

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

For Immediate Release  
September 15, 2022

## **Abortion Is Still A Crime In Utah, Legislators Warn** *Cease-And-Desist Letters Sent To Utah Abortion Providers and Funders*

SALT LAKE CITY, UTAH: A coalition of Utah legislators has warned abortion providers and funders that elective abortion remains a felony criminal offense in Utah, despite a preliminary injunction that is currently blocking state officials from initiating criminal prosecutions under the state's trigger ban. The legislators are also warning that anyone who is currently violating Utah's trigger ban will be prosecuted in the future for those crimes if the preliminary injunction is vacated or reversed on appeal. In addition, the legislators are warning that federal law imposes felony criminal liability on anyone who sends or receives abortion-inducing drugs in interstate commerce. *See* 18 U.S.C. § 1462(c).

Utah's trigger ban took effect on June 24, 2022, and it imposes felony criminal liability on anyone 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 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.

18 U.S.C. § 1462(c) imposes federal criminal liability on anyone who sends or receives abortion-inducing drugs in interstate commerce. Violations of 18 U.S.C. § 1462(c) 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).

Abortion providers in Utah have been flouting these statutes after Judge Andrew Stone issued a temporary restraining order and preliminary injunction that prevents state officials from initiating criminal prosecutions under Utah's trigger ban. But Judge Stone's injunction does not suspend the trigger ban itself, and it cannot shield abortion providers and their accomplices from consequences for their violations of the state's abortion statutes if the injunction is vacated or reversed on appeal. Nor does Judge Stone's injunction do anything to shield abortion providers from the requirements of federal law, such as the criminal prohibitions on the shipment or receipt of abortion pills. *See* 18 U.S.C. § 1462(c).

The legislators have sent cease-and-desist letters to Planned Parenthood Association of Utah and the Wasatch Women's Center, demanding that they immediately stop performing abortions except

to the extent permitted by Utah's trigger ban. They are also demanding that these abortion providers 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.

The legislators are also promising to introduce legislation that will automatically revoke the licenses of any medical professional who violates the trigger ban or 18 U.S.C. §§ 1461–1462 in reliance on Judge Stone's preliminary injunction. It will also empower the Attorney General of Utah, as well as district attorneys from throughout the state, to prosecute violations of the state's trigger ban whenever the local district attorney fails or refuses to do so. The legislation will also explicitly prohibit abortion providers and their accomplices from invoking Judge Stone's preliminary injunction as a defense to prosecution or civil penalties if that injunction is vacated or reversed on appeal.

“Abortion remains a criminal offense in Utah, and the trigger ban is in effect,” said Representative Karianne Lisonbee, who signed the cease-and-desist letters. “The legislature will ensure that anyone who violates the laws of our state is held accountable for their criminal acts. Anyone who is performing or assisting abortions in violation of our statutes must immediately stop or face future criminal prosecution.”

###

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

Karrie Galloway  
CEO and Executive Director  
Planned Parenthood Association of Utah  
info@ppau.org

**Re: Your violations of Utah's criminal abortion laws and 18 U.S.C. §§ 1461–1462**

Dear Ms. Galloway:

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 Planned Parenthood Association of Utah 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 against you while the injunction remains in effect. It does not shield you or your colleagues at Planned Parenthood 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 Planned Parenthood accountable for every criminal act it commits 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 Planned Parenthood and its accomplices 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. Planned Parenthood Association of Utah 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. Planned Parenthood Association of Utah 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. Planned Parenthood Association of Utah must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that takes place at its clinics 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. You must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including employers or abortion funds that paid for these criminal acts.

Third. Planned Parenthood Association of Utah must preserve all communications with its attorneys that fall within the crime–fraud exception to the attorney–client privilege. This includes any communications with its 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 its 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. Planned Parenthood Association of Utah 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)

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

David K. Turok  
50 North Medical Drive  
Salt Lake City, Utah 84132  
E-20  
u0168735@utah.edu

**Re: Your violations of Utah's criminal abortion laws and 18 U.S.C. §§ 1461–1462**

Dear Dr. Turok:

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 you are violating this statute, apparently because you think 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 against you while the injunction remains in effect. It does not shield you or your colleagues at Planned Parenthood 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 abortionists 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 you and your accomplices at Planned Parenthood accountable for every criminal act you 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 you and Planned Parenthood under civil RICO for your violations of 18 U.S.C. §§ 1461–1462.

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

First. You must immediately stop performing or assisting abortions in Utah except those permitted by section 76-7a-201, and you 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. You 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. You must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that you have participated in. A criminal abortion includes any abortion performed in Utah on or after June 24, 2022, apart from those permitted by section 76-7a-201. You must also preserve any evidence that identifies the individuals or entities that aided or abetted the illegal abortions that you have performed, including employers or abortion funds that paid for these criminal acts.

