

January 16, 2023

To: Chairman Latz and Members of the Judiciary and Public Safety Committee of the Minnesota Senate
Fr: Terresa Collett, Professor of Law, University of St. Thomas School of Law (MN)*

In Opposition to S.F. 1, “Protect Reproductive Options Act”

This is a very limited summary of my opposition to S.F. 1 due to this Committee’s restriction of written testimony to 1 page. For more detail see written testimony, MN House Jud., Fin. & Civ. L. Comm., Jan. 10, 2023.¹

If enacted, S.F. 1 will result in litigation regarding a wide variety of issues including, but not limited to, state and federal statutes and constitutional provisions protecting rights of conscience, prohibiting prostitution, requiring reporting of child sexual assault, and defining eligibility for and the scope of taxpayer-funded medical services.

S.F. 1 will create irreconcilable conflicts between constitutional and statutory protections of healthcare providers and citizens who recognize that abortion ends the life of a unique living human being.² The bill does not speak to whether healthcare professionals may conscientiously refuse to provide care in furtherance of the “fundamental rights” claimed to exist and be recognized in the bill. S.F.1 creates unavoidable conflicts with federal statutory protections of conscience,³ state statutory protections,⁴ and state and federal constitutional rights of conscience.⁵ If S.F. 1 passes, there will be litigation over whether the law prioritizes reproductive health preferences over providers’ rights of conscience and religious beliefs.

Additionally, S.F. 1 may result in challenges to Minnesota statutes prohibiting prostitution and sex trafficking.⁶ Statutes criminalizing various aspects of prostitution have been routinely challenged in Minnesota courts.⁷ S.F. 1 creates another means of attacking these statutes.

S.F. 1 brings into question the enforceability of state mandatory reporting requirements related to sexual assault of minors.⁸ Laws in Minnesota currently aim to protect all children and teens in the state from sexual abuse by requiring medical personnel, teachers, clergy, and others to report if they know of or have reason to believe a child is being or has been sexually abused within the last three years.⁹ This data is particularly relevant in Minnesota, given that the FBI has identified the Twin Cities as one of 13 U.S. cities with a particularly high incidence rate of child prostitution, and in 2015 Minnesota had the third-highest number of human trafficking cases.¹⁰

Finally, Minnesota will face challenges to existing statutes defining eligibility for and the scope of medical services to be funded by Minnesota taxpayers. Currently, Minnesota statutes restrict public medical assistance to low-income Minnesota residents or migrant workers who meet certain eligibility requirements.¹¹ The statutes define the scope of services covered by public medical assistance, and expressly exclude certain services. Under S.F. 1, activists will argue any limitations on eligibility are invalid, as are any limitations of scope of services.

In short, this bill is a litigator’s dream and a nightmare for responsible government officials charged with enforcing the laws of this state.

* Professor of Law & Director of the ProLife Center, University of St. Thomas School of Law, MSL 400, 1000 LaSalle Avenue, Minneapolis, MN 55403-2015, email tscollett@stthomas.edu. This designation is intended for identification purposes, only, and my testimony today represents my own views and is not intended to represent the views of my employer, the University of St. Thomas School of Law.

¹ MN House Judiciary Finance & Civil Law Comm , Jan. 10, 2023, at <https://www.house.leg.state.mn.us/comm/docs/OXo2o0s25k21hmUw9NXwBg.pdf>.

² This description of the unborn child was upheld as truthful and not misleading by the U.S. Court of Appeals for the 8th Circuit in *Planned Parenthood Minnesota, North Dakota, South Dakota v. Rounds*, 530 F.3d 724, 735–36 (8th Cir. 2008) (*en banc*).

³ Church Amendment, 42 U.S.C. § 300a-7; Coat-Snowe Amendment, 42 U.S.C. § 238n; and Weldon Amendment., Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, div. H, tit. V, § 507(d), 136 Stat. 49, 496 (2022).

⁴ Minn. Const. art. I, § 16.

⁵ Minn. Stat. § 145.42 (1986).

⁶ Minn. Stat. §§ 609.321 to 609.325.

⁷ See *State v Washington-Davis*, 881 N.W.2d 531 (Minn. 2016) and *State v Muccio*, 890 N.W. 2d 914 (Minn. 2017).

⁸ Sexual abuse is defined in Minn. Stat. 260E.03, subd. 20.

⁹ Minn. Stat. 260E. For an example of the consequences of failure to report, see *State of Minnesota v. Paul James Frederick*, Douglas County District Court, Case No. 21-CR-11-2285, affirmed unpublished Minnesota Court of Appeals Opinion, A13-0784 (April 21, 2014). The case is described in a 2015 summary of incidents in which Planned Parenthood failed to report sexual abuse of minors: “This case reveals that Paul James Frederick, a 42-year-old father, was prosecuted for sexually assaulting the 14-year-old girlfriend of his son. Frederick groomed the young girl by driving her to and from school, buying her things, including clothing and Victoria’s Secret underwear. Because the child was “inexperienced” and a “virgin,” court documents indicate that Frederick took her to Planned Parenthood to get birth control. The court opinion states Frederick was convicted based on the discovery of a used condom in his bedroom, and no mention is made of a Planned Parenthood report of potential sexual abuse.” Alliance Defending Freedom, How Planned Parenthood “Cares” for Child Victims of Sexual Abuse (2015), available at <https://adfmmedialegalfiles.blob.core.windows.net/files/PlannedParenthoodSexAbuseSummary.pdf>.

¹⁰ *Aid for Women v. Foulston*, 441 F3d 1101, 1117-1120 (10th Cir 2006).

¹¹ MN Stat. 256B.055.