, 2125–2126, and 2556—affirm the Court's power to grant relief based on "equitable considerations" and/or "good cause shown" and/or what "the interests of justice require".

B. <u>The Facts Warrant the Granting of the Requested Relief.</u>

As described in the Gekht Declaration, Sofiya's counsel elected to wait over 12 hours between filing Sofiya's Reply with the Court (at 11:28 AM, well within business hours), and serving it on KTGD (at 11:59 PM that evening). As a result, Max had fewer than 24 hours to review Sofiya's Reply and prepare a response—tasks that the Court (by virtue of the timeline set forth in its February 24, 2026 Minute Order) clearly intended him to be given seven days to perform. This is a blatant violation of the Court's orders of February 24, 2026, which, if allowed to stand, would result in the total deprivation of Max's ability to defend against the many misrepresentation and false allegations contained in Sofiya's Reply.

Both the state and federal Constitutions provide, in relevant part, that no person may be "deprived of life, liberty, or property, without due process of law". (U.S. Const., 5th & 14th Amends.; Cal. Const., art. I, § 7, subd. (a).) As set forth in each of these foundational documents—and reiterated by California's appellate courts—"[a]t its core, due process entitles a person to notice and the opportunity to be heard before a neutral decision-maker". (*Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 82.)

///

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

Therefore, by refusing to grant either of the forms of relief requested in this motion, the Court would both set an undesirable precedent by ratifying Sofiya's overt attempt at gamesmanship and facilitate the meaningful impairment of Max's due process rights.

C. <u>This Motion is Properly Made on an Ex Parte Basis.</u>

The scope of orders permissibly requested on an ex parte basis in California civil proceedings is enumerated in rule 5.151(b) of the California Rules of Court, and includes, in relevant part, "orders to help prevent an immediate danger or irreparable harm to a party […] involved in the matter".

Here, the Court's statement of decision in the instant trial may be entered at any time, so if the Court does not grant the relief requested herein, Max will never have another opportunity to address the deficiencies in Sofiya's Reply.

Therefore, the harm to Max in the absence of the herein-requested relief is both irreparable and immediate, meaning this motion is properly made on an ex parte basis.

IV.
CONCLUSION

For the reasons discussed herein, Max respectfully requests that the Court order the relief requested in this motion.

Respectfully Submitted: KAPLAN, TROPE, GEKHT & DECAROLIS, LLP

DATED: April 21, 2026 BY: _____

Garry M. Gekht, Esq.
Attorney for Petitioner,
Max David Borenstein

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

DECLARATION OF GARRY M. GEKHT

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

DECLARATION OF GARRY M. GEKHT, ESQ.

I, Garry M. Gekht, hereby declare as follows:

1. This declaration is made pursuant to sections 2009 and 2015.5 of the Code of Civil Procedure; California Rules of Court, rule 5.111; *Reifler v. Superior Court* (1974) 39 Cal.App.3d 479; and *In re Marriage of Stevenot* (1984) 154 Cal.App.3d 1051. I have personal knowledge of the matters set forth herein, and, if called as a witness, I could and would testify competently thereto.

2. I am an attorney duly licensed to practice law before all the courts of the State of California. I am a Partner at Kaplan, Trope, Gekht & DeCarolis, LLP ("KTGD"), attorneys of record for Petitioner Max David Borenstein ("Max") in the marital dissolution proceeding pending between he and Respondent Sofiya Alexandra Goldshteyn ("Sofiya") (collectively, "the Parties") under Los Angeles County Superior Court Case Number 22STFL08826 ("this proceeding").

3. This declaration is offered in support of the ex parte Request for Order Regarding Motion to Strike Respondent's Reply to Petitioner's Closing Trial Brief, filed herewith ("this motion"). The purpose of this declaration is to provide the Court with a summary of the facts within my personal knowledge that are relevant to this motion. This declaration is not intended to be—and in no way is—a waiver of the protections provided by the lawyer-client privilege or attorney work product doctrine.

RELEVANT BACKGROUND

4. A marital dissolution proceeding has been pending between the Parties for nearly four years. The sole remaining disputed issue is the disposition of the cryopreserved embryos created during the Parties' marriage. Trial was held on that issue on February 24, 2026.

5. As reflected in the Minute Order and transcript of the February 24, 2026 trial, the Court ordered the Parties to file their respectively closing briefs no later than April 10, 2026: "The Court orders the parties to file closing briefs no later than April 10, 2026. Responses to the briefs are to be filed no later than April 17, 2026. The closing briefs are not to exceed 15 pages." (2/24/26 Minute Order, Page 2.)

THIS MOTION

6. While Max timely filed and served his closing trial brief on April 10, 2026, as of April 14, 2026, Sofiya had neither filed her closing trial brief, nor served it on KTGD. In light of this apparent election not to submit a closing brief—and to ensure Max would not be prejudiced by same—on April 14, 2026, KTGD filed and served Notice of Respondent's Non-Briefing and Waiver of Closing Argument and Motion to Strike Any Late-Filed Brief ("Max's Notice").

7. Despite Max's Notice, on April 16, 2026, Sofiya filed a document titled Respondent's Reply to Petitioner's Closing Trial Brief ("Sofiya's Reply"). As shown by the stamp affixed by the Clerk of Court to the upper-right-hand corner of the first page thereof, Sofiya's brief was filed with the Court at 11:28 AM on April 16, 2026. However, it wasn't until over 12 hours later—specifically, at 11:59 PM that evening—that Sofiya's brief was served on my office. Attached hereto as Exhibit 1 is a true and correct copy of the email KTGD received from Sofiya's counsel to which Sofiya's Reply was attached.

8. In addition to being long on rhetoric and short on legal or factual substance, a review of Sofiya's Reply Brief revealed it to be replete with material substantive defects including, but not limited to, the inclusion of new requests for relief and misrepresentations of the evidence and testimony offered at trial.

CONCLUSION

9. For the reasons set forth above and discussed in the Memorandum of Points and Authorities filed herewith, Max respectfully requests that the Court make the following orders:

a. Admit and receive into evidence the Declaration of Garry M. Gekht, Esq. attached hereto, and all its accompanying exhibits.

b. Either strike Sofiya's Reply in its entirety, or, in the alternative, order that Max has seven (7) days from the date of the Court's ruling on this motion in which to file and serve a response thereto.

c. Order any further relief the Court deems just and proper.

///

///

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

KAPLAN, TROPE, GEKHT & DECAROLIS, LLP

DATED: April 21, 2026 BY: _____

Garry M. Gekht, Esq.
Attorney for Petitioner,
Max David Borenstein

Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798

EXHIBIT 1

Outlook

Borenstein v. Goldshteyn/LASC No. 24STFL08826

From J.R. Howell <jr@lojrh.com>
Date Thu 4/16/2026 11:59 PM
To Garry M. Gekht, Esq. <garry@ktgdllp.com>; Carly Timm-Bijold, Esq. <carly@ktgdllp.com>
Cc Borenstein Team <mbore@ktg.law>; Anne Grover <agrover@gbfamilylawyers.com>; Jason Koch <jason@jasonkochlaw.com>

1 attachment (349 KB)
Reply Brief.pdf;

Attached, please find Respondent's Reply to Petitioner's Closing Trial Brief.

Sincerely,

J.R. Howell
Attorney
The Law Office of J.R. Howell
(323) 897-8656
jr@lojrh.com
2219 Main Street, No. 436, Santa Monica, CA 90405

****
This message was sent from J.R. Howell and is intended only for the designated recipient(s). It may contain confidential or proprietary information and may be subject to the attorney-client privilege or other confidentiality protections. If you are not a designated recipient, you may not review, copy or distribute this message. If you receive this in error, please notify the sender by reply e-mail and delete this message. Thank you.

****

LAW OFFICES OF KAPLAN, TROPE & GEKHT
10866 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90024
(310) 473-0798

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10866 Wilshire Boulevard, Suite 1650, Los Angeles, California 90024.

On April 22, 2026, I served the foregoing document described as: **PETITIONER'S EX PARTE RE MOTION TO STRIKE RESPONDENT'S REPLY TO CLOSING BRIEF** on the interested parties in this action by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows: ☒ by attaching a digital copy of the document to the email address provided as follows:

J.R. Howell, Esq.
Law Office of J.R. Howell
2219 Main Street, Suite 436
Santa Monica, CA 90405

Anne E. Grover, Esq.
Grover & Badalian
11 N. Washington St., Suite 630
Rockville, MD 20850

Jason P. Koch, Esq.
The Law Office of Jason P. Koch
3 West Carrillo Street, Suite 216
Santa Barbara, California 93101

[ ] BY MAIL: I deposited such envelope(s) with the United States Postal Service at Los Angeles, California with the postage fully prepaid.

[ ] BY CAUSING TO BE PERSONALLY SERVED: I caused delivery of such envelope by hand to the offices of the addressee.

[ ] VIA OVERNIGHT DELIVERY: : I enclosed the documents in an envelope or package by an overnight delivery carrier and addressed to the person(s) at the address(es) above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier. The envelope or package was designated for next business day delivery, with all charges billed to sender.

[XX] BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the following electronic notification addresses: jr@lojrh.com; **agrover@gbfamilylawyers.com; jason@jasonkochlaw.com; rdavies@gbfamilylawyers.com.** I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 22, 2026, at Los Angeles, California.

Maria Morales
Maria Morales

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 35, Stanley Mosk Dept. - 35,

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 22, 2026
1:30 PM

Honorable Scott J. Nord, Judge

A. Narayan, Judicial Assistant — Not Reported, Court Reporter

---

NATURE OF PROCEEDINGS: Ex Parte RFO Emergency Orders for Other filed by Petitioner on April 22, 2026

The following parties are present for the aforementioned proceeding:

No Appearances

Out of the presence of the Court Reporter

On 04/22/26, Petitioner filed an ex parte requesting a Motion to Strike Respondent's Reply to Petitioner's Closing Trial Brief.

In chambers, the Court reviews the moving papers and makes the following orders:

The ex parte is denied.

The Court will consider the filings as it deems appropriate.

Clerk to give electronic notice.

Electronic notice is given by the Clerk pursuant to Code of Civil Procedure section 1010.6 and rule 2.251, California Rules of Court. The Certificate of Electronic Service is incorporated herein and made part of the case file.

J.R. HOWELL (State Bar No. 268086)
jr@lojrh.com
LAW OFFICE OF J.R. HOWELL
2219 Main Street
Suite 436
Santa Monica, CA 90405
Tel: (323) 897-8656

ATTORNEY FOR RESPONDENT,
SOFIYA A. GOLDSHTEYN

Electronically FILED by
Superior Court of California,
County of Los Angeles
4/22/2026 8:00 AM
David W. Slayton, Clerk of Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, FAMILY LAW DIVISION

IN RE MARRIAGE OF: MAX D. BORENSTEIN, Petitioner, v. SOFIYA A. GOLDSHTEYN, Respondent.	Case No. 22STFL08826 **RESPONDENT'S OPPOSITION TO PETITIONER'S *EX PARTE* APPLICATION TO STRIKE RESPONDENT'S REPLY TO PETITIONER'S CLOSING BRIEF** Trial Date: February 24, 2026 Time: 8:30AM Place: Dept. 35

LAW OFFICE OF J.R. HOWELL

I. Introduction

Max Borenstein ("Petitioner") has given notice of an *ex parte* application seeking to strike Sofiya Goldshteyn's ("Respondent") post-trial reply brief or, alternatively, to obtain additional time to respond. The Court should deny the requested relief for the following reasons:

First, the relief Petitioner seeks is procedurally barred. A motion to strike must comply with the meet-and-confer and noticed hearing requirements of Code of Civil Procedure §§ 435–437. Relief via the *ex parte* process is not available to Petitioner.

Second, Respondent's reply was filed on April 16, 2026—before the April 17 deadline set by the Court's February 24 minute order—and within the 15-page limit allocated to the parties for post-trial briefing. Petitioner cannot demonstrate any prejudice from Respondent's filing, and a noticed motion is the proper vehicle to raise any objections.

Third, an *ex parte* application is reserved for extraordinary situations involving irreparable harm or immediate danger. It is not a vehicle to bypass the Code of Civil Procedure's procedural safeguards when what Petitioner wants is a *sur-reply*.

The Court should therefore deny the *ex parte* application in its entirety.

II. Factual Background

1. **Trial and briefing schedule.** At the conclusion of trial on February 24, 2026, the Court ordered that closing briefs be filed by April 10, 2026, with replies to those briefs due by April 17, 2026. The minute order states that closing briefs are "not to exceed 15 pages." The order did not impose a separate page limit on replies. Rather, the Court explained that the 15-page limit would apply collectively to the closing and reply briefs.

2. **Respondent reserved pages for reply.** Petitioner filed his closing brief by the April 10 deadline. Respondent chose to reserved the entire 15-page allotment for a single reply. On April 16, 2026—one day before the court-ordered deadline—Respondent filed her reply brief.

3. **Petitioner's *ex parte* notice.** On April 21, 2026, Petitioner's counsel emailed Respondent's counsel stating their intention to seek *ex parte* relief to strike Respondent's reply or obtain additional time to respond. The email did not identify any irreparable harm or immediate danger that would justify *ex parte* relief, nor did it refer to any meet-and-confer efforts as required by Code of Civil

LAW OFFICE OF J.R.HOWELL

Procedure § 435.5.

III. Argument

A. The Motion To Strike Is Procedurally Improper For Failing to Comply With Code Of Civil Procedure §§ 435–437.

The Code of Civil Procedure requires a party filing a motion to strike follow specific procedures. The moving party "shall meet and confer in person or by telephone" with the party who filed the document to determine whether the issues can be resolved informally. The moving party must identify all matter subject to being stricken, provide legal authority, and file a declaration documenting the meet-and-confer efforts.

Additionally, a motion to strike requires a noticed hearing—not an *ex parte* application.

Petitioner's *ex parte* notice fails to comply with any of these requirements. Petitioner did not meet and confer as required by CCP § 435.5 or file the mandated declaration. Sections 435–437 also require that a motion to strike be set for hearing in accordance with Code of Civil Procedure § 1005, which mandates at least 16 court days' notice for most motions. Petitioner's attempt to proceed *ex parte* circumvents these procedural safeguards.

B. Respondent's Reply Was Timely And Within The Page Limit Set By The Court; Petitioner Has Not Shown Prejudice.

The Court's minute order required closing briefs by April 10 and responses by April 17 and limited the closing briefs to 15 pages. Respondent reserved the entire allotment for her reply. She filed that reply on April 16—within the permitted deadline. Petitioner alleges no prejudice from the timing or length of the reply. He merely wants an additional opportunity to reargue issues already briefed.

When a party files an untimely or oversized paper, rule 3.1300(d) provides that the clerk must accept it for filing, and the court may refuse to consider it but must note its refusal in the minutes. Courts routinely decline to strike briefs absent prejudice, preferring to decide matters on their merits. Here, there is no need for such discretion because Respondent complied with the briefing schedule, page limit, and deadline. Petitioner's *ex parte* request is therefore nothing more than an improper "second bite at the apple."

LAW OFFICE OF J.R.HOWELL

C. *Ex Parte* Relief Is Inappropriate Because Petitioner Cannot Show Irreparable Harm Or Immediate Danger.

Under California Rules of Court, Rule 3.1202(c), an applicant seeking *ex parte* relief must make "an affirmative factual showing" in a declaration based on personal knowledge of "irreparable harm" or "immediate danger." *Ex parte* applications are designed for emergency situations where the usual notice procedures would defeat the purpose of the relief sought. Petitioner's request does not identify any exigent circumstance. He had the opportunity to file a closing brief (and did so) and to file objections to Respondent's reply. Petitioner's desire for additional time or to strike a reply is not an emergency. When a party fails to show irreparable harm, courts routinely deny *ex parte* applications and direct the party to pursue relief via a noticed motion.

D. The Court Should Deny The *Ex Parte* Application.

There is no legal authority allowing Petitioner to bypass the required notice and meet-and-confer procedures via an *ex parte* application. Denying the *ex parte* application will preserve the orderly disposition of this case and avoid rewarding procedural gamesmanship.

IV. Conclusion

Petitioner's request fails to comply with the California Rules of Court and the Code of Civil Procedure. Accordingly, Respondent respectfully requests that the Court deny Petitioner's ex parte application in its entirety and proceed to consider the post-trial briefing on the merits.

Respectfully submitted,

J.R. HOWELL,
LAW OFFICE OF J.R. HOWELL

Date: April 22, 2026

J.R. Howell (Cal. Bar No. 268086)
Attorney for Respondent

LAW OFFICE OF J.R. HOWELL

PARTY WITHOUT ATTORNEY OR ATTORNEY
NAME: Garry M. Gekht, Esq.
STATE BAR NUMBER: 321424
FIRM NAME: Kaplan, Trope, Gekht & DeCarolis, LLP
STREET ADDRESS: 10866 Wilshire Blvd., Suite 1650
CITY: Los Angeles
STATE: CA
ZIP CODE: 90024
TELEPHONE NO.: (310) 473-0798
FAX NO.:
E-MAIL ADDRESS: mbore@ktg.law
ATTORNEY FOR (*name*): Max David Borenstein

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: (same as above)
CITY AND ZIP CODE: Los Angeles, 90012
BRANCH NAME: Stanley Mosk Courthouse

PETITIONER: Max David Borenstein
RESPONDENT: Sofiya Alexandra Goldshteyn
OTHER PARENT/PARTY:

FOR COURT USE ONLY

Electronically FILED by
Superior Court of California,
County of Los Angeles
4/22/2026 9:30 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By T. Soto-Thayer, Deputy Clerk

DECLARATION REGARDING NOTICE AND SERVICE OF REQUEST FOR TEMPORARY EMERGENCY (EX PARTE) ORDERS

CASE NUMBER:
22STFL08826

NOTICE: Do not use this form to ask for domestic violence restraining orders. Before completing this form, read your court's local procedures for requesting temporary emergency orders and obtaining the information needed to complete item 2 of this form. Courts may grant temporary emergency orders with or without an emergency hearing. Find local rules at **courts.ca.gov/3027.htm**.

1. I am *(specify)* [x] attorney for [x] petitioner [ ] respondent [ ] other parent/party
   [ ] not a party in the case *(name and title/relationship to party):*
2. I [x] did [ ] did not give notice *(select all that apply)*
   [ ] that there will be an emergency court hearing [x] that papers will be submitted to the court on the request
   [x] for temporary emergency (ex parte) orders
   [ ] to reschedule a hearing [ ] to reschedule a hearing involving temporary emergency (ex parte) orders
   on the date, time, and location indicated below:

   Date: April 22, 2026 Time: 10:00 AM [x] Dept.: 35 [ ] Room:
   Address of court: [x] same as noted above [ ] other *(specify):*

3. **NOTICE** *(If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.)*
   a. [x] I gave notice as described in items (1) through (5) below:
      (1) I gave notice to *(select all that apply)*
      [ ] petitioner. [ ] petitioner's attorney.
      [ ] respondent. [x] respondent's attorney.
      [ ] other parent/party. [ ] other parent's/party's attorney.
      [ ] child's attorney. [ ] other *(specify):*
      (2) I gave notice on *(date):* April 21, 2026 at: 9:42 [x] a.m. [ ] p.m.
      [ ] personally at *(location):* , California.
      [x] by telephone using telephone no.: (323) 897-8656
      [ ] by fax using fax no.:
      [ ] by voicemail using voicemail no.:
      [x] by electronic means *(if permitted) (specify electronic service address of person):* At 9:50 AM on 4/21/26, electronic notice was also given via the following e-mail addresses: jr@lojrh.com; agrover@gbfamilylawyers.com; jason@jasonkochlaw.com; and rdavies@gbfamilylawyers.com
      [ ] by overnight mail or other overnight carrier *(specify address of delivery):*
      (3) I gave notice *(select one)*
      [x] by 10 a.m. the court day before this emergency hearing.
      [ ] after 10 a.m. the court day before this emergency hearing because of the following exceptional circumstances *(specify):*

Form Approved for Optional Use
Judicial Council of California
FL-303 [Rev. July 1, 2020]

Family Law, §§ 2045, 3062–3064, 4620, 7710
Cal. Rules of Court, rules 5.151–5.169
www.courts.ca.gov

PETITIONER: Max David Borenstein RESPONDENT: Sofiya Alexandra Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

(4) I notified the person in 3a(1) that the following temporary emergency orders are being requested *(specify):*

See the email attached hereto as Attachment 3(a)(4).

