

HUMAN RESOURCES: Taylor, Chair, Bruner and Gentleman

..... Taylor, Chair, Hannon and Gentleman

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SENATE FILE 404
BY TAYLOR

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the protection of human life, including the
2 protection of unborn children and the prohibition of abortion
3 and related actions affecting unborn children, providing
4 penalties, and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 404

1 Section 1. NEW SECTION. 707A.1 TITLE.

2 This chapter shall be entitled the "Preservation of Human
3 Life Act".

4 Sec. 2. NEW SECTION. 707A.2 FINDINGS.

5 The general assembly of the state of Iowa finds the
6 following:

7 1. The central object of this chapter, to protect the life
8 of unborn children, falls within the lawful objects of
9 government, and the means for obtaining that object are within
10 the state's lawful and constitutional jurisdiction. This
11 legislation is not designed to restrict the efforts of
12 licensed physicians to enhance or preserve the well-being of
13 unborn children through prenatal treatment including surgery.

14 2. This chapter is designed to protect human life.
15 Scientific inquiry requires the acknowledgement by the general
16 assembly that an unborn child at fertilization is a living
17 human being. Moreover, the sanctity of human life is
18 threatened for all, especially the very young, the very old,
19 and the physically and mentally infirm, if human life is
20 deemed to begin other than at fertilization. It is the legal
21 obligation of this state and the United States to extend to
22 each human life the full protections of law, and it is the
23 foremost duty of the general assembly to secure the
24 unalienable right to life of each of its citizens, residents,
25 and all other persons subject to its jurisdiction at every
26 stage of human development from fertilization forward.

27 3. Preservation of the health of pregnant citizens,
28 residents, and other persons subject to this state's
29 jurisdiction is among this body's most solemn responsibilities
30 and is substantially furthered by the protection of fetal
31 development from the moment of fertilization. In this regard,
32 abortion, as it has been practiced in this state since the
33 United States' supreme court Roe vs. Wade decision in 1973,
34 frequently has caused crippling emotional, psychological, and
35 spiritual injuries to women. Severe physical injury has

1 repeatedly been the consequence of abortion, on occasion
2 resulting in maternal sterility and death.

3 4. The well-being of the family as the cradle of life is
4 crucial to this state's economic, cultural, and moral growth
5 and stability. Current practices of abortion endanger the
6 family and the consequent stability of the state.

7 5. The security of our society and its economy depends
8 upon a healthy and growing population. The state recognizes
9 that a policy commending childbearing within the context of
10 marriage and adoption is conducive to its continued stability
11 and growth. Abortion practices threaten the future viability
12 of the state's economic structure and social-welfare programs
13 and fracture the taxpayer base. Moreover, the protection of
14 the unalienable rights of its youngest, most vulnerable
15 inhabitants is central to the social compact upon which the
16 state's legitimacy depends.

17 6. The state's interest in maintaining high medical
18 standards is consistent with the prohibition of aborting
19 unborn children. It does not unduly burden the medical
20 profession or discourage licensed physicians from all lawful
21 use of their skill, but rather seeks to encourage and direct
22 them in its highest and most lawful use. The duty of a
23 licensed physician in this state is to preserve by the
24 physician's skill and talents the life and health of those
25 committed to the care of the physician.

26 Sec. 3. NEW SECTION. 707A.3 DEFINITIONS.

27 As used in this chapter, unless the context otherwise
28 requires:

29 1. "Abortion" means an act intending to effect the
30 premature termination of the pregnancy of a woman at any point
31 in the pregnancy from fertilization onward.

32 "Abortion" does not include those activities which in the
33 preservation or enhancement of the life or health of the
34 unborn child, may require the premature termination of a
35 pregnancy. The death of the unborn child is not in the

1 interest of the enhancement of the life or health of the
2 unborn. "Abortion" does not include removal of a dead fetus,
3 or treatment of ectopic pregnancies or cancerous female
4 reproductive organs which may result in the premature
5 termination of a pregnancy.

6 2. "Fertilization" means the moment at which the sperm
7 cell penetrates the ovum cell and combines to form a single
8 cell containing forty-six chromosomes.

9 3. "Unborn child" means human offspring from the moment of
10 fertilization until the moment of the live birth. "Unborn
11 child" does not include the offspring which has expired
12 spontaneously or through accidental causes while in the womb
13 of the mother.

14 Sec. 4. NEW SECTION. 707A.4 CRIMINAL ABORTION.

15 A person who knowingly gives or administers to a pregnant
16 woman, or causes the pregnant woman to take or use anything,
17 or uses any instrument or other means with intent to procure
18 upon the pregnant woman a miscarriage or abortion, is guilty
19 of a class "B" felony.

20 Sec. 5. NEW SECTION. 707A.5 PRETENDED ABORTION.

21 A person who knowingly gives or administers to a woman, or
22 causes the woman to take or use anything, including but not
23 limited to medication, drug, or other substance, or uses an
24 instrument or other means, adapted to cause a miscarriage or
25 abortion, although the woman is in fact not pregnant, or the
26 person does not believe the woman is pregnant, is guilty of a
27 class "D" felony.

28 Sec. 6. NEW SECTION. 707A.6 ACCESSORY LIABILITY.

29 A person who knowingly induces, counsels, advises, directs,
30 or aids a pregnant woman to procure an abortion, if thereafter
31 the pregnant woman procures an abortion, is guilty of criminal
32 abortion as an accessory and is guilty of a class "B" felony.

