

FILED APR 13 1977

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SENATE FILE 349

By COMMITTEE ON JUDICIARY
Approved 4/13 (p. 1063)

Passed Senate, Date 4-27-77 p. 1213 Passed House, Date _____
Vote: Ayes 40 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to clarify and change the feticide provisions of
2 the criminal code revision to conform to a recent
3 United States supreme court decision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 3

SENATE FILE 349

S-3359

1 Amend Senate File 349, page 1, by striking lines
2 13 through 24 and inserting in lieu thereof the
3 following:
4 "SEC. 707. NEW SECTION. FETICIDE. Any person
5 who intentionally terminates a human pregnancy after
6 the end of the second trimester of the pregnancy where
7 death of the fetus results commits feticide. Feticide
8 is a class C felony.
9 Any person who attempts to intentionally terminate
10 a human pregnancy after the end of the second trimester
11 of the pregnancy where death of the fetus does not
12 result commits attempted feticide. Attempted feticide
13 is a class D felony.
14 This section shall not apply to the termination
15 of a human pregnancy performed by a physician licensed
16 in this state to practice medicine or surgery when
17 in the best clinical judgment of the physician the
18 termination is performed to preserve the life or
19 health of the pregnant person or of the fetus and
20 every reasonable medical effort not inconsistent with
21 preserving the life of the pregnant person is made
22 to preserve the life of the a viable fetus."

S-3359 FILED - *Last 4/27 p. 1210* BY RICHARD R. RAMSEY
APRIL 18, 1977 *Motion to reconsider;*
prevailed Adopted 4/27 (1212)

1 Section 1. Chapter one thousand two hundred forty-five
2 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,
3 chapter one (1), is amended by adding the following new section
4 after section two hundred nineteen (219):

5 SEC. __. NEW SECTION. VIABILITY. Viability is that stage
6 of fetal development when the life of the unborn child may
7 be continued indefinitely outside the womb by natural or
8 artificial life support systems.

9 Sec. 2. Chapter one thousand two hundred forty-five (1245),
10 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
11 one (1), section seven hundred seven (707), is amended to
12 read as follows:

13 SEC. 707. NEW SECTION. FETICIDE. Any person who
14 intentionally terminates a human pregnancy after the end of
15 the second trimester of the pregnancy where death of the fetus
16 results commits feticide. Feticide is a class C felony.

17 This section shall not apply to the termination of a human
18 pregnancy performed by a physician licensed in this state
19 to practice medicine or surgery when in the best clinical
20 judgment of the physician the termination is performed to
21 preserve the life or health of the pregnant person or of the
22 fetus and every reasonable medical effort not inconsistent
23 with preserving the life of the pregnant person is made to
24 preserve the life of ~~the~~ a viable fetus.

25 Any person who terminates a human pregnancy who is not
26 a person licensed to practice medicine and surgery under the
27 provisions of chapter one hundred forty-eight (148) of the
28 Code, or an osteopathic physician and surgeon licensed to
29 practice osteopathic medicine and surgery under the provisions
30 of chapter one hundred fifty A (150A) of the Code, commits
31 a class C felony.

32 Sec. 3. Chapter one thousand two hundred forty-five (1245),
33 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
34 one (1), section seven hundred nine (709), is amended to read
35 as follows:

1 SEC. 709. NEW SECTION. ~~HOMICIDE~~ MURDER OF FETUS ABORTED
2 ALIVE. A person who intentionally kills a viable fetus aborted
3 alive ~~after-the-twentieth-week-of-pregnancy~~ shall be guilty
4 of a class B felony.

5 Sec. 4. Chapter one thousand two hundred forty-five (1245),
6 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
7 one (1), section seven hundred ten (710), is amended to read
8 as follows:

9 SEC. 710. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE
10 FETUS. ~~After-the-twentieth-week-of-pregnancy,~~ a A person who
11 performs or induces a termination of a human pregnancy and
12 who willfully fails to exercise that degree of professional
13 skill, care, and diligence available to preserve the life
14 and health of a viable fetus ~~showing-significant,-sustainable~~
15 ~~vital-signs~~ shall be guilty of a serious misdemeanor.

16 Sec. 5. This Act is effective on the date set forth in
17 chapter one thousand two hundred forty-five (1245), Acts of
18 the Sixty-sixth General Assembly, 1976 Session, chapter four
19 (4), section five hundred twenty-nine (529).

