

Idahoans United for Women and Families  
P.O. Box 6902  
Boise, ID 83707

August 15, 2024

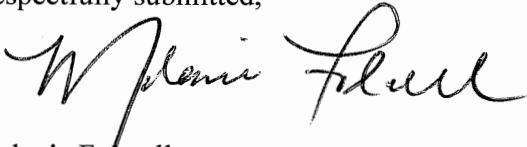
Honorable Phil McGrane  
Secretary of State of the State of Idaho  
700 W. Jefferson St., Room E205  
Boise, ID 83702

To the Honorable Phil McGrane,

Enclosed with this cover letter, please find the proposed "Reproductive Freedom and Privacy Act" Initiative respectfully submitted pursuant to the requirements of Chapter 18, Title 34, Idaho Code.

The enclosed electors respectfully request that the "Reproductive Freedom and Privacy Act" Initiative shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the third day of November, A.D., 2026, and that if so ratified, the Reproductive Freedom and Privacy Act shall become effective January 1, 2027.

Respectfully submitted,



Melanie Folwell  
Idahoans United for Women and Families

AUG 15 24 09:19  
IDAHO SECRETARY OF STATE

Be it enacted by the people of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 39, Idaho Code, and to read as follows:

39-801. SHORT TITLE. This act shall be known and may be cited as the “Reproductive Freedom and Privacy Act.”

39-802. STATEMENT OF PURPOSE. The “Reproductive Freedom and Privacy Act” reinforces the principles of privacy by safeguarding the freedom of individuals to make personal reproductive medical decisions without undue state interference. It recognizes that reproductive choices—such as contraception, fertility treatments, abortion care, childbirth, and pregnancy—are deeply private matters that should be primarily decided by the individual in consultation with their health care provider. This statute upholds the individual’s rights to make their own decisions based on their own values, health needs, and circumstances—free from the fear of external pressures or punitive consequences. In this way, the statute supports an inherent right to reproductive freedom and privacy, and protects the confidential nature of the patient-provider relationship and the individual’s right to make personal medical decisions without government interference.

### 39-803. REPRODUCTIVE FREEDOM AND PRIVACY ACT

1. Notwithstanding any other provision of law to the contrary:
  - a. Every person has the right to reproductive freedom and privacy, which entails the right to make and carry out one’s own reproductive decisions, including but not limited to decisions on:
    - i. Pregnancy;
    - ii. Contraception;
    - iii. Fertility Treatment;
    - iv. Prenatal and Postpartum care;
    - v. Childbirth;
    - vi. Continuing one’s own pregnancy;
    - vii. Miscarriage care; and,
    - viii. Abortion care.
  - b. A person’s voluntary exercise of their right to reproductive freedom and privacy and privacy shall not be infringed, burdened, or prohibited by the state, directly or indirectly, in any way; neither shall the state infringe, burden, or prohibit any acts or omissions taken by any person or entity to assist or facilitate an individual’s exercise of the right to reproductive freedom and privacy and privacy unless the state action is justified by a compelling state interest achieved by the least restrictive means.

- c. It shall not be a violation of the right to reproductive freedom and privacy for the state to regulate abortion care after fetal viability, except in cases of medical emergency.
2. For purposes of this section, the state's compelling interest is limited solely to improving or maintaining the health of an individual seeking care, consistent with accepted clinical standards of practice and evidence-based medicine, and does not infringe on that individual's autonomous decision-making.
3. Provided further that:
  - a. In no case may abortion care provided consistent with this section provide a basis for professional discipline proceedings or for any civil or criminal liability against a health care professional solely on the basis that the medical professional knowingly attempted, performed, or induced an abortion.
  - b. Nothing in this section will be deemed to bar or otherwise apply to any claim of medical malpractice against a health care professional for failing to comply with the applicable community standard of health care practice, as set forth in Section 6-1012, Idaho Code, in providing such abortion care.
  - c. A health care professional's freedom of conscience pursuant to Section 18-611, Idaho Code, shall be preserved.
4. The provisions of this section are to be liberally construed in favor of reproductive freedom and privacy and intended to control over any other section of Idaho Code, consistent with the following:
  - a. Nothing in this section shall be construed to limit any right or access to abortion care that currently exists or is otherwise provided for or guaranteed by law.
  - b. Nothing in this section shall be construed to impose a financial obligation on the state, its agencies, or their programs for delivery of health care services protected by this section.
5. The provisions of this section are also hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.
6. As used in this section:
  - a. "Abortion" or "Abortion care" means the use of any means which are consistent with widely accepted medical standards necessary for the procedure or treatment

to intentionally terminate a pregnancy.

