

Senate File 54 - Introduced

SENATE FILE 54
BY CHELGREN

A BILL FOR

1 An Act relating to the determination of when certain criminal
2 and vital statistics provisions apply to the death of a
3 fetus, and making penalties applicable.

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

1 Section 1. Section 136A.2, subsection 8, Code 2017, is
2 amended to read as follows:

3 8. "*Stillbirth*" means an unintended fetal death ~~occurring~~
4 ~~after a gestation period of twenty completed weeks, or an~~
5 ~~unintended fetal death~~ of a fetus with a weight of three
6 hundred fifty or more grams.

7 Sec. 2. Section 144.29, unnumbered paragraph 1, Code 2017,
8 is amended to read as follows:

9 A fetal death certificate for each fetal death which occurs
10 in this state ~~after a gestation period of twenty completed~~
11 ~~weeks or greater, or for~~ of a fetus with a weight of three
12 hundred fifty grams or more shall be filed as directed by the
13 state registrar within three days after delivery and prior
14 to final disposition of the fetus. The certificate shall be
15 registered if it has been completed and filed in accordance
16 with [this chapter](#).

17 Sec. 3. Section 144.29A, subsection 7, paragraph c, Code
18 2017, is amended to read as follows:

19 c. "*Spontaneous termination of pregnancy*" means the
20 occurrence of an unintended termination of pregnancy at any
21 time during the period from conception to ~~twenty weeks~~ the
22 point in gestation when the fetus reaches a weight of three
23 hundred fifty grams and which is not a spontaneous termination
24 of pregnancy at any time ~~during the period from twenty weeks or~~
25 after the point in gestation when the fetus reaches a weight
26 greater than three hundred fifty grams which is reported to the
27 department as a fetal death under [this chapter](#).

28 Sec. 4. Section 707.1, Code 2017, is amended to read as
29 follows:

30 **707.1 Murder defined.**

31 1. A person who kills another person with malice
32 aforethought either express or implied commits murder.

33 2. "Person", when referring to the victim of a murder, means
34 an individual human being from the point of gestation when the
35 fetus reaches a weight of three hundred fifty grams or more

1 until natural death.

2 3. Murder does not include any of the following:

3 a. A "stillbirth" as defined in section 136A.2, a
4 "fetal death" as defined in section 144.1, or a "spontaneous
5 termination of pregnancy" as defined in section 144.29A.

6 b. A termination of a human pregnancy performed by a
7 physician licensed in this state to practice medicine or
8 surgery or osteopathic medicine or surgery when in the best
9 clinical judgment of the physician the termination is performed
10 to preserve the life or health of the pregnant person or of the
11 fetus and every reasonable medical effort not inconsistent with
12 preserving the life of the pregnant person is made to preserve
13 the life of a viable fetus.

14 Sec. 5. Section 707.7, subsections 1 and 2, Code 2017, are
15 amended to read as follows:

16 1. Any person who intentionally terminates a human
17 pregnancy, with the knowledge and voluntary consent of the
18 pregnant person, after the ~~end of the second trimester of the~~
19 pregnancy fetus reaches a weight of three hundred fifty grams
20 or more where death of the fetus results commits feticide.
21 Feticide is a class "C" felony.

22 2. Any person who attempts to intentionally terminate a
23 human pregnancy, with the knowledge and voluntary consent of
24 the pregnant person, after the ~~end of the second trimester of~~
25 the pregnancy fetus reaches a weight of three hundred fifty
26 grams or more where death of the fetus does not result commits
27 attempted feticide. Attempted feticide is a class "D" felony.

28 Sec. 6. Section 707.9, Code 2017, is amended to read as
29 follows:

30 **707.9 Murder of fetus aborted alive.**

31 A person who intentionally kills a ~~viable~~ fetus that has
32 reached a weight of three hundred fifty grams or more aborted
33 alive shall be guilty of a class "B" felony.

34 Sec. 7. Section 707.10, Code 2017, is amended to read as
35 follows:

1 **707.10 Duty to preserve the life of the fetus.**

2 A person who performs or induces a termination of a human
3 pregnancy and who willfully fails to exercise that degree of
4 professional skill, care, and diligence available to preserve
5 the life and health of a ~~viable~~ fetus that has reached a weight
6 of three hundred fifty grams or more shall be guilty of a
7 serious misdemeanor.

8

EXPLANATION

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

11 This bill relates to the determination of when fetal death
12 and homicide and related criminal provisions apply to a fetus.

13 The bill redefines "stillbirth" and "spontaneous termination
14 of pregnancy", and describes fetal death for the purposes of
15 the required filing of a fetal death certificate, so that all
16 these terms are based on the fetus' weight relative to 350
17 grams.

18 The bill defines the term "person" in the context of the
19 victim of a murder to mean an individual human being from the
20 point of gestation when the fetus reaches a weight of 350
21 grams or more until natural death. However, the bill provides
22 that murder does not include a stillbirth, a fetal death, or a
23 spontaneous termination of pregnancy.

24 The bill also amends provisions relating to feticide
25 to apply the elements of that crime to a human pregnancy
26 after the fetus reaches a weight of 350 grams and eliminates
27 the alternative of application to a fetus after the second
28 trimester of a pregnancy.

29 The bill amends provisions relating to the murder of a fetus
30 aborted alive and the duty to preserve the life of a fetus on
31 which a termination of pregnancy has been induced or performed,
32 to apply to a fetus that has reached the weight of 350 grams
33 or more rather than a fetus that has reached the stage of
34 viability.

35 The criminal penalties that currently apply to murder,

1 feticide, nonconsensual termination of a human pregnancy,
2 murder of a fetus aborted alive, and violation of the duty to
3 preserve the life of a fetus, are applicable, respectively, to
4 the provisions of the bill.