

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE MONTANA ABORTION-INDUCING DRUG RISK  
5 PROTOCOL ACT; PROVIDING REQUIREMENTS FOR PROVIDING ABORTION-INDUCING DRUGS TO  
6 PREGNANT WOMEN; PROHIBITING PROVIDING ABORTION-INDUCING DRUGS IN SCHOOLS AND ON  
7 SCHOOL GROUNDS; REQUIRING INFORMED CONSENT; PROVIDING FOR THE REPORTING OF  
8 CHEMICAL ABORTIONS AND ADVERSE EVENTS AND COMPLICATIONS; PROVIDING DEFINITIONS;  
9 AND PROVIDING PENALTIES, CIVIL REMEDIES, AND PROFESSIONAL SANCTIONS."

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11 WHEREAS, in September 2000, the U.S. Food and Drug Administration (FDA) approved the  
12 distribution and use of mifepristone (brand name Mifeprex), originally referred to as "RU-486", an abortion-  
13 inducing drug, under the authority of 21 C.F.R. 314.520, also referred to as "Subpart H", which is the only FDA  
14 approval process that allows for postmarketing restrictions. Specifically, the Code of Federal Regulations  
15 provides for accelerated approval of certain drugs that are shown to be effective but "can be safely used only if  
16 distribution or use is restricted". The approved FDA protocol for Mifeprex/mifepristone was modified in March  
17 2016; however, the FDA still requires that the distribution and use of Mifeprex/mifepristone be under the  
18 supervision of a qualified health care provider who has the ability to assess the duration of pregnancy, diagnose  
19 ectopic pregnancies, and provide surgical intervention or who has made plans to provide surgical intervention  
20 through another qualified physician; and

21 WHEREAS, court testimony by Planned Parenthood and other abortion providers has demonstrated  
22 that providers routinely and intentionally failed to follow the September 2000 FDA-approved protocol for  
23 Mifeprex/mifepristone. See, e.g., Planned Parenthood Cincinnati Region v. Taft, 459 F. Supp. 2d 626 (S.D. Oh.  
24 2006); and

25 WHEREAS, the use of Mifeprex/mifepristone presents significant medical risks, including but not limited  
26 to uterine hemorrhage, viral infections, abdominal pain, cramping, vomiting, headache, fatigue, and pelvic  
27 inflammatory disease. Medical evidence demonstrates that women who use abortion-inducing drugs risk four  
28 times more complications than those who undergo surgical abortions. At least 3% to 8% of medical abortions

1 fail to evacuate the pregnancy tissue and require surgical completion. One percent will fail to kill the fetus. If  
 2 surgical completion is required after a failed medical abortion, the risk of premature delivery in a subsequent  
 3 pregnancy is more than three times higher. Failure rates increase as gestational age increases. The gestational  
 4 age range of 63 to 70 days has been inadequately studied. The 2016 FDA gestational age extension was  
 5 based on only one study worldwide of little more than 300 women; and

6 WHEREAS, a woman’s ability to provide informed consent depends on the extent to which the woman  
 7 receives information sufficient to make an informed choice. The decision to abort “is an important, and often a  
 8 stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and  
 9 consequences”. Planned Parenthood v. Danforth, 428 U.S. 52, 67 (1976); and

10 WHEREAS, in recent years, physicians have developed a method to potentially reverse the effects of  
 11 Mifeprex/mifepristone. This abortion pill reversal or “rescue” process has been discussed in a peer-reviewed  
 12 study and is based on decades of the safe use of progesterone to stabilize and continue pregnancies.  
 13 Progesterone has been used safely in pregnancies for decades and is used in in vitro fertilization, infertility  
 14 treatments, and high-risk pregnancies, including those experiencing preterm labor. Using progesterone to  
 15 reverse the effects of Mifeprex/mifepristone is a targeted response that is safe for the woman; and

16 WHEREAS, abortion “record keeping and reporting provisions that are reasonably directed to the  
 17 preservation of maternal health and that properly respect a patient’s confidentiality and privacy are permissible”.  
 18 Planned Parenthood v. Danforth, 428 U.S. 80 at 52, 79-81 (1976).

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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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22 NEW SECTION. Section 1. Short title. [Sections 1 through 14] may be cited as the "Montana  
 23 Abortion-Inducing Drug Risk Protocol Act".