Third. You must preserve all communications with your 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. You 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 yourself 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)



# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

Wasatch Women's Center  
715 E. 3900 S. Suite 203  
Salt Lake City, Utah 84107  
wasatchwomenscenter@gmail.com

**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)

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

Utah Abortion Fund  
Salt Lake City, Utah  
(801) 215-9441  
hello@utafund.org

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

To the Utah Abortion Fund 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 Utah Abortion Fund is violating this statute by aiding or abetting criminal abortions in Utah, 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 against you while the injunction remains in effect. It does not shield the Utah Abortion Fund or its employees, volunteers, or donors from future prosecution or punishment for the abortions that they assist 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 aids or abets violations of section 76-7a-201 will be met with the full force of the law.

The Utah Abortion Fund appears 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 the Utah Abortion Fund and its donors are held accountable for every criminal abortion that you assist in violation of section 76-7a-201. This legislation will 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 funds and their donors 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 funds, we will do everything in our power to ensure that the U.S. Attorney in the next Republican Administration holds abortion funds accountable for every criminal act that they aid or abet 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 abortion funds and their donors under civil RICO over these violations of 18 U.S.C. §§ 1461–1462.

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

First. The Utah Abortion Fund must immediately stop aiding or abetting abortions in Utah except those permitted by section 76-7a-201, and you 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.

Second. The Utah Abortion Fund must preserve all evidence of every criminal abortion that takes place 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 Utah Abortion Fund must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including the identity of each of your employees, volunteers, and donors, and anyone else who aided or abetted these criminal acts.

Third. The Utah Abortion Fund 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. Destroying or spoliating evidence of these crimes will expose you and your attorneys to severe civil and criminal penalties.

Fourth. The Utah Abortion Fund 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 Association of Abortion Funds (NAAF)

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

Julie Murray, Esquire  
Planned Parenthood Federation of America  
1110 Vermont Avenue, NW, Suite 300  
Washington, DC 20005  
julie.murray@ppfa.org

**Re: Your clients' violations of Utah's criminal abortion laws and 18 U.S.C. §§ 1461–1462**

Dear Ms. Murray:

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 your clients, including Planned Parenthood Association of Utah, are violating this statute, apparently because they think 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 against your clients while the injunction remains in effect. It does not shield your clients from future prosecution or punishment for the abortions that they 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.

Your clients 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 your clients of that notion, and to provide fair warning that your clients’ 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 your clients and their accomplices are held accountable for every criminal abortion that they 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 and your clients 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 your clients 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 Planned Parenthood and other abortion-providing enterprises under civil RICO for their violations of 18 U.S.C. §§ 1461–1462.

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

First. Your clients must immediately stop performing or assisting abortions in Utah except those permitted by section 76-7a-201, and they 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. Your clients 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. You must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that takes place 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. You must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including employers or abortion funds that paid for these criminal acts.

Third. You must preserve all communications with your clients that fall within the crime–fraud exception to the attorney–client privilege. This includes any communications with your clients 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 clients concerning any act that violates 18 U.S.C. §§ 1461–1462. Destroying or spoliating evidence of these crimes will expose you and your colleagues to severe civil and criminal penalties.



Fourth. You must refrain from advising or counseling your clients 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. Attorneys who advise or counsel their clients to commit criminal acts are subject to felony criminal prosecution and disbarment, and any communications in this regard are discoverable under the crime–fraud exception to the attorney–client privilege.

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: Hannah Swanson, Planned Parenthood Federation of America  
Camila Vega, Planned Parenthood Federation of America

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

John Mejia, Esquire  
ACLU of Utah Foundation Inc.  
355 North 300 West  
Salt Lake City, Utah 84103  
jmejia@acluutah.org

**Re: Your clients' violations of Utah's criminal abortion laws and 18 U.S.C. §§ 1461–1462**

Dear Mr. Mejia:

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 your clients, including Planned Parenthood Association of Utah, are violating this statute, apparently because they think 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 against your clients while the injunction remains in effect. It does not shield your clients from future prosecution or punishment for the abortions that they 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.

Your clients 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 your clients of that notion, and to provide fair warning that your clients’ 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 your clients and their accomplices are held accountable for every criminal abortion that they 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 and your clients 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 your clients 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 Planned Parenthood and other abortion-providing enterprises under civil RICO for their violations of 18 U.S.C. §§ 1461–1462.