(5) The person in 3a(1) responded as follows: ☐ Attachment 3a(5)

No response, other than the automatic reply attached hereto as Attachment 3(a)(5).

(6) I ☐ do ☐ do not believe that the person in 3a(1) will oppose the request for temporary emergency orders.

b. ☐ **Request for waiver of notice.** Due to exceptional circumstances, I did not give notice about the request for temporary emergency orders. I ask that the court waive notice to the other party to help prevent *(specify)*

(1) ☐ immediate danger or irreparable harm to myself (or my client) or to the children in the case.
(2) ☐ an immediate risk that the children in the case will be removed from the state of California.
(3) ☐ immediate loss or damage to property subject to disposition in the case.
(4) ☐ other exceptional circumstances *(specify):*

Facts showing exceptional circumstances in support of the request to waive notice include *(specify):* ☐ Attachment 3b

c. ☐ **Unable to provide notice.** I did not give notice about the request for temporary emergency orders. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were *(specify below):* ☐ Attachment 3c

4. ☒ **SERVICE OF DOCUMENTS**

a. The following documents were served on

☐ petitioner ☐ petitioner's attorney ☐ other parent/party ☐ other parent's/party's attorney
☐ respondent ☒ respondent's attorney ☐ child's attorney ☐ other *(specify):*

before the request was filed with the court:

(1) ☒ A copy of *Request for Order* (form FL-300) for temporary emergency orders, and *Temporary Emergency (Ex Parte) Orders* (form FL-305).
(2) ☐ A copy of a request to reschedule hearing and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-306 may be used for the request.
(3) ☐ A copy of a request to reschedule hearing involving temporary emergency (ex parte) orders and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-307 may be used for the request.
(4) ☒ Other documents *(specify):* Declaration Regarding Notice and Service of Request for Ex Parte Orders (FL-303)

b. **Documents were served on** *(date):* April 22, 2026 at: 9:30 ☒ a.m. ☐ p.m.

☐ personally at *(location):* , California.
☐ by fax on using fax no.:
☒ by electronic means *(if permitted) (specify electronic service address of person served):* jr@lojrh.com; agrover@gbfamilylawyers.com; jason@jasonkochlaw.com; and rdavies@gbfamilylawyers.com
☐ by overnight mail or other overnight carrier *(specify address of delivery):*

c. Documents were not served on the opposing party due to the exceptional circumstances specified in

☐ 3b, above. ☐ 3c, above. ☐ Attachment 4c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 22, 2026

Carly Timm-Bijold, Esq.
(TYPE OR PRINT NAME)

Carly Timm-Bijold
(SIGNATURE)

ATTACHMENT 3(a)(4)

Outlook

IRMO Borenstein - Ex Parte Notice

From Carly Timm-Bijold, Esq. <carly@ktgdllp.com>
Date Tue 4/21/2026 9:49 AM
To J.R. Howell <jr@lojrh.com>; Anne Grover <agrover@gbfamilylawyers.com>; Jason Koch <jason@jasonkochlaw.com>; Rayanna Davies <rdavies@gbfamilylawyers.com>
Cc Borenstein Team <mbore@ktg.law>

Good Morning Counsel,

This email memorializes the ex parte notice I provided telephonically to J.R.'s assistant, Alisha, at approximately 9:42 AM this morning in connection with the marital dissolution pending between Max Borenstein and Sofiya Goldshteyn under LASC Case Number 22STFL08826.

Our office will file an ex parte application on **Wednesday, April 22, 2026**, by **10:00 AM** in **Department 35** of the Stanley Mosk Courthouse, located at **111 N. Hill Street, Los Angeles, CA 90012**, to request that the Court order the requested relief listed below.

We will not physically appear but, rather, will submit our ex parte application through the Los Angeles Superior Court e-filing portal, consistent with the Superior Court's rules and procedures.

In particular, our ex parte motion will seek the following relief from the Court:

1. Either:
    a. Strike the Reply to Petitioner's Closing Trial Brief filed by Sofiya on April 16, 2026 in its entirety; or,
    b. In the alternative, order that Max has seven (7) days from the date of the Court's ruling on this ex parte motion in which to file and serve a response to the Reply to Petitioner's Closing Trial Brief filed by Sofiya on April 16, 2026.

2. Order any further relief the Court deems just and proper.

Please advise whether Sofiya will be opposing this ex parte.

Carly Timm-Bijold, Esq.
Kaplan, Trope, Gekht & DeCarolis, LLP
10866 Wilshire Blvd., Suite 1650
Los Angeles, CA 90024
(310) 473-0798
www.kaplangekht.com

NOTICES: *This message, including attachments, is confidential and may contain information protected by the attorney-client privilege or work product doctrine. If you are not the addressee, any disclosure, copying, distribution, or use of the contents of this message are prohibited. If you have received this email in error, please destroy it and notify me immediately. Any tax advice contained in this message is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing, or recommending to others any tax-related matter(s) addressed herein.*

ATTACHMENT 3(a)(5)

Outlook

Automatic Reply: Out Of Office Re: IRMO Borenstein - Ex Parte Notice

From J.R. Howell <jr@lojrh.com>
Date Tue 4/21/2026 9:49 AM
To Carly Timm-Bijold, Esq. <carly@ktgdllp.com>

Thank you for your email. I am out of the office until April 21, 2026.
I'll respond to your message as soon as I return.

--
****

This message was sent from J.R. Howell and is intended only for the designated recipient(s). It may contain confidential or proprietary information and may be subject to the attorney-client privilege or other confidentiality protections. If you are not a designated recipient, you may not review, copy or distribute this message. If you receive this in error, please notify the sender by reply e-mail and delete this message. Thank you.
****

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 35, Stanley Mosk Dept. - 35,

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 23, 2026
1:30 PM

Honorable Scott J. Nord, Judge

A. Narayan, Judicial Assistant — Not Reported, Court Reporter

---

NATURE OF PROCEEDINGS: Ruling on Submitted Matter

The following parties are present for the aforementioned proceeding:

No Appearances

Out of the presence of the Court Reporter

The Court having taken the Request for Statement of Decision filed on February 24, 2026 by Sofiya Alexandra Goldshteyn under submission on April 20, 2026, hereby rules as follows:

The Court issues a Tentative Ruling and Proposed Statement of Decision.

The Court sets the case for **Non-Appearance Case Review re: If no objections, Tentative SOD will stand as Order of Court on May 12, 2026 at 8:30 AM in Department 411.**

Clerk is to give notice.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, David W. Slayton, Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of the above minute order of April 23, 2026 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: April 23, 2026

By: /s/ A. Narayan
A. Narayan, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 35, Stanley Mosk Dept. - 35,

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

April 23, 2026
1:30 PM

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Superior Court of California
County of Los Angeles

APR 23 2026

David W. Slayton, Executive Officer/Clerk of Court
By: A. Narayan, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MAX DAVID BORENSTEIN Petitioner, vs. SOFIYA ALEXANDRIA GOLDSHTEYN Respondent,	Case No.: 22STFL08826 **TENTATIVE RULING AND PROPOSED STATEMENT OF DECISION**

I. INTRODUCTORY STATEMENT

In this document, the Court announces its tentative ruling and proposed Statement of Decision, subject to the parties' rights to serve and file objections as provided by California Rules of Court, Rules 3.1590(c) & (g). If objections are not filed in a timely manner, this shall be the Court's Final Statement of Decision. A trial court rendering a statement of decision under the California Code of Civil Procedure, Section 632, is required only to state ultimate rather than evidentiary facts. A trial court is not required to make detailed findings concerning evidentiary facts or minute findings regarding individual items of evidence. (*Nunes Turfgrass,*

Inc. v. Vaughan–Jacklin Seed Co., 200 Cal.App.3d 1518, 1525, 246 Cal.Rptr. 823 (1988); in accord, see also *People v. Casa Blanca Convalescent Homes, Inc.,* 159 Cal.App.3d 509, 524–525, 206 Cal.Rptr. 164 (1984); *Peak-Las Positas Partners v. Bollag*, 172 Cal.App.4th 101, 112, 90 Cal. Rptr. 3d 775 (2009); *Hellman v. La Cumbre Golf & Country Club*, 6 Cal.App.4th 1224, 1230, 8 Cal. Rptr.2d 293 (1992)). In other words, the court need do no more than state the grounds upon which the judgment rests without necessarily specifying the particular evidence the trial court considers in reaching its decision – the court is required only to set out ultimate findings rather than evidentiary ones. (Muzquiz v. City of Emeryville, 79 Cal. App.4th 1106, 1124-1125, 94 Cal. Rptr. 2d 579 (2000)) It is also not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (*People v. Casa Blanca Convalescent Homes, Inc., supra,* 159 Cal. App.3d at 525; *Kroupa v. Sunrise Ford*, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

II. FACTUAL HISTORY

Petitioner Max David Borenstein ("Petitioner") and Respondent Sofiya Alexandra Goldshteyn ("Respondent") were married on December 31, 2014, and separated, according to the Petitioner, in April of 2022, and Respondent alleges that the Parties separated in August 2022. Under either date of separation, this was a marriage of short duration.

On or about December 29, 2025, with the assistance of Judge Joshua Wayser, the parties settled the majority of their litigation, and the Trial, which had been scheduled for seven

(7) days, was partially vacated. A single dispute remained between the parties: to wit, the claim of ownership of the embryos currently held in cryopreservation storage. The Trial on that single issue took place on February 24, 2026. Parties were submitted to submit Closing Briefs, and the matter was taken under submission on April 20, 2026.

Respondent testified that she is a breast cancer survivor, but, because of the cancer treatments and the need to prevent estrogen resurgence (which could result in cancer returning), she is unable to bear children. The parties agreed that they would proceed with the harvesting of the Respondent's eggs and use a surrogate to have children. Respondent's eggs were harvested in 2016, 2020, and 2021. All the eggs were fertilized with Petitioner's sperm. In 2016, 13 eggs were harvested, but yielded only two healthy embryos (2 boys). In 2020, two healthy embryos were achieved (1 boy, 1 girl). In 2021, all eggs were harvested, but this resulted in no viable embryos. Each time the embryo was implanted in a surrogate, it resulted in a miscarriage at different times during gestation. There remains one fertilized embryo from these harvests, which contains DNA of both parties. The parties also purchased donor eggs in 2022, which were fertilized with Petitioner's sperm, resulting in approximately 19 embryos, which contain only Petitioner's DNA.

As part of the reproductive process through the Southern California Center for Reproductive Medicine ("SCCRM"), before each cycle, the Parties executed Assisted Reproductive Technology contracts. Those contracts were entered into evidence as Exhibits 1 (signed on July 10, 2021) and Exhibit 4 (signed on February 8, 2022). While the Petitioner stated they signed and initialed each page of Exhibit 1 and 4, the Respondent admitted to signing both Exhibit 1 and 4, but she stated she was not sure those were her initials on the

lower right corner of the pages; however, she did not specifically state they were not her initials. In any event, Respondent stated she read the documents and understood the documents. Respondent stated she was aware of and agreed to the disposition provisions of the Assisted Reproductive Technology contracts.

On Page 9 of 11 of the Assisted Reproductive Technology contracts, the documents read as follows.[1]

"**In the event of divorce, dissolution or legal separation, we select the following disposition for all cryopreserved embryos in storage (Please check ONE only)**

____ ____ All embryos to be discarded.

____ ____ All embryos are to be given up for adoption. The recipients of these Embryos may be chosen by the physician in the Program. **Additional blood screening required to meet FDA requirements.**

____ ____ All embryos are to be donated to medical research.

____ ____ All embryos are to be transferred to the FEMALE partner.

____ ____ All embryos are to be transferred to the MALE partner."[2]

The embryo remaining from the 2021 cycle is governed by the Assisted Reproductive Technology contract executed on July 10, 2021. The parties agreed that, in the event of divorce, all cryopreserved embryos in storage "are to be donated to medical research." (Exhibit 1, Page 9.) The 19 embryos from the 2022 cycle are governed by the Assisted Reproductive Technology contract executed on February 8, 2022. That contract provides that in the event of dissolution, in which the Parties agreed that in the event of divorce "All embryos are to be

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[1] The language is the same in both contracts (Exhibit 1 and 4)

[2] Emphasis is in the original document.

transferred to the MALE partner." As stated above, these embryos contain no DNA from the Petitioner.

III. LEGAL DISCUSSION

As stated by the Court during the proceedings, this Court is bound by the recently decided case of *Pham v. Superior Court of Orange County,* (2025) 117 Cal.App.5th 115. In a case which is almost identical to the facts herein. As stated in *Pham:*

> "At the center of the dispute is the written agreement Pham and Kon entered into with their IVF provider when they embarked on the IVF process. The agreement is entitled "Informed Consent In Vitro Fertilization (IVF)" (IVF Agreement). (Some capitalizations omitted.) Among other things, it identified specific options for the disposition of the couple's frozen embryos created during the IVF process if specified "adverse event[s]" should occur. For the adverse event of legal separation or divorce, Pham and Kon were offered the option to thaw and discard the embryos. They did not select that option. They also did not select the options to donate the embryos for research purposes or to donate them to another specified person or couple. Instead, Pham and Kon selected the option "[m]ade available to the partner if he/she wishes." The trial court concluded the IVF Agreement was valid, clear, and unambiguous, and it awarded the embryos to Kon" *(Id.* at 118)

In *Pham,* the Court undertook a full discussion about the enforcement of a contract and contract law. The Court, in this case, is under no such obligation, as neither party has raised the issue of whether the contracts are valid or enforceable, and neither party denies signing the contracts. In fact, the Respondent admits to reading, reviewing, and signing both agreements at the time of the IVF process. As such, the Court finds that the contracts (Exhibit 1 and 4) are valid and binding on the parties.

While the Respondent argues that the provisions in Exhibits 1 and 4 result in different outcomes for the embryos should the marriage dissolve, the Court is not persuaded by this argument. Nor is the Court persuaded by the argument that it is unclear which contract covers

which embryos. Those arguments might be persuasive if the contracts provided for conflicting outcomes; however, under either contract, the Respondent does not end up with the embryos (either they are donated for scientific research or turned over to the Petitioner). Under either contract, providing the embryos to the Respondent is not an option that was selected or contemplated by the parties. And no testimony was offered to support his supposition.

As stated in *Pham,* "We conclude that where, as here, the parties have entered into a valid contract specifying how the frozen embryos shall be treated in the event of divorce or legal separation, the contractual approach governs. The contractual approach " 'minimize[s] misunderstandings and maximize[s] procreative liberty by reserving to the progenitors the authority to make what is in the first instance a quintessentially personal, private decision.' There are also significant benefits to making this decision in advance, rather than at the moment of disposition. Preexisting agreements promote serious discussions between the parties prior to participating in in vitro fertilization'; [citation]; and manifest choices 'made before disputes erupt' This 'minimize[s] misunderstandings' that might arise in the future, provides certainty for progenitors and fertility clinics, and decreases the likelihood of litigation." (*Pham, supra, 117* Cal.App.5th at 124-125, Citations omitted)

The parties entered into an agreement, and each party is entitled to the benefit of that agreement. If a party at a later date were suddenly denied what they had bargained for, it would result in an unjust outcome, as they may never have entered the agreement or undertaken the process without the specific outcome being predetermined or bargained for.

As such, the Court holds that as to the one embryo containing the DNA of both Petitioner and Respondent, that embryo is to be donated to medical research. As to the

remaining embryos, which only contain the DNA of the Petitioner and the donor eggs, those embryos are to be the Petitioner's property to do so as he sees fit.[3]

IV. REPRODUCTIVE AUTOMONY

Respondent raises the question of whether Health and Safety Code, § 125315, and the application of *Pham* violates the California Constitution Article I, section 1.1, regarding the rights of Californians for reproductive protections and the Reproductive Privacy Act (Health & Saf. Code § 123462). Respondent argues that *Pham* did not address this issue and the Court should apply strict scrutiny herein.

The Court views the two sets of embryos differently for this discussion. The set of embryos in which it is the Petitioner's sperm and donor eggs, the Respondent has no real claim, as this does not directly result in her lineage continuing in her progeny. As harsh as this may sound, she can purchase both donor eggs and sperm with the genetic specifications she desires and proceed with the surrogacy route, as was anticipated, just without the Petitioner's DNA material from his sperm. While there may be additional costs for the donor sperm, the same result can be obtained without maintaining or being awarded this specific set of embryos.

The harder issue revolves around the embryo, which contains the egg and sperm of the Petitioner and the Respondent. Based on the Respondent's medical condition, she cannot produce additional eggs. The Court understands this issue and is sympathetic to the plight of the Respondent. The Respondent is a cancer survivor who has undergone chemotherapy and radiation treatment and is on hormone suppressants. This single embryo is the last chance for

---

[3] The Court would hope they would be donated to medical research as well, so some beneficial use may be derived from their study, but the ultimate decision is the Petitioner's.

her progeny to have her DNA and her biological lineage to continue. However, the Court does not see this as a reproductive rights issue.

As such, the Court declines to address the reproductive rights issue for one simple reason. The Court's decision does not interfere with a party's reproductive rights. The Court is enforcing an agreement the parties freely and voluntarily entered regarding how they wished the disposition of their embryos to occur in the event of a dissolution. As stated in Pham, "the contractual approach is consistent with California's articulated public policy" (Pham, supra, 117 Cal.App.5th at 125). If the contracts had been held invalid or were inconsistent and the Court were deciding on the outcome of the embryos (i.e., picking the picker), a stronger argument could be made about each party's reproductive rights. However, the Court has found the contracts to be valid and enforceable and freely and voluntarily entered. As noted in *Pham*, the Legislature drafted Section 125315(b) for this specific purpose to ensure that there was a resolution to these conflicts before undertaking IVF, and "it would be nonsensical for us to conclude it would be contrary to the policy of this state to enforce the parties' resulting advance directives." (*Id.)*

In other words, this is the party's desires being enforced, not the desires of the State being forced on the party.

V. REQUEST FOR RENUMERATION

The Court ordered that Closing Briefs be filed by April 10, 2026, and any response to the other party's Closing Brief was due by April 17, 2026. The total page limit for both briefs could not exceed 15 pages in length.

On April 10th, the Petitioner filed his Closing Brief. No Closing Brief was received by the Court for the Respondent. On April 16, 2026, the Respondent filed a Reply Brief to the Petitioner's Closing Brief. As such, the Respondent waived her right to file a Closing Brief or raise any claim for which she sought adjudication that the Petitioner did not raise.

As stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.) Obvious reasons of fairness militate against consideration of an issue raised initially in the reply brief of an appellant. (*Varjabedian v. City of Madera* (1977) 20 Cal.3d 285, 295, fn. 11, 142 Cal.Rptr. 429, 572 P.2d 43.) Obvious considerations of fairness in argument demand that the appellant present all of his points in the opening brief. To withhold a point until the closing brief would deprive the respondent of his opportunity to answer it or require the effort and delay of an additional brief by permission. Hence the rule is that points raised in the reply brief for the first time will not be considered, unless good reason is shown for failure to present them before. (*Neighbours v. Buzz Oates Enterprises* (1990) 217 Cal.App.3d 325, 335, fn. 8, 265 Cal.Rptr. 788, internal quotation marks omitted.)"

