



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: August 16, 2022

08

TO: Board of Supervisors

SUBJECT

RESOLUTION IN SUPPORT OF MY BODY, MY DATA ACT: PROTECTING THE PRIVACY, DATA, AND SAFETY OF PEOPLE SEEKING REPRODUCTIVE HEALTH CARE (DISTRICTS: ALL)

OVERVIEW

In the 30 days since the overturning of *Roe v. Wade* by the United States Supreme Court, 11 states have enacted bans on abortion. Another 15 states are certain or likely to ban abortion now that *Roe* is no longer in place. Some of these states already criminalize abortion or people who assist a person seeking an abortion. Personal reproductive health data found on a person's phone, computer, or stored in apps can be weaponized in these criminalization efforts. We need policies that reflect today's world and the intersection between our digital lives and our reproductive rights.

Congresswoman Sara Jacobs' *My Body, My Data Act* (H.R. 8111), guards against the misuse of personal reproductive health data by restricting the use of such data by businesses and nongovernmental organizations. This board letter recommends that the County of San Diego Board of Supervisors (Board) adopt a resolution to formally support the *My Body, My Data Act*.

RECOMMENDATION(S)

VICE-CHAIR NORA VARGAS AND SUPERVISOR LAWSON-REMER

1. Adopt the Resolution titled: "RESOLUTION IN SUPPORT OF CONGRESSWOMAN SARA JACOBS' MY BODY, MY DATA ACT TO PROTECT THE PRIVACY, DATA, AND SAFETY OF PEOPLE SEEKING REPRODUCTIVE HEALTH CARE."

EQUITY IMPACT STATEMENT

The lack of strong digital privacy protections has implications in the face of expanding criminalization of reproductive health care. Laws that criminalize reproductive health care are already being used to disproportionately penalize Black and Brown people. According to the National Advocates for Pregnant Women, the past 15 years have seen a spike in arrests and

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prosecutions for crimes related to stillbirths, miscarriages, and alleged drug and alcohol use during pregnancy. Of the 1,600 people prosecuted for these offenses since the *Roe* decision in 1973, 1,200 were charged after 2006, and those targeted were disproportionately Black and Indigenous women. Protecting digital privacy is inextricably linked to protecting access to reproductive health care and information without fear of the potential use of that information.

FISCAL IMPACT

There is no fiscal impact associated with today’s recommended action.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

On June 24, 2022, the United States Supreme Court overturned *Roe v. Wade*, thereby allowing states to make abortion illegal within their borders. As many as 26 states are certain or likely to ban abortion now that *Roe* is no longer in place. As of July 24, 2022, 30 days after the fall of *Roe*, 11 states – all in the South and Midwest – have either banned abortion completely or implemented a ban on abortion starting at six weeks of pregnancy, before many people even know they are pregnant. Some states already criminalize people who self-manage their abortion or criminalize people who assist a person seeking an abortion and there is a growing discussion regarding criminalizing people who travel to another state for abortion care.

In this landscape, it is clear that a person’s reproductive health data can be weaponized against them. People enter very personal reproductive health data into their phones, search engines, and menstruation and pregnancy tracking apps. In the wrong hands, this data can be used to target people. We need policies that reflect today’s world and the intersection between our digital lives and our reproductive rights.

Congresswoman Sara Jacobs’ *My Body, My Data Act* (H.R. 8111), guards against this danger and provides federal protection for personal reproductive health data. The bill restricts business and nongovernmental organizations from collecting, using, retaining, or disclosing reproductive health care information beyond what is strictly necessary to provide a product or service. It provides people with the right to access or delete their personal reproductive health information and requires organizations to publish their privacy policies. The bill also includes strong enforcement mechanisms, including a private right of action that allows individuals to bring a lawsuit if their privacy is violated.

This board letter recommends that the Board adopt a resolution to formally support the *My Body, My Data Act*. The proposed resolution is consistent with this Board’s previous actions supporting reproductive freedom. On September 14, 2021, the Board adopted a resolution “Declaring San Diego County a Champion of Reproductive Freedom.” In that vote, the Board committed to

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“defend and fight for reproductive freedom.” On May 24, 2022, the Board approved a resolution supporting the efforts to amend the California State Constitution to enshrine the right to abortion and directed staff to conduct a comprehensive assessment of reproductive health care services offered by the County of San Diego (County) and County health care contractors. Additionally, the Board directed the County to advocate in support of legislative efforts that strengthen access to reproductive rights and health care services, including abortion.

A person’s reproductive and sexual health data is their most private and personal information. Fear for the privacy of that information should never stand in the way of a person accessing health care or health care related information, including access to abortion. That highly personal data deserves the highest level of privacy protection the government can provide. The *My Body, My Data Act* accomplishes the protection of sexual and reproductive health data. By minimizing the personal reproductive health data that is collected and retained, the bill would prevent this information from being disclosed or misused. We urge your support for adopting this resolution.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today’s proposed action to support legislation that protects the privacy and data of people seeking reproductive health information and care supports the Equity Strategic Initiative in the County of San Diego’s 2022-2027 Strategic Initiatives by reducing health disparities and focusing on policies that ensure equal opportunity for health and well-being.

Respectfully submitted,



NORA VARGAS
Supervisor, First District



TERRA LAWSON-REMER
Supervisor, Third District

ATTACHMENT(S)

Resolution in Support of Congresswoman Sara Jacobs’ *My Body, My Data Act* to Protect the Privacy, Data, and Safety of People Seeking Reproductive Health Care.