February 7, 1969
Passed on File

SENATE FILE 202

By COMMITTEE ON SOCIAL SERVICES

Failed to
Passed Senate, Date 2-21-69 Passed House, Date .....

Vote: Ayes 29 Nays 26 Vote: Ayes ..... Nays .....

motion to reconsider lost 2-21 failed motion to reconsider failed 2-24 Lost 2-27

Approved .....

A BILL FOR

1 An Act relating to abortion.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Except as permitted under section two (2) of
4 this Act, it is unlawful for any person:

5 1. Willfully to terminate or attempt to terminate the
6 pregnancy of a woman by any means other than by live birth; or

7 2. Representing that it is his purpose to terminate a
8 pregnancy otherwise than by live birth, to perform an act
9 adapted to cause such termination of pregnancy in a pregnant
10 woman and it shall be no defense that such person did not
11 believe the woman to be pregnant or that the woman in fact
12 was not pregnant; or

13 3. To induce or knowingly aid a woman to use instruments,
14 drugs or violence upon herself for the purpose of terminating
15 her own pregnancy otherwise than by live birth.

16 Sec. 2. A licensed physician and surgeon or osteopathic
17 physician and surgeon may lawfully terminate a pregnancy if:

18 1. He has documented medical evidence that:

19 a. Continuance of the pregnancy may threaten the life or
20 the mental or physical health of the woman; or

21 b. Continuance of the pregnancy may result in the birth of
22 an infant with incapacitating physical deformity or mental
23 deficiency; or

24 c. He reasonbly believes that the pregnancy resulted from
25 rape or incest which was reported to the county attorney or

1 sheriff of the county in which the woman resides, or in which
2 such offense was committed; and
3 2. Two other physicians and surgeons or osteopathic
4 physicians and surgeons whom he has chosen because of their
5 recognized professional competence, both of whom in cases in-
6 volving mental health shall be actively engaged in the practice
7 of psychiatry, have examined the woman and have concurred in
8 writing; and
9 3. He has a request for the termination of the pregnancy
10 voluntarily signed by the woman; and if the woman is a minor
11 or has been adjudicated incompetent by any court of competent
12 jurisdiction then only after permission is given in writing
13 by her husband, if she is married, or by a parent, guardian,
14 or person standing in loco parentis to said minor or incompetent;
15 and
16 4. The procedure is performed in a hospital accredited by
17 the joint commission on accreditation of hospitals.
18 Sec. 3. No hospital shall be required to permit the termina-
19 tion of a pregnancy by abortion in its facilities. No person
20 shall be required to participate in any termination of preg-
21 nancy by abortion. The refusal of any such hospital or
22 person to permit or participate in an abortion shall not form
23 the basis for any claim for damages or for disciplinary or
24 other recriminatory action.
25 Sec. 4. Any person who violates section one (1) of this
26 Act shall be fined not to exceed one thousand dollars and be
27 imprisoned in the penitentiary for a term not to exceed five
28 years.
29 Sec. 5. Section seven hundred one point one (701.1), Code
30 1966, is hereby repealed.

EXPLANATION OF SENATE FILE 202

This bill repeals Chapter 701.1 (Iowa Code, 1966) which makes it a crime to attempt to produce an abortion of a woman "unless such miscarraige should be necessary to save her life". It enacts three criminal offenses, which might be summarized as (1) willful abortion, (2) attempt-

ed abortion, and (3) being an accessory to abortion.

The bill permits a licensed physician and surgeon, or osteopathic physician and surgeon, to perform a therapeutic abortion in an accredited hospital in cases where the procedure is voluntarily requested by the woman and two other physicians concur in writing that there is documented medical evidence that: (1) Continuance of the pregnancy may threaten the mental or physical health or life of the woman; or (2) the infant may be born with incapacitating physical deformity or mental deficiency; or (3) continuance of a pregnancy, resulting from reported statutory or forcible rape or incest, may constitute a threat to the mental or physical health of the woman.

The bill expressly provides that the refusal of any hospital, physician or person employed by a hospital, to participate in such procedure shall not form the basis for any disciplinary action or recrimination against the hospital, physician or person.

1 Amend Senate File 202, page 2, by striking lines 9
2 through 15, inclusive, and inserting in lieu thereof
3 the following:
4 "3. He has, if the woman is unmarried and of legal
5 age, a sworn statement in writing requesting termination
6 of the pregnancy voluntarily signed by the woman; and,
7 if the woman is married, a sworn statement in writing
8 requesting termination of the pregnancy voluntarily
9 signed by the woman and her husband; and if the woman is
10 a minor or has been adjudicated incompetent by any court
11 of competent jurisdiction, then only after permission
12 is given in a sworn statement in writing by her husband,
13 if she is married, or by a parent, guardian, or person
14 standing in the place of parent to said minor or incom-
15 petent, and".