33 Sec. 7. NEW SECTION. 707A.7 MANSLAUGHTER.

34 If a woman, pregnant or not pregnant, by reason of conduct
35 pursuant to sections 707A.4 through 707A.6 dies, as a direct

1 result of the conduct, a person who is guilty pursuant to
2 sections 707A.4 through 707A.6 is also guilty of manslaughter,
3 a class "D" felony.

4 Sec. 8. NEW SECTION. 707A.8 CONCEALING INFORMATION.

5 A person who knowingly conceals information concerning the
6 occurrence of any action or conduct pursuant to sections
7 707A.4 through 707A.7, or section 707A.9 is guilty of an
8 aggravated misdemeanor.

9 Sec. 9. NEW SECTION. 707A.9 SELF-ABORTION.

10 If a pregnant woman takes any medication, drug, or
11 substance, or uses or submits to the use of any instrument or
12 other means, with intent to cause the woman's own miscarriage
13 or abortion, the person is guilty of a class "B" felony.

14 Sec. 10. NEW SECTION. 707A.10 IMMUNITY.

15 A woman who has violated section 707A.8, or who has
16 attempted to violate that section, is not excused from
17 attending and testifying or producing evidence in an
18 investigation or trial relating to a violation of sections
19 707A.4 through 707A.8 or an attempt to commit any such
20 violation, upon the ground that the testimony or evidence so
21 required of her may tend to incriminate her in a crime or to
22 subject her to a penalty or forfeiture; but a woman shall not
23 be prosecuted or subjected to a penalty or forfeiture for or
24 on account of any transaction, matter, or thing concerning
25 which she is compelled, after having claimed her privilege
26 against self-incrimination, to testify or produce evidence,
27 and testimony so given or evidence so produced shall not be
28 received or otherwise used against her in or in connection
29 with any criminal investigation, proceedings, or trial.

30 Sec. 11. NEW SECTION. 707A.11 ADVERTISING.

31 A person who publishes a notice or advertisement of any
32 medication or other means of producing or facilitating a
33 miscarriage or abortion, or who by a notice or advertisement
34 offers or suggest services or the services of another person,
35 to assist in the accomplishment of a miscarriage or abortion

1 is guilty of a class "D" felony.

2 Sec. 12. NEW SECTION. 707A.12 ABORTIFACIENTS.

3 A person who manufactures, sells, or distributes any
4 instrument, medication, drug, or any other substance or
5 device, with knowledge and intent that the instrument,
6 medication, drug, or other substance or device be employed in
7 procuring a miscarriage or abortion is guilty of a class "D"
8 felony.

9 Sec.13. NEW SECTION. 707A.13 PHYSICIAN LIABILITY.

10 A licensed physician or other health practitioner duly
11 licensed in this state, who is guilty of any section of this
12 chapter, shall forfeit the person's license for a period not
13 less than two years. This section does not affect
14 professional disciplinary proceedings by the appropriate
15 examining or licensure board.

16 Sec. 14. NEW SECTION. 707A.14 HOSPITAL LIABILITY.

17 A hospital or other health care facility which permits any
18 action or conduct prohibited in this chapter to occur on its
19 premises, or with the use of its equipment or personnel, is
20 guilty of a class "D" felony.

21 Sec. 15. NEW SECTION. 707A.15 REPORTING.

22 A licensed physician undertaking any treatment or procedure
23 which results in the death of or injury to either a mother or
24 unborn child or both shall submit a written report of the
25 treatment or procedure to the Iowa department of public health
26 on forms to be supplied by the department. The department
27 shall transmit the report to the office of the attorney
28 general, which shall determine whether the procedure was in
29 violation of this chapter, the physician bearing the burden of
30 proof to the department's satisfaction. Failure to comply
31 with this subsection gives rise to a presumption that the
32 procedure was in violation of this chapter. If the treatment
33 or procedure is determined to not be in violation of this
34 chapter, the penalties shall not be applied.

35 Sec. 16. NEW SECTION. 707A.16 CRIMINAL EMBRYONICIDE.

1 A person who destroys, or exposes to the substantial
2 likelihood of destruction, any fertilized human ova or any
3 human ova sufficiently exposed to human sperm such that a
4 likelihood of fertilization has taken place ex utero, is
5 guilty of criminal embryonicide, a class "D" felony.

6 Sec. 17. NEW SECTION. 707A.17 EXPERIMENTATION.

7 A person who engages in experimentation upon the unborn
8 child or in any medical or scientific treatment affecting an
9 unborn child, except as is intended and designed specifically
10 to enhance or preserve the life or health of the unborn child,
11 or except where the experimentation, after receiving parental
12 consent, does not adversely affect the unborn child, is guilty
13 of a class "D" felony.

14 Sec. 18. NEW SECTION. 707A.18 SEVERABILITY.

15 If any provision of this chapter or application to any
16 person or circumstance is held invalid, the invalidity shall
17 not affect the other provisions or applications of this
18 chapter which can be given effect without the invalid
19 provision or application, and the provisions of this chapter
20 are severable.

21 Sec. 19. This Act, being deemed of immediate importance,
22 takes effect upon enactment.

23 EXPLANATION

24 This bill prohibits abortion and related actions and
25 provides criminal penalties for those persons, including a
26 licensed physician, the pregnant female, a person advising a
27 pregnant female, a person concealing certain information,
28 taking action related to an abortion.

29 The bill takes effect upon its enactment.

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