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Wasatch Women's Center  
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## **Re: Your violations of Utah's criminal abortion laws and 18 U.S.C. §§ 1461-1462**

To the Wasatch Women's Center and its employees, volunteers, and donors:

The law of Utah imposes felony criminal liability on every person who performs or assists an abortion, unless the abortion is performed to save the life of the mother or avert a serious risk of substantial and irreversible impairment of a major bodily function, or unless the pregnancy is the result of an act of rape or incest that has been reported to law enforcement, or unless the abortion is performed in response to severe fetal deformities. *See* Utah Code Ann. § 76-7a-201. Violations of section 76-7a-201 are punishable by up to 15 years imprisonment per abortion.

It has come to our attention that the Wasatch Women's Center is violating this statute, apparently because it thinks that the preliminary injunction that Judge Stone issued on July 19, 2022, "blocked" the law itself and allows abortions in Utah to resume without fear of future criminal punishment. Judge Stone's injunction does no such thing. *See Whole Woman's Health v. Jackson*, 141 S. Ct. 2494, 2495 (2021) ("[C]ourts enjoy the power to enjoin individuals tasked with enforcing laws, not the laws themselves."). The injunction merely restrains the named defendants in that case from initiating criminal prosecutions while the injunction remains in effect. It does not shield you or anyone else from future prosecution or punishment for the abortions that you are currently performing if the preliminary injunction is vacated or reversed on appeal. *See Edgar v. MITE Corp.*, 457 U.S. 624, 653 (1982) (Stevens, J., concurring). Abortion remains a criminal offense in Utah, notwithstanding the preliminary injunction issued by Judge Stone, and anyone who is violating section 76-7a-201 will be met with the full force of the law.

You appear to be laboring under the fallacy that equates a preliminary injunction with a formal suspension or revocation of the underlying statute. We are writing to disabuse you of that notion, and to provide fair warning that your violations of section 76-7a-201 will be met with criminal sanctions as soon as Judge Stone's injunction is vacated. Although Judge Stone's preliminary injunction purports to prohibit "future enforcement actions for conduct that occurred during the pendency of this injunction," that protection will no longer exist if Judge Stone's order is vacated or reversed by an appellate court.

We will also be introducing legislation next session to ensure that you and your accomplices are held accountable for every criminal abortion that you perform in violation of section 76-7a-201. This legislation will require state licensing officials to revoke the professional licenses of anyone who performed or assisted an abortion in violation of section 76-7a-201 or federal law, regardless of whether they did so in reliance on Judge Stone's preliminary injunction. It will also empower the Attorney General, as well as district attorneys from throughout the state, to prosecute abortion-related crimes—including violations of section 76-7a-201—whenever the local district attorney fails or refuses to do so. The bill will also prohibit abortion providers and their accomplices from invoking Judge Stone's preliminary injunction as a defense to criminal prosecution or civil sanctions if that injunction is vacated or reversed on appeal. Finally, this proposed legislation will eliminate any statutes of limitations that currently apply to section 76-7a-201 or other abortion-related crimes.

We also write to inform you that federal law imposes felony criminal liability on anyone who mails or ships abortion-inducing drugs (or any "article" or "thing" designed, adapted, or intended for producing abortion) in interstate commerce. *See* 18 U.S.C. §§ 1461–1462. Violations of 18 U.S.C. §§ 1461–1462 are punishable by five years imprisonment and qualify as predicate offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO). *See* 18 U.S.C. § 1961(1). Although the Biden Administration is not currently enforcing 18 U.S.C. §§ 1461–1462 or RICO against abortion providers, we will do everything in our power to ensure that the U.S. Attorney in the next Republican Administration holds the Wasatch Women's Center and its employees, volunteers, and donors accountable for every criminal act they commit in violation of these federal statutes. We will also be introducing legislation to give the Attorney General of Utah *parens patriae* standing to litigate on behalf of unborn Utahans, which will enable him to sue the Wasatch Women's Center and those affiliated with it under civil RICO for their violations of 18 U.S.C. §§ 1461–1462.

In the meantime, you must take each of the following steps:

First. The Wasatch Women's Center must immediately stop performing or assisting abortions in Utah except those permitted by section 76-7a-201, and it must remain in compliance with section 76-7a-201 regardless of whether a court temporarily enjoins state officials from initiating criminal prosecutions under that statute. The Wasatch Women's Center must also immediately comply with 18 U.S.C. §§ 1461–1462 and stop shipping or receiving abortion drugs and abortion-related paraphernalia through the mails or through any other channel or instrumentality of interstate commerce.

Second. The Wasatch Women's Center must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that takes place at its clinic or elsewhere in the state of Utah. A criminal abortion includes any abortion performed in Utah on or after June 24, 2022, apart from those permitted by section 76-7a-201. The Wasatch Women's Center must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including the identity of every employee, volunteer, and donor to the Wasatch Women's Center.

Third. The Wasatch Women's Center must preserve all communications with its attorneys that fall within the crime–fraud exception to the attorney–client privilege. This includes any communications with your attorneys concerning any abortion performed in Utah on or after June 24, 2022, apart from those permitted by section 76-7a-201. It also includes any communications with your

attorneys concerning any act that violates 18 U.S.C. §§ 1461–1462. Destroying or spoliating evidence of these crimes will expose you and your attorneys to severe civil and criminal penalties.

Fourth. The Wasatch Women’s Center must refrain from advising or counseling others to commit any act that would violate section 76-7a-201 or 18 U.S.C. §§ 1461–1462, regardless of whether a court has temporarily enjoined officials from initiating criminal prosecutions under those statutes. Individuals who advise or counsel others to violate these laws are subject to felony criminal prosecution under the principle of accomplice liability.

Conduct yourselves accordingly.

Sincerely,

Representative Walt Brooks  
Representative Cory Maloy  
Representative Ken Ivory  
Representative Jordan Teuscher  
Representative Kera Birkeland  
Representative Karianne Lisonbee  
Representative Cheryl Acton  
Representative Melissa Ballard  
Representative Adam Robertson  
Representative Judy Rohner  
Representative Jon Hawkins  
Representative Mark Strong  
Representative Mike Petersen  
Representative Stephen Whyte  
Representative Stephen Handy  
Representative Matt Gwynn  
Representative Rex Shipp  
Representative Carl Albrecht  
Representative Kay Christofferson  
Representative Colin Jack  
Representative Steve Lund  
Representative Brady Brammer  
Candidate Stephanie Gricius  
Candidate Katy Hall

cc: National Abortion Federation (NAF)