



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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Re: Guidance to law enforcement on abortion

Dear Illinois law enforcement colleagues:

Given recent changes in other states' laws and the developing conversation at the federal level regarding abortion, I write to remind you that Illinois law protects an individual's right to make reproductive health decisions—including the decision to obtain an abortion.

Obtaining an abortion in Illinois is not a crime. In Illinois law the term "abortion" is defined in relevant part as "the use of any instrument, medicine, drug, or any other substance or device to terminate [a] pregnancy" 775 ILCS 55/1-10. No provision in the Illinois Criminal Code establishes an offense for obtaining or performing an abortion. *See generally* 720 ILCS 5, *et seq.* Illinois law also does not authorize law enforcement to deny, restrict, interfere with, discriminate against, or otherwise punish an individual for obtaining an abortion.

Instead, Illinois statutes contain protections for the bodily autonomy of pregnant persons, including provisions that provide:

- All individuals have a fundamental right to make autonomous decisions about their own reproductive health, including the fundamental right to use or refuse reproductive healthcare. 775 ILCS 55/1-15(a).
- Every individual who becomes pregnant has a fundamental right to continue the pregnancy and give birth or to have an abortion, and to make autonomous decisions about how to exercise that right. 775 ILCS 55/15(b).
- A fertilized egg, embryo, or fetus does not have independent rights. 775 ILCS 55/1-15(c).
- An abortion to which a pregnant individual has consented does not give rise to liability under the Illinois Criminal Code. *See, e.g.,* 720 ILCS 5/12-3.1(d) (excluding abortions from a battery offense); 720 ILCS 5/9-1.2(c) (excluding abortions from a homicide offense).

Government officials should exercise caution before taking action based on the actual, perceived, or potential outcome of an individual's pregnancy, as conduct that interferes with an individual's right to reproductive autonomy is prohibited and may give rise to legal action. 775 ILCS 55/1-20.¹ Officials are prohibited from denying, restricting, interfering with, or discriminating against an individual's exercise of these fundamental rights. 775 ILCS 55/1-

¹ These prohibitions apply to "any branch, department, agency, instrumentality, and official or other person acting under color of law of this State or a political subdivision of the State, including any unit of local government (including a home rule unit), school district, instrumentality, or public subdivision." 775 ILCS 55/1-10 (defining "State").

20(a)(1). They also are prohibited from prosecuting, punishing, or otherwise depriving an individual of their rights when the predominant basis for such action is the impact on the individual's pregnancy, pregnancy outcome, or health. 775 ILCS 55/1-20(a)(2). Failure to heed these prohibitions may give rise to civil claims and may result in court orders to pay fees and costs. 775 ILCS 55/1-20(b)-(c).

Although the landscape may be shifting nationwide, Illinois law is settled: Abortion and other reproductive health decisions are not crimes in our state. Further, Illinois law requires law enforcement agencies and officials to respect and refrain from interfering with individuals' fundamental right to reproductive autonomy. I appreciate your commitment to upholding the laws of our state, including those protecting the right to reproductive freedom.

Respectfully,



KWAME RAOUL
Attorney General of the State of Illinois