

Senate File 2281 - Introduced

SENATE FILE 2281
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3143)

A BILL FOR

1 An Act relating to the prerequisites for and prohibition
2 against an abortion related to the testing for, and
3 following the detection of, a fetal heartbeat, providing for
4 a repeal, and providing penalties.

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

1 Section 1. Section 146A.1, subsections 2 and 6, Code 2018,
2 are amended to read as follows:

3 2. Compliance with the prerequisites of **this section** shall
4 not apply to ~~any of the following:~~

5 ~~a. An abortion performed to save the life of a pregnant~~
6 ~~woman.~~

7 ~~b. An an abortion performed in a medical emergency.~~

8 ~~c. The performance of a medical procedure by a physician~~
9 ~~that in the physician's reasonable medical judgment is designed~~
10 ~~to or intended to prevent the death or to preserve the life of~~
11 ~~the pregnant woman.~~

12 6. As used in **this section**, ~~"unborn child":~~

13 a. "Medical emergency" means a situation in which an
14 abortion is performed to preserve the life of the pregnant
15 woman whose life is endangered by a physical disorder, physical
16 illness, or physical injury, including a life-endangering
17 physical condition caused by or arising from the pregnancy, but
18 not including psychological conditions, emotional conditions,
19 familial conditions, or the woman's age.

20 b. "Unborn child" means an individual organism of the
21 species homo sapiens from fertilization to live birth.

22 Sec. 2. **NEW SECTION. 146C.1 Definitions.**

23 As used in this chapter, unless the context otherwise
24 requires:

25 1. "Abortion" means the termination of a human pregnancy
26 with the intent other than to produce a live birth or to remove
27 a dead fetus.

28 2. "Fetal heartbeat" means cardiac activity, the steady and
29 repetitive rhythmic contraction of the fetal heart within the
30 gestational sac.

31 3. "Medical emergency" means the same as defined in section
32 146A.1.

33 4. "Physician" means a person licensed under chapter 148.

34 5. "Reasonable medical judgment" means a medical judgment
35 made by a reasonably prudent physician who is knowledgeable

1 about the case and the treatment possibilities with respect to
2 the medical conditions involved.

3 6. "*Unborn child*" means the same as defined in section
4 146A.1.

5 Sec. 3. NEW SECTION. 146C.2 **Abortion prohibited —**
6 **detectable fetal heartbeat — penalty.**

7 1. Except in the case of a medical emergency, a physician
8 shall not perform an abortion unless the physician has first
9 complied with the prerequisites of chapter 146A and has
10 tested the pregnant woman as specified in this subsection, to
11 determine if a fetal heartbeat is detectable.

12 a. In testing for a detectable fetal heartbeat, the
13 physician shall perform an abdominal ultrasound, necessary to
14 detect a fetal heartbeat according to standard medical practice
15 and including the use of medical devices, as determined by
16 standard medical practice and specified by rule of the board
17 of medicine.

18 b. Following the testing of the pregnant woman for a
19 detectable fetal heartbeat, the physician shall inform the
20 pregnant woman, in writing, of all of the following:

21 (1) Whether a fetal heartbeat was detected.

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

24 c. Upon receipt of the written information, the pregnant
25 woman shall sign a form acknowledging that the pregnant woman
26 has received the information as required under this subsection.

27 2. A physician shall not perform an abortion upon a pregnant
28 woman when it has been determined that the unborn child has
29 a detectable fetal heartbeat, unless, in the physician's
30 reasonable medical judgment, a medical emergency exists.

31 3. a. A physician who knowingly and intentionally performs
32 an abortion on a pregnant woman, when it has been determined
33 pursuant to subsection 2 that the unborn child has a detectable
34 fetal heartbeat and a medical emergency does not exist, is
35 guilty of a class "D" felony.

1 *b.* A physician charged or indicted for violation under this
2 subsection may request a hearing before the board of medicine
3 to determine if a medical emergency existed that necessitated
4 the performance of the abortion. The findings of the board of
5 medicine are admissible on the issue of medical emergency in
6 any criminal proceedings. Upon motion of the physician, the
7 court shall delay any criminal proceedings for not more than
8 thirty days to permit such a hearing to be held.

9 4. A physician shall retain in the woman's medical record
10 all of the following:

11 *a.* Documentation of the testing for a fetal heartbeat
12 as specified in subsection 1 and the results of the fetal
13 heartbeat test.

