

House File 2163 - Introduced

HOUSE FILE 2163

BY SALMON, HEARTSILL, WHEELER,
SHEETS, WATTS, PETTENGILL,
GASSMAN, GUSTAFSON,
JACOBSEN, HOLT, KOESTER,
BAXTER, FISHER, KERR,
DOLECHECK, LUNDGREN, HAGER,
MOORE, LANDON, and ROGERS

A BILL FOR

1 An Act recognizing the rights and protections accorded
2 each life from the moment of fetal heartbeat detection,
3 prohibiting the performance of an abortion if a fetal
4 heartbeat is detected, providing for licensee discipline,
5 and providing a repeal.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

RIGHTS AND PROTECTIONS BEGINNING AT FETAL HEARTBEAT DETECTION

Section 1. NEW SECTION. 1.19 **Rights and protections beginning at fetal heartbeat detection — construction.**

1. The sovereign state of Iowa recognizes that life is valued and protected, and each life, from the moment the fetal heartbeat is detected in accordance with section 146B.2, is accorded the same rights and protections, including the right to life, guaranteed to all persons by the Constitution of the United States, the Constitution of the State of Iowa, and the laws of this state.

2. This section shall not be construed to create or recognize a right to an abortion, to impose civil or criminal liability on a woman upon whom an abortion is performed, or to prohibit the use of any means of contraception as defined in section 146B.1.

DIVISION II

HEARTBEAT PROTECTION ACT

Sec. 2. NEW SECTION. 146B.01 **Title.**

This chapter shall be known and may be cited as the "*Heartbeat Protection Act*".

Sec. 3. Section 146B.1, Code 2018, is amended by adding the following new subsections:

NEW SUBSECTION. 01. "*Abortifacient*" means a method of inhibiting the development of a human pregnancy at any stage following conception.

NEW SUBSECTION. 2A. "*Contraception*" means a method of inhibiting the development of a human pregnancy at any stage prior to conception. "*Contraception*" does not include an abortifacient.

NEW SUBSECTION. 4A. "*Fetal heartbeat*" means cardiac activity, the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

NEW SUBSECTION. 10A. "*Pregnancy*" means the human female reproductive condition that begins with fertilization when

1 the female is carrying the developing human offspring and is
2 calculated from the first day of the last menstrual period of
3 the human female.

4 Sec. 4. Section 146B.1, subsections 7 and 11, Code 2018, are
5 amended by striking the subsections.

6 Sec. 5. Section 146B.2, Code 2018, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **146B.2 Prohibition of abortion based on detection of fetal**
9 **heartbeat — exceptions — licensee discipline.**

10 1. Except in the case of a medical emergency, an abortion
11 shall not be performed or be attempted to be performed unless
12 the physician performing the abortion has first complied with
13 the prerequisites of chapter 146A and has tested, and certified
14 in the pregnant woman's medical record the testing of, the
15 pregnant woman as specified in this subsection, to determine if
16 a fetal heartbeat is detectable.

17 a. In testing for a detectable fetal heartbeat, the
18 physician shall perform an abdominal ultrasound, necessary to
19 detect a fetal heartbeat according to standard medical practice
20 and including the use of medical devices, as determined by
21 standard medical practice and specified by rule of the board
22 of medicine.

23 b. Following the testing of the pregnant woman for a
24 detectable fetal heartbeat, the physician shall inform the
25 pregnant woman, in writing, of all of the following:

26 (1) Whether a fetal heartbeat was detected.

27 (2) That if a fetal heartbeat was detected, an abortion is
28 prohibited.

29 c. Upon receipt of the written information, the pregnant
30 woman shall sign a form acknowledging that the pregnant woman
31 has received the information as required under this subsection,
32 and a copy of the signed acknowledgment shall be included in
33 the pregnant woman's medical record.

34 2. A physician shall not perform or attempt to perform an
35 abortion upon a pregnant woman when it has been determined, by

1 the physician performing the abortion or by another physician
2 upon whose determination that physician relies, that the
3 unborn child has a detectable fetal heartbeat, unless, in the
4 physician's reasonable medical judgment, a medical emergency
5 exists.

6 3. Failure of a physician to comply with this section is
7 grounds for licensee discipline under chapter 148.

8 4. This section shall not be construed to do any of the
9 following:

10 a. Create or recognize a right to an abortion.

11 b. Impose civil or criminal liability on a woman upon whom
12 an abortion is performed.

13 c. Prohibit the sale, use, prescription, or administration
14 of a measure, drug, or chemical designed for the purposes of
15 contraception.

16 5. The board of medicine shall adopt rules pursuant to
17 chapter 17A to administer this section.

18 Sec. 6. REPEAL. Section 146B.3, Code 2018, is repealed.

19 DIVISION III

20 CONFORMING PROVISIONS

21 Sec. 7. Section 146A.1, subsection 6, Code 2018, is amended
22 to read as follows:

23 6. As used in [this section](#), "medical emergency" and "unborn
24 child" ~~means an individual organism of the species homo sapiens~~
25 ~~from fertilization to live birth~~ mean the same as defined in
26 section 146B.1.

27 EXPLANATION

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

30 This bill includes provisions relating to the rights of
31 protection accorded each life and the prohibition against
32 abortion, based on detection of a fetal heartbeat. The bill is
33 organized into divisions.

34 Division I provides for the recognition that each life
35 begins at the moment the fetal heartbeat is detected, and that

1 at that point is accorded the same rights and protections
2 guaranteed to all persons by the Constitution of the United
3 States, the Constitution of the State of Iowa, and the laws of
4 this state. This provision is not to be construed to create or
5 recognize a right to an abortion, to impose civil or criminal
6 liability on a woman upon whom an abortion is performed, or to
7 prohibit the use of any means of contraception.

8 Division II repeals or strikes and replaces portions of Code
9 chapter 146B (abortion — limitations and prerequisites) which
10 prohibits the abortion of an unborn child (defined in Code
11 section 146B.1 as an individual organism of the species homo
12 sapiens from fertilization until live birth) from 20 or more
13 weeks postfertilization age, to instead prohibit an abortion
14 from the time an unborn child has a detectable heartbeat. The
15 bill also provides definitions, provides for the manner in
16 which a physician is to test for a detectable fetal heartbeat,
17 requires written information to be provided to a pregnant woman
18 following the testing for a fetal heartbeat, and requires that
19 upon receipt of the written information, the pregnant woman
20 shall sign a form acknowledging receipt of the information and
21 a copy of the signed acknowledgment is to be included in the
22 woman's medical record.

23 The division prohibits a physician from performing or
24 attempting to perform an abortion upon a pregnant woman when it
25 has been determined, by the physician performing the abortion
26 or by another physician upon whose determination that physician
27 relies, that the unborn child has a detectable fetal heartbeat,
28 unless, in the physician's reasonable medical judgment, a
29 medical emergency exists. Failure of a physician to comply
30 with the division is grounds for licensee discipline under Code
31 chapter 148 (medicine and surgery and osteopathic medicine
32 and surgery). The division is not to be construed to create
33 or recognize a right to an abortion; impose civil or criminal
34 liability on a woman upon whom an abortion is performed; or
35 to prohibit the sale, use, prescription, or administration

1 of a measure, drug, or chemical designed for the purposes of
2 contraception. The board of medicine is required to adopt
3 rules pursuant to Code chapter 17A to administer the provisions
4 of the division.

5 Division III of the bill makes a conforming change to Code
6 chapter 146A to provide a consistent definition of "medical
7 emergency" in both Code chapters 146A and 146B.