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25 NEW SECTION. Section 2. Legislative findings and purpose. The purpose of [sections 1 through  
 26 14] is to further the important and compelling state interests of:

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(1) protecting the health and welfare of a woman considering a chemical abortion;

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(2) ensuring that a medical practitioner examines a woman prior to dispensing an abortion-inducing

1 drug in order to confirm the gestational age of the unborn child, the intrauterine location of the unborn child, and  
2 that the unborn child is alive because the routine administration of an abortion-inducing drug following  
3 spontaneous miscarriage is unnecessary and exposes the woman to unnecessary risks associated with the  
4 abortion-inducing drug;

5 (3) ensuring that a medical practitioner does not prescribe or dispense an abortion-inducing drug after  
6 70 days have elapsed since the first day of a woman's last menstrual period;

7 (4) reducing the risk that a woman may elect an abortion only to discover later, with devastating  
8 psychological consequences, that the woman's decision was not fully informed;

9 (5) ensuring that a woman considering a chemical abortion receives comprehensive information on  
10 abortion-inducing drugs, including the potential to reverse the effects of the drugs if the woman changes the  
11 woman's mind, and that a woman submitting to an abortion does so only after giving voluntary and fully  
12 informed consent to the procedure; and

13 (6) promoting the health and safety of women by adding to the sum of medical and public health  
14 knowledge through the compilation of relevant data on chemical abortions performed in the state as well as  
15 data on all medical complications and maternal deaths resulting from these abortions.

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17 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 14], the following definitions  
18 apply:

19 (1) "Abortion" means the act of using or prescribing an instrument, medicine, drug, or any other  
20 substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman, with  
21 knowledge that termination by those means will with reasonable likelihood cause the death of the unborn child.  
22 The term does not include an act to terminate a pregnancy with the intent to:

- 23 (a) save the life or preserve the health of the unborn child;
- 24 (b) remove a dead unborn child caused by spontaneous abortion;
- 25 (c) remove an ectopic pregnancy; or
- 26 (d) treat a maternal disease or illness for which the prescribed drug is indicated.

27 (2) "Abortion-inducing drug" or "chemical abortion" means a medicine, drug, or any other substance  
28 provided with the intent of terminating the clinically diagnosable pregnancy of a woman with knowledge that the

1 termination will with reasonable likelihood cause the death of the unborn child. This includes the off-label use of  
2 drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing  
3 an abortion, such as mifepristone, misoprostol, and methotrexate. The term does not include drugs that may be  
4 known to cause an abortion that are prescribed for other medical indications.

5 (3) "Adverse event" means an untoward medical occurrence associated with the use of a drug in  
6 humans, whether or not considered drug related. The term does not include an adverse event or suspected  
7 adverse reaction that, had it occurred in a more severe form, might have caused death.

8 (4) "Associated medical practitioner" means a person authorized under 50-20-109 to perform an  
9 abortion who has entered into an associated medical practitioner agreement.

10 (5) "Complication" means an adverse physical or psychological condition arising from the  
11 performance of an abortion, including but not limited to uterine perforation, cervical perforation, infection, heavy  
12 or uncontrolled bleeding, hemorrhage, blood clots resulting in pulmonary embolism or deep vein thrombosis,  
13 failure to actually terminate the pregnancy, incomplete abortion, pelvic inflammatory disease, endometritis,  
14 missed ectopic pregnancy, cardiac arrest, respiratory arrest, renal failure, metabolic disorder, shock, embolism,  
15 coma, placenta previa in subsequent pregnancies, preterm delivery in subsequent pregnancies, free fluid in the  
16 abdomen, hemolytic reaction due to the administration of ABO-incompatible blood or blood products, adverse  
17 reactions to anesthesia and other drugs, subsequent development of breast cancer, death, psychological  
18 complications such as depression, suicidal ideation, anxiety, and sleeping disorders, and any other adverse  
19 event.

20 (6) "Last menstrual period" or "gestational age" means the time that has elapsed since the first day of  
21 the woman's last menstrual period.

22 (7) "Medical practitioner" means a person authorized under 50-20-109 to perform an abortion in this  
23 state.

24 (8) "Pregnant" or "pregnancy" means the female reproductive condition of having an unborn child in  
25 the uterus.

26 (9) "Provide" mean any act of giving, selling, dispensing, administering, transferring possession to, or  
27 otherwise providing or prescribing an abortion-inducing drug.