20 EXPLANATION

21 This bill changes chapter 1, sections 707, 709, and 710
22 of the criminal code revision to bring them within the
23 guidelines of a United States Supreme Court decision, Planned
24 Parenthood of Central Missouri v. Danforth, which was issued
25 July 1, 1976.

26 The bill also clarifies chapter 1, section 707 of the
27 criminal code revision to state that death of the fetus is
28 an element of the crime of feticide.

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SENATE FILE 349

S-3439

1 Amend Senate File 349 as follows:
2 1. Page 1, by striking lines 5 through 8 and DIV.A
3 inserting in lieu thereof the following: LOST
4 "SEC. ____ . NEW SECTION. VIABILITY. Viability
5 is that stage of fetal development when the life of
6 the newborn infant can be continued indefinitely by
7 either natural means or available life support systems.
8 The time when viability is achieved may vary with each
9 pregnancy, and the determination of whether a particular
10 fetus is viable is a matter for the judgment of the
11 responsible attending physician."
12 2. Page 1, line 24, by striking the word "fetus" DIV. B
13 and inserting in lieu thereof the words "fetus newborn W/D
14 infant".
15 3. Page 2, line 1, by striking the word
16 "FETUS" and inserting in lieu thereof the words "FETUS"
17 NEWBORN INFANT".
18 4. Page 2, line 2, by striking the word "fetus"
19 and inserting in lieu thereof the words "fetus newborn
20 infant".
21 5. Page 2, line 10, by striking the word "FETUS"
22 and inserting in lieu thereof the words "FETUS NEWBORN
23 INFANT".
24 6. Page 2, line 14, by striking the word "fetus"
25 and inserting in lieu thereof the words "fetus newborn
26 infant".

S-3439 FILED
APRIL 27, 1977
DIV. A - LOST p 1209
DIV. B - W/D

BY MINNETTE DODERER
LUCAS J. DE KOSTER
EARL M. WILLITS

S-3441

SENATE FILE 349

1 Amend Senate File 349 as follows:
2 1. Page 1, line 8, by inserting after the word
3 "systems." the words "The time when viability is
4 achieved may vary with each pregnancy, and the
5 determination of whether a particular fetus is viable
6 is a matter for the judgment of the responsible
7 attending physician."

S-3441 FILED & WITHDRAWN
APRIL 27, 1977

BY ELIZABETH MILLER

S-3443

SENATE FILE 349

1 Amend Senate File 349 as follows:
2 1. Page 1, line 8, by inserting after the word
3 "systems." the words "The time when viability is
4 achieved may vary with each pregnancy, and the
5 determination of whether a particular fetus is viable
6 is a matter of responsible medical judgment."

S-3443 FILED & ADOPTED p. 1211
APRIL 27, 1977

BY ELIZABETH MILLER
LUCAS J. DE KOSTER

1 Section 1. Chapter one thousand two hundred forty-five
2 (1245), Acts of the Sixty-sixth General Assembly, 1976 Session,
3 chapter one (1), is amended by adding the following new section
4 after section two hundred nineteen (219):

5 SEC. __. NEW SECTION. VIABILITY. Viability is that stage
6 of fetal development when the life of the unborn child may
7 be continued indefinitely outside the womb by natural or
8 artificial life support systems. The time when viability
9 is achieved may vary with each pregnancy, and the determination
10 of whether a particular fetus is viable is a matter of
11 responsible medical judgment.

12 Sec. 2. Chapter one thousand two hundred forty-five (1245),
13 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
14 one (1), section seven hundred seven (707), is amended to
15 read as follows:

16 SEC. 707. NEW SECTION. FETICIDE. Any person who
17 intentionally terminates a human pregnancy after the end of
18 the second trimester of the pregnancy where death of the fetus
19 results commits feticide. Feticide is a class C felony.

20 Any person who attempts to intentionally terminate a human
21 pregnancy after the end of the second trimester of the
22 pregnancy where death of the fetus does not result commits
23 attempted feticide. Attempted feticide is a class D felony.

24 This section shall not apply to the termination of a human
25 pregnancy performed by a physician licensed in this state
26 to practice medicine or surgery when in the best clinical
27 judgment of the physician the termination is performed to
28 preserve the life or health of the pregnant person or of the
29 fetus and every reasonable medical effort not inconsistent
30 with preserving the life of the pregnant person is made to
31 preserve the life of the a viable fetus.

32 Any person who terminates a human pregnancy who is not
33 a person licensed to practice medicine and surgery under the
34 provisions of chapter one hundred forty-eight (148) of the
35 Code, or an osteopathic physician and surgeon licensed to

1 practice osteopathic medicine and surgery under the provisions
2 of chapter one hundred fifty A (150A) of the Code, commits
3 a class C felony.