In her Reply Brief, the Petitioner raised the issue of remuneration for the loss of the embryos. This was not an issue that had been addressed by the Petitioner in his Closing Brief. As such, the Court deems this a request for affirmative relief which was not previously sought. The Court deems this claim abandoned.

VI. CONCLUSION

Based on the foregoing, the embryos are currently held in cryopreservation storage by Ovation Fertility Storage Solutions, SCCRM's laboratory affiliate, are awarded to the Petitioner.

The Court is staying Plaintiff from taking any action on the embryos for 30 days from the date of this Tentative Ruling and Proposed Statement of Decision. If the Respondent wishes to seek immediate Court of Appeal intervention, then this shall be deemed a Final Ruling and Final Statement of Decision.

4/23/2026



SCOTT J. NORD
JUDGE OF THE LOS ANGELES COUNTY SUPERIOR COURT

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Electronically FILED by
Superior Court of California,
County of Los Angeles
5/4/2026 8:00 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By S. Barajas, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, FAMILY LAW DIVISION

IN RE MARRIAGE OF: MAX D. BORENSTEIN, Petitioner, v. SOFIYA A. GOLDSHTEYN, Respondent.	Case No. 22STFL08826 **RESPONDENT'S OBJECTIONS TO THE TENTATIVE RULING AND PROPOSED STATEMENT OF DECISION** Trial Date: February 24, 2026 Time: 8:30AM Place: Dept. 35

Pursuant to Rule 3.1590 of the California Rules of Court, Respondent Sofiya Goldshteyn hereby raises the following objections to the Court's Tentative Ruling and Proposed Statement of Decision dated April 23, 2026.

LAW OFFICE OF J.R.HOWELL

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OBJECTIONS

1. The Proposed Statement Incorrectly Finds That Respondent First Raised Remuneration in her Reply Brief, When She Raised it In Her Trial Brief filed on February 13, 2026.

In her Request for Statement of Decision dated February 24, 2026, Respondent requested findings on whether she is entitled to an equalization payment or offset if embryos are destroyed or otherwise placed beyond Respondent's use, including the factual basis and amount of any equalization determination or reasons for denying it. (Request, § I.F.2.)

Respondent's trial brief filed on February 13, 2026, expressly raised this issue under the heading: "Any Order Interfering With Sofiya's Use of the Embryos, Including Destruction or Delayed Use, Must Come With an Equalization Payment." (RTB, p. 10.):

> **IV. Any Order Interfering With Sofiya's Use of the Embryos, Including Destruction or Delayed Use, Must Come With an Equalization Payment.**
>
> To the extent the cryopreserved embryos were created and maintained during marriage through community labor and community funds, they constitute a community asset or, at minimum, a community property interest subject to equal division. *See* F.C. § 2550. Because embryos cannot be divided in kind, any order that results in their destruction, donation, or functional loss through delay necessarily divests Sofiya of her one-half interest. Equity therefore requires an equalizing payment or offset to Sofiya for the loss of her one-half community interest and the community expenditures incurred to create and preserve the embryos (including IVF, laboratory, and storage costs).

In her Trial Brief, Respondent argued that any order resulting in destruction, donation, or functional loss through delay necessarily divests Sofiya of her one-half interest and requires an equalizing payment or offset. Respondent reiterated in the conclusion that, in the alternative, if the Court orders any remedy resulting in destruction or functional loss through delay, equity requires an equalization payment.

In her Request for Statement of Decision filed on February 24, 2026, Respondent asked the Court to issue fact findings and a ruling on the request made in her Trial Brief. Subsequently, at trial,

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Respondent delivered testimony as to the costs associated with her IVF process. But, the Proposed Statement states that Respondent raised remuneration for the first time in her reply brief and deems the claim abandoned. (Proposed SOD, p. 9.) That finding is factually incorrect and should be corrected.

Respondent requests that the final Statement of Decision acknowledge that equalization was raised in Respondent's Trial Brief and Request for Statement of Decision. If the Court denies equalization, the Court should state the factual and legal basis for denial, rather than deem the issue abandoned.

2. The Proposed Statement Does Not Set Forth Facts That Connect the Embryo Containing Sofiya's Biological Material Created in 2020 to any Disposition Directive.

In the Proposed Statement of Decision, the Court issued a finding that "In 2020, two healthy embryos were achieved (1 boy, 1 girl)." (Proposed SOD, p. 3.) The findings go on to explain that an attempt to harvest additional eggs from Sofiya resulted in no viable embryos.

Later, the Court issues a finding that the embryo created in the 2021 cycle are subject to Exhibit 1, from July 20, 2021, which contained a disposition directive. And, that the embryos from the 2022 cycle were governed by a disposition directive signed on February 8, 2022.

But the Court issued no finding as to which, if any, disposition directive applies to the 2020 embryo. As Sofiya testified:

> THE COURT: AND THERE WAS A SECOND RETRIEVAL IN --
>
> THE WITNESS: THAT RESULTED IN TWO HEALTHY EMBRYOS, ONE BOY ONE GIRL.
>
> THE COURT: WHEN WAS THAT?
>
> THE WITNESS: THAT'S 2020.

Respondent objects to the proposed SOD's finding that Exhibit 1, dated July 10, 2021, governs the remaining embryo made from Sofiya's egg and Max's sperm. The proposed SOD's own

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factual history recognizes that the 2020 retrieval produced one boy and one girl embryo, while the 2021 retrieval produced no viable embryos. The trial transcript confirms that the remaining embryo made from Sofiya's biological material is the girl embryo from the 2020 retrieval. The proposed SOD nevertheless applies a July 10, 2021 directive to that embryo without finding that Exhibit 1 identifies the 2020 embryo, that the 2020 embryo was in storage when Exhibit 1 was signed, that Exhibit 1 was intended to apply retroactively to embryos created in earlier cycles, that no earlier directive governed the 2020 embryo, or that Exhibit 1 superseded any earlier directive.

This omission is material. As the Court accurately found, the parties executed a disposition directive with ***each cycle***. But the record omits the directive from the 2020 cycle. And, as Sofiya suggested in her testimony, there were in fact other disposition directives that were not before the court. (RT 70:1-13.)

Further, Exhibit 1 does not identify embryos by creation date, cycle, number, genetic source, or storage facility. Sofiya testified that she was not "sure, sure" Exhibit 1 applied to the 2020 embryo and confirmed that the document contains no specifics identifying which embryos it covers. The Court therefore must make express findings on contract scope, embryo identity, storage status, retroactive application, and supersession before ordering irreversible disposition of the 2020 embryo.

Pursuant to Code of Civil Procedure section 634, Respondent objects to any omission or ambiguity on these issues as set forth in her Request for Statement of Decision.

3. Objection as to Multiple Writings, Conflict, Integration, Modification, Supersession, or Chronology.

Respondent requested findings on whether multiple documents exist and conflict; which specific directive the Court found controlling and why; whether any later document revoked or altered a prior directive; the legal basis for such finding; and whether any document contains a procedure or mechanism for revocation or changes. (Request, § I.I.4.)

The Proposed Statement contains no integration, modification, supersession, revocation, or chronology analysis. It does not explain why a July 10, 2021 form governs an embryo created before the form was executed or why a February 8, 2022 form governs all donor-egg embryos despite uncertainty about the number, location, and dates. It does not state whether earlier documents from

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2016, 2020, or 2021 exist, whether they were lost, whether they conflict, or whether later documents superseded them.

Respondent objects that this omission prevents meaningful appellate review. Respondent requests express findings on whether multiple writings exist; whether they conflict; whether any writing is integrated; whether any later writing superseded or modified an earlier writing; whether any form contains a revocation/change mechanism; and why the Court selected Exhibit 1 and Exhibit 4 as controlling for the embryo categories identified in the Proposed Statement.

4. The Proposed Statement Does Not Adequately Address Contract Certainty and Ambiguity.

Respondent requested findings on whether the alleged disposition provisions are sufficiently certain to be enforceable as between spouses, including identification of the embryos to which they apply, how many embryos exist, where they are located, whether any ambiguity is patent or latent, and what extrinsic evidence the Court admitted and relied upon. (Request, § I.I.3.)

The Proposed Statement rejects Respondent's ambiguity argument in general terms, stating that under either contract Respondent does not end up with the embryos and that no testimony supported uncertainty about which contract covers which embryos. (Proposed SOD, pp. 5-6.)

That finding omits material evidence. Petitioner testified he did not know exact numbers, dates, or the identify of any facility where they are located. (RT 37-41.) Respondent testified that Exhibit 1 did not identify which embryos it covered and that she was not "sure" it applied to the remaining embryo. (RT 76.) Respondent also testified regarding conflicting storage records and uncertain dates. (RT 76-80.)

Respondent requests express findings on whether the forms contain patent ambiguity, latent ambiguity, or uncertainty; whether the directives identify specific embryos; whether ambiguity is created by multiple cycles, multiple dates, multiple facilities, and uncertain inventory; what extrinsic evidence was admitted; and how the Court resolved uncertainty over embryo identity, number, location, and governing directive.

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5. The Proposed Statement Does Not Adequately Identify the Disposition Ordered for Each Embryo or the Operational Terms of the Order.

Respondent requested that the Statement of Decision state: (1) which party is awarded exclusive control, possession, and decision-making authority over each embryo at issue, identified with as much specificity as the evidence permits; (2) whether the Court orders destruction, donation, indefinite storage, mutual-consent veto, transfer to either spouse, or another disposition; and (3) the precise operational terms of any order directed to the clinic or storage custodian. (Respondent's Request for Statement of Decision ["Request"], § I.A.)

The Proposed Statement does not provide these findings. It concludes generally that the embryos held by Ovation Fertility Storage Solutions, SCCRM's laboratory affiliate, are awarded to Petitioner. But the Proposed Statement does not identify each embryo, the storage location of each embryo, the custodian responsible for implementation, the precise disposition ordered for each embryo, the documents that must be signed, whether both parties must sign clinic forms, or how the order operates if the clinic or storage facility records do not match the Court's assumptions.

This omission is material. The record contains uncertainty about the number, location, and identity of the embryos. Petitioner did not know the exact number of embryos in storage. (RT 37-41.) Respondent testified that there were 12 donor-egg embryos, 13 total including the remaining embryo, that the storage records she checked did not add up, that only eight appeared to remain in the storage records she reviewed, that embryos were stored in different places, and that dates in the storage records did not make sense. (RT 76-80.)

Respondent therefore objects that the Proposed Statement does not sufficiently identify the subject of the order. Respondent requests express findings stating: how many embryos currently exist; which embryos contain Respondent's genetic material; which embryos are donor-egg embryos; where each embryo or category of embryos is stored; which directive governs each embryo; what action each custodian must take; and whether the 30-day stay applies to all embryos, all parties, and all facilities.

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6. The Proposed Statement Does Not Adequately Address the Number, Location, or Identity of the Embryos.

Respondent requested findings on which embryos are covered by which disposition directive, how many embryos exist, and where they are located. (Request, § I.I.2-3.) The Proposed Statement adopts a simplified inventory: one embryo containing both parties' DNA and approximately 19 donor-egg embryos. (Proposed SOD, pp. 3, 7.)

The record does not clearly support that finding. Petitioner testified to an approximate number and did not know the exact count of donor-egg embryos. (RT 37-41.) Respondent testified that 12 donor-egg embryos had been created, that there were 13 total if the remaining genetically related embryo was included, that storage records showed eight remaining embryos, that the records did not make sense, and that embryos were stored in different places. (RT 76-80.)

Respondent objects that the Proposed Statement omits material findings on embryo inventory and location. Respondent requests express findings on how many embryos the Court finds currently exist, what evidence supports that finding, whether the Court finds the "19 embryos" figure proven, whether the remaining embryo containing Respondent's genetic material still exists and where it is located, whether all embryos are at Ovation/SCCRM, and whether uncertainty in inventory affects the enforceability or operational validity of the disposition order.

7. The Proposed Statement Does Not Determine Whether Exhibits 1 and 4 Are Interspousal Agreements, Clinic Forms, Storage Contracts, Directives to a Provider, or Some Combination.

Respondent requested findings on the legal nature of each document: whether each is a patient-provider consent form, storage contract, directive to a clinic, interspousal contract, or some combination. Respondent also requested findings identifying the parties to each contract and whether any spouse-to-spouse enforceable promise was actually formed. (Request, § I.I.1.)

The Proposed Statement treats Exhibits 1 and 4 as contracts binding between spouses. But it does not determine the legal nature of the documents or identify their parties. That omission is material because Health and Safety Code section 125315 requires fertility providers to give patients forms containing advance directives; the existence of a clinic form does not itself answer whether

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the document is an interspousal contract enforceable between spouses, a directive to a provider, a patient-provider consent form, a storage agreement, or some hybrid.

Respondent requests that the final Statement of Decision expressly identify the legal character of each document admitted into evidence; the parties to each document; whether the document created enforceable obligations between the spouses; and what legal theory supports enforcement of a clinic/provider form as an interspousal disposition contract.

8. The Proposed Statement Erroneously States or Implies That Contract Validity and Enforceability Were Not Raised.

The Proposed Statement states that, unlike *Pham*, the Court is under no obligation to undertake a contract-law analysis because neither party raised whether the contracts are valid or enforceable and neither party denies signing them. (Proposed SOD, p. 5.) This is inaccurate.

Petitioner expressly argued in his Closing Brief that the 2021 and 2022 ART contracts are valid under Civil Code section 1550 and have not been voided, rescinded, modified, or cancelled. (Petitioner's Closing Brief, pp. 2-5.) But, in her Trial Brief, Respondent expressly disputed enforceability, certainty, ambiguity, admissibility, authentication, scope, constitutional enforceability, and whether any single controlling directive applied to any specific embryo. (RTB, pp. 3-5; Request, § I.I.) Respondent's Request asked for findings on formation, scope, certainty, enforceability, the legal nature of the documents, parties to each contract, whether any spouse-to-spouse promise was formed, which embryos were covered, whether documents conflicted, and whether later documents superseded earlier ones. (Request, § I.I.)

Respondent objects to this finding. The final Statement of Decision should correct the record and provide express findings on contract formation, validity, enforceability, certainty, ambiguity, scope, supersession, and application to specific embryos.

9. The Proposed Statement Does Not Adequately Identify the Content of Each Purported Directive.

Respondent requested findings for each alleged directive, including the precise disposition option selected, whether the form required "check ONE only," whether multiple boxes or initial lines were marked, which embryos are covered by which directive, and whether there is evidence that other

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undisclosed directives exist that cover any at-issue embryos. (Request, § I.I.2.)

The Proposed Statement summarizes Exhibit 1 as selecting donation to medical research and Exhibit 4 as selecting transfer to the male partner. But it does not make findings on the full set of alleged directives, including the terms of the missing 2016 and 2020 directives, or were considered, whether any forms were incomplete, whether any form contained multiple or conflicting selections, whether embryo identification fields were blank, whether other directives were signed in 2016 or 2020, or whether any undisclosed directive covered embryos created before July 10, 2021.

Respondent requests express findings identifying each disposition form offered or admitted, each form's date, the disposition selected, whether the form contains blanks or multiple selections, whether it identifies embryos by date or number, whether other undisclosed directives exist, and which embryos the Court finds are governed by each form.

10. The Proposed Statement Does Not Make Findings on State Action and Judicial Enforcement.

Respondent requested findings on whether the Court's order concerning embryo control or disposition constitutes state action and whether judicial enforcement of private arrangements that restrict reproductive autonomy is subject to constitutional limits. (Request, § I.B.1.) Respondent argued in her Trial Brief that any order destroying embryos or placing them beyond her use is state action that permanently forecloses fundamental rights. (RTB, pp. 1, 3-6.)

The Proposed Statement states that the Court is enforcing the parties' desires, "not the desires of the State being forced on the party." (Proposed SOD, p. 8.) It does not make a state-action finding or analyze the principle that judicial enforcement of private agreements is state action when the court uses its coercive power to enforce them.

Respondent requests an express finding whether the Court's enforcement order is state action. If the Court finds no state action, Respondent requests a statement of the factual and legal basis for concluding that a judicial order transferring or donating embryos over Respondent's objection is not state action.

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11. The Proposed Statement Does Not Make Findings on California Constitution Article I, Sections 1 and 1.1, or Health and Safety Code Section 123462.

Respondent requested findings on whether Respondent has: (1) a constitutional ***privacy right*** under California Constitution Article I, section 1 implicated by an order destroying embryos or preventing their use; (2) a constitutional reproductive freedom right under Article I, section 1.1 implicated by an order destroying embryos, delaying their use, or imposing a spousal veto; and (3) statutory fundamental-right protections under Health and Safety Code section 123462, including whether ***infertility care*** is within the protected decisional sphere. (Request, § I.B.2.)

Health and Safety Code section 123462 expressly protects personal reproductive decisions, including the right to make and effectuate decisions about all matters relating to pregnancy, including infertility care, and protects the right of a pregnant individual or individual who may become pregnant to choose to bear a child. AB 2223, Ch. 629, p. 54/589. The statute also states that the State shall not deny or interfere with that right. *Id.* Respondent provided the trial court with the statute's legislative history.

Respondent does not ask the Court to infer more from the legislative history than it says. Respondent requests a finding that the statutory text expressly protects "infertility care" and the right to "make and effectuate" reproductive decisions. The Court must determine whether IVF, embryo use, embryo transfer, and control over existing cryopreserved embryos are protected "infertility care" as applied to Sofiya, and whether the Court's order denies or interferes with that protected interest.

The Proposed Statement acknowledges that Respondent raised Article I, section 1.1 and Health and Safety Code section 123462, but states that the Court "does not see this as a reproductive rights issue" and declines to address the issue. (Proposed SOD, pp. 7-8.) That does not resolve the principal controverted issue. Respondent's trial brief argued that Health and Safety Code section 123462 expressly covers infertility care and the right to make and implement reproductive decisions. (RTB, pp. 5-6.) The legislative history behind that statute specifically mentions IVF as a treatment within the scope of the Reproductive Privacy Act.

Respondent requests express findings on whether Article I, sections 1 and 1.1 and Health and

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Safety Code section 123462 apply to IVF, embryo use, infertility care, and judicial orders preventing use of embryos. Respondent further requests findings on whether the Court's order interferes with Respondent's ability to choose to bear a child through infertility care.

12. The Proposed Statement Does Not Identify the Standard of Review or Legal Framework for Respondent's Constitutional Claims.

Respondent requested findings identifying what legal framework governs the dispute or relevant portions of the Court's analysis, including strict scrutiny, the compelling-interest standard, any state balancing test, and what level of judicial review applies to a state constitutional claim under Article I, section 1.1. If the Court rejected strict scrutiny or the compelling-interest/narrow-tailoring standard, Respondent requested findings stating the reasons and identifying the lesser standard applied. (Request, § I.C.)

The Proposed Statement does not identify any constitutional standard of review. Instead, it declines to treat the matter as a reproductive-rights issue, omitting consideration of Respondent's claims to equal protection, privacy, and due process. These omissions prevent meaningful appellate review.

Respondent requests that the final Statement of Decision identify the standard of review applied to each constitutional claims, including California privacy, reproductive freedom, due process, equal protection, Health and Safety Code section 123462, and federal constitutional claims. If the Court applies no heightened scrutiny, the Court should explain why no heightened review applies despite Respondent's assertion of fundamental rights.

13. The Proposed Statement Does Not Address Strict Scrutiny, Compelling Interest, Narrow Tailoring, or Least Restrictive Means.