28 (10) "Qualified medical practitioner" means a medical practitioner who has the ability to:

- 1 (a) identify and document a viable intrauterine pregnancy;
- 2 (b) assess the gestational age of pregnancy and inform the woman of gestational age-specific risks;
- 3 (c) diagnose ectopic pregnancy;
- 4 (d) determine blood type and administer RhoGAM if a woman is Rh negative;
- 5 (e) assess for signs of domestic abuse, reproductive control, human trafficking, and other signals of
- 6 coerced abortion;
- 7 (f) provide surgical intervention or who has entered into a contract with another qualified medical
- 8 practitioner to provide surgical intervention; and
- 9 (g) supervise and bear legal responsibility for any agent, employee, or contractor who is participating
- 10 in any part of a procedure, including but not limited to preprocedure evaluation and care.
- 11 (11) "Unborn child" means an individual organism of the species homo sapiens, beginning at
- 12 fertilization, until the point of being born alive as defined in 1 U.S.C. 8(b).

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14 **NEW SECTION. Section 4. In-person requirement.** An abortion-inducing drug may be provided only  
15 by a qualified medical practitioner following the procedures set forth in [sections 1 through 14]. A manufacturer,  
16 supplier, medical practitioner, qualified medical practitioner, or any other person may not provide an abortion-  
17 inducing drug via courier, delivery, or mail service.

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19 **NEW SECTION. Section 5. Distribution of abortion-inducing drugs.** (1) Because the failure and  
20 complication rates from a chemical abortion increase with advancing gestational age and because the physical  
21 symptoms of chemical abortion can be identical to the symptoms of ectopic pregnancy and abortion-inducing  
22 drugs do not treat ectopic pregnancies and are contraindicated in ectopic pregnancies, the qualified medical  
23 practitioner providing an abortion-inducing drug shall examine the woman in person and, prior to providing an  
24 abortion-inducing drug, shall:

- 25 (a) independently verify that a pregnancy exists;
- 26 (b) determine the woman's blood type, and if the woman is Rh negative, be able to and offer to
- 27 administer RhoGAM at the time of the abortion;
- 28 (c) inform the woman that the woman may see the remains of the unborn child in the process of

1 completing the abortion; and

2 (d) document in the woman's medical chart the gestational age and intrauterine location of the  
3 pregnancy and whether the woman received treatment for Rh negativity, as diagnosed by the most accurate  
4 standard of medical care.

5 (2) A qualified medical practitioner providing an abortion-inducing drug must be credentialed and  
6 competent to handle complications management, including emergency transfer, or must have a signed contract  
7 with an associated medical practitioner who is credentialed to handle complications and must be able to  
8 produce the signed contract on demand by the woman or by the department. Each woman to whom a qualified  
9 medical practitioner provides an abortion-inducing drug must be given the name and phone number of the  
10 associated medical practitioner.

11 (3) The qualified medical practitioner providing an abortion-inducing drug, or an agent of the qualified  
12 medical practitioner, shall schedule a follow-up visit for the woman at approximately 7 to 14 days after  
13 administration of the abortion-inducing drug to confirm that the pregnancy is completely terminated and to  
14 assess the degree of bleeding. The qualified medical practitioner shall make all reasonable efforts to ensure  
15 that the woman returns for the scheduled appointment. A brief description of the efforts made to comply with  
16 this subsection, including the date, time, and identification by name of the person making the efforts, must be  
17 included in the woman's medical record.

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19 **NEW SECTION. Section 6. Prohibition on providing abortion-inducing drugs at elementary,**  
20 **secondary, and postsecondary schools.** An abortion-inducing drug may not be provided in an elementary,  
21 secondary, or postsecondary school facility or on school grounds.

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23 **NEW SECTION. Section 7. Informed consent requirements for abortion-inducing drugs.** (1) An  
24 abortion-inducing drug may not be provided without the informed consent of the pregnant woman to whom the  
25 abortion-inducing drug is being provided.