Filed - Withdrawn 2-21
February 10, 1969

By HILL

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1 Amend Senate File 202 as follows:
2 1. By striking from page 1 lines twenty-four
3 (24) and twenty-five (25).
4 2. By striking from page 2 lines one (1) and two
5 (2).
6 3. By inserting in lieu thereof the following:
7 "c. He reasonably believes that the pregnancy
8 resulted from rape or incest which was reported to
9 the proper authorities within twenty-four hours of
10 its occurrence, by the woman molested if unmarried and
11 of legal age, by the woman and her husband if married,
12 or by her husband, parent, guardian or person standing
13 in the place of parent if the woman is a minor or
14 been adjudicated incompetent; and
15 d. He has ascertained that there is on file with
16 the clerk of district court a sworn statement by a
17 physician or osteopathic physician certifying that
18 examination of the woman alleging rape or incest
19 within a period of twenty-four hours following the
20 alleged act did not reveal the woman to be already
21 pregnant."

Lost 2-21

Filed - Lost 2-21
February 13, 1969

By HILL

1 Amend Senate File 202 as follows:
2 1. By inserting in page 1, line one (1), after
3 the word "abortion" the words "and other mercy
4 killing".
5 2. By striking page 1, lines twenty-one (21)
6 through twenty-three (23), inclusive, and by changing
7 the letter "c." in line twenty-four (24) to the
8 letter "b.".
9 3. By inserting in page 2, after line seventeen
10 (17), the following new section:
11 "Sec. 3. A licensed physician and surgeon or osteo-
12 pathic physician and surgeon may lawfully perform a
13 mercy killing if:
14 1. He has determined, following birth, that an
15 infant has an incapacitating, physical deformity, or
16 mental deficiency that deviates twenty-five per cent
17 or more from normal; and
18 2. Two other physicians and surgeons or osteo-
19 pathic physicians and surgeons who have been appointed
20 by the hospital board because of their recognized pro-
21 fessional competence, both of whom in cases involving
22 mental deficiency shall be actively engaged in the
23 practice of psychiatry, have examined the infant and
24 have concurred in a sworn statement; and
25 3. He has, if the woman is unmarried and of legal
26 age, a sworn statement in writing requesting the mercy
27 killing voluntarily signed by the woman; and, if the
28 woman is married, a sworn statement in writing re-
29 questing the mercy killing voluntarily signed by
30 the woman and her husband; and if the woman is a minor
31 or has been adjudicated incompetent by any court of
32 competent jurisdiction, then only after the request
33 is made in a sworn statement in writing by her husband
34 if she is married, or by a parent, guardian, or
35 person standing in the place of parent to said minor
36 or incompetent, and
37 4. The procedure is performed in a hospital
38 accredited by the joint commission on accreditation
39 of hospitals."
40 4. By renumbering the following sections.

Withdrawn 2-21

Filed - Withdrawn 2-21
February 13, 1969

By HILL

1 Amend Senate File 202 as follows:
2 1. By inserting after page two (2), line seventeen
3 (17), the following:
4 "Sec. 3. A request that a minister, priest, or
5 rabbi be substituted for one of the physicians, osteo-
6 pathic physicians, or physician engaged in the practice
7 of pyschiatry, required in the foregoing sections,
8 shall be granted at the request of the woman if
9 unmarried and of legal age, by the woman and her
10 husband if the woman is married, or if the woman is a
11 minor or incompetent, by her husband, parent, guardian
12 or person standing in the place of parent. In addition
13 to participating in the decision to be rendered the
14 minister, priest, or rabbi so appointed shall advise
15 the woman, the woman and her husband, or the husband,
16 parent, guardian, or person standing in the place of
17 parent, as to their moral responsibility for the act
18 requested to be performed."
19 2. By renumbering the following sections.

Filed - Lost 2-21
February 13, 1969 By HILL

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1 Amend Senate File 202 as follows:
2 1. By striking from page 1 line 19, the word "may"
3 and inserting in lieu thereof the following: "will with
4 reasonable medical certainty".
5 2. By striking from page 1 line 21, the word "may"
6 and inserting in lieu thereof the following: "will with
7 reasonable medical certainty".
8 3. By striking from page 2 lines 4 and 5, the words
9 "whom he has chosen because of their professional compe-
10 tence" and inserting in lieu thereof the following: "who
11 have been selected because of their recognized profession-
12 al competence by a board of staff doctors in the hospital
13 where the abortion is to be performed".

adopted 2-21

Filed - adopted 2-21
February 17, 1969 By NEU

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1 Amend Senate File 202, page 1, line 17, by adding
2 after the word "pregnancy" the words "at any time up to
3 the moment of live birth".