Respondent requested findings on whether Petitioner identified a compelling, legitimate, or important governmental or state interest sufficient to justify an order destroying embryos, delaying their use, or imposing a spousal veto; whether the Court found any asserted interest sufficient; and whether the remedy ordered is narrowly tailored and uses the least restrictive means. (Request, § I.D.)

The Proposed Statement does not identify any governmental interest, compelling interest,

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important interest, legitimate interest, narrow-tailoring analysis, or least-restrictive-means analysis. It also does not address less restrictive alternatives Respondent proposed, including awarding Respondent control, ordering non-parentage or donor-style relief under Family Code section 7613(e), or crafting protective orders addressing downstream concerns without destroying or freezing the embryos beyond Respondent's use. (Request, § I.D.3; RTB, pp. 3, 9-10.)

Respondent requests express findings on whether any interest justifies interfering with Respondent's use of the embryos, what evidence supports that interest, the standard of review applied, and why less restrictive alternatives were rejected.

14. The Proposed Statement Does Not Address Equal Protection, Spousal Veto, or Sex-Linked Reproductive Choice.

Respondent requested findings on whether a mutual-consent requirement or spousal veto operates, as applied here, to empower one spouse to block the other spouse's sex-linked reproductive choice to bear a child or her rights to reproductive freedom, reproductive autonomy, or privacy; whether the Court found any sex-based classification or sex-linked burden; what level of scrutiny the Court applied; and the Court's rationale for accepting or rejecting Respondent's equal protection argument. (Request, § I.E.)

The Proposed Statement does not address equal protection, sex-linked burden, spousal veto, or the level of scrutiny applicable to those claims. Respondent objects to that omission and requests express findings on each of these issues.

15. The Proposed Statement Does Not Address Community-Property Characterization of the Embryos.

Respondent requested findings on whether the embryos constitute community property or are subject to a community-property interest for allocation or equitable-relief purposes. (Request, § I.F.1.) Respondent's Trial Brief argued that the embryos were created and maintained during marriage through community labor and community funds and therefore constitute a community asset or, at minimum, a community-property interest subject to equitable division. (RTB, p. 10.)

The Proposed Statement awards the embryos to Petitioner but does not state whether the embryos are community property, quasi-property, a community asset, or subject to equitable allocation. It

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does not address whether creation and storage with community funds gives Respondent a compensable interest. It does not address whether the donor-egg embryos can be treated as Petitioner's property simply because they do not contain Respondent's DNA.

Respondent requests express findings on the property or equitable status of each category of embryos and the legal basis for awarding them to Petitioner without equalization.

16. The Proposed Statement Does Not Address Family Code Section 721 or the Presumption of Undue Influence.

Respondent requested express findings on whether any alleged disposition directive operated as an interspousal transaction benefiting Petitioner and disadvantaging Respondent; whether the Family Code section 721 presumption of undue influence applies; the standard of proof required to rebut it; what facts show Respondent acted freely and voluntarily with full knowledge and understanding; whether Respondent had independent advice or a meaningful opportunity to obtain it; and whether signing circumstances supported or undermined voluntariness. (Request, § I.J.)

The Proposed Statement does not mention Family Code section 721, interspousal fiduciary duties, undue influence, burden shifting, independent advice, or whether any directive benefited Petitioner and disadvantaged Respondent. This omission is material because Exhibit 4 purports to transfer all donor-egg embryos to the male partner, thereby benefiting Petitioner and disadvantaging Respondent. Exhibit 1 purports to deprive Respondent of use of the embryo containing her genetic material. Respondent objected at trial that Exhibit 4 should be considered under Family Code section 721. (RT 34-35.)

Respondent requests express findings on whether Family Code section 721 applies, whether Petitioner obtained an advantage, whether the presumption of undue influence arose, what standard applies to rebut it, and whether Petitioner rebutted it.

17. Less Restrictive Alternatives And Family Code Section 7613(E).

Respondent requested findings on less restrictive alternatives, including awarding Respondent control, ordering a nonparentage or donor-style determination under Family Code section 7613(e), and crafting protective orders. RSD, pp. 3-4; Trial Brief, pp. 1, 9-10. The Proposed SOD does not address Family Code section 7613(e), nonparentage relief, donor-style relief,

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protective orders, or continued storage. Proposed SOD, pp. 7-9.

The omission is material because the Court identified concerns about Max's relationship to a future child at trial. (RT 85:14-89:21.) The Court then did not address the statutory alternative Respondent raised to address legal parentage or support without placing embryos beyond Sofiya's use. RT 89:16-21.

Respondent requests findings on each less restrictive alternative and why it was rejected. Respondent objects under section 634 to any implied finding that no less restrictive alternative exists.

18. The Proposed SOD Incorrectly Finds Sofiya Has No Real Claim To Donor-Egg Embryos.

The Proposed SOD states that as to embryos made with Max's sperm and donor eggs, Respondent has 'no real claim' because those embryos do not directly continue her lineage. (Proposed SOD, p. 7.) Respondent objects that this finding is unsupported and incomplete.

Respondent asserted community-property, intended-parent, reproductive, equal-protection, and equalization interests. (Trial Brief, pp. 1-3, 9-10; RSD, pp. 3-7.) Sofiya testified that she selected the egg donor to approximate her own traits, ancestry, and family-building plan. (RT 62:13-63:17.) The Proposed SOD does not address community funds, marital intent, donor selection, intended parentage, equalization, or whether awarding the embryos to Max extinguishes Respondent's interests.

Respondent requests findings on each legal basis for her interest in donor-egg embryos and whether those interests are extinguished by absence of her DNA. Respondent objects under section 634 to any implied finding that she has no claim.

19. The Order Allowing Petitioner To Do With Embryos As He Sees Fit Is Overbroad And Ambiguous.

The Proposed SOD provides that the remaining embryos are Petitioner's property “to do so as he sees fit.” (Proposed SOD, p. 7.) Respondent objects that the language is vague, overbroad, operationally unclear, and unsupported by specific findings.

The order does not identify the embryos, facilities, permissible actions, required forms,

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whether destruction/donation/implantation is permitted, whether any facility must act, or whether the order is stayed pending final judgment or appellate review.

Respondent requests clarification that no embryo may be donated, destroyed, transferred, shipped, thawed, implanted, retitled, or otherwise dispositioned absent final judgment and resolution of any stay/appeal. Respondent objects under section 634 to any implied operational finding.

Respectfully submitted,

J.R. HOWELL,
LAW OFFICE OF J.R. HOWELL

Date: May 3, 2026

J.R. Howell (Cal. Bar No. 268086)
Attorney for Respondent

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MAX DAVID BORENSTEIN

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County of Los Angeles
5/11/2026 4:24 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By V. Cabrera, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

In re the Marriage of:

Petitioner:

MAX DAVID BORENSTEIN

and

Respondent:

SOFIYA ALEXANDRA GOLDSHTEYN

CASE NO. 22STFL08826

[*Assigned to the Honorable Judge Nord, Dept. "35"*]

PETITIONER'S OBJECTIONS TO THE TENATIVE RULING AND PROPOSED STATEMENT OF DECISION

TRIAL DATE: 02/24/2026
TIME: 08:30 A.M.
PLACE: DEPT. 35

PAGE	LINE	REASON	REQUESTED CHANGE
9	23	Clerical Error	In her Reply Brief, the ~~Petitioner~~ Respondent raised...".

DATED: May 10, 2026

LAW OFFICES OF KAPLAN, TROPE & GEKHT

By: _____
Garry M. Gekht, Esq.
Attorney for Petitioner,
MAX DAVID BORENSTEIN

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10866 Wilshire Boulevard, Suite 1650, Los Angeles, California 90024.

On May 11, 2026, I served the foregoing document described as: **PETITIONER'S OBJECTIONS TO THE TENTATIVE RULING AND PROPSOED STATEMENT OF DECISION** on the interested parties in this action by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows: ☒ by attaching a digital copy of the document to the email address provided as follows:

J.R. Howell, Esq.
Law Office of J.R. Howell
2219 Main Street, Suite 436
Santa Monica, CA 90405

Anne E. Grover, Esq.
Grover & Badalian
11 N. Washington St., Suite 630
Rockville, MD 20850

Jason P. Koch, Esq.
The Law Office of Jason P. Koch
3 West Carrillo Street, Suite 216
Santa Barbara, California 93101

[ ] BY MAIL: I deposited such envelope(s) with the United States Postal Service at Los Angeles, California with the postage fully prepaid.

[ ] BY CAUSING TO BE PERSONALLY SERVED: I caused delivery of such envelope by hand to the offices of the addressee.

[ ] VIA OVERNIGHT DELIVERY: : I enclosed the documents in an envelope or package by an overnight delivery carrier and addressed to the person(s) at the address(es) above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier. The envelope or package was designated for next business day delivery, with all charges billed to sender.

[XX] BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the following electronic notification addresses: jr@lojrh.com; **agrover@gbfamilylawyers.com; jason@jasonkochlaw.com; rdavies@gbfamilylawyers.com.** I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 11, 2026, at Los Angeles, California.

David R. Rubin

David R. Rubin

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 411

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

May 12, 2026
8:30 AM

Honorable Scott J. Nord, Judge

A. Narayan, Judicial Assistant — Not Reported, Court Reporter

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NATURE OF PROCEEDINGS: Ruling on Submitted Matter re: If no objections, Tentative SOD will stand as Order of Court. filed by Respondent on April 23, 2026

The following parties are present for the aforementioned proceeding:

No Appearances

The matter is not called for hearing.

The Court finds that objections have been filed by Respondent on 05/04/2026.

The Court issues a Ruling on Objections to Tentative Ruling and Statement of Decision.

Clerk is to give notice.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, David W. Slayton, Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of the above minute order of May 12, 2026 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: May 12, 2026

By: /s/ A. Narayan
A. Narayan, Deputy Clerk

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

May 12, 2026
8:30 AM

Garry Mark Gekht
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Jimmy Howell
Law Offices of J.R. Howell
2219 Main St., Suite 436
Santa Monica, CA 90405

FILED
Superior Court of California
County of Los Angeles

MAY 12 2026

David W. Slayton, Executive Officer/Clerk of Court
By: A. Narayan, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MAX DAVID BORENSTEIN Petitioner, vs. SOFIYA ALEXANDRIA GOLDSHTEYN Respondent,	Case No.: 22STFL08826 **RULING ON OBJECTIONS TO TENTATIVE RULING AND STATEMENT OF DECISION**

Unless modified herein, the Court adopts the Tentative Decision and Proposed Statement of Decision as its Final Ruling and Final Statement of Decision.

The Court, as a general statement, mentions that this matter was originally set for a multi-day hearing. The Court fully anticipated that the issue of the IVF and embryos, along with financial matters, would be extensively litigated. Rather, the parties settled and indicated to the Court that they would need a total of 3 hours to deal with the IVF and embryo issue only.

Each side was able to present its witnesses and exhibits as they sought fit. Each party testified and each submitted exhibits.

Although Petitioner asserted that the *Pham* case was controlling, Respondent requested permission to submit a brief addressing issues not raised in *Pham*, explaining why *Pham* was not controlling, and other issues (i.e., reproductive rights). The Court inquired about the time each party needed to file its opening brief and was told that they would need until April 10, 2026 (roughly 45 days after the Trial had concluded). Closing Briefs were due by April 10, 2026, and any response to the other party's Closing Brief was due by April 17, 2026. The total page limit for both briefs could not exceed 15 pages in length.

On April 10th, the Petitioner filed his Closing Brief. The Court received no Closing Brief for the Respondent. On April 14th, the Petitioner filed a Notice of Respondent's Non-Briefing and Waiver of Closing Argument and a Motion to Strike Any Late Filed Brief. On April 16, 2026, the Respondent filed a Reply Brief to the Petitioner's Closing Brief. As such, the Respondent waived her right to file a Closing Brief or raise any claim for which she sought adjudication that the Petitioner did not raise.

Ruling on the Respondent's Objections:

1. **The Proposed Statement Incorrectly Finds That Respondent First Raised Remuneration in the Reply Brief and Deems the Claim Abandoned, When She Raised it In Her Trial Brief filed on February 13, 2026.**

Overruled. As stated in *Marriage of Pasco*, 42 Cal.App.5th 585, 592 (2019), "a trial brief is not evidence, it is argument." The Court went on to state, "the family court is bound by the rules of evidence. (See *In re Marriage of Boblitt* (2014) 223 Cal.App.4th 1004, 1022, 167

Cal.Rptr.3d 777 [family proceedings governed by same statutory rules of evidence and procedure applicable in other civil actions]; Fam. Code, § 210 ["the rules of practice and procedure applicable to civil actions generally ... apply to, and constitute the rules of practice and procedure in, proceedings under [the Family Code]"]; Cal. Rules of Court, rule 5.2(d).) Declarations filed in support of a request for order are intended only to give notice to the opposing party of the basis of the request. (*In re Marriage of Shimkus* (2016) 244 Cal.App.4th 1262, 1271, 198 Cal.Rptr.3d 799 (*Shimkus*); Cal. Rules of Court, rule 5.92(b)(1).) They are not, as Zoe apparently assumes, automatically admitted into evidence. (*Shimkus,* at p. 1271, 198 Cal.Rptr.3d 799.) Thus, unless the parties' declarations are offered as evidence, marked, and subject to objections, they are not evidence the court may consider in resolving disputed factual issues. (*Shimkus,* at p. 1271, 198 Cal.Rptr.3d 799.)

So, unless, like a declaration, a trial brief is moved into evidence, the Court is not bound to consider it in making any decision.

2. The Proposed Statement Does Not Set Forth Facts That Connect the Embryo Containing Sofiya's Biological Material Created in 2020 to any Disposition Directive

The Court has ruled on all embryos pursuant to Exhibit 1 (signed on July 10, 2021) and Exhibit 4 (signed on February 8, 2022). If there are additional embryos from earlier retrievals for which the Court was not provided documents or testimony beyond 1 sentence, as alleged in the Objection to the Statement of Decision (Page 2, Lines 19-24), those embryos, if they exist, remain unadjudicated assets subject to a future Request for Order.

3. Objection as to Multiple Writings, Conflict, Integration, Modification, Supersession, or Chronology

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

The Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in *Gravillis*, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

4. The Proposed Statement Does Not Adequately Address Contract Certainty and Ambiguity

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

5. The Proposed Statement Does Not Adequately Identify the Disposition Ordered for Each Embryo or the Operational Terms of the Order.

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

The Court has ruled that the final disposition of the embryos is determined by the contracts and agreements of the parties.

6. The Proposed Statement Does Not Adequately Address the Number, Location, or Identity of the Embryos

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

A ruling on the location is irrelevant for the ultimate outcome of the embryos. The outcome is determined by the contracts and agreements of the parties.

7. The Proposed Statement Does Not Determine Whether Exhibits 1 and 4 Are Interspousal Agreements, Clinic Forms, Storage Contracts, Directives to a Provider, or Some Combination

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

8. The Proposed Statement Erroneously States or Implies That Contract Validity and Enforceability Were Not Raised

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

Lastly, the Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in

Gravillis, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

9. The Proposed Statement Does Not Adequately Identify the Content of Each Purported Directive.

Overruled. The Court considered all the facts and evidence in making its determination and in making its rulings. It is not necessary for a statement of decision to contain a detailed evidentiary analysis since the court is not required to make findings concerning detailed evidentiary facts or make minute findings as to individual items of evidence. Nor may a party's request for a statement of decision "interrogate the judge" on evidentiary matters. (People v. Casa Blanca Convalescent Homes, Inc, 159 Cal. App.3d 509, 525 (1984); Kroupa v. Sunrise Ford, 77 Cal. App.4th 835, 842, 92 Cal. Rptr. 2d 42(1999))

Further, the Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in *Gravillis*, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

10. The Proposed Statement Does Not Make Findings on State Action and Judicial Enforcement

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be

considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

11. The Proposed Statement Does Not Make Findings on California Constitution Article I, Sections 1 and 1.1, or Health and Safety Code Section 123462

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

12. The Proposed Statement Does Not Identify the Standard of Review or Legal Framework for Respondent's Constitutional Claims.

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

13. The Proposed Statement Does Not Address Strict Scrutiny, Compelling Interest, Narrow Tailoring, or Least Restrictive Means.

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

14. The Proposed Statement Does Not Address Equal Protection, Spousal Veto, or Sex-Linked Reproductive Choice.

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

15. The Proposed Statement Does Not Address Community-Property Characterization of the Embryos.

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to

counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

The Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in *Gravillis*, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

16. The Proposed Statement Does Not Address Family Code Section 721 or the Presumption of Undue Influence

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

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based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

17. Less restrictive alternatives and Family Code section 7613(e)

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

The Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in *Gravillis*, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

18. The Proposed SOD Incorrectly Finds Sofiya Has No Real Claim To Donor-Egg Embryos

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be

considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

The Respondent's Objection is not an "objection" but a Motion for Reconsideration and is improper. (See *Gravillis v. Coldwell Banker Residential Brokerage Co.*, 143 Cal.App.4th 761, 772 (2006)), "In general, a prior order may be reconsidered upon a showing of 'new or different facts, circumstances, or law." (§ 1008, subd. (a).)" As held in *Gravillis*, the issue of a new order based on the objection alone without notice or hearing would be a *de facto* motion for reconsideration. (*Id.)*

19. The Order Allowing Petitioner To Do With Embryos As He Sees Fit Is Overbroad And Ambiguous

Overruled. As stated in the Statement of Decision, the Respondent waived her Opening Brief and only filed a Reply Brief. As such, any issue that was not directly addressed in the Petitioner's Brief is deemed waived. Again, as stated in *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764, "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument. (*American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453, 13 Cal.Rptr.2d 432.)

The Court has ruled that the final disposition of the embryos is determined by the contracts and agreements of the parties.

Absent further Stay from the Court of Appeals, the Stay imposed by the Court in its Statement of Decision with respect to the embryos subject to Exhibit 1 (signed on July 10, 2021) and Exhibit 4 (signed on February 8, 2022) is extinguished as of May 23, 2026.

5/12/2026



SCOTT J. NORD
JUDGE OF THE LOS ANGELES COUNTY SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 268086
NAME: J.R. HOWELL
FIRM NAME: THE LAW OFFICE OF J.R. HOWELL
STREET ADDRESS: 2219 Main Street, Suite 436
CITY: Santa Monica STATE: CA ZIP CODE: 90405
TELEPHONE NO.: (323) 897-8656 FAX NO.: ------
EMAIL ADDRESS: jr@lojrh.com
ATTORNEY FOR (*name*): Sofiya Goldshteyn, Respondent/Appellant

FOR COURT USE ONLY

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/14/2026 2:25 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Maricela Rojas, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Stanley Mosk

PLAINTIFF/PETITIONER: Max Borenstein
DEFENDANT/RESPONDENT: Sofiya Goldshteyn

☒ **NOTICE OF APPEAL** ☐ **CROSS-APPEAL**
(UNLIMITED CIVIL CASE)

CASE NUMBER:
22STFL08826

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that:
   a. *(Name)*: Sofiya Goldshteyn appeals from a judgment or order in this case.
   b. The judgment or order was entered on *(list the date or dates the judgment and each order being appealed were entered)*:
      May 12, 2026
   c. The appeal is from the following order or judgment *(check all that apply)*:
      ☐ Judgment after jury trial
      ☒ Judgment after court trial
      ☐ Default judgment
      ☐ Judgment after an order granting a summary judgment motion
      ☐ Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.360, or 583.430
      ☐ Judgment of dismissal after an order sustaining a demurrer
      ☐ An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
      ☐ An order or judgment under Code of Civil Procedure, § 904.1(a)(3)–(13)
      ☐ Other *(describe and specify the code section or other authority that authorizes this appeal)*:

      $100 PAID VIA OFS
      NO $775 RCDV

   d. ☐ The judgment or order being appealed directs payment of sanctions by an attorney for a party. The attorney *(name)*: appeals.
2. For cross-appeals only:
   a. Date notice of appeal was filed in original appeal:
   b. Date superior court clerk mailed notice of original appeal:
   c. Court of Appeal case number *(if known)*:
3. ☐ The judgment or order being appealed is attached *(optional)*.