26 (2) Informed consent to a chemical abortion must be obtained at least 24 hours before the abortion-  
27 inducing drug is provided to the pregnant woman, except when, in reasonable medical judgment, compliance  
28 with this subsection would pose a greater risk of:

- 1 (a) the death of the pregnant woman; or
- 2 (b) the substantial and irreversible physical impairment of a major bodily function, not including
- 3 psychological or emotional conditions, of the pregnant woman.
- 4 (3) A form created by the department must be used by a qualified medical practitioner to obtain the
- 5 consent required prior to providing an abortion-inducing drug.
- 6 (4) A consent form is not valid and consent is not sufficient unless:
- 7 (a) the woman initials each entry, list, description, or declaration required to be included in the
- 8 consent form as provided in subsection (5);
- 9 (b) the woman signs the consent statement described in subsection (5)(j); and
- 10 (c) the qualified medical practitioner signs the qualified medical practitioner declaration described in
- 11 subsection (5)(k).
- 12 (5) The consent form must include, but is not limited to the following:
- 13 (a) the probable gestational age of the unborn child as determined by both patient history and
- 14 ultrasound results used to confirm gestational age;
- 15 (b) a detailed description of the steps to complete the chemical abortion;
- 16 (c) a detailed list of the risks related to the specific abortion-inducing drug or drugs to be used,
- 17 including but not limited to hemorrhage, failure to remove all tissue of the unborn child, which may require an
- 18 additional procedure, sepsis, sterility, and possible continuation of pregnancy;
- 19 (d) information about Rh incompatibility, including that if the pregnant woman has an Rh negative
- 20 blood type, the woman should receive an injection of Rh immunoglobulin at the time of the abortion to prevent
- 21 Rh incompatibility in future pregnancies, which can lead to complications and miscarriage in future pregnancies;
- 22 (e) a description of the risks of complications from a chemical abortion, including incomplete abortion,
- 23 which increase with advancing gestational age;
- 24 (f) information about the possibility of reversing the effects of the chemical abortion if the pregnant
- 25 woman changes the woman's mind and that time is of the essence;
- 26 (g) information that the pregnant woman could see the remains of the unborn child in the process of
- 27 completing the abortion;
- 28 (h) information that initial studies suggest that children born after reversing the effects of an abortion-

1 inducing drug have no greater risk of birth defects than the general population and that initial studies suggest  
2 that there is no increased risk of maternal mortality after reversing the effects of an abortion-inducing drug;

3 (i) notice that information on and assistance with reversing the effects of abortion-inducing drugs are  
4 available in the state-prepared materials; and

5 (j) an acknowledgment of risks and consent statement, which must be signed by the woman. The  
6 statement must include but is not limited to the following declarations, which must be individually initialed by the  
7 woman, that:

8 (i) the woman understands that the abortion-inducing drug regimen or procedure is intended to end  
9 the woman's pregnancy and will result in the death of the unborn child;

10 (ii) the woman is not being forced to have an abortion, the woman has the choice not to have the  
11 abortion, and the woman may withdraw the woman's consent to the abortion-inducing drug regimen even after  
12 beginning the abortion-inducing drug regimen;

13 (iii) the woman understands that the chemical abortion regimen or procedure to be used has specific  
14 risks and may result in specific complications;

15 (iv) the woman has been given the opportunity to ask questions about the woman's pregnancy, the  
16 development of the unborn child, alternatives to abortion, the abortion-inducing drug or drugs to be used, and  
17 the risks and complications inherent to the abortion-inducing drug or drugs to be used;

18 (v) the woman was specifically told that "information on the potential ability of qualified medical  
19 professionals to reverse the effects of an abortion obtained through the use of abortion-inducing drugs is  
20 available at [www.abortionpillreversal.com](http://www.abortionpillreversal.com), or you can contact (877) 558-0333 for assistance in locating a  
21 medical professional who can aid in the reversal of an abortion";

22 (vi) the woman has been provided access to state-prepared, printed materials on informed consent for  
23 abortion;

24 (vii) if applicable, the woman has been given the name and phone number of the associated medical  
25 practitioner who has agreed to provide medical care and treatment in the event of complications associated  
26 with the abortion-inducing drug regimen or procedure;

27 (viii) the qualified medical practitioner will schedule an in-person follow-up visit for the woman  
28 approximately 7 to 14 days after providing the abortion-inducing drug or drugs to confirm that the pregnancy is



- 1 completely terminated and to assess the degree of bleeding and other complications;
- 2 (ix) the woman has received or been given sufficient information to give the woman's informed consent
- 3 to the abortion-inducing drug regimen or procedure; and
- 4 (x) the woman has a private right of action to sue the qualified medical practitioner under the laws of
- 5 the state if the woman feels coerced or misled prior to obtaining an abortion and how to access state resources
- 6 regarding the woman's legal right to obtain relief; and
- 7 (k) a qualified medical practitioner declaration that must be signed by the qualified medical
- 8 practitioner, stating that the qualified medical practitioner has explained the abortion-inducing drug or drugs to
- 9 be used, has provided all of the information required in this subsection (5) and has answered all of the woman's
- 10 questions.

