

House File 453 - Introduced

HOUSE FILE 453

BY DIEKEN, C. JOHNSON, FETT,
CISNEROS, FISHER, THOMSON,
and WILLS

A BILL FOR

1 An Act relating to the treatment of an unborn child for
2 the purposes of damages for wrongful death, the defense
3 of compulsion, homicide and related crimes, and assault,
4 making penalties applicable, and including effective date and
5 applicability provisions.

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

unofficial

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 2025, 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. Section 701.4, Code 2025, is amended to read as
18 follows:

19 **701.4 Insanity.**

20 A person, including a pregnant woman acting relative to her
21 unborn child under chapter 707 or 708, shall not be convicted
22 of a crime if at the time the crime is committed the person
23 suffers from such a diseased or deranged condition of the mind
24 as to render the person incapable of knowing the nature and
25 quality of the act the person is committing or incapable of
26 distinguishing between right and wrong in relation to that act.
27 Insanity need not exist for any specific length of time before
28 or after the commission of the alleged criminal act. If the
29 defense of insanity is raised, the defendant must prove by a
30 preponderance of the evidence that the defendant at the time of
31 the crime suffered from such a deranged condition of the mind
32 as to render the defendant incapable of knowing the nature and
33 quality of the act the defendant was committing or was incapable
34 of distinguishing between right and wrong in relation to the act.

35 Sec. 4. Section 704.10, Code 2025, is amended to read as

1 follows:

2 **704.10 Compulsion.**

3 ~~Ne~~ An act, other than an act by which one intentionally or
4 recklessly causes physical injury to another, is not a public
5 offense if the person so acting, including a pregnant woman
6 acting relative to her unborn child under chapter 707 or 708,
7 is compelled to do so by another's threat or menace of serious
8 injury, provided that the person reasonably believes that such
9 injury is imminent and can be averted only by the person doing
10 such act.

11 Sec. 5. NEW SECTION. **707.1A Homicide and related crimes —**
12 **unborn child victim.**

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

15 b. For the purposes of this section:

16 (1) "Fertilization" means the fusion of a human spermatozoon
17 with a human ovum.

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

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

22 2. Prosecution of a crime under this chapter, when the
23 victim is an unborn child, is subject to the same presumptions,
24 defenses, justifications, immunities, clemencies, and other due
25 process protections that would apply if the victim were a person
26 following a live birth.

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

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

32 b. A miscarriage.

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

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

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

3 b. For the purposes of this section:

4 (1) "Fertilization" means the fusion of a human spermatozoon
5 with a human ovum.

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

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

10 2. Prosecution of a crime under this chapter, when the
11 victim is an unborn child, is subject to the same presumptions,
12 defenses, justifications, immunities, clemencies, and other due
13 process protections that would apply if the victim were a person
14 following a live birth.

15 3. This section shall not apply to the unintentional harm
16 to or death of an unborn child resulting from either of the
17 following:

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

21 b. A miscarriage.

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

24 Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate
25 importance, takes effect upon enactment.

26 Sec. 8. APPLICABILITY. This Act applies only to conduct or
27 an act occurring on or after the effective date of this Act.

28 EXPLANATION

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

31 This bill relates to the treatment of an unborn child for
32 purposes of damages for wrongful death, certain crimes, and
33 certain defenses.

34 The bill amends Code section 633.336 (damages for wrongful
35 death) to provide that damages for wrongful death of a child

1 shall include the wrongful death of an unborn child, as defined
2 in the bill to mean an individual organism of the species homo
3 sapiens from fertilization to fetal death or live birth.

4 The bill amends Code section 701.4 (insanity) to include a
5 pregnant woman acting relative to her unborn child under Code
6 chapter 707 or 708 as a person who shall not be convicted of a
7 crime if at the time the crime is committed, the person suffers
8 from such a diseased or deranged condition of the mind as to
9 render the person incapable of knowing the nature and quality of
10 the act the person is committing or incapable of distinguishing
11 between right and wrong in relation to that act.

12 The bill amends Code section 704.10 (compulsion) to provide
13 that an act, other than an act by which one intentionally or
14 recklessly causes physical injury to another, is not a public
15 offense if the person so acting, including a pregnant woman
16 acting relative to her unborn child under Code chapter 707
17 (homicide or related crimes) or 708 (assault), is compelled to
18 do so by another's threat or menace of serious injury, provided
19 that the person reasonably believes that such injury is imminent
20 and can be averted only by the person doing such act.

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

1 The bill also creates new Code section 708.1A (assault on an
2 unborn child). The bill provides that for the purpose of Code
3 chapter 708 (assault), "person" includes an unborn child when the
4 person is the victim of the crime. Prosecution of a crime under
5 Code chapter 708, when the victim is an unborn child, is subject
6 to the same presumptions, defenses, justifications, immunities,
7 clemencies, and other due process protections that would apply
8 if the victim were a person following a live birth. The Code
9 section shall not apply to the unintentional death of or harm
10 to an unborn child resulting from the performance of life-saving
11 procedures to save the life of a pregnant woman when accompanied
12 by reasonable steps, if available, to save the life of the unborn
13 child; or to a miscarriage. If a provision of law conflicts with
14 the new Code section, the new Code section prevails.

15 The bill takes effect upon enactment. The bill applies only
16 to conduct or an act occurring on or after the effective date of
17 the bill.