14 *b.* The pregnant woman's signed form acknowledging that
15 the pregnant woman received the information as required under
16 subsection 1.

17 *c.* Any information entered into evidence by the physician in
18 any hearing before the board of medicine pursuant to subsection
19 3.

20 5. This section shall not be construed to impose civil
21 or criminal liability on a woman upon whom an abortion is
22 performed in violation of this section.

23 6. The board of medicine shall adopt rules pursuant to
24 chapter 17A to administer this section.

25 Sec. 4. REPEAL. Chapter 146B, Code 2018, is repealed.

26 Sec. 5. SEVERABILITY CLAUSE. If any provision of this Act
27 or its application to a person or circumstance is held invalid,
28 the invalidity does not affect other provisions of applications
29 of this Act which can be given effect without the invalid
30 provision or application, and to this end the provisions of
31 this Act are severable.

32

EXPLANATION

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

35 This bill relates to prerequisites for and prohibitions

1 against abortions relative to the testing for, and following
2 the detection of, a fetal heartbeat.

3 The bill provides that, except in the case of a medical
4 emergency, a physician shall not perform an abortion unless the
5 physician has first complied with the prerequisites of Code
6 chapter 146A and has tested the pregnant woman to determine if
7 a fetal heartbeat is detectable. The bill prescribes that in
8 testing for a detectable fetal heartbeat, the physician shall
9 perform an abdominal ultrasound, necessary to detect a fetal
10 heartbeat according to standard medical practice and including
11 the use of medical devices, as determined by standard medical
12 practice and specified by rule of the board of medicine.

13 Following the testing of the pregnant woman for a detectable
14 fetal heartbeat, the physician shall inform the pregnant woman,
15 in writing, whether a fetal heartbeat was detected and that
16 if a fetal heartbeat was detected, an abortion is prohibited.
17 Upon receipt of the written information, the pregnant woman
18 shall sign a form acknowledging that the pregnant woman has
19 received the information.

20 The bill prohibits a physician from performing an abortion
21 upon a pregnant woman when it has been determined that the
22 unborn child has a detectable fetal heartbeat, unless, in the
23 physician's reasonable medical judgment, a medical emergency
24 exists. A physician who knowingly and intentionally performs
25 an abortion on a pregnant woman, when it has been determined
26 that the unborn child has a detectable fetal heartbeat and a
27 medical emergency does not exist, is guilty of a class "D"
28 felony. A class "D" felony is punishable by confinement for no
29 more than five years and a fine of at least \$750 but not more
30 than \$7,500.

31 A physician charged or indicted for a violation under the
32 bill may request a hearing before the board of medicine to
33 determine if a medical emergency existed that necessitated the
34 performance of the abortion. The findings of the board of
35 medicine are admissible on the issue of medical emergency in

1 any criminal proceedings. Upon motion of the physician, the
2 court shall delay any criminal proceedings for not more than 30
3 days to permit such a hearing to be held.

4 The bill requires the physician to retain in the woman's
5 medical record documentation of the testing for a fetal
6 heartbeat and the results of the fetal heartbeat test; the
7 pregnant woman's signed form acknowledging that the pregnant
8 woman received the required information prescribed under
9 the bill; and any information entered into evidence by the
10 physician in any hearing before the board of medicine.

11 The bill is not to be construed to impose civil or criminal
12 liability on a woman upon whom an abortion is performed in
13 violation of the bill.

14 The bill requires the board of medicine to adopt rules
15 pursuant to Code chapter 17A to administer the bill.

16 The bill amends Code section 146A.1 to provide that the
17 prerequisites of that Code section do not apply to an abortion
18 performed in a medical emergency, and eliminates the exception
19 for an abortion performed to save the life of a pregnant woman.
20 The bill also amends the definition of "medical emergency" used
21 under Code chapter 146A to be consistent with the definition of
22 "medical emergency" used in the bill.

23 The bill repeals Code chapter 146B which provides
24 limitations on and prerequisites for an abortion including
25 determination of the postfertilization age of a fetus and the
26 prohibition against performing or attempting to perform an
27 abortion after a pregnancy reaches a postfertilization age of
28 20 or more weeks that conflict with the bill.

29 The bill includes a severability clause that if any
30 provision of this bill or its application to a person or
31 circumstance is held invalid, the invalidity does not affect
32 other provisions of applications of this bill which can be
33 given effect without the invalid provision or application, and
34 to this end the provisions of this bill are severable.