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**NEW SECTION. Section 8. Information required in state-prepared materials.** (1) The department

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shall publish state-prepared, printed materials on informed consent for abortion and shall include the following statement:

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“Information on the potential ability of qualified medical practitioners to reverse the effects of an abortion obtained through the use of abortion-inducing drugs is available at [www.abortionpillreversal.com](http://www.abortionpillreversal.com), or you can contact (877) 558-0333 for assistance in locating a medical professional who can aid in the reversal of an abortion.”

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(2) The department shall annually review and update, if necessary, the statement requirement under subsection (1).

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(3) As part of the informed consent counseling services required in [section 7], the qualified medical practitioner shall inform the pregnant woman about abortion pill reversal and provide the woman with the state-prepared materials described in subsection (1).

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**NEW SECTION. Section 9. Reporting on chemical abortions.** (1) For the purpose of promoting

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maternal health and adding to the sum of medical and public health knowledge through the compilation of

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relevant data, a report of each chemical abortion performed must be made to the department on forms

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prescribed by the department. The reports must be completed by the facility in which the abortion-inducing drug

1 was provided, signed by the qualified medical practitioner who provided the abortion-inducing drug, and  
2 transmitted to the department within 15 days after each reporting month.

3 (2) A report must include, at a minimum, the following information:

4 (a) identification of the qualified medical practitioner who provided the abortion-inducing drug;

5 (b) whether the chemical abortion was completed at the facility in which the abortion-inducing drug  
6 was provided or at an alternative location;

7 (c) the referring medical practitioner, agency, or service, if any;

8 (d) the pregnant woman's county, state, and country of residence;

9 (e) the pregnant woman's age and race;

10 (f) the number of previous pregnancies, number of live births, and number of previous abortions of the  
11 pregnant woman;

12 (g) the probable gestational age of the unborn child as determined by both patient history and  
13 ultrasound results used to confirm the gestational age. The report must include the date of the ultrasound and  
14 gestational age determined on that date.

15 (h) the abortion-inducing drug or drugs used, the date each was provided to the pregnant woman, and  
16 the reason for the abortion, if known;

17 (i) preexisting medical conditions of the pregnant woman that would complicate the pregnancy, if any;

18 (j) whether the woman returned for a follow-up examination to determine completion of the abortion  
19 procedure and to assess bleeding, the date and results of the follow-up examination, and what reasonable  
20 efforts were made by the qualified medical practitioner to encourage the woman to return for a follow-up  
21 examination if the woman did not;

22 (k) whether the woman suffered any complications and, if so, what specific complications arose and  
23 what follow-up treatment was needed; and

24 (l) the amount billed to cover the treatment for specific complications, including whether the treatment  
25 was billed to medicaid, private insurance, private pay, or another method, including charges for any physician,  
26 hospital, emergency room, prescription or other drugs, laboratory tests, and other costs for treatment rendered.

27 (3) Reports required under this section may not contain:

28 (a) the name of the pregnant woman;

1 (b) common identifiers, such as a social security number or driver's license number; or

2 (c) other information or identifiers that would make it possible to identify, in any manner or under any  
3 circumstances, a pregnant woman who has obtained or seeks to obtain a chemical abortion.

4 (4) A qualified medical practitioner who provides an abortion-inducing drug to a pregnant woman who  
5 knows that the woman experiences, during or after the use of the abortion-inducing drug, an adverse event  
6 shall provide a written report of the adverse event within 3 days of the event to the United States food and drug  
7 administration via the medwatch reporting system, to the department, and to the state board of medical  
8 examiners.

9 (5) (a) A medical practitioner, qualified medical practitioner, associated medical practitioner, or other  
10 health care provider who treats a woman, either contemporaneously to or at any time after a chemical abortion,  
11 for an adverse event or complication related to a chemical abortion shall make a report of the adverse event to  
12 the department on forms prescribed by the department. The reports must be completed by the facility in which  
13 the adverse event or complication treatment was provided, signed by the medical practitioner, qualified medical  
14 practitioner, associated medical practitioner, or other health care provider who treated the adverse event or  
15 complication, and transmitted to the department within 15 days after each reporting month.