Date: May 14, 2026

J.R. Howell (268086)
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Form Approved for Optional Use
Judicial Council of California
APP-002 [Rev. January 1, 2024]

NOTICE OF APPEAL/CROSS-APPEAL—UNLIMITED CIVIL CASE
(Appellate)

Cal. Rules of Court, rule 8.100
www.courts.ca.gov

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2219 Main Street
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Santa Monica, CA 90405
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ATTORNEYS FOR RESPONDENT,
SOFIYA A. GOLDSHTEYN

Electronically FILED by
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County of Los Angeles
5/18/2026 8:13 AM
David W. Slayton, Clerk of Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – FAMILY LAW DIVISION

IN RE MARRIAGE OF:

MAX D. BORENSTEIN,

Petitioner,

vs.

SOFIYA A. GOLDSHTEYN,

Respondent.

Case No. 22STFL08826

DECLARATION OF J.R. HOWELL IN SUPPORT OF RESPONDENT'S *EX PARTE* APPLICATION TO STAY OF JUDGMENT PENDING APPEAL

LAW OFFICE OF J.R.HOWELL

I, J.R. Howell, hereby declare and state:

1. I am an attorney duly licensed to practice law before all the courts of the State of California. I represent Respondent Sofiya A. Goldshteyn (hereinafter "Respondent" or "Sofiya") in the above-captioned action.

2. Unless otherwise stated, I have personal knowledge of the matters stated herein, and if asked to testify thereto, I would do so competently.

3. This declaration is submitted in support of Sofiya's *Ex Parte* Application to Extend the Stay of Judgment Pending Appeal to allow the Court of Appeals time to evaluate Respondent's Petition for Writ of Supersedeas and Motion to Stay.

4. **Notice**. On May 18, 2026, I informed Petitioner's counsel via email at 8:00AM that the instant relief was sought. I requested whether Petitioner intends to oppose the instant motion. As of the time of filing, I have not heard a response.

5. Copies of Respondent's FL-300 Request for Order and accompanying papers were served via email to Petitioner's Counsel before 8:30AM on May 18, 2026.

6. **Irreparable harm**. The current stay is set to expire on May 23, 2026. If the stay expires before the Court of Appeal has an opportunity to rule on Respondent's petition for writ of supersedeas and request for temporary stay, there is an immediate risk that the embryos at issue may be transferred, donated, released, thawed, discarded, destroyed, or otherwise placed beyond the current status quo. Because the embryos are unique and irreplaceable reproductive material, any such action could irreversibly impair appellate review. For that reason, I respectfully request that the Court extend the existing stay long enough for the Court of Appeal to consider Respondent's requested stay relief.

7. I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed May 18, 2026 at Montréal, Québec, Canada.

J.R. Howell (State Bar No. 268086)

LAW OFFICE OF J.R.HOWELL

J.R. HOWELL (State Bar No. 268086)
jr@lawofficejrhowell.com
LAW OFFICE OF J.R. HOWELL
2219 Main Street
Suite 436
Santa Monica, CA 90405
Tel: (323) 897-8656

ATTORNEY FOR RESPONDENT,
SOFIYA A. GOLDSHTEYN

Electronically FILED by
Superior Court of California,
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David W. Slayton, Clerk of Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – FAMILY LAW DIVISION

IN RE MARRIAGE OF:

MAX D. BORENSTEIN,

Petitioner,

vs.

SOFIYA A. GOLDSHTEYN,

Respondent.

Case No. 22STFL08826

RESPONDENT'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF *EX PARTE* APPLICATION TO EXTEND STAY OF JUDGMENT PENDING APPEAL

LAW OFFICE OF J.R. HOWELL

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Respondent Sofiya Goldshteyn seeks a narrow, temporary extension of the existing stay so the California Court of Appeal, Second Appellate District, can consider Respondent's Petition for Writ of Supersedeas and Request for Temporary Stay. Respondent does not ask this Court to reconsider the merits of the May 12, 2026 Final Ruling and Final Statement of Decision. Respondent asks only that the current status quo remain in place long enough for the reviewing court to decide whether enforcement should be stayed pending appeal.

The relief sought is urgent because the existing stay expires on May 23, 2026. The embryos at issue are unique, irreplaceable reproductive material. If any embryo is transferred, released, donated, thawed, discarded, destroyed, shipped, retitled, reassigned, or otherwise placed beyond current storage or control, no later appellate ruling can restore the status quo. The Court of Appeal's jurisdiction and ability to grant effective relief could be impaired or mooted before it has had a fair opportunity to act.

Respondent filed a Notice of Appeal on May 14, 2026, designating the May 12, 2026 order adopting the tentative ruling and proposed statement of decision. Because the subject matter is uniquely vulnerable to irreversible action, Respondent seeks an express extension of the existing stay to preserve appellate review.

II. FACTUAL AND PROCEDURAL BACKGROUND

On April 23, 2026, the Court issued its Tentative Ruling and Proposed Statement of Decision concerning disposition of cryopreserved embryos created during the parties' marriage. Respondent thereafter filed objections to the Tentative Ruling and Proposed Statement of Decision.

On May 12, 2026, the Court ruled on the objections and adopted the Tentative Ruling and Proposed Statement of Decision as the Final Ruling and Final Statement of Decision, except as modified in the May 12 ruling. The final ruling ordered, in substance, certain embryos were Petitioner’s to do with as he sees fit. The ruling included a temporary stay, but that stay expires on May 23, 2026 absent extension by this Court or stay relief from the Court of Appeal.

Respondent filed a Notice of Appeal on May 14, 2026. Respondent is preparing her Petition

LAW OFFICE OF J.R.HOWELL

for Writ of Supersedeas and Request for Temporary Stay in the Court of Appeal. The requested relief here is limited to an extension of the existing stay so the Court of Appeal can evaluate Respondent's request without the risk that enforcement will occur first.

III. LEGAL STANDARD

Code of Civil Procedure § 918(a) provides: "Subject to subdivision (b), the trial court may stay the enforcement of any judgment or order." CCP § 918(c) further provides that CCP § 918 applies "whether or not an appeal will be taken from the judgment or order and whether or not a notice of appeal has been filed." (Code Civ. Proc., § 918, subds. (a), (c).) This statute gives the trial court authority to maintain the status quo while appellate stay relief is sought.

Ex parte relief is appropriate where the applicant makes an affirmative factual showing, in a declaration based on personal knowledge, of irreparable harm, immediate danger, or another statutory basis for relief. (Cal. Rules of Court, Rule 3.1202(c).) The threatened expiration of the existing stay and possible irreversible embryo disposition satisfy that standard.

California law recognizes the importance of preserving appellate effectiveness. The Supreme Court has explained that stay rules prevent injury from the premature enforcement of a determination that may later be found wrong. (*Daly v. San Bernardino County Bd. of Supervisors* (2021) 11 Cal.5th 1030, 1036.) *Daly* further explains that mandatory injunctions, meaning orders requiring affirmative action that would change the parties' condition and render reversal partially ineffectual, ordinarily are stayed pending appeal. (*Id*. at pp. 1036-1037, 1044-1045.)

IV. ARGUMENT

A. The Court Has Authority Under Code of Civil Procedure Section 918 to Extend the Existing Stay.

The requested relief falls squarely within Code of Civil Procedure section 918. The Court has already imposed a temporary stay. Respondent asks only that the existing stay remain in place for a period sufficient to allow the Court of Appeal to consider Respondent's Petition for Writ of Supersedeas and Request for Temporary Stay.

This relief does not disturb the judgment, reconsider the merits, or change either party's substantive position. It preserves the status quo. Section 918 expressly authorizes the trial court to

LAW OFFICE OF J.R.HOWELL

stay enforcement of any judgment or order, and it applies whether or not a notice of appeal has been filed. (Code Civ. Proc., § 918, subds. (a), (c).) Because a notice of appeal has been filed and appellate stay proceedings are being pursued, extending the existing stay is a modest and appropriate exercise of the Court's authority.

B. *Ex Parte* Relief Is Proper Because Expiration of the Stay Creates Immediate Danger of Irreparable Harm.

Ex parte relief is warranted because the stay expires on May 23, 2026. If the stay expires and action is taken to implement the embryo-disposition order, the consequences may be irreversible. Cryopreserved embryos cannot be recreated by later appellate relief. Once an embryo is transferred, released, donated, thawed, discarded, destroyed, shipped, retitled, reassigned, or otherwise placed beyond current storage or control, a later reversal may be meaningless.

Money cannot compensate for the loss of unique reproductive material, particularly where the appeal challenges the disposition of the very embryos at issue. The harm is not speculative: the final ruling expressly contemplates disposition under Exhibits 1 and 4, and the existing stay has an identified expiration date. The requested extension prevents immediate danger and irreparable harm while preserving the Court of Appeal's ability to decide the stay request.

C. Respondent Has Perfected an Appeal and Is Seeking Court of Appeal Review.

Respondent filed her Notice of Appeal on May 14, 2026, designating the May 12, 2026 order adopting the tentative ruling and proposed statement of decision.

A short extension of the existing stay will prevent a race to enforce before the Court of Appeal can evaluate Respondent's request. It will also avoid unnecessary confusion among the parties, counsel, and any nonparty clinic, laboratory, or storage custodian asked to implement the final ruling.

D. Maintaining Current Cryostorage Preserves the Status Quo and Imposes Minimal Prejudice.

The current status quo is simple: the embryos remain in cryopreserved storage and no irreversible disposition occurs. Extending the stay preserves all parties' rights pending appellate review. Petitioner is not being compelled to procreate, transfer genetic material, undergo any

LAW OFFICE OF J.R.HOWELL

medical procedure, use any embryo, or assume any parental obligation. The requested order simply maintains existing storage and prevents irreversible change.

By contrast, Respondent faces irreparable harm if the stay expires and enforcement proceeds. The appeal concerns the disposition of the embryos themselves. If those embryos are acted upon before the Court of Appeal considers stay relief, the appellate process may be impaired or mooted. A temporary preservation order therefore balances the equities overwhelmingly in favor of maintaining the existing stay.

V. REQUESTED ORDER

Respondent respectfully requests that the Court extend the existing stay until the earliest of: (1) the Court of Appeal's ruling on Respondent's Petition for Writ of Supersedeas and Request for Temporary Stay; (2) a date certain sufficient to permit Court of Appeal review, such as 30 days from the current expiration date; or (3) further order of this Court or the Court of Appeal.

VI. CONCLUSION

Respondent seeks narrow emergency relief: preservation of the status quo long enough for the Court of Appeal to decide whether to grant temporary stay or supersedeas relief. Denying an extension risks irreversible disposition of unique reproductive material and possible mootness of the appeal. Granting an extension preserves all rights, imposes minimal prejudice, and allows the appellate court to perform its function. Respondent respectfully requests that the Court extend the existing stay as set forth above.

Respectfully submitted,

J.R. HOWELL,
LAW OFFICE OF J.R. HOWELL

Date: May 18, 2026

By: _____
J.R. Howell (State Bar No. 268086)
Attorney for Respondent,
Sofiya A. Goldshteyn

LAW OFFICE OF J.R.HOWELL

PARTY WITHOUT ATTORNEY OR ATTORNEY
NAME: J.R. Howell
STATE BAR NUMBER: 268086
FIRM NAME: The Law Office of J.R. Howell
STREET ADDRESS: 2219 Main Street, Suite 436
CITY: Santa Monica
STATE: CA
ZIP CODE: 90405
TELEPHONE NO.: (323) 897-8656
FAX NO.: -----
E-MAIL ADDRESS: jr@lojrh.com
ATTORNEY FOR (*name*): Sofiya Goldshteyn, Respondent

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Superior Court of California,
County of Los Angeles
5/18/2026 8:13 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By T. Soto-Thayer, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: Same as above
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Central District

PETITIONER: Max Borenstein
RESPONDENT: Sofiya Goldshteyn
OTHER PARENT/PARTY:

DECLARATION REGARDING NOTICE AND SERVICE OF REQUEST FOR TEMPORARY EMERGENCY (EX PARTE) ORDERS

CASE NUMBER: 22STFL08826

NOTICE: Do not use this form to ask for domestic violence restraining orders. Before completing this form, read your court's local procedures for requesting temporary emergency orders and obtaining the information needed to complete item 2 of this form. Courts may grant temporary emergency orders with or without an emergency hearing. Find local rules at **courts.ca.gov/3027.htm**.

1. I am *(specify)* [x] attorney for [ ] petitioner [x] respondent [ ] other parent/party
   [ ] not a party in the case *(name and title/relationship to party):*
2. I [x] did [ ] did not give notice *(select all that apply)*
   [x] that there will be an emergency court hearing [ ] that papers will be submitted to the court on the request
   [x] for temporary emergency (ex parte) orders
   [ ] to reschedule a hearing [ ] to reschedule a hearing involving temporary emergency (ex parte) orders
   on the date, time, and location indicated below:

   Date: May 19, 2026 Time: 8:30AM [ ] Dept.: 35 [ ] Room:
   Address of court: [x] same as noted above [ ] other *(specify):*

3. **NOTICE** *(If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.)*
   a. [x] I gave notice as described in items (1) through (5) below:
      (1) I gave notice to *(select all that apply)*
      [ ] petitioner. [x] petitioner's attorney.
      [ ] respondent. [ ] respondent's attorney.
      [ ] other parent/party. [ ] other parent's/party's attorney.
      [ ] child's attorney. [ ] other *(specify):*
      (2) I gave notice on *(date):* May 18, 2026 at: 8:00AM [x] a.m. [ ] p.m.
      [ ] personally at *(location):* , California.
      [ ] by telephone using telephone no.:
      [ ] by fax using fax no.:
      [ ] by voicemail using voicemail no.:
      [x] by electronic means *(if permitted) (specify electronic service address of person):* garry@ktgdllp.com
      [ ] by overnight mail or other overnight carrier *(specify address of delivery):*

      (3) I gave notice *(select one)*
      [x] by 10 a.m. the court day before this emergency hearing.
      [ ] after 10 a.m. the court day before this emergency hearing because of the following exceptional circumstances *(specify):*

Form Approved for Optional Use
Judicial Council of California
FL-303 [Rev. July 1, 2020]

Family Law, §§ 2045, 3062–3064, 4620, 7710
Cal. Rules of Court, rules 5.151–5.169
www.courts.ca.gov

PETITIONER: Max Borenstein RESPONDENT: Sofiya Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

(4) I notified the person in 3a(1) that the following temporary emergency orders are being requested *(specify):*
To continue the TSC currently scheduled for July 7, 2025, on the grounds that neither party has completed discovery and to extend the associated discovery deadlines.

(5) The person in 3a(1) responded as follows: ☐ Attachment 3a(5)
Indicated an opposition to the continuance of the TSC and extension of the discovery deadlines.

(6) I ☒ do ☐ do not believe that the person in 3a(1) will oppose the request for temporary emergency orders.

b. ☐ **Request for waiver of notice.** Due to exceptional circumstances, I did not give notice about the request for temporary emergency orders. I ask that the court waive notice to the other party to help prevent *(specify)*
(1) ☐ immediate danger or irreparable harm to myself (or my client) or to the children in the case.
(2) ☐ an immediate risk that the children in the case will be removed from the state of California.
(3) ☐ immediate loss or damage to property subject to disposition in the case.
(4) ☐ other exceptional circumstances *(specify):*

Facts showing exceptional circumstances in support of the request to waive notice include *(specify):* ☐ Attachment 3b

c. ☐ **Unable to provide notice.** I did not give notice about the request for temporary emergency orders. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were *(specify below):* ☐ Attachment 3c

4. ☒ **SERVICE OF DOCUMENTS**
a. The following documents were served on
☐ petitioner ☒ petitioner's attorney ☐ other parent/party ☐ other parent's/party's attorney
☐ respondent ☐ respondent's attorney ☐ child's attorney ☐ other *(specify):*
before the request was filed with the court:
(1) ☒ A copy of *Request for Order* (form FL-300) for temporary emergency orders, and *Temporary Emergency (Ex Parte) Orders* (form FL-305).
(2) ☐ A copy of a request to reschedule hearing and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-306 may be used for the request.
(3) ☐ A copy of a request to reschedule hearing involving temporary emergency (ex parte) orders and *Order on Request to Reschedule Hearing* (form FL-309). Form FL-307 may be used for the request.
(4) ☐ Other documents *(specify):*

b. **Documents were served on** *(date):* May 18, 2026 at: 8:25 ☒ a.m. ☐ p.m.
☐ personally at *(location):* , California.
☐ by fax on using fax no.:
☒ by electronic means *(if permitted) (specify electronic service address of person served):* garry@ktgdllp.com
☐ by overnight mail or other overnight carrier *(specify address of delivery):*

c. Documents were not served on the opposing party due to the exceptional circumstances specified in
☐ 3b, above. ☐ 3c, above. ☐ Attachment 4c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: May 18, 2026

J.R. Howell, Esq.
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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Received: 5/18/2026 8:13 AM

PARTY WITHOUT ATTORNEY OR ATTORNEY
NAME: J.R. Howell
FIRM NAME: The Law Office of J.R. Howell
STREET ADDRESS: 2219 Main Street, Suite 436
CITY: Santa Monica
STATE: CA
ZIP CODE: 90405
TELEPHONE NO.: (323) 897-8656
FAX NO.: -----
EMAIL ADDRESS: jr@lojrh.com
ATTORNEY FOR (*name*): Sofiya Goldshteyn, Respondent
STATE BAR NUMBER: 268086

FOR COURT USE ONLY

Electronically FILED
Superior Court of California
County of Los Angeles
5/19/2026 2:21 PM
David W. Slayton
Executive Officer/Clerk of Court,
By A. Narayan, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: Same as above
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Central District

PETITIONER: Max Borenstein
RESPONDENT: Sofiya Goldshteyn
OTHER PARENT/PARTY:

CASE NUMBER: 22STFL08826

REQUEST FOR ORDER ☐ **CHANGE** ☒ **TEMPORARY EMERGENCY ORDERS**

☐ Child Custody ☐ Visitation (Parenting Time) ☐ Spousal or Partner Support
☐ Child Support ☐ Property Control ☐ Attorney's Fees and Costs
☒ Other *(specify):* To Extend The Stay of Judgment Pending Appeal

Note: Read form FL-300-INFO for information about how to complete this form. To ask to change or end an order that was granted in a Restraining Order After Hearing (form DV-130 or JV-255), read form FL-300-INFO and form DV-300-INFO

NOTICE OF HEARING

1. TO *(name(s))*: Max Borenstein and his attorney of record
   ☒ Petitioner ☐ Respondent ☐ Other Parent/Party ☐ Other *(specify):*

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

   a. Date: May 19, 2026 **8:30AM** ☒ Dept.: 35 ☐ Room.:
   b. Address of court ☒ same as noted above ☐ other *(specify):* Electronic Filing

3. **WARNING to the person served with the *Request for Order:*** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. *(See form FL-320-INFO for more information.)*

COURT ORDER

It is ordered that: ***(FOR COURT USE ONLY)***

4. ☐ Time ☐ for service ☐ until the hearing is shortened. Service must be on or before *(date):*
5. ☐ A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before *(date):*
6. ☐ The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows *(specify date, time, and location):*

7. ☐ The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8. ☒ Other *(specify)*: Denied. Pursuant to CCP 916(a), "the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appeal from or upon the matters embraced therein, or affected thereby, including enforcement of the judgment or order..." (See People v. Superior Court (2024), 17 Cal.App.5th 228; Varian Medical Systems, Inc. v Delfino, (2005) 35 Cal.4th 180.