4 Sec. 3. Chapter one thousand two hundred forty-five (1245),
5 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
6 one (1), section seven hundred nine (709), is amended to read
7 as follows:

8 SEC. 709. NEW SECTION. HOMICIDE MURDER OF FETUS ABORTED
9 ALIVE. A person who intentionally kills a viable fetus aborted
10 ~~alive after-the-twentieth-week-of-pregnancy~~ shall be guilty
11 of a class B felony.

12 Sec. 4. Chapter one thousand two hundred forty-five (1245),
13 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter
14 one (1), section seven hundred ten (710), is amended to read
15 as follows:

16 SEC. 710. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE
17 FETUS. ~~After-the-twentieth-week-of-pregnancy,~~ a person
18 who performs or induces a termination of a human pregnancy
19 and who willfully fails to exercise that degree of professional
20 skill, care, and diligence available to preserve the life
21 and health of a viable fetus ~~showing-significant-sustainable~~
22 ~~vital-signs~~ shall be guilty of a serious misdemeanor.

23 Sec. 5. This Act is effective on the date set forth in
24 chapter one thousand two hundred forty-five (1245), Acts of
25 the Sixty-sixth General Assembly, 1976 Session, chapter four
26 (4), section five hundred twenty-nine (529).

27 EXPLANATION

28 This bill changes chapter 1, sections 707, 709, and 710
29 of the criminal code revision to bring them within the
30 guidelines of a United States Supreme Court decision, Planned
31 Parenthood of Central Missouri v. Danforth, which was issued
32 July 1, 1976.

33 The bill also clarifies chapter 1, section 707 of the
34 criminal code revision to state that death of the fetus is
35 an element of the crime of feticide.

SP 349
slc/26C

SENATE FILE 349

AN ACT

TO CLARIFY AND CHANGE THE FETICIDE PROVISIONS OF
THE CRIMINAL CODE REVISION TO CONFORM TO A RECENT
UNITED STATES SUPREME COURT DECISION.

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

Section 1. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), is amended by adding the following new section after section two hundred nineteen (219):

SEC. . . NEW SECTION. VIABILITY. Viability is that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life support systems. The time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable is a matter of responsible medical judgment.

Sec. 2. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), section seven hundred seven (707), is amended to read as follows:

SEC. 707. NEW SECTION. FETICIDE. Any person who intentionally terminates a human pregnancy after the end of the second trimester of the pregnancy where death of the fetus results commits feticide. Feticide is a class C felony.

Any person who attempts to intentionally terminate a human pregnancy after the end of the second trimester of the pregnancy where death of the fetus does not result commits attempted feticide. Attempted feticide is a class D felony.

This section shall not apply to the termination of a human pregnancy performed by a physician licensed in this state

to practice medicine or surgery when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant person or of the fetus and every reasonable medical effort not inconsistent with preserving the life of the pregnant person is made to preserve the life of the a viable fetus.

Any person who terminates a human pregnancy who is not a person licensed to practice medicine and surgery under the provisions of chapter one hundred forty-eight (148) of the Code, or an osteopathic physician and surgeon licensed to practice osteopathic medicine and surgery under the provisions of chapter one hundred fifty A (150A) of the Code, commits a class C felony.

Sec. 3. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), section seven hundred nine (709), is amended to read as follows:

SEC. 709. NEW SECTION. HOMICIDE MURDER OF FETUS ABORTED ALIVE. A person who intentionally kills a viable fetus aborted alive after the twentieth week of pregnancy shall be guilty of a class B felony.

Sec. 4. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), section seven hundred ten (710), is amended to read as follows:

SEC. 710. NEW SECTION. DUTY TO PRESERVE THE LIFE OF THE FETUS. ~~After the twentieth week of pregnancy,~~ a person who performs or induces a termination of a human pregnancy and who willfully fails to exercise that degree of professional skill, care, and diligence available to preserve the life and health of a viable fetus showing significant, sustainable vital signs shall be guilty of a serious misdemeanor.

Sec. 5. This Act is effective on the date set forth in chapter one thousand two hundred forty-five (1245), Acts of

the Sixty-sixth General Assembly, 1976 Session, chapter four
(4), section five hundred twenty-nine (529).

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 349, Sixty-seventh General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved June 17, 1977

ROBERT D. RAY
Governor