Filed - Lost 2-21
February 19, 1969 By WALSH

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1 Amend Senate File 202 as follows: adopted
2 1. By inserting in page 1, line 3, the words "or section three (3)" 2-21
3 before the word "of".
4 2. By inserting in page 1, line 14, a comma after the word "drugs".
5 3. By inserting in page 2, line 2, the word "alleged" following the
6 word "such".
7 4. By inserting in page 2, line 3, a comma after the word "surgeons".
8 5. By inserting in page 2, line 4, a comma after the word "surgeons".
9 6. By inserting in page 2, line 5, a comma after the word "whom".
10 7. By inserting in page 2, line 6, a comma after the word "health".
11 8. By striking from page 2, lines 9 through 15, inclusive, and inserting
12 in lieu thereof the following:
13 "3. He has a request for the termination of the pregnancy
14 voluntarily signed by the woman, and if the woman is a minor,
15 then only after permission is given in writing by her husband if
16 she is married, or by a parent, guardian, or person standing in
17 the place of a parent to said minor. However, if the woman has been
18 adjudicated incompetent by any court of competent jurisdiction, he
19 has a request in writing by her husband if she is married, or by
20 any parent, guardian or person standing in the place of a parent
21 to such incompetent woman; and".
22 9. By inserting in page 2 after line 17 the following:
23 "Sec. 3. A licensed physician and surgeon, or an osteopathic
24 physician and surgeon, may lawfully terminate a pregnancy if an
25 emergency exists and such procedure is necessary to save the life
26 of the woman."
27 10. By renumbering the following sections.

Filed - adopted 2-21
February 18, 1969 By KOSEK

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1 Amend the Kosek amendment to Senate File 202, filed February 18, 1969,
2 by striking all of division 8 and inserting in lieu thereof the following:
3 "By striking from page 2, lines 9 through 15, inclusive, and inserting in
4 lieu thereof the following:
5 '3. He has, if the woman is unmarried and of legal age, a sworn statement
6 in writing requesting termination of the pregnancy voluntarily signed by the woman;
7 and, if the woman is married, a sworn statement in writing requesting
8 termination of the pregnancy voluntarily signed by the woman and her husband;
9 and if the woman is a minor or has been adjudicated incompetent by any court
10 of competent jurisdiction, then only after permission is given in a sworn
11 statement in writing by her husband, if she is married, or by a parent,
12 guardian, or person standing in the place of parent to said minor or incompetent,
13 and'."

Filed - Lost 2-21
February 19, 1969 By HILL

1 Amend Senate File 202 as follows: by a new subsection
2 at the end of section 2 as follows: "d. He believes with
3 reasonable medical certainty that the life he destroys in
4 the womb is not a human life."

Filed - Lost 2-21
February 19, 1969 By WALSH

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1 Amend Senate File 202, page 1, line 21, by striking
2 the word "may" and inserting in lieu thereof the words
3 "will with reasonable medical certainty."

Filed - Withdrawn 2-21
February 20, 1969 By BALLOUN

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1 Amend Senate File 202, page 2, line 14, by adding
2 after the word "incompetent" the words ", which minor
3 or incompetent shall in all cases be represented by
4 counsel".

Filed - Withdrawn 2-21
February 20, 1969 By WALSH

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1 Amend Senate File 202 as follows:
2 1. By striking from page 1, line 24, the word "reasonably" and inserting
3 in lieu thereof the word "reasonably".
4 2. By striking from page 2, line 17, the period and inserting in lieu
5 thereof the following: ", or hospital accredited by the American Osteopathic
6 Association and approved by it for residency training."

Withdrawn 2-21

Filed - Amdt 2 adopted 2-21
February 20, 1969 By KOSEK

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1 Amend Senate File 202, page 1, line 19, by striking the word
2 "may" and inserting in lieu thereof the words "will with
3 reasonable medical certainty".

Filed - Withdrawn 2-21
February 20, 1969 By BALLOUN

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1 Amend Senate File 202, page 1, line 13, by striking
2 the word "knowingly".

Filed - Lost 2-21
February 20, 1969 By BALLOUN

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1 Amend Senate File 202, page 2, line 24, as follows: by
2 adding after the word "action." the words "Said hospital or
3 person shall not be denied directly or indirectly, any state
4 funds or services, or federal funds or services over which
5 the State of Iowa exercises control."