Date: 05/19/2026

Scott J. Nord
JUDGE
JUDICIAL OFFICER

Form Adopted for Mandatory Use
Judicial Council of California
FL-300 [Rev. January 1, 2025]

REQUEST FOR ORDER

Family Code, §§ 2045, 2107, 6224, 6226, 6320–6326, 6380–6383
Government Code, § 26826
Cal. Rules of Court, rule 5.92
www.courts.ca.gov

PETITIONER: Max Borenstein RESPONDENT: Sofiya Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

REQUEST FOR ORDER

Note: Place a mark **X** in front of the box that applies to your case or to your request. If you need more space, mark the box for "Attachment." For example, mark "Attachment 2a" to indicate that the list of children's names and birth dates continues on a paper attached to this form. Then, on a sheet of paper, list each attachment number followed by your request. At the top of the paper, write your name, case number, and "FL-300" as a title. (You may use *Attached Declaration* (form MC-031) for this purpose.)

1. ☐ RESTRAINING ORDER INFORMATION
One or more domestic violence restraining/protective orders are now in effect between *(specify):*
☐ Petitioner ☐ Respondent ☐ Other Parent/Party *(Attach a copy of the orders if you have one.)*
The orders are from the following court or courts *(specify county and state):*
a. ☐ Criminal: County/state *(specify):* Case No. *(if known)*:
b. ☐ Family: County/state *(specify):* Case No. *(if known)*:
c. ☐ Juvenile: County/state *(specify):* Case No. *(if known)*:
d. ☐ Other: County/state *(specify):* Case No. *(if known)*:

2. ☐ CHILD CUSTODY ☐ I request temporary emergency orders
☐ VISITATION (PARENTING TIME)
a. I request that the court make orders about the following children *(specify):*

Child's Name	Date of Birth	☐ Legal Custody to *(person who decides: health, education, etc):*	☐ Physical Custody to *(person with whom child lives):*

☐ Attachment 2a.

b. ☐ The orders I request for ☐ child custody ☐ visitation (parenting time) are:
(1) ☐ Specified in the attached forms:
☐ Form FL-305 ☐ Form FL-311 ☐ Form FL-312 ☐ Form FL-341(C)
☐ Form FL-341(D) ☐ Form FL-341(E) ☐ Other *(specify):*
(2) ☐ As follows *(specify):* ☐ Attachment 2b.

c. The orders that I request are in the best interest of the children because *(specify):* ☐ Attachment 2c.

PETITIONER: Max Borenstein RESPONDENT: Sofiya Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

2. d. ☐ This is a change from the current order for ☐ child custody ☐ visitation (parenting time).
(1) ☐ The order for legal or physical custody was filed on *(date)*: . The court ordered *(specify)*:

(2) ☐ The visitation (parenting time) order was filed on *(date)*: . The court ordered *(specify)*:

☐ Attachment 2d.

3. ☐ CHILD SUPPORT
(Note: An earnings assignment may be issued. See *Income Withholding for Support* (form FL-195))
a. I request that the court order child support as follows:

Child's name and age	☐ I request support for each child based on the child support guideline.	Monthly amount ($) requested (if not by guideline)

☐ Attachment 3a.

b. ☐ I want to change a current court order for child support filed on *(date)*:
The court ordered child support as follows *(specify)*:

c. I have completed and filed with this *Request for Order* a current *Income and Expense Declaration* (form FL-150) or I filed a current *Financial Statement (Simplified)* (form FL-155) because I meet the requirements to file form FL-155.

d. The court should make or change the support orders because *(specify)*: ☐ Attachment 3d.

4. ☐ SPOUSAL OR DOMESTIC PARTNER SUPPORT
(Note: An *Earnings Assignment Order for Spousal or Partner Support* (form FL-435) may be issued.)
a. ☐ Amount requested *(monthly)*: $
b. ☐ I want the court to ☐ change ☐ end the current support order filed on *(date)*:
The court ordered $ per month for support.
c. ☐ This request is to modify (change) spousal or partner support after entry of a judgment.
I have completed and attached *Spousal or Partner Support Declaration Attachment* (form FL-157) or a declaration that addresses the same factors covered in form FL-157.
d. I have completed and filed a current *Income and Expense Declaration* (form FL-150) in support of my request.
e. The court should should make, change, or end the support orders because *(specify)*: ☐ Attachment 4e.

PETITIONER: Max Borenstein RESPONDENT: Sofiya Goldshteyn OTHER PARENT/PARTY:	CASE NUMBER: 22STFL08826

5. ☐ PROPERTY CONTROL ☐ I request temporary emergency orders
   a. The ☐ petitioner ☐ respondent ☐ other parent/party be given exclusive temporary use, possession, and control of the following property that we ☐ own or are buying ☐ lease or rent *(specify):*

   b. The ☐ petitioner ☐ respondent ☐ other parent/party be ordered to make the following payments on debts and liens coming due while the order is in effect:
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____
      Pay to: _____ For: _____ Amount: $ _____ Due date: _____

   c. ☐ This is a change from the current order for property control filed on *(date):*

   d. Specify in Attachment 5d the reasons why the court should make or change the property control orders.

6. ☐ ATTORNEY'S FEES AND COSTS
   I request attorney's fees and costs, which total *(specify amount):* $. I filed the following to support my request:
   a. A current *Income and Expense Declaration* (form FL-150).
   b. A *Request for Attorney's Fees and Costs Attachment* (form FL-319) or a declaration that addresses the factors covered in that form.
   c. A *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) or a declaration that addresses the factors covered in that form.

7. ☒ OTHER ORDERS REQUESTED *(specify):* ☐ Attachment 7.

   Order to Extend the Stay of the Court's Judgment Pending Appeal.

   This request is made to allow the Court of Appeals to rule on Respondent's Request for Writ of Supersedeas and Motion to Stay

8. ☐ TIME FOR SERVICE / TIME UNTIL HEARING I urgently need:
   a. ☐ To serve the *Request for Order* no less than *(number):* court days before the hearing.
   b. ☐ The hearing date and service of the the *Request for Order* to be sooner.
   c. I need the order because *(specify):* ☐ Attachment 8.

9. ☒ FACTS TO SUPPORT the orders I request are listed below. The facts that I write in support and attach to this request cannot be longer than 10 pages, unless the court gives me permission. ☐ Attachment 9.

   See Declaration of J.R. Howell, Esq., and Memorandum of Points and Authorities

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: May 18, 2026

J.R. Howell, Esq.
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF APPLICANT)

Requests for Accommodations
Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to *www.courts.ca.gov/forms* for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form | Save this form | Clear this form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Family Division

Stanley Mosk Dept. - 411

22STFL08826
Borenstein, Max David
vs
Goldshteyn, Sofiya Alexandra

May 19, 2026
1:30 PM

Honorable Scott J. Nord, Judge

A. Narayan, Judicial Assistant — Not Reported, Court Reporter

---

NATURE OF PROCEEDINGS: Ex Parte RFO Emergency Orders for Other filed by Respondent on May 19, 2026

The following parties are present for the aforementioned proceeding:

No Appearances

Out of the presence of the Court Reporter

On 05/19/26, Respondent filed an ex parte requesting a to extend the stay of judgment pending appeal.

In chambers, the Court reviews the moving papers and makes the following orders:

The ex parte is denied.

The order is denied pursuant to CCP 916(a), "the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appeal from or upon the matters embraced therein, or affected thereby, including enforcement of the judgment or order..." (See People v. Superior Court (2024), 17 Cal.App.5th 228; Varian Medical Systems, Inc. v Delfino, (2005) 35 Cal.4th 180.

Electronic notice is given by the Clerk pursuant to Code of Civil Procedure section 1010.6 and rule 2.251, California Rules of Court. The Certificate of Electronic Service is incorporated herein and made part of the case file.

ATTORNEY OR PARTY WITHOUT ATTORNEY
STATE BAR NUMBER: 268086
NAME: J.R. Howell
FIRM NAME: The Law Office of J.R. Howell
STREET ADDRESS: 2219 Main Street, Suite 436
CITY: Santa Monica
STATE: CA
ZIP CODE: 90405
TELEPHONE NO.: (323) 897-8656
FAX NO.: -----
E-MAIL ADDRESS: jr@lojrh.com
ATTORNEY FOR (*name*): Sofiya Goldshteyn, Respondent/Appellant

FOR COURT USE ONLY

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/21/2026 8:31 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By Maricela Rojas, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Stanley Mosk

PLAINTIFF/PETITIONER: Max Borenstein
DEFENDANT/RESPONDENT: Sofiya Goldshteyn
OTHER PARENT/PARTY:

APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)

SUPERIOR COURT CASE NUMBER: 22STFL08826

RE: Appeal filed on *(date):* May 14, 2026

COURT OF APPEAL CASE NUMBER *(if known)*:

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I choose to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court *(check a, b, c, or d, and fill in any required information):*

a. ☐ A clerk's transcript under rule 8.122. *(You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)*

(1) ☐ I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.

(2) ☐ I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record *(check (a) or (b)):*

(a) ☐ An order granting a waiver of court fees and costs under rules 3.50–3.58; or

(b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58. *(Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)*

b. ☒ An appendix under rule 8.124.

c. ☐ The original superior court file under rule 8.128. (NOTE: *Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.*)

d. ☐ An agreed statement under rule 8.134. *(You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)*

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I choose to proceed *(you must check a or b below):*

a. ☐ WITHOUT a record of the oral proceedings (what was said at the hearing or trial) in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in deciding whether an error was made in the superior court proceedings.

Form Approved for Optional Use
Judicial Council of California
APP-003 [Rev. January 1, 2019]

APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (Unlimited Civil Case)

Cal. Rules of Court, rules 3.50, 8.121–8.124, 8.128, 8.130, 8.134, 8.137
www.courts.ca.gov

CASE NAME: Max Borenstein v. Sofiya Goldshteyn	SUPERIOR COURT CASE NUMBER: 22STFL08826

2. b. [x] WITH the following record of the oral proceedings in the superior court *(you must check (1), (2), or (3) below)*:

(1) [x] A reporter's transcript under rule 8.130. *(You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.)* I have *(check all that apply):*

(a) [x] Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).

(b) [ ] Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).

(c) [ ] Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for *(check either (i) or (ii)):*

(i) [ ] all of the designated proceedings.

(ii) [ ] part of the designated proceedings.

(d) [ ] Attached a certified transcript under rule 8.130(b)(3)(C).

(2) [ ] An agreed statement. *(Check and complete either (a) or (b) below.)*

(a) [ ] I have attached an agreed statement to this notice.

(b) [ ] All the parties have stipulated (agreed) in writing to try to agree on a statement. *(You must attach a copy of this stipulation to this notice.)* I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.

(3) [ ] A settled statement under rule 8.137. *(You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.)*

(a) [ ] The oral proceedings in the superior court were not reported by a court reporter.

(b) [ ] The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.

(c) [ ] I am asking to use a settled statement for reasons other than those listed in (a) or (b). *(You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.)*

3. **RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL**

[ ] I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court *(give the title and date or dates of the administrative proceeding):*

Title of Administrative Proceeding	Date or Dates

4. **NOTICE DESIGNATING CLERK'S TRANSCRIPT**

(You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.)

a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(1) Notice of appeal	
(2) Notice designating record on appeal *(this document)*	
(3) Judgment or order appealed from	
(4) Notice of entry of judgment *(if any)*	
(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order *(if any)*	
(6) Ruling on one or more of the items listed in (5)	
(7) Register of actions or docket *(if any)*	

CASE NAME:	SUPERIOR COURT CASE NUMBER:
Max Borenstein v. Sofiya Goldshteyn	22STFL08826

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

b. **Additional documents.** *(If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)*

☐ I request that the clerk include in the transcript the following documents that were filed in the superior court proceeding. *(You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)*

	Document Title and Description	Date of Filing
(8)		
(9)		
(10)		
(11)		

☐ See additional pages. (*Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 4b," and start with number (12).)*

c. **Exhibits to be included in clerk's transcript**

☐ I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. *(For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))*

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			
(4)			

☐ See additional pages. *(Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 4c," and start with number (5).)*

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

You must complete both a and b in this section if you checked item 2b(1) above indicating that you choose to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

a. **Format of the reporter's transcript**

I request that the reporters provide *(check one):*

(1) ☒ My copy of the reporter's transcript in electronic format.

(2) ☐ My copy of the reporter's transcript in paper format.

(3) ☐ My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
Max Borenstein v. Sofiya Goldshteyn	22STFL08826

5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)	2/24/26	35	Partial Day	Trial Transcript	Jaime Derderian	☒ Yes ☐ No
(2)						☐ Yes ☐ No
(3)						☐ Yes ☐ No
(4)						☐ Yes ☐ No

☐ See additional pages. *(Check here if you need more space to list additional proceedings. List these exhibits on a separate page or pages labeled "Attachment 5b," and start with number (5).)*

6. **NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)						☐ Yes ☐ No
(2)						☐ Yes ☐ No
(3)						☐ Yes ☐ No
(4)						☐ Yes ☐ No

☐ See additional pages. *(Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 6," and start with number (5).)*

7. a. The proceedings designated in 5b or 6 ☒ include ☐ do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. *(Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.)* Points are set forth: ☐ Below ☐ On a separate page labeled "Attachment 7."

Date: May 21, 2026

J.R. Howell
(TYPE OR PRINT NAME)

(SIGNATURE OF APPELLANT OR ATTORNEY)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS: Stanley Mosk Courthouse
Civil Appeals Unit
111 North Hill Street, Room 111A
Los Angeles, CA 90012
(213) 830-0822

TRIAL COURT CASE NAME:
Borenstein, Max David vs Goldshteyn, Sofiya Alexandra

PLAINTIFF AND RESPONDENT
Max Borenstein

DEFENDANT AND APPELLANT
Sofiya Goldshteyn

Reserved for Clerk's Filed Stamp

FILED
LOS ANGELES SUPERIOR COURT
May 21, 2026
DAVID W. SLAYTON
Executive Officer/Clerk of Court
By: A. Latchinian, Deputy

NOTICE OF FILING OF NOTICE OF APPEAL (CIVIL – UNLIMITED JURISDICTION)

☐ **Amended Notice**

TRIAL COURT CASE NUMBER:
22STFL08826

NOTICE OF APPEAL DATE:
05/14/2026

In compliance with California Rules of Court, Rule 8.100(e), this is to inform you that a Notice of ☑ Appeal ☐ Cross-Appeal in the above matter was filed on 05/14/2026 by J.R. HOWELL

Notice Designating Record on Appeal

Notice to Appellant - In accordance with California Rules of Court, rule 8.121, within 10 days after filing the notice of appeal, an appellant must serve and file a notice in the superior court designating the record on appeal. Judicial Council form APP-003 "Appellant's Notice Designating Record on Appeal (Unlimited Civil) (available at www.selfhelp.courts.ca.gov/jcc-form/APP-003) may be used to designate the record.

Electronic Delivery of the Record on Appeal

Represented parties and self-represented litigants who consent to electronic service will receive their copy of the Record on Appeal (Clerk's Transcript and/or Reporter's Transcript) electronically. These parties will continue to have the option to purchase reporters' transcripts in paper format directly from the court reporter. Information on how to purchase reporters' transcripts is available here.

Court of Appeals, Second Appellate District, Appellate Mediation Program

Parties can visit the Court of Appeals website at www.appellate.courts.ca.gov/district-courts/2dca/court-programs/mediation-program for information about the 2nd District Court of Appeal Voluntary Settlement Conference and Mediation program.

NOTICE OF FILING OF NOTICE OF APPEAL (CIVIL – UNLIMITED JURISDICTION)	CASE NUMBER: 22STFL08826

CERTIFICATE OF SERVICE

I, DAVID W. SLAYTON, Executive Officer/Clerk of the Superior Court of California, County of Los Angeles, do hereby certify that I am not a party to the cause herein and that on this date, I served the **NOTICE OF FILING OF NOTICE OF APPEAL (CIVIL – UNLIMITED JURISDICTION)** by:

☐ Placing the documents in separate envelopes addressed as shown below and then sealing the envelopes and depositing them, with postage fully prepaid thereon, for mailing in the United States Post Office mailbox at the courthouse in Los Angeles, California.

☐ Sending a true copy of this notice via electronic mail to the e-mail addresses indicated below.

☑ Sending a true copy of this notice via electronic mail to the e-mail addresses on the attached Certificate of Electronic Service.

J.R. HOWELL THE LAW OFFICE OF J.R. HOWELL jr@lojrh.com	
GARRY M. GEKHT Law Offices of Kaplan, Trope & Gekht garry@ktg.law	

DATE: 05/21/2026

DAVID W. SLAYTON, Executive Officer/Clerk of Court

BY: A. Latchinian, Deputy Clerk

PROOF OF ELECTRONIC SERVICE (Court of Appeal)	Electronically FILED by Superior Court of California, County of Los Angeles 7/30/2026 10:31 AM David W. Slayton, Clerk of Court
Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) before completing this form.	
Case Name: Max Borenstein v. Sofiya Goldshteyn Court of Appeal Case Number: Superior Court Case Number: 22STFL08826	

1. At the time of service I was at least 18 years of age.
2. a. My [ ] residence [✖] business address is *(specify)*:
   2219 Main Street, Suite 436, Santa Monica, CA 90405
   b. My electronic service address is *(specify):* jr@lojrh.com
3. I electronically served the following documents *(exact titles):*
   APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE) (Form APP-003) [AMENDED]
4. I electronically served the documents listed in 3. as follows:
   a. Name of person served: Garry Gekht, Esq.
   On behalf of *(name or names of parties represented, if person served is an attorney)*:
   Max Borenstein
   b. Electronic service address of person served: garry@ktgdllp.com
   c. On *(date):* July 30, 2026
   [ ] The documents listed in 3. were served electronically on the persons and in the manner described in an attachment *(write "APP-009E, Item 4" at the top of the page)*.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2026

J.R. Howell
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

Form Approved for Optional Use
Judicial Council of California
APP-009E [New January 1, 2017]

PROOF OF ELECTRONIC SERVICE
(Court of Appeal)

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS: Civil Appeals Unit
Stanley Mosk Courthouse
111 N. Hill Street, Room 111-A
Los Angeles, CA 90012
Telephone: (213) 830-0822

Reserved for Clerk's Filed Stamp

FILED
Superior Court of California
County of Los Angeles
09/01/2026
David W. Slayton,
Clerk of Court/Executive Officer
By: H. Perez , Deputy

PLAINTIFF AND RESPONDENT
BORENSTEIN, MAX DAVID

DEFENDANT AND APPELLANT
GOLDSHTEYN, SOFIYA ALEXANDRA

REAL PARTY IN INTEREST:

NOTICE TO PREPARE TRANSCRIPT ON APPEAL (UNLIMITED CIVIL)

☐ **Amended Notice**

TRIAL COURT CASE NUMBER: 22STFL08826

COURT OF APPEAL CASE NUMBER: B355195

NOTICE OF APPEAL DATE: 05/14/2026

REVIEWING COURT: 2nd District Court of Appeal

On, May 21, 2026 , a(n)

☑ Notice of Designation was filed by the APPELLANT
☐ by the (choose one) on
☐ by the (choose one) on
☐ by the (choose one) on
☐ Order was granted by the Court of Appeal for an augmentation.
☐ Order was filed by the Court of Appeal to correct the record.
☐ Letter of omission was submitted by the (choose one) .