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

First. Your clients must immediately stop performing or assisting abortions in Utah except those permitted by section 76-7a-201, and they 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. Your clients 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. You must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that takes place 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. You must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including employers or abortion funds that paid for these criminal acts.

Third. You must preserve all communications with your clients that fall within the crime–fraud exception to the attorney–client privilege. This includes any communications with your clients 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 clients concerning any act that violates 18 U.S.C. §§ 1461–1462. Destroying or spoliating evidence of these crimes will expose you and your colleagues at the ACLU to severe civil and criminal penalties.

Fourth. You must refrain from advising or counseling your clients 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. Attorneys who advise or counsel their clients to commit criminal acts are subject to felony criminal prosecution and disbarment, and any communications in this regard are discoverable under the crime–fraud exception to the attorney–client privilege.

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: Valentina De Fex, ACLU of Utah Foundation Inc.  
Jason M. Groth, ACLU of Utah Foundation Inc.

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

National Abortion Federation  
1090 Vermont Avenue, NW, Suite 1000  
Washington, DC 20005  
naf@prochoice.org

**Re: Your members' violations of Utah abortion laws and 18 U.S.C. §§ 1461–1462**

To the National Abortion Federation and its employees, members, 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 two of your members—Planned Parenthood Association of Utah and the Wasatch Women's Center—are violating this statute, apparently because they think 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 your members from future prosecution or punishment for the abortions that they 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 or assisting violations of section 76-7a-201 will be met with the full force of the law.

Your members 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 members' 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 NAF and its members are held accountable for every criminal abortion that they perform or assist 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-provider networks 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 NAF and its members 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 abortion-provider networks such as NAF under civil RICO for their members’ violations of 18 U.S.C. §§ 1461–1462.

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

First. NAF must immediately stop funding or affiliating with abortion providers in Utah that violate section 76-7a-201, and it must instruct its members to remain in compliance with section 76-7a-201 regardless of whether a court temporarily enjoins state officials from initiating criminal prosecutions under that statute. NAF must also insist that its members 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. NAF must preserve all evidence of every criminal abortion and every violation of 18 U.S.C. §§ 1461–1462 that takes place at its members’ clinics or elsewhere. A criminal abortion includes any abortion performed in Utah on or after June 24, 2022, apart from those permitted by section 76-7a-201. NAF 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 NAF.

Third. NAF 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. NAF 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: Planned Parenthood Association of Utah  
Wasatch Women's Center

# UTAH HOUSE OF REPRESENTATIVES

KERA BIERKLAND  
DISTRICT 53

P.O. BOX 497  
MORGAN, UT 84050  
TEL: (385) 266-2677  
KBIRKELAND@LE.UTAH.GOV



KARIANNE LISONBEE  
DISTRICT 14

P.O. BOX 160152  
CLEARFIELD, UT 84016  
TEL: (801) 589-2934  
KARILISONBEE@LE.UTAH.GOV

September 15, 2022

National Association of Abortion Funds  
9450 SW Gemini Drive  
PMB 16009  
Beaverton, Oregon 97008-7105

**Re: The Utah Abortion Fund's violations of Utah's criminal abortion laws**

To the National Association of Abortion Funds and its employees, members, 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 Utah Abortion Fund is violating this statute by aiding or abetting criminal abortions in Utah, 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 the Utah Abortion Fund or its employees, volunteers, or donors from future prosecution or punishment for the abortions that they are currently assisting 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.

The Utah Abortion Fund appears 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 abortion funds that violate 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 abortion-fund networks are held accountable for every criminal abortion that they are aiding or abetting in violation of section 76-7a-201. This legislation will 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 funds and their donors 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 funds, we will do everything in our power to ensure that the U.S. Attorney in the next Republican Administration holds abortion-fund networks accountable for every criminal act that they aid or abet 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 abortion-fund networks and their donors under civil RICO over these violations of 18 U.S.C. §§ 1461–1462.

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

First. NAAF must ensure that its affiliates immediately stop aiding or abetting abortions in Utah except those permitted by section 76-7a-201, and they 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.

Second. NAAF must preserve all evidence of every criminal abortion that takes place 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. NAAF must also preserve any evidence that identifies the individuals or entities that aided or abetted these illegal abortions, including the identity of every donor or supporter of the Utah Abortion Fund.

Third. NAAF must preserve all communications with its attorneys that fall within the crime–fraud exception to the attorney–client privilege. This includes any communications with its attorneys concerning any abortion performed in Utah on or after June 24, 2022, apart from those permitted by section 76-7a-201. Destroying or spoliating evidence of these crimes will expose you and your attorneys to severe civil and criminal penalties.

Fourth. NAAF 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: Utah Abortion Fund