

House File 144 - Introduced

HOUSE FILE 144

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A BILL FOR

1 An Act relating to the buying or selling of or the
2 experimentation on a fetus or bodily remains resulting from
3 an abortion, providing penalties, and including effective
4 dates.

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

1 Section 1. NEW SECTION. 146B.1 Fetuses and bodily remains
2 of abortions — buying, selling, or experimentation prohibited —
3 criminal and civil penalties.

4 1. A person shall not experiment upon a fetus intended to be
5 aborted unless the experimentation is therapeutic to the fetus.

6 2. A person shall not perform or offer to perform an
7 abortion if the justification or reason for the abortion
8 is that the bodily remains may be used for animal or human
9 research, experimentation, or transplantation.

10 3. A person shall not knowingly sell, transfer, distribute,
11 give away, accept, use, or attempt to use a fetus or the bodily
12 remains resulting from an abortion.

13 4. A person shall not use a fetus or the bodily remains
14 resulting from an abortion in animal or human research,
15 experimentation, or study, or for transplantation, except under
16 any of the following circumstances:

17 a. For diagnostic or remedial tests, procedures, or
18 observations which have the purpose of determining the life or
19 health of the fetus, or preserving the life or health of the
20 fetus or pregnant woman.

21 b. For pathological study.

22 5. In addition to other remedies available, failure to
23 comply with the requirements of this section shall provide
24 a basis for recovery for the pregnant woman, or the parent
25 or guardian of the pregnant woman if the pregnant woman is a
26 minor, for the unlawful disposition of or experimentation upon
27 a fetus or bodily remains. Such relief may include all of the
28 following:

29 a. Monetary damages for all psychological injuries
30 occasioned by such violation.

31 b. Statutory damages equal to three times the cost of the
32 pregnant woman's delivery or abortion.

33 c. A basis for professional disciplinary action under
34 chapter 148.

35 d. Upon conviction of a violation of this section, the

1 automatic suspension of the license of the physician for at
2 least one year.

3 6. A person who violates this section is guilty of a class
4 "C" felony for each violation.

5 7. For purposes of this section:

6 a. "*Abortion*" means abortion as defined in section 146.1.

7 b. "*Bodily remains*" means the physical remains, corpse,
8 or body parts of a dead fetus that has reached the stage of
9 development in which there are cartilaginous structures or
10 fetal or skeletal parts, which remains were extracted or
11 expelled following a fetal death. "*Bodily remains*" does not
12 include medical waste.

13 c. "*Experiment*" or "*experimentation*" means the use of bodily
14 remains in any trial, test, procedure, or observation carried
15 out with the goal of verifying, refuting, or establishing the
16 validity of a hypothesis, but does not include diagnostic
17 or remedial tests, procedures, or observations which have
18 the purpose of determining the life or health of the fetus,
19 preserving the life or health of the fetus or the pregnant
20 woman, or pathological study.

21 d. "*Fetal death*" means fetal death as defined in section
22 144.1.

23 e. "*Medical waste*" means discarded biologic product such as
24 blood, tissue, or body parts removed from medical facilities
25 as well as bedding, bandages, syringes, and similar materials
26 that have been used in treating patients, but does not include
27 bodily remains.

28 f. "*Pathological study*" means the examination of body tissue
29 for diagnostic or forensic purposes.

30 g. "*Therapeutic*" means intended to treat or cure a disease
31 or disorder by remedial agents or methods.

32 Sec. 2. STATUTORY CONSTRUCTION.

33 1. Nothing in this Act shall be construed to affect existing
34 federal or state law regarding abortion.

35 2. Nothing in this Act shall be construed as creating or

1 recognizing a right to abortion.

2 3. Nothing in this Act shall be construed to alter generally
3 accepted medical standards.

4 Sec. 3. SEVERABILITY. If any provision of this Act or the
5 application thereof to any person or circumstances is held
6 invalid, the invalidity shall not affect other provisions or
7 applications of the Act which can be given effect without
8 the invalid provisions or application and, to this end, the
9 provisions of this Act are severable.

10 Sec. 4. RIGHT OF INTERVENTION. The general assembly, by
11 joint resolution, may appoint one or more of its members who
12 sponsored or cosponsored this Act in the member's official
13 capacity to intervene as a matter of right in any case in which
14 the constitutionality of this Act is challenged.

15 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
16 immediate importance, takes effect upon enactment.

17

EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill prohibits the buying or selling of and the
21 experimentation on a fetus or the bodily remains resulting from
22 an abortion.

23 The bill prohibits a person from experimenting upon a
24 fetus intended to be aborted unless the experimentation is
25 therapeutic to the fetus; performing or offering to perform
26 an abortion if the justification or reason for the abortion
27 is that the bodily remains may be used for animal or human
28 research, experimentation, or transplantation; or knowingly
29 selling, transferring, distributing, giving away, accepting,
30 using, or attempting to use a fetus or the bodily remains
31 resulting from an abortion.

32 Additionally, under the bill, a person is prohibited from
33 using a fetus or the bodily remains resulting from an abortion
34 in animal or human research, experimentation, or study, or for
35 transplantation, unless an exception is met. The exceptions

1 include for diagnostic or remedial tests, procedures, or
2 observations which have the purpose of determining the life or
3 health of the fetus, or preserving the life or health of the
4 fetus or pregnant woman; or for pathological study.

5 The bill provides, in addition to other remedies available,
6 civil relief in the form of monetary and statutory damages,
7 professional disciplinary action against a physician,
8 and criminal penalties for the unlawful disposition of or
9 experimentation upon a fetus or bodily remains. The bill
10 provides that a person who violates the bill's provision is
11 guilty of a class "C" felony for each violation. A class "C"
12 felony is punishable by confinement for no more than 10 years
13 and a fine of at least \$1,000 but not more than \$10,000.

14 The bill defines the terms "abortion", "bodily remains",
15 "experiment" or "experimentation", "fetal death", "medical
16 waste", "pathological study", and "therapeutic" for the
17 purposes of the bill.

18 The bill provides that nothing in the bill shall be construed
19 to affect existing federal or state law regarding abortion, as
20 creating or recognizing a right to an abortion, or to alter
21 generally accepted medical standards.

22 The provisions of the bill are severable and the bill also
23 provides for the right of intervention by members of the
24 general assembly who sponsored or cosponsored the bill in their
25 official capacity, appointed by joint resolution, to intervene
26 as a matter of right in any case in which the constitutionality
27 of the bill is challenged.

28 The bill takes effect upon enactment.