☑ Prepare and deliver the original transcript in electronic form and **0** copy/copies of the transcript in paper form pursuant to Code of Civil Procedure section 271(a). Upon receipt of the original transcript in electronic form, the Court will electronically send **1** copy/copies of the transcript pursuant to California Rules of Court, rule 8.150.
☐ Previous notice sent on .
☐ The transcript was previously filed in electronic format. Upload a copy of the transcript in electronic form. The Court will electronically send **0** copy/copies of the transcript pursuant to California Rules of Court, rule 8.150.
☐ The transcript was previously filed in (choose one) format. Please prepare **0** additional (choose one) copy/copies.
☐ See attached order.

The court reporter(s) will submit an invoice for an original and/or the number of copies reflected above.

Appeal transcripts in electronic format are to be delivered via the YesLaw Repository. For transcript guidelines, see the court's website: https://www.lacourt.org/generalinfo/courtreporter/GI_RE001.aspx. **For YesLaw support, please call** (800) 910-5009 **or email** support@YesLaw.net.

☐ (choose one) . Previous notice sent on .
☐ (choose one) . Previous notice sent on .
☑ is pursuant to California Rules of Court, rule 8.124.

NOTICE TO PREPARE TRANSCRIPT ON APPEAL (Unlimited Civil)	TRIAL COURT CASE NUMBER: 22STFL08826
	COURT OF APPEAL CASE NUMBER: B355195

The primary reporter is designated as Jaime Derderian, #14258 .

Proceeding Date	Dept.	Reporter Name	Proceeding Date	Dept.	Reporter Name
02/24/2026	35	Jaime Derderian, #14258			

☐ Additional proceedings attached.

The transcript(s) ordered will be:

☑ Paid from funds in the amount of $ 80 deposited with the court by APPELLANT .

☐ Paid from funds in the amount of $ deposited with the court by (choose one) .

☐ Paid from funds in the amount of $ deposited with the court by (choose one) .

☐ Paid by Court Reporters Board; Transcript Reimbursement Fund letter of approval received for (choose one) .

☐ Court Reporter Waiver of Deposit for Transcript on Appeal received for .

NOTICE TO PREPARE TRANSCRIPT ON APPEAL (Unlimited Civil)	TRIAL COURT CASE NUMBER: 22STFL08826
	COURT OF APPEAL CASE NUMBER: B355195

Pursuant to California Rules of Court, rule 8.130(b)(2), if the reporter believes that the deposit is inadequate, within 15 days after the clerk sends the notice under 8.130(d)(1), the reporter may file with the clerk and send to the designating party an estimate of the transcript's total cost at the statutory rate, showing the additional deposit required. The party must deposit the additional sum within 10 days after the reporter sends the estimate.

CERTIFICATE OF SERVICE

I, DAVID W. SLAYTON, Executive Officer/Clerk of the Superior Court of California, County of Los Angeles, do hereby certify that I am not a party to the cause herein and that on this date, I served the **NOTICE TO PREPARE TRANSCRIPT ON APPEAL (UNLIMITED CIVIL)** by:

- ☑ Posting the document in the Court Reporter Services shared electronic folder.
- ☐ Placing the documents in separate envelopes addressed as shown below and then sealing the envelopes and depositing them, with postage fully prepaid thereon, for mailing in the United States Post Office mailbox at the courthouse in Los Angeles, California.
- ☐ Sending a true copy of this notice via electronic mail to the email addresses indicated below.
- ☐ Sending a true copy of this notice via electronic mail to the email addresses on the attached Certificate of Electronic Service.

Jaime Derderian, #14258 LASC	

DAVID W. SLAYTON, Executive Officer/Clerk of Court

DATE: September 1, 2026

BY: H. PEREZ ,Deputy Clerk

Language Access
English

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

CASE INFORMATION:	22STFL08826
Case Title:	BORENSTEIN, MAX DAVID VS GOLDSHTEYN, SOFIYA ALEXANDRA
Filing Courthouse:	Stanley Mosk Courthouse
Filing Date:	8/11/2022
Case Type:	Dissolution w/o Minor Children (General Jurisdiction)
Status:	Statistical Disposition on 4/17/2026

Click here to access document images for this case.
If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page

☐ Print New Search

FUTURE HEARINGS

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

PARTY INFORMATION

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

ANONYMOUS CONTENT ENTERTAINMENT INC.	Other
BORENSTEIN MAX	Respondent (to Appeal)
BORENSTEIN MAX DAVID	Petitioner
CLERK	Other
GEKHT GARRY MARK	Attorney for Petitioner for Petitioner
GOLDSHTEYN SOFIYA ALEXANDRA	Respondent
GOLDSHTEYN SOFLYA	Appellant
HOWELL JIMMY RAY	Attorney for Respondent for Appellant
HOWELL JIMMY RAY	Appellate Counsel for Appellant
HOWELL JIMMY RAY	Depositor for Respondent
HOWELL JIMMY RAY	Depositor for Appellant
HOWELL JIMMY RAY	Appellate Counsel for Respondent
HOWELL JIMMY RAY	Attorney for Respondent for Respondent
KOCH JASON P.	Associated Attorney for Respondent
TIMM-BIJOLD CARLY JOANNE	Attorney for Petitioner for Petitioner

DOCUMENTS FILED

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

9/4/2026	Appeal Record Delivered NOA-05/14/2026-B355195	Filed by
9/2/2026	Appeal - Reporter Appeal Transcripts	Filed by Other
9/1/2026	Appeal - Notice Court Reporter to Prepare Appeal Transcript	Filed by
7/31/2026	Appeal - Reporter Appeal Transcript Process Fee Paid	Filed by Depositor
7/31/2026	Appeal - Reporter Appeal Transcripts Deposit Paid TRNSCRB Fund	Filed by Depositor
7/30/2026	Proof of Service Proof of Service	Filed by Respondent
7/24/2026	Appeal - Notice of Default Issued NOA 05/14/2026 DEFAULT RT FEES	Filed by
7/24/2026	Clerk's Certificate - Proof of Electronic Service	Filed by
5/21/2026	Appeal - Notice of Filing of Notice of Appeal	Filed by
5/21/2026	Appeal - Ntc Designating Record of Appeal APP-003/010/103 Appeal - Ntc Designating Record of Appeal APP-003/010/103	Filed by Appellant
5/21/2026	Clerk's Certificate - Proof of Electronic Service	Filed by
5/21/2026	Proof of Service Proof of Service App-009E	Filed by Appellant
5/19/2026	Ex Parte RFO Emergency Orders for Other	Filed by
5/19/2026	Minute Order	Filed by
5/18/2026	Declaration Declaration	Filed by Respondent
5/18/2026	Declaration-Notice on Request-Temp Emergency Orders FL-303	Filed by Respondent
5/18/2026	Memorandum - Points and Authorities Memorandum - Points and Authorities	Filed by Respondent
5/18/2026	Proposed Ex Parte RFO Emergency Orders for Other	Filed by Respondent
5/14/2026	Appeal - Notice of Appeal/Cross Appeal Filed	Filed by Appellant
5/12/2026	Minute Order	Filed by
5/12/2026	Ruling on Objections on Tentative Ruling and Statement of Decision	Filed by
5/11/2026	Objection to Statement of Decision	Filed by Petitioner
5/4/2026	Objection to Statement of Decision Objection to Statement of Decision	Filed by Respondent
4/23/2026	Minute Order	Filed by
4/23/2026	Ruling on Submitted Matter	Filed by Respondent
4/23/2026	Statement of Decision TENTATIVE RULING AND PROPOSED STATEMENT OF DECISION	Filed by

4/22/2026	Declaration-Notice on Request-Temp Emergency Orders FL-303	Filed by Petitioner
4/22/2026	Ex Parte RFO Emergency Orders for Other	Filed by
4/22/2026	Minute Order	Filed by
4/22/2026	Opposition Opposition to Petitioner's Ex Parte Application to Strike Respondent's Reply to Petitioner's Closing Trial Brief	Filed by Respondent
4/22/2026	Proposed Ex Parte RFO Emergency Orders for Other	Filed by Petitioner
4/17/2026	Judgment	Filed by
4/17/2026	Notice - Entry of Judgment	Filed by
4/16/2026	Appearance, Stipulations and Waivers Appearance, Stipulations and Waivers (Appearances)	Filed by Petitioner
4/16/2026	Declaration - Default FL170 Declaration - Default FL170 (Declarations)	Filed by Petitioner
4/16/2026	Reply Respondent's Reply to Petitioner's Closing Trial Brief	Filed by Respondent
4/16/2026	Stipulation - Waiver of Final Declaration of Disclosure Stipulation - Waiver of Final Declaration of Disclosure (Declarations)	Filed by Petitioner
4/14/2026	Notice Notice of Respondent's Non-Briefing and Waiver of Closing Argument and Motion to Strike any Late-Filed Brief	Filed by Petitioner
4/10/2026	Notice - Lodging Notice - Lodging (Notices)	Filed by Petitioner
4/10/2026	Proof of Service Proof of Service (Comment)	Filed by Petitioner
4/10/2026	Trial Brief Trial Brief (Briefs)	Filed by Petitioner
4/6/2026	MSC - Settled	Filed by
4/6/2026	Minute Order	Filed by
4/6/2026	Minute Order	Filed by
4/2/2026	Minute Order	Filed by
2/24/2026	Minute Order	Filed by
2/24/2026	Request for Statement of Decision Request for Statement of Decision	Filed by Respondent
2/23/2026	Notice - Lodging Notice - Lodging (Notices)	Filed by Petitioner
2/23/2026	Notice - Lodging Notice - Lodging (Notices)	Filed by Petitioner
2/23/2026	RFO/MTN - In Limine RFO/MTN - In Limine	Filed by Respondent
2/23/2026	Request - Judicial Notice Request - Judicial Notice	Filed by Respondent
2/13/2026	Exhibit List Exhibit List (Comment)	Filed by Petitioner
2/13/2026	Exhibit List Respondent's Exhibit List	Filed by Respondent

2/13/2026	Proof of Service Proof of Service	Filed by Respondent
2/13/2026	Trial Brief Respondent's Trial Brief	Filed by Respondent
2/13/2026	Trial Brief Trial Brief (Briefs)	Filed by Petitioner
2/13/2026	Witness List Respondent's Witness List	Filed by Respondent
2/13/2026	Witness List Witness List (Comment)	Filed by Petitioner
1/9/2026	Minute Order	Filed by
1/8/2026	Minute Order	Filed by
12/31/2025	Minute Order	Filed by
12/29/2025	MSC - Partial Settlement	Filed by
12/29/2025	Minute Order	Filed by
12/29/2025	Stipulation and Order - No Fee regarding sale of the Clover residence	Filed by Petitioner
12/24/2025	Declaration Declaration of J.R. Howell in Support of Respondent's Opposition (Declarations)	Filed by Respondent
12/24/2025	Declaration - Service of Final Dec. of Disclosure Petitioner's Declaration - Service of Final Dec. of Disclosure (Declarations)	Filed by Petitioner
12/24/2025	Memorandum - Points and Authorities Memorandum - Points and Authorities in Support of Respondent's Opposition (Memos)	Filed by Respondent
12/24/2025	Opposition Opposition to Petitioner's Request for Bifurcation and Sanctions (Oppositions)	Filed by Respondent
12/24/2025	Proof of Service Proof of Electronic Service (Comment)	Filed by Respondent
12/10/2025	DSU - Notice of Related Case DSU - Notice of Related Case (Notices)	Filed by Respondent
12/8/2025	Minute Order	Filed by
11/20/2025	Notice Notice of Related Case	Filed by Respondent
10/16/2025	Proof of Service Proof of Service (Comment)	Filed by Petitioner
10/15/2025	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
10/15/2025	RFO/MTN - Bifurcation	Filed by Petitioner
9/19/2025	Minute Order	Filed by
9/19/2025	Minute Order	Filed by
9/19/2025	Order Evidentiary Hearing and/or Trial Orders	Filed by
9/5/2025	Proof of Service Proof of Service of Respondent's Response to Petitioner's NTD & RPD	Filed by Respondent
9/3/2025	Notice Notice of Firm Name Change	Filed by Petitioner
8/7/2025	Stipulation and Order	Filed by

8/6/2025	Minute Order	Filed by
8/6/2025	Minute Order	Filed by
8/6/2025	Minute Order	Filed by
8/6/2025	Minute Order	Filed by
8/6/2025	Minute Order	Filed by
8/6/2025	Minute Order	Filed by
7/30/2025	Reply P's Reply in support of his RFO to Compel Depo Production (Comment)	Filed by Petitioner
7/24/2025	Declaration DECLARATION OF GARRY M. GEKHT IN RESPONSE TO RESPONDENTS MOTIONS TO COMPEL SET FOR AUGUST 6, 2025	Filed by Petitioner
7/24/2025	Memorandum - Points and Authorities PETITIONERS MEMORANDUM OF POINTS AND AUTHORITIES IN RESPONSE TO RESPONDENTS MOTIONS TO COMPEL SET FOR AUGUST 6, 2025	Filed by Petitioner
7/24/2025	Response PETITIONERS RESPONSE TO RESPONDENTS SEPARATE STATEMENT IN SUPPORT OF REQUEST FOR ORDER TO COMPEL FURTHER RESPONSES TO RESPONDENTS REQUESTS FOR ADMISSION AND INTERROGATORIES	Filed by Petitioner
7/24/2025	Response PETITIONERS RESPONSE TO RESPONDENTS SEPARATE STATEMENT IN SUPPORT OF REQUEST FOR ORDER TO COMPEL FURTHER RESPONSES TO [RESPONDENTS] SPECIAL INTERROGATORIES (SET ONE) AND REQUESTS FOR PRODUCTION OF DOCUMENTS (SET THREE)	Filed by Petitioner
7/24/2025	Responsive Declaration RESPONSIVE DECLARATION TO REQUEST FOR ORDER	Filed by Petitioner
7/7/2025	Minute Order	Filed by
7/7/2025	Minute Order	Filed by
6/27/2025	Ex Parte - Order	Filed by
6/27/2025	Ex Parte RFO Emergency Orders for Support	Filed by
6/27/2025	Responsive Declaration Responsive Declaration - Respondent's Opposition to Petitioner's RFO to Compel Deposition Production	Filed by Respondent
6/26/2025	Declaration-Notice on Request-Temp Emergency Orders FL-303	Filed by Respondent
6/26/2025	Proposed Ex Parte RFO Emergency Orders for Support	Filed by Respondent
6/26/2025	Responsive Declaration Ex Parte	Filed by Petitioner
6/17/2025	Proof of Service P's Proof of Service of Conformed FOAH of 05/01/2025 Hearing (Comment)	Filed by Petitioner
6/16/2025	Declaration DECLARATION OF J.R. HOWELL IN SUPPORT OF RESPONDENTS MOTION TO COMPEL FURTHER RESPONSES (Declarations)	Filed by Respondent
6/16/2025	Declaration Declaration (Declarations)	Filed by Respondent
6/16/2025	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
6/16/2025	RFO/MTN - Compel Further	Filed by Respondent
6/16/2025	RFO/MTN - Compel Initial	Filed by Respondent

6/16/2025	Statement - Separate	Filed by Respondent
6/12/2025	Order - Findings and Order After Hearing	Filed by
6/12/2025	Stipulation and Order	Filed by
6/9/2025	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
6/6/2025	Proof of Service Proof of Service - RFO/MTN - Compel Compliance	Filed by Respondent
6/6/2025	RFO/MTN - Compel Initial Motion to Compel Compliance	Filed by Respondent
6/2/2025	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
6/2/2025	Proof of Service Proof of Service - Conformed copy of RFO/FCCRC Order	Filed by Respondent
6/2/2025	Proof of Service Proof of Service of Respondent's Unconformed RFO/MTN	Filed by Respondent
6/2/2025	RFO/MTN - Compel Further Motion to Compel Further Responses and Request for Sanctions	Filed by Respondent
5/27/2025	Declaration Decl. of Garry M. Gekht, Esq. ISO Request that Court Execute FOAH Without R's Signature (Declarations)	Filed by Petitioner
5/27/2025	Proposed Order - After Hearing - Findings and Order Proposed Order - After Hearing - Findings and Order (Orders)	Filed by Petitioner
5/7/2025	Proof of Service P's POS of Conformed Copy of RFO to Compel Depo Production (Comment)	Filed by Petitioner
5/5/2025	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
5/5/2025	Proof of Service P's Proof of Service (Comment)	Filed by Petitioner
5/5/2025	RFO/MTN - Compel Initial Motion to Compel Deposition Production and Request for Sanctions	Filed by Petitioner
5/1/2025	Minute Order	Filed by
4/29/2025	Objection P's Evidentiary Objections and Request for Nonconsideration as Evidence (Objections)	Filed by Petitioner
4/24/2025	Declaration Declaration of K. Oniski ISO Reply RFO Temp Spousal Support	Filed by Respondent
4/24/2025	Reply Reply ISO RFO Temp Spousal Support	Filed by Respondent
4/18/2025	Declaration - Income and Expense INCOME AND EXPENSE DECLARATION	Filed by Petitioner
4/18/2025	Proof of Service PROOF OF ELECTRONIC SERVICE	Filed by Petitioner
4/18/2025	Responsive Declaration	Filed by Petitioner
4/18/2025	Witness List PETITIONERS WITNESS LIST AND REQUEST FOR LIVE TESTIMONY	Filed by Petitioner
4/9/2025	Declaration Supplemental Declaration of K. Onisko ISO RFO for Temp Spousal Support	Filed by Respondent

4/9/2025	Declaration - Income and Expense Respondent's Declaration - Income and Expense	Filed by Respondent
4/9/2025	Proof of Service Proof of Service	Filed by Respondent
3/4/2025	Minute Order	Filed by
3/3/2025	Brief	Filed by Petitioner
2/28/2025	Brief Trial Setting Conference Brief	Filed by Respondent
2/24/2025	Notice - Association of Counsel	Filed by Respondent
1/24/2025	Notice - Change of Address Notice - Change of Address (Notices)	Filed by Respondent
1/24/2025	Proof of Service Proof of Electronic Service (Comment)	Filed by Respondent
1/2/2025	Minute Order	Filed by
11/21/2024	Minute Order	Filed by
11/21/2024	Stipulation and Order	Filed by
11/15/2024	Stipulation and Order	Filed by
11/8/2024	Stipulation and Order	Filed by
11/4/2024	Proof of Service Proof of Electronic Service (Comment)	Filed by Respondent
10/14/2024	Declaration - Ex Parte Notice (Notice Given)	Filed by Petitioner
10/14/2024	Ex Parte RFO Emergency Orders for Support	Filed by
10/14/2024	Minute Order	Filed by
10/14/2024	Proposed Ex Parte RFO Emergency Orders for Support	Filed by Petitioner
10/9/2024	Stipulation and Order	Filed by
8/26/2024	Stipulation and Order	Filed by
8/23/2024	Minute Order	Filed by
8/23/2024	Minute Order	Filed by
8/19/2024	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
8/19/2024	Proposed Order - Support Proposed Order - Support (Orders)	Filed by Respondent
8/19/2024	RFO/MTN - Spousal Support RFO/MTN - Spousal Support - $60.00 (Comment)	Filed by Respondent
7/18/2024	Minute Order	Filed by
6/28/2024	Declaration - Service of Prelim & Final Dec of Disclosure P's Dec re Service of PDD (FL-141) (Declarations)	Filed by Petitioner
6/28/2024	Minute Order	Filed by
6/28/2024	Stipulation and Order	Filed by
6/27/2024	Remote Appearance - Scheduled	Filed by Petitioner