Filed - Adopted 2-21
February 20, 1969 By O'MALLEY

1 Amend Senate File 202, page 2, by striking all of lines
2 25, 26, 27 and 28 and inserting in lieu thereof the following:
3 "Any person who violates section one (1) of this Act shall be fined
4 not to exceed $5,000 and be imprisoned in the penitentiary for
5 a term of not to exceed 10 years."

Filed - Lost 2-21
February 20, 1969 By BALLOUN

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1 Amend Senate File 202 as follows:
2 1. By striking the period at the end of page 2, line 17,
3 and inserting in lieu thereof the word "; and".
4 2. By adding a new subsection as follows: "That the woman has
5 been a resident of Iowa at least four months."

Filed - Lost 2-21, Motion to reconsider filed 2-24
February 20, 1969 By BALLOUN

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1 Amend Senate File 202 by inserting in line 16, page 2,
2 after the word, "a" the words, "licensed hospital facility or".

Filed and lost
February 21, 1969 By FREY

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1 Amend the Walsh amendment filed February 18, 1969, to Senate File 202
2 by striking all of lines 1 and 2 and inserting in lieu thereof the following:
3 "Amend Senate File 202 by adding a new paragraph at the end of
4 subsection 1, section 2, as follows: 'd. He believes with'."

Filed and adopted
February 21, 1969 By WALSH

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1 Amend Senate File 202 by inserting on page 2 after line 17
2 the following:
3 "5. For the purposes of this section, rape means the
4 ravishment and carnal knowledge of any female by force or against
5 her will by any person which results in the pregnancy of said
6 female, irrespective of the provisions of section six hundred
7 ninety-eight point one (698.1) of the Code or the age of said female."

Filed and lost
February 21, 1969 By SHIRLEY

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1 Amend the Kosek amendment to Senate File 202 filed February 18, 1969:
2 By striking the words "her husband if" in line 15 thereof
3 and the words "she is married, or by" in line 16 thereof.

Filed and adopted
February 21, 1969 By SHIRLEY

1 Amend Senate File 202, page 1, line 22, by inserting after the
2 word "deformity" the following: "which shall be substantiated by
3 photographic evidence that the living fetus is at least eighty per-
4 cent deformed".

Filed and withdrawn
February 21, 1969

By WALSH

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1 Amend Senate File 202 as follows:
2 1. Amend page 1, lines 19 and 20, by striking the words
3 "or the mental".
4 2. Further amend page 1, lines 22 and 23, by striking the
5 words "or mental deficiency".
6 3. Amend page 2, lines 5, 6 and 7, by striking the following:
7 "both of whom in cases involving mental health shall be actively
8 engaged in the practice of psychiatry,".

Filed and lost
February 21, 1969

By RIGLER

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1 Amend Senate File 202 as follows:
2 1. Amend section 2 by adding the following new subsection after
3 subsection 3:
4 "4. Such minor or incompetent woman described in
5 subsection three (3) shall in all cases be represented by counsel; and".
6 2. Further amend section 2 by renumbering the remaining sub-
section.

Filde and lost
February 21, 1969

By WALSH

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1 Amend Senate File 202 by inserting on page 2, line 2,
2 after the word, "committed;" the words, "provided, however,
3 rape for the purposes set forth in this Act shall not include a
4 pregnancy wherein the father is under eighteen years of age, and
5 resulted with the consent of the woman, the provisions of sec-
6 tion six hundred ninety-eight point one (698.1) of the Code
7 notwithstanding".

Filed and adopted
February 21, 1969

By GAUDINEER

1 Amend Senate File 202 by numbering properly and adding the
2 following new subsection after line 17 on page 2 thereof
3 as follows:
4 "If a pregnancy is terminated pursuant to this Act because
5 of rape or incest, sections six hundred twenty-two point seven
6 (622.7), six hundred twenty-two point nine (622.9) and six hundred
7 twenty-two point ten (622.10) of the Code and any other statute
8 or rule of evidence which excludes or makes privileged the testi-
9 mony of a husband or wife against the other or the testimony of a
10 health practitioner as to confidential communications, shall not
11 apply to evidence regarding such termination of pregnancy or the
12 reasons therefor in any judicial proceeding, civil or criminal."

Filed and adopted
February 21, 1969

By GAUDINEER

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1 Amend the Balloun amendment to page 2, line 17, of Senate
2 File 202 filed February 20, 1969, by adding after the word, "months.",
3 in line (5) the following:
4 "Any pregnancy terminated pursuant to section two (2) of this
5 Act, shall only be accomplished during the first eighteen (18)
6 weeks of such pregnancy."

Filed
February 24, 1969

By GAUDINEER