

House File 732 - Introduced

HOUSE FILE 732
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO HSB 255)

A BILL FOR

1 An Act prohibiting and requiring certain actions relating to
2 abortion involving the detection of a fetal heartbeat, and
3 including effective date provisions.

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

1 Section 1. NEW SECTION. 146E.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Abortion*" means the termination of a human pregnancy
5 with the intent other than to produce a live birth or to remove
6 a dead fetus.

7 2. "*Fetal heartbeat*" means cardiac activity, the steady and
8 repetitive rhythmic contraction of the fetal heart within the
9 gestational sac.

10 3. "*Fetal heartbeat exception*" means any of the following:

11 a. The pregnancy is the result of a rape which is reported
12 within forty-five days of the incident to a law enforcement
13 agency or to a public or private health agency which may
14 include a family physician.

15 b. The pregnancy is the result of incest which is reported
16 within one hundred forty days of the incident to a law
17 enforcement agency or to a public or private health agency
18 which may include a family physician.

19 c. Any spontaneous abortion, commonly known as a
20 miscarriage, if not all of the products of conception are
21 expelled.

22 d. The attending physician certifies that the fetus has a
23 fetal abnormality that in the physician's reasonable medical
24 judgment is incompatible with life.

25 4. "*Medical emergency*" means the same as defined in section
26 146A.1.

27 5. "*Physician*" means a person licensed under chapter 148.

28 6. "*Reasonable medical judgment*" means a medical judgment
29 made by a reasonably prudent physician who is knowledgeable
30 about the case and the treatment possibilities with respect to
31 the medical conditions involved.

32 7. "*Unborn child*" means the same as defined in section
33 146A.1.

34 Sec. 2. NEW SECTION. 146E.2 Abortion prohibited —
35 detectable fetal heartbeat.

1 1. Except in the case of a medical emergency or fetal
2 heartbeat exception, a physician shall not perform an abortion
3 unless the physician has first complied with the prerequisites
4 of chapter 146A and has tested the pregnant woman as specified
5 in this subsection, to determine if a fetal heartbeat is
6 detectable.

7 a. In testing for a detectable fetal heartbeat, the
8 physician shall perform an abdominal ultrasound, necessary to
9 detect a fetal heartbeat according to standard medical practice
10 and including the use of medical devices, as determined by
11 standard medical practice and specified by rule of the board
12 of medicine.

13 b. Following the testing of the pregnant woman for a
14 detectable fetal heartbeat, the physician shall inform the
15 pregnant woman, in writing, of all of the following:

16 (1) Whether a fetal heartbeat was detected.

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

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

22 2. a. A physician shall not perform an abortion upon a
23 pregnant woman when it has been determined that the unborn
24 child has a detectable fetal heartbeat, unless, in the
25 physician's reasonable medical judgment, a medical emergency or
26 fetal heartbeat exception exists.

27 b. Notwithstanding paragraph "a", if a physician determines
28 that the probable postfertilization age, as defined in
29 section 146B.1, of the unborn child is twenty or more weeks,
30 the physician shall not perform an abortion upon a pregnant
31 woman when it has been determined that the unborn child
32 has a detectable fetal heartbeat, unless in the physician's
33 reasonable medical judgment the pregnant woman has a condition
34 which the physician deems a medical emergency, as defined in
35 section 146B.1, or the abortion is necessary to preserve the

1 life of an unborn child.

2 3. A physician shall retain in the woman's medical record
3 all of the following:

4 a. Documentation of the testing for a fetal heartbeat
5 as specified in subsection 1 and the results of the fetal
6 heartbeat test.

7 b. The pregnant woman's signed form acknowledging that
8 the pregnant woman received the information as required under
9 subsection 1.

10 4. This section shall not be construed to impose civil
11 or criminal liability on a woman upon whom an abortion is
12 performed in violation of this section.

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

15 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
16 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 creates Code chapter 146E relating to a
21 prohibition on abortions based upon the detection of a fetal
22 heartbeat. The bill provides definitions of terms used in the
23 Code chapter, including those for "fetal heartbeat exception",
24 "medical emergency", "reasonable medical judgment", and
25 "unborn child". For the purposes of Code chapter 146E, unless
26 otherwise provided, "medical emergency" means a situation
27 in which an abortion is performed to preserve the life of
28 the pregnant woman whose life is endangered by a physical
29 disorder, physical illness, or physical injury, including a
30 life-endangering physical condition caused by or arising from
31 the pregnancy, but not including psychological conditions,
32 emotional conditions, familial conditions, or the woman's age;
33 or when continuation of the pregnancy will create a serious
34 risk of substantial and irreversible impairment of a major
35 bodily function of the pregnant woman.

1 The bill provides that, except in the case of a medical
2 emergency or fetal heartbeat exception, a physician shall not
3 perform an abortion unless the physician has first complied
4 with the prerequisites of Code chapter 146A (prerequisites
5 for abortion — licensee discipline) and has tested the
6 pregnant woman to determine if a fetal heartbeat is detectable.
7 The bill prescribes the standards for testing for a fetal
8 heartbeat, and provides that, following the test, a physician
9 shall inform the pregnant woman, in writing, whether a fetal
10 heartbeat was detected and that if a fetal heartbeat was
11 detected, an abortion is prohibited. Upon receipt of the
12 written information, the pregnant woman is required to sign a
13 form acknowledging that the pregnant woman has received the
14 required information. A physician shall retain documentation
15 of the testing for a fetal heartbeat, the results of the test,
16 and the pregnant woman's signed form acknowledging that the
17 pregnant woman received the required information.

18 A physician is prohibited from performing an abortion upon
19 a pregnant woman when it has been determined that a fetal
20 heartbeat was detected, unless a medical emergency or fetal
21 heartbeat exception exists. However, notwithstanding the
22 prohibition relating to the detection of a fetal heartbeat
23 and the medical emergency and fetal heartbeat exceptions
24 under Code chapter 146E, if the physician determines that the
25 probable postfertilization age, as defined in Code chapter
26 146B, of the unborn child is 20 or more weeks, the physician
27 shall not perform an abortion on the pregnant woman when it
28 has been determined that the unborn child has a detectable
29 fetal heartbeat unless, in the physician's reasonable medical
30 judgment, the pregnant woman has a condition which the
31 physician deems a medical emergency as defined in Code section
32 146B.1 ("medical emergency" means a situation in which an
33 abortion is performed to preserve the life of the pregnant
34 woman whose life is endangered by a physical disorder, physical
35 illness, or physical injury, including a life-endangering

1 physical condition caused by or arising from the pregnancy, or
2 when continuation of the pregnancy will create a serious risk
3 of substantial and irreversible impairment of a major bodily
4 function of the pregnant woman) or the abortion is necessary to
5 preserve the life of an unborn child.

6 The bill is not to be construed to impose civil or criminal
7 liability on a woman upon whom an abortion is performed in
8 violation of the division. The board of medicine is directed
9 to adopt administrative rules to administer the bill.

10 The bill takes effect upon enactment.