16 (b) The report must include, at a minimum:

17 (i) the information required under subsections (2)(a) through (2)(j) and (2)(l); and

18 (ii) information about the specific complications that arose, whether an emergency transfer was  
19 required, and whether any follow-up treatment was needed, including whether additional drugs or medications  
20 were provided in order to complete the abortion.

21 (6) The department shall prepare a comprehensive annual statistical report for the legislature based  
22 on the data gathered from reports under this section. The aggregated data must also be made available to the  
23 public by the department in a downloadable format.

24 (7) The department shall summarize aggregate data from the reports required under [sections 1  
25 through 14] and submit the data to the U.S. centers for disease control and prevention for the purpose of  
26 inclusion in the annual vital statistics report.

27 (8) Reports filed pursuant to this section must be deemed public records and must be available to the  
28 public in accordance with the confidentiality and public records reporting laws of this state. Original copies of all

1 reports filed under this section must be available to the state board of medical examiners, state board of  
2 pharmacy, state law enforcement officials, and child protective services for use in the performance of their  
3 official duties.

4 (9) Absent a valid court order or judicial subpoena, the department or any other state department,  
5 agency, office, or employee may not compare data concerning chemical abortions or abortion complications  
6 maintained in an electronic or other information system file with data in any other electronic or other information  
7 system, the comparison of which could result in identifying, in any manner or under any circumstances, a  
8 woman obtaining or seeking to obtain a chemical abortion.

9 (10) Statistical information that may reveal the identity of a woman obtaining or seeking to obtain a  
10 chemical abortion may not be maintained by the department or any other state department, agency, office,  
11 employee, or contractor.

12 (11) The department shall communicate the reporting requirements of this section to all medical  
13 professional organizations, medical practitioners, and facilities operating in the state.

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15 **NEW SECTION. Section 10. Production of reporting forms.** The department shall create and  
16 distribute the forms required by [sections 1 through 14] within 60 days after [the effective date of this act].

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18 **NEW SECTION. Section 11. Criminal penalties.** (1) A person who purposely or knowingly or  
19 negligently violates any provision of [sections 1 through 14] is guilty of a felony and upon conviction shall be  
20 fined an amount not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed 20 years, or  
21 both. As used in this section, "purposely", "knowingly", and "negligently" have the meanings provided in 45-2-  
22 101.

23 (2) A criminal penalty may not be assessed against the pregnant woman on whom the chemical  
24 abortion is attempted or performed.

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26 **NEW SECTION. Section 12. Civil remedies and professional sanctions.** (1) In addition to all other  
27 remedies available under the laws of this state, failure to comply with the requirements of [sections 1 through  
28 14]:

- 1 (a) provides a basis for a civil malpractice action for actual and punitive damages;
- 2 (b) provides a basis for professional disciplinary action under Title 37 for the suspension or revocation
- 3 of the license of a health care provider; and
- 4 (c) provides a basis for recovery for the woman's survivors for the wrongful death of the woman under
- 5 27-1-513.
- 6 (2) Civil liability may not be imposed against the pregnant woman on whom the chemical abortion is
- 7 attempted or performed.
- 8 (3) When requested, the court shall allow a woman to proceed using solely the woman's initials or a
- 9 pseudonym and may close any proceedings in the case and enter other protective orders to preserve the
- 10 privacy of the woman on whom the chemical abortion was attempted or performed.
- 11 (4) If judgment is rendered in favor of the plaintiff, the court shall also render judgment for reasonable
- 12 attorney fees in favor of the plaintiff against the defendant.
- 13 (5) If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was
- 14 frivolous and brought in bad faith, the court may render judgment for reasonable attorney fees in favor of the
- 15 defendant against the plaintiff.

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**NEW SECTION. Section 13. Construction.** [Sections 1 through 14] may not be construed to:

- (1) create or recognize a right to abortion;
- (2) make lawful an abortion that is otherwise unlawful; or
- (3) repeal, replace, or otherwise invalidate existing federal laws, regulations, or policies.

**NEW SECTION. Section 14. Right of intervention.** The legislature, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored [sections 1 through 14] in the member's official capacity, to intervene as a matter of right in any case in which the constitutionality of [sections 1 through 14] is challenged.

**NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 14] are intended to be codified as a new part in Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1

1 through 14].

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3 NEW SECTION. Section 16. Severability. If a part of [this act] is invalid, all valid parts that are  
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
5 the part remains in effect in all valid applications that are severable from the invalid applications.

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- END -