

House File 2316 - Introduced

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A BILL FOR

1 An Act relating to the treatment of an unborn child for
2 the purposes of damages for wrongful death, homicide and
3 related crimes, and assault, making penalties applicable, and
4 including effective date and applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. PURPOSES. The general assembly finds and declares
2 that the purposes of this Act are all of the following:

3 1. To recognize that the fourteenth amendment to the
4 Constitution of the United States requires that "No state
5 shall...deny to any person within its jurisdiction the equal
6 protection of the laws."

7 2. To fully recognize that innocent human life, created in
8 the image of God, should be equally protected under the law from
9 fertilization to natural death.

10 3. To ensure that the rights of unborn children are protected
11 from homicide and assault by the same criminal and civil laws
12 protecting all other persons.

13 4. To recognize that all persons potentially subject to such
14 laws are entitled to due process protections.

15 5. To ensure that pregnant women are protected under the law
16 from being pressured to abort a child.

17 6. To remove provisions that may allow a person to solicit,
18 command, aid, or counsel a pregnant woman to abort a child.

19 Sec. 2. Section 633.336, Code 2026, is amended to read as
20 follows:

21 **633.336 Damages for wrongful death.**

22 1. When a wrongful act produces death, damages recovered
23 as a result of the wrongful act shall be disposed of as
24 personal property belonging to the estate of the deceased;
25 however, if the damages include damages for loss of services
26 and support of a deceased spouse, parent, or child, the damages
27 shall be apportioned by the court among the surviving spouse,
28 children, and parents of the decedent in a manner as the court
29 may deem equitable consistent with the loss of services and
30 support sustained by the surviving spouse, children, and parents
31 respectively.

32 2. Any recovery by a parent for the death of a child shall be
33 subordinate to the recovery, if any, of the spouse or a child of
34 the decedent.

35 3. If the decedent leaves a spouse, child, or parent, damages

1 for wrongful death shall not be subject to debts and charges
2 of the decedent's estate, except for amounts to be paid to the
3 department of health and human services for payments made for
4 medical assistance pursuant to chapter 249A, paid on behalf of
5 the decedent from the time of the injury which gives rise to the
6 decedent's death up until the date of the decedent's death.

7 4. a. For the purposes of this section, damages for wrongful
8 death of a child shall include the wrongful death of an unborn
9 child.

10 b. For the purposes of this subsection:

11 (1) "Fertilization" means the fusion of a human spermatozoon
12 with a human ovum.

13 (2) "Fetal death" means the same as defined in section 144.1.

14 (3) "Unborn child" means an individual organism of the
15 species homo sapiens at any stage of development from
16 fertilization to fetal death or live birth.

17 **Sec. 3. NEW SECTION. 707.1A Homicide and related crimes —**
18 **unborn child victim.**

19 1. a. As used in this chapter, "person" includes an unborn
20 child when the person is the victim of the crime.

21 b. For the purposes of this section:

22 (1) "Fertilization" means the fusion of a human spermatozoon
23 with a human ovum.

24 (2) "Fetal death" means the same as defined in section 144.1.

25 (3) "Unborn child" means an individual organism of the
26 species homo sapiens from fertilization to fetal death or live
27 birth.

28 2. Prosecution of a crime under this chapter, when the
29 victim is an unborn child, is subject to the same presumptions,
30 defenses, justifications, immunities, clemencies, and other due
31 process protections that would apply if the victim were a person
32 following a live birth.

33 3. This section shall not apply to the unintentional death of
34 an unborn child resulting from either of the following:

35 a. The performance of life-saving procedures to save the life

1 of a pregnant woman when accompanied by reasonable steps, if
2 available, to save the life of the unborn child.

3 b. A miscarriage.

4 4. If a provision of law conflicts with this section, this
5 section shall prevail.

6 Sec. 4. NEW SECTION. **708.1A Assault on an unborn child.**

7 1. a. As used in this chapter, "person" includes an unborn
8 child when the person is the victim of the crime.

9 b. For the purposes of this section:

10 (1) "Fertilization" means the fusion of a human spermatozoon
11 with a human ovum.

12 (2) "Fetal death" means the same as defined in section 144.1.

13 (3) "Unborn child" means an individual organism of the
14 species homo sapiens from fertilization to fetal death or live
15 birth.

16 2. Prosecution of a crime under this chapter, when the
17 victim is an unborn child, is subject to the same presumptions,
18 defenses, justifications, immunities, clemencies, and other due
19 process protections that would apply if the victim were a person
20 following a live birth.

21 3. This section shall not apply to the unintentional harm
22 to or death of an unborn child resulting from either of the
23 following:

24 a. The performance of life-saving procedures to save the life
25 of a pregnant woman when accompanied by reasonable steps, if
26 available, to save the life of the unborn child.

27 b. A miscarriage.

28 4. If a provision of law conflicts with this section, this
29 section shall prevail.

30 Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate
31 importance, takes effect upon enactment.

32 Sec. 6. APPLICABILITY. This Act applies only to conduct or
33 an act occurring on or after the effective date of this Act.

34

EXPLANATION

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The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to the treatment of an unborn child for
3 purposes of damages for wrongful death, certain crimes, and
4 certain defenses.

5 The bill provides the purposes of the bill.

6 The bill amends Code section 633.336 (damages for wrongful
7 death) to provide that damages for wrongful death of a child
8 shall include the wrongful death of an unborn child, as defined
9 in the bill to mean an individual organism of the species homo
10 sapiens from fertilization to fetal death or live birth.

11 The bill creates new Code section 707.1A (homicide and related
12 crimes — unborn child victim) that provides that for the purpose
13 of Code chapter 707 (homicide and related crimes), "person"
14 includes an unborn child when the person is the victim of the
15 crime. The new Code section provides that prosecution of a
16 crime under Code chapter 707, when the victim is an unborn child,
17 is subject to the same presumptions, defenses, justifications,
18 immunities, clemencies, and other due process protections that
19 would apply if the victim were a person following a live birth.
20 The Code section shall not apply to the unintentional death of
21 an unborn child resulting from the performance of life-saving
22 procedures to save the life of a pregnant woman when accompanied
23 by reasonable steps, if available, to save the life of the unborn
24 child; or to a miscarriage. If a provision of law conflicts with
25 the new Code section, the new Code section prevails.

26 The bill also creates new Code section 708.1A (assault on
27 an unborn child). The new Code section provides that for the
28 purpose of Code chapter 708 (assault), "person" includes an
29 unborn child when the person is the victim of the crime. The
30 new Code section provides that prosecution of a crime under Code
31 chapter 708, when the victim is an unborn child, is subject
32 to the same presumptions, defenses, justifications, immunities,
33 clemencies, and other due process protections that would apply
34 if the victim were a person following a live birth. The Code
35 section shall not apply to the unintentional death of or harm

1 to an unborn child resulting from the performance of life-saving
2 procedures to save the life of a pregnant woman when accompanied
3 by reasonable steps, if available, to save the life of the unborn
4 child; or to a miscarriage. If a provision of law conflicts with
5 the new Code section, the new Code section prevails.

6 The bill takes effect upon enactment. The bill applies only
7 to conduct or an act occurring on or after the effective date of
8 the bill.

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