

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION IN SUPPORT OF AB 2223 (WICKS) WHICH REMOVES THE REQUIREMENT THAT A CORONER INVESTIGATE DEATHS RELATED TO OR FOLLOWING A SUSPECTED SELF-INDUCED OR CRIMINAL ABORTION AND PROHIBIT USING THE CORONER'S STATEMENT ON THE CERTIFICATE OF FETAL DEATH TO ESTABLISH, BRING OR SUPPORT CRIMINAL PROSECUTION OR CIVIL CAUSE OF DAMAGES AGAINST A PERSON OR A PERSON WHO AIDS A PREGNANT PERSON

WHEREAS, reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifaceted issues that women of color and their families face in society; and

WHEREAS, reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives; and

WHEREAS, at the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities; and

WHEREAS, across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion, and California has not been exempt despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses; and

WHEREAS, in California, the District Attorney in the County of Kings prosecuted two women for murder after they suffered stillbirths; and

WHEREAS, every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability; and

WHEREAS, the threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions; and

WHEREAS, civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration; and

WHEREAS, existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion; and

WHEREAS, existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion; and

WHEREAS, if a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance; and

WHEREAS, existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes; and

WHEREAS, under existing law, the Reproductive Privacy Act provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions and prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person; and

WHEREAS, under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable; and

WHEREAS, this bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance; and

WHEREAS, this bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act, as specified; and

WHEREAS, this bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights; and

WHEREAS, the bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

WHEREAS, the bill would authorize a party whose rights are protected by the Reproductive Privacy Act to bring a civil action against an offending state actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff; and

WHEREAS, the bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment; now therefore be it

RESOLVED: That the City of Oakland supports AB 2223 (Wicks); and be it

FURTHER RESOLVED: That the City Council directs the Administrator or his designee to distribute this Resolution upon its adoption to Governor Gavin Newsom, Assembly member Buffy Wicks, and state legislators representing the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California