6/25/2024	Objection P's Obj and MTS R's Late Reply Declaration (Objections)	Filed by Petitioner
6/25/2024	Proof of Service Proof of Electronic Service (Comment)	Filed by Respondent
6/25/2024	Response Respondent's Response to Objection and Opposition to Motion to Strike (Responses)	Filed by Respondent
6/24/2024	Proof of Service Proof of Electronic Service (Comment)	Filed by Respondent
6/24/2024	Reply Reply Declaration in Support of Application to File Under Seal by Respondent (Comment)	Filed by Respondent
6/21/2024	Declaration - Ex Parte Notice (Notice Given)	Filed by Petitioner
6/21/2024	Ex Parte - Order	Filed by
6/21/2024	Ex Parte RFO Emergency Orders for Support	Filed by
6/21/2024	Minute Order	Filed by
6/21/2024	Proposed Ex Parte RFO Emergency Orders for Support	Filed by Petitioner
6/18/2024	Remote Appearance - Scheduled	Filed by Respondent
6/14/2024	Responsive Declaration P's Resp Dec to RFO to File Under Seal - REDACTED	Filed by Petitioner
6/14/2024	Unredacted - Confidential Document P's Reps Dec to RFO to File Under Seal - UNREDACTED	Filed by Petitioner
6/6/2024	Minute Order	Filed by
6/5/2024	Remote Appearance - Scheduled	Filed by Petitioner
5/30/2024	Stipulation and Order	Filed by
5/23/2024	Proof of Service Proof of Service (Comment)	Filed by Petitioner
5/22/2024	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
5/22/2024	RFO/MTN - Family Law Vocational Examination of Respondent and other Related	Filed by Petitioner
5/13/2024	Declaration Declaration of J.R. Howell in Support of Application to File Under Seal (Declarations)	Filed by Respondent
5/13/2024	Notice - Lodging	Filed by Respondent
5/13/2024	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
5/13/2024	RFO/MTN - Family Law Application to File Under Seal	Filed by Respondent
5/10/2024	Stipulation and Order	Filed by
4/24/2024	Miscellaneous - Coversheet: The Following Doucments are Subject to File the Record Under Seal	Filed by Respondent
4/23/2024	Declaration Declaration of J.R. Howell, Esq. (Declarations)	Filed by Respondent

4/23/2024	Notice - Lodging	Filed by Respondent
4/23/2024	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
4/23/2024	RFO/MTN - Family Law Application to File Under Seal	Filed by Respondent
4/3/2024	Order - Family-Centered Case Resolution Conference (FAM 112)	Filed by
4/2/2024	Declaration Declaration (Declarations)	Filed by Respondent
4/2/2024	Memorandum - Points and Authorities Memorandum - Points and Authorities (Memos)	Filed by Respondent
4/2/2024	RFO/MTN - Compel Further Request for Order to Compel Further Responses from Third-Party Subpoena Deponent Anonymous Content Entertainment, Inc. (Comment)	Filed by Respondent
4/2/2024	Statement - Separate Separate Statement (Statements)	Filed by Respondent
10/26/2023	Notice - Ruling Notice - Ruling (Notices)	Filed by Respondent
10/25/2023	Minute Order	Filed by
10/25/2023	Order	Filed by
10/24/2023	Remote Appearance - Scheduled	Filed by Petitioner
10/11/2023	Remote Appearance - Scheduled	Filed by Respondent
10/5/2023	Notice - Change of Address Notice - Change of Address	Filed by Petitioner
9/19/2023	Stipulation and Order	Filed by
9/15/2023	Proof of Service - Mail Proof of Service - Mail (Proof of Service)	Filed by Respondent
9/15/2023	Proof of Service - Mail Proof of Service - Mail (Proof of Service)	Filed by Respondent
9/12/2023	Application - Appear Pro Hac Vice	Filed by Respondent
9/11/2023	Declaration Declaration of J.R. Howell in Support of Application of Anne E. Grover to Appear Pro Hac Vice (Declarations)	Filed by Respondent
9/6/2023	Substitution of Attorney Substitution of Attorney	Filed by Petitioner
2/6/2023	Declaration - Service of Preliminary Dec. of Disclosure Declaration - Service of Preliminary Dec. of Disclosure (Declarations)	Filed by Respondent
10/14/2022	Order - Financial Information (FAM 111)	Filed by
10/14/2022	Proof of Service Proof of Service - Electronic Service (Comment)	Filed by Respondent
10/14/2022	Response - Dissolution, Nullity, Legal Separation Response - Dissolution, Nullity, Legal Separation - $435.00 (Responses)	Filed by Respondent
8/12/2022	Order - Financial Information (FAM 111)	Filed by

8/11/2022	Family Law Case Cover Sheet - FAM-020 Family Law Case Cover Sheet	Filed by Petitioner
8/11/2022	Petition - Dissolution w/o Minor Child Petition - Dissolution w/o Minor Child	Filed by Petitioner
8/11/2022	Summons Summons	Filed by Petitioner

PROCEEDINGS HELD

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

5/19/2026 1:30 PM	Department Department 411	Non-Appearance Case Review	Not Held - Continued - Ex Parte Motion
5/12/2026 8:30 AM	Department Department 411	Non-Appearance Case Review	Not Held - Court's Motion
4/23/2026 1:30 PM	Department Department 35	Ruling on Submitted Matter	Ruling on Submitted Matter Entered
4/22/2026 1:30 PM	Department Department 35	Ex Parte Hearing	Not Held - Continued - Ex Parte Motion
4/6/2026 12:00 PM	Department Department F	Order to Show Cause re: Entry of Judgment	Off Calendar - Case Settled
4/6/2026 12:00 PM	Department Department F	Settlement Conference	Held - Settled
4/2/2026 8:30 AM	Department Department F	Order to Show Cause re: Entry of Judgment	Held - Continued
2/24/2026 8:30 AM	Department Department 35	Trial	Held - Order Made
1/9/2026 8:30 AM	Department Stanley Mosk Dept. - 1	Non-Appearance Case Review	Held - Order Made
1/8/2026 8:30 AM	Department Department 35	RFO - Bifurcation	Granted
12/31/2025 8:30 AM	Department Department F	Non-Appearance Case Review	Held - Settled, Trial Vacated
12/29/2025 8:30 AM	Department Department F	Mandatory Settlement Conference	Held - Settled
12/8/2025 8:30 AM	Department Stanley Mosk Dept. - 1	Non-Appearance Case Review	Held - Order Made
9/19/2025 8:30 AM	Department Department 2	Trial Setting Conference	Held - Order Made
9/19/2025 8:30 AM	Department Department 35	Trial Setting Conference	Held - Trial Date Set
8/6/2025 8:30 AM	Department Department 2B	RFO - Compel Further	Held - Order Made
8/6/2025 8:30 AM	Department Department 2B	RFO - Compel Further	Held - Order Made

8/6/2025 8:30 AM	Department Department 2B	RFO - Compel Initial	Held - Order Made
8/6/2025 8:30 AM	Department Department 2B	RFO - Compel Initial	Off Calendar - Per Stipulation
8/6/2025 8:30 AM	Department Department 2B	RFO - Compel Initial	Held - Order Made
8/6/2025 8:30 AM	Department Department 2B	Trial Setting Conference	Held - Continued
7/7/2025 8:30 AM	Department Department 2B	Ex Parte Hearing	Off Calendar - Moving Party
7/7/2025 8:30 AM	Department Department 2B	Trial Setting Conference	Held - Continued
5/1/2025 8:30 AM	Department Department 2B	RFO - Spousal Support	Held - Order Made
3/4/2025 8:30 AM	Department Department 2B	Trial Setting Conference	Held - Continued
1/2/2025 8:30 AM	Department Department 2B	RFO - Spousal Support	Not Held - Continued by Stipulation
11/21/2024 8:30 AM	Department Department 2B	Trial Setting Conference	Not Held - Continued by Stipulation
10/14/2024 8:30 AM	Department Department 2C	Ex Parte Hearing	Granted
8/23/2024 8:30 AM	Department Department 2B	RFO - Compel Further	Held - Continued
8/23/2024 8:30 AM	Department Department 2B	Trial Setting Conference	Held - Continued
7/18/2024 8:30 AM	Department Department 2B	RFO - Family Law	Off Calendar - Per Stipulation
6/28/2024 8:30 AM	Department Department 2B	RFO - Family Law	Off Calendar - Case Settled
6/21/2024 8:30 AM	Department Department 2B	Ex Parte Hearing	Granted
6/6/2024 8:30 AM	Department Department 2B	RFO - Compel Further	Not Held - Continued by Stipulation
10/25/2023 8:30 AM	Department Department 2	RFO - Family Law	Granted

REGISTER OF ACTIONS

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

9/4/2026	Appeal Record Delivered
9/2/2026	Appeal - Reporter Appeal Transcripts
9/1/2026	Appeal - Notice Court Reporter to Prepare Appeal Transcript
7/31/2026	Appeal - Reporter Appeal Transcript Process Fee Paid

7/31/2026	Appeal - Reporter Appeal Transcripts Deposit Paid
7/30/2026	Proof of Service
7/24/2026	Clerk's Certificate - Proof of Electronic Service
7/24/2026	Appeal - Notice of Default Issued
5/21/2026	Appeal - Notice of Filing of Notice of Appeal
5/21/2026	Clerk's Certificate - Proof of Electronic Service
5/21/2026	Appeal - Ntc Designating Record of Appeal APP-003/010/103
5/21/2026	Proof of Service
5/19/2026	Non-Appearance Case Review
5/19/2026	Ex Parte RFO Emergency Orders for Other
5/19/2026	Minute Order
5/18/2026	Declaration-Notice on Request-Temp Emergency Orders FL-303
5/18/2026	Proposed Ex Parte RFO Emergency Orders for Other
5/18/2026	Declaration
5/18/2026	Memorandum - Points and Authorities
5/14/2026	Appeal - Notice of Appeal/Cross Appeal Filed
5/12/2026	Non-Appearance Case Review
5/12/2026	Minute Order
5/12/2026	Ruling
5/11/2026	Objection to Statement of Decision
5/4/2026	Objection to Statement of Decision
4/23/2026	Ruling on Submitted Matter
4/23/2026	Ruling on Submitted Matter
4/23/2026	Minute Order
4/23/2026	Statement of Decision
4/22/2026	Ex Parte Hearing
4/22/2026	Proposed Ex Parte RFO Emergency Orders for Other
4/22/2026	Ex Parte RFO Emergency Orders for Other
4/22/2026	Minute Order
4/22/2026	Declaration-Notice on Request-Temp Emergency Orders FL-303
4/22/2026	Opposition
4/17/2026	Judgment
4/17/2026	Notice - Entry of Judgment
4/16/2026	Appearance, Stipulations and Waivers
4/16/2026	Declaration - Default FL170
4/16/2026	Reply
4/16/2026	Stipulation - Waiver of Final Declaration of Disclosure
4/14/2026	Notice
4/10/2026	Notice - Lodging
4/10/2026	Proof of Service

4/10/2026	Trial Brief
4/6/2026	Order to Show Cause re: Entry of Judgment
4/6/2026	Settlement Conference
4/6/2026	Minute Order
4/6/2026	MSC - Settled
4/6/2026	Minute Order
4/2/2026	Order to Show Cause re: Entry of Judgment
4/2/2026	Minute Order
2/24/2026	Trial
2/24/2026	Minute Order
2/24/2026	Request for Statement of Decision
2/23/2026	Notice - Lodging
2/23/2026	Notice - Lodging
2/23/2026	RFO/MTN - In Limine
2/23/2026	Request - Judicial Notice
2/13/2026	Exhibit List
2/13/2026	Proof of Service
2/13/2026	Exhibit List
2/13/2026	Trial Brief
2/13/2026	Witness List
2/13/2026	Trial Brief
2/13/2026	Witness List
1/9/2026	Non-Appearance Case Review
1/9/2026	Minute Order
1/8/2026	RFO - Bifurcation
1/8/2026	Minute Order
12/31/2025	Non-Appearance Case Review
12/31/2025	Minute Order
12/29/2025	Mandatory Settlement Conference
12/29/2025	MSC - Partial Settlement
12/29/2025	Minute Order
12/29/2025	Stipulation and Order - No Fee
12/24/2025	Declaration
12/24/2025	Memorandum - Points and Authorities
12/24/2025	Opposition
12/24/2025	Declaration - Service of Final Dec. of Disclosure
12/24/2025	Proof of Service
12/10/2025	DSU - Notice of Related Case
12/8/2025	Non-Appearance Case Review
12/8/2025	Minute Order

11/20/2025	Notice
10/16/2025	Proof of Service
10/15/2025	Order - Family-Centered Case Resolution Conference (FAM 112)
10/15/2025	RFO/MTN - Bifurcation
9/19/2025	Trial Setting Conference
9/19/2025	Trial Setting Conference
9/19/2025	Minute Order
9/19/2025	Minute Order
9/19/2025	Order
9/5/2025	Proof of Service
9/3/2025	Notice
8/7/2025	Stipulation and Order
8/6/2025	RFO - Compel Initial
8/6/2025	RFO - Compel Initial
8/6/2025	Trial Setting Conference
8/6/2025	RFO - Compel Further
8/6/2025	RFO - Compel Initial
8/6/2025	RFO - Compel Further
8/6/2025	Minute Order
8/6/2025	Minute Order
8/6/2025	Minute Order
8/6/2025	Minute Order
8/6/2025	Minute Order
8/6/2025	Minute Order
7/30/2025	Reply
7/24/2025	Declaration
7/24/2025	Memorandum - Points and Authorities
7/24/2025	Response
7/24/2025	Response
7/24/2025	Responsive Declaration
7/7/2025	Ex Parte Hearing
7/7/2025	Trial Setting Conference
7/7/2025	Minute Order
7/7/2025	Minute Order
6/27/2025	Ex Parte RFO Emergency Orders for Support
6/27/2025	Ex Parte - Order
6/27/2025	Responsive Declaration
6/26/2025	Declaration-Notice on Request-Temp Emergency Orders FL-303
6/26/2025	Proposed Ex Parte RFO Emergency Orders for Support
6/26/2025	Responsive Declaration

6/17/2025	Proof of Service
6/16/2025	RFO/MTN - Compel Initial
6/16/2025	Order - Family-Centered Case Resolution Conference (FAM 112)
6/16/2025	Statement - Separate
6/16/2025	RFO/MTN - Compel Further
6/16/2025	Declaration
6/16/2025	Declaration
6/12/2025	Order - Findings and Order After Hearing
6/12/2025	Stipulation and Order
6/9/2025	Order - Family-Centered Case Resolution Conference (FAM 112)
6/6/2025	RFO/MTN - Compel Initial
6/6/2025	Proof of Service
6/2/2025	Order - Family-Centered Case Resolution Conference (FAM 112)
6/2/2025	RFO/MTN - Compel Further
6/2/2025	Proof of Service
6/2/2025	Proof of Service
5/27/2025	Declaration
5/27/2025	Proposed Order - After Hearing - Findings and Order
5/7/2025	Proof of Service
5/5/2025	Order - Family-Centered Case Resolution Conference (FAM 112)
5/5/2025	RFO/MTN - Compel Initial
5/5/2025	Proof of Service
5/1/2025	RFO - Spousal Support
5/1/2025	Minute Order
4/29/2025	Objection
4/24/2025	Declaration
4/24/2025	Reply
4/18/2025	Responsive Declaration
4/18/2025	Declaration - Income and Expense
4/18/2025	Witness List
4/18/2025	Proof of Service
4/9/2025	Proof of Service
4/9/2025	Declaration - Income and Expense
4/9/2025	Declaration
3/4/2025	Trial Setting Conference
3/4/2025	Minute Order
3/3/2025	Brief
2/28/2025	Brief
2/24/2025	Notice - Association of Counsel
1/24/2025	Notice - Change of Address

1/24/2025	Proof of Service
1/2/2025	RFO - Spousal Support
1/2/2025	Minute Order
11/21/2024	Trial Setting Conference
11/21/2024	Minute Order
11/21/2024	Stipulation and Order
11/15/2024	Stipulation and Order
11/8/2024	Stipulation and Order
11/4/2024	Proof of Service
10/14/2024	Ex Parte Hearing
10/14/2024	Minute Order
10/14/2024	Ex Parte RFO Emergency Orders for Support
10/14/2024	Declaration - Ex Parte Notice (Notice Given)
10/14/2024	Proposed Ex Parte RFO Emergency Orders for Support
10/9/2024	Stipulation and Order
8/26/2024	Stipulation and Order
8/23/2024	Trial Setting Conference
8/23/2024	RFO - Compel Further
8/23/2024	Minute Order
8/23/2024	Minute Order
8/19/2024	Order - Family-Centered Case Resolution Conference (FAM 112)
8/19/2024	Proposed Order - Support
8/19/2024	RFO/MTN - Spousal Support
7/18/2024	RFO - Family Law
7/18/2024	Minute Order
6/28/2024	RFO - Family Law
6/28/2024	Minute Order
6/28/2024	Stipulation and Order
6/28/2024	Declaration - Service of Prelim & Final Dec of Disclosure
6/27/2024	Remote Appearance - Scheduled
6/25/2024	Objection
6/25/2024	Proof of Service
6/25/2024	Response
6/24/2024	Proof of Service
6/24/2024	Reply
6/21/2024	Ex Parte Hearing
6/21/2024	Minute Order
6/21/2024	Ex Parte - Order
6/21/2024	Ex Parte RFO Emergency Orders for Support
6/21/2024	Declaration - Ex Parte Notice (Notice Given)

6/21/2024	Proposed Ex Parte RFO Emergency Orders for Support
6/18/2024	Remote Appearance - Scheduled
6/14/2024	Unredacted - Confidential Document
6/14/2024	Responsive Declaration
6/6/2024	RFO - Compel Further
6/6/2024	Minute Order
6/5/2024	Remote Appearance - Scheduled
5/30/2024	Stipulation and Order
5/23/2024	Proof of Service
5/22/2024	Order - Family-Centered Case Resolution Conference (FAM 112)
5/22/2024	RFO/MTN - Family Law
5/13/2024	Notice - Lodging
5/13/2024	Order - Family-Centered Case Resolution Conference (FAM 112)
5/13/2024	RFO/MTN - Family Law
5/13/2024	Declaration
5/10/2024	Stipulation and Order
4/24/2024	Miscellaneous
4/23/2024	Order - Family-Centered Case Resolution Conference (FAM 112)
4/23/2024	Notice - Lodging
4/23/2024	RFO/MTN - Family Law
4/23/2024	Declaration
4/3/2024	Order - Family-Centered Case Resolution Conference (FAM 112)
4/2/2024	Declaration
4/2/2024	Memorandum - Points and Authorities
4/2/2024	RFO/MTN - Compel Further
4/2/2024	Statement - Separate
10/26/2023	Notice - Ruling
10/25/2023	RFO - Family Law
10/25/2023	Minute Order
10/25/2023	Order
10/24/2023	Remote Appearance - Scheduled
10/11/2023	Remote Appearance - Scheduled
10/5/2023	Notice - Change of Address
9/19/2023	Stipulation and Order
9/15/2023	Proof of Service - Mail
9/15/2023	Proof of Service - Mail
9/12/2023	Application - Appear Pro Hac Vice
9/11/2023	Declaration
9/6/2023	Substitution of Attorney
2/6/2023	Declaration - Service of Preliminary Dec. of Disclosure

10/14/2022	Order - Financial Information (FAM 111)
10/14/2022	Proof of Service
10/14/2022	Response - Dissolution, Nullity, Legal Separation
8/12/2022	Order - Financial Information (FAM 111)
8/11/2022	Family Law Case Cover Sheet - FAM-020
8/11/2022	Petition - Dissolution w/o Minor Child
8/11/2022	Summons

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