- b. "Childbirth" means the process of labor and delivery, including the stages of labor, the act of giving birth, and any immediate medical procedures related to the delivery of a child, whether by vaginal birth or cesarean section.
- c. "Continuing one's own pregnancy" means decisions a pregnant patient makes to continue a pregnancy up until childbirth.
- d. "Contraception" means an action taken to prevent pregnancy including any drug, device, procedure or biological product intended for use in the prevention of pregnancy.
- e. "Fetal viability" means the point in a pregnancy when in the good faith judgment of an attending health care professional and based on the particular facts of the case known to the health care professional at the time, the fetus has a significant likelihood of sustained survival outside of the uterus without the application of extraordinary medical measures.
- f. "Fertility Treatment" means medications and procedures consistent with established medical practices in the treatment of infertility by a licensed health care professional, including assisted reproductive technology including but not limited to in vitro fertilization.
- g. "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.
- h. "Medical emergency" means a physical medical condition that, on the basis of the attending physician's good faith clinical judgment, based on the facts known at the time, and determined on a case-by-case basis, complicates the physical medical condition of a pregnant patient as to warrant an abortion:
  - i. To protect a pregnant patient's life; or,
  - ii. For which a delay may:
    - 1. Place the health of the pregnant patient in serious jeopardy;
    - 2. Cause serious impairment to a bodily function; or,
    - 3. Cause serious dysfunction of any bodily organ or part.
- i. "Miscarriage Care" means treatments and procedures consistent with established medical practices in the treatment of a complete or incomplete spontaneous miscarriage by a licensed health care professional.
- j. "Physician" means a person licensed to practice medicine and/or surgery or osteopathic medicine and surgery in this state as provided in chapter 18, title 54,

Idaho Code.

- k. "Prenatal and postpartum care" means the medical services provided to a pregnant patient before, during, and after childbirth, including exams, treatments, diagnostic testing, and care necessary for the health of the pregnant patient, as well as postpartum recovery and support.

SECTION 2. This act shall be in full force and effect on and after January 1, 2027.



**STATE OF IDAHO**  
OFFICE OF THE ATTORNEY GENERAL  
**RAÚL R. LABRADOR**

OCT 22 '24 PM 8:20  
IDAHO SECRETARY OF STATE

October 22, 2024

**VIA HAND DELIVERY**

The Honorable Phil McGrane  
Idaho Secretary of State  
Statehouse

RE: Ballot Titles  
Proposed Initiative for Adding a New Section to Title 39, Idaho Code, Providing for a Right to Reproductive Freedom and Privacy.

Dear Secretary of State McGrane:

An initiative petition was originally filed on August 15, 2024, proposing to amend title 39 of the Idaho Code. Pursuant to Idaho Code § 34-1809, this office reviewed the petition and provided advisory comments and a certificate of review. Thereafter, the petitioners made changes to their proposed initiative and re-submitted it requesting the assignment of ballot titles. In accordance with § 34-1809, this office must, within ten (10) working days, provide ballot titles for the measure, one short and one general (long) title. The short title—not exceeding twenty (20) words—shall be a distinctive title by which the measure is commonly referred to or spoken of. The general (long) title—not exceeding two hundred (200) words—shall express the purpose of the measure. The ballot titles should give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. This letter therefore provides both the short and long ballot titles below, in accordance with Idaho Code § 34-1809. Any person dissatisfied with a ballot title provided herein may appeal to the supreme court by petition, praying for a different title and setting forth the reason why the title is insufficient or unfair.

## BALLOT TITLES

### I. Short Ballot Title

Measure establishing a right to make and carry out reproductive decisions, including a right to abortion up to fetus viability.

### II. Long Ballot Title

The measure seeks to change Idaho's laws by introducing a right to reproductive freedom and privacy including a right to abortion up to the point of the fetus's ability to survive outside the womb. After fetal viability, there would be no general right to abortion except in case of a "medical emergency." The "medical emergency" exception would expand Idaho's current life exception and allow abortions when a pregnant woman faces a complicating physical condition that threatens her life or health, including "serious impairment to a bodily function" or "serious dysfunction of any bodily organ or part."

The proposed measure codifies a right to make reproductive decisions, including contraception, fertility treatment, and prenatal and postpartum care. The measure seeks to prevent the state from enforcing current abortion laws protecting the life of the unborn child. It would also impose a requirement that any restrictions on reproductive freedom and privacy, including abortion prior to fetus viability, must be justified by a "compelling state interest" that must be "limited solely to improving or maintaining the health of an individual seeking care." The measure would also prevent the state from penalizing patients, healthcare providers, or anyone who assists in exercising the proposed right.

Please contact me if you have any questions or comments.

Sincerely,



RAÚL R. LABRADOR  
Attorney General

FUNDING SOURCE STATEMENT FOR THE REPRODUCTIVE FREEDOM AND  
PRIVACY ACT

Implementation of the Reproductive Freedom and Privacy Act will not require the expenditure of state or local funds beyond normal expenses associated with the initiative process. The state general fund, the attorney general's budget, and legislative legal defense funds may see cost savings due to a reduction in litigation expenses related to defending abortion prohibitions. It is proposed that these expenses be funded by use or augmentation of existing state expenditures.

APR 15 2 24 AM '09  
INDO SECRETARY OF STATE



## Ballot initiative: Reproductive freedom and Privacy Act

100 Word Fiscal Impact

September 16, 2024

The laws affected by the ballot initiative do not impact income taxes, sales tax, or product taxes. Consequently we find there is no revenue impact to the General Fund.

Laws affected by the ballot initiative could change state government expenditures. Changes in costs associated with the Medicaid populations and prisoner population may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare. These costs would vary depending upon those populations and upon the extent to which the new provisions from the ballot initiative expand rights already present under Idaho Code 18-622 with regards to reproduction.

### Assumptions

Changes in costs associated with the ballot initiative could impact IDOC and Medicaid budgets, but the amount of those costs would be dependent the frequency of need for reproductive services within the agencies. Since neither of the agencies reverted funding when the law changed in 2022, it could be assumed that additional costs could be absorbed in the corrections and health and welfare budgets should the ballot initiative pass.

SEP 16 '24 PM 3:46  
IDAHO SECRETARY OF STATE