House Study Bill 704 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON HEALTH AND HUMAN SERVICES BILL BY CHAIRPERSON HARRIS)

A BILL FOR

An Act relating to abortions including informed consent, dispensing abortion-inducing drugs, and reporting abortion-inducing drug complications.

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

DIVISION I

ABORTION —— DEFINED

Section 1. Section 146B.1, subsection 1, Code 2026, is amended to read as follows:

1. *"Abortion"* means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus. *"Abortion"* does not include a spontaneous termination of pregnancy, commonly known as a miscarriage, if not all the products of conception are expelled.

DIVISION II

INFORMED CONSENT

Sec. 2. Section 146A.1, Code 2026, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Prior to performing an abortion, a physician shall perform an in-person examination of the pregnant woman including screening for indicia of coercion or abuse. A physician shall, if necessary, refer the woman to an appropriate health care provider for treatment consistent with the examination results.

Sec. 3. Section 146A.1, subsection 6, Code 2026, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0a.* *"Abortion"* means the same as defined in section 146B.1.

NEW PARAGRAPH. *00a.* *"Health care provider"* means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or in the practice of a profession.

NEW PARAGRAPH. *0b.* *"Physician"* means the same as defined in section 146B.1.

Sec. 4. NEW SECTION. **146A.2 Dispensing abortion-inducing drugs —— licensee discipline.**

1. As used in this section, unless the context otherwise requires:

a. *"Abortion-inducing drug"* means the same as defined in section 146F.1.

b. *"Chemical abortion"* means the same as defined in section 146F.1.

c. *"Dispense"* means the same as defined in section 146F.1.

d. *"Medical emergency"* means the same as defined in section 146A.1.

e. *"Pregnant"* or *"pregnancy"* means the human female reproductive condition of having a living unborn child within the pregnant woman's body throughout every stage of the unborn child's life and development, from fertilization to full gestation and childbirth.

2. A physician who is performing or attempting to perform a chemical abortion shall do all of the following prior to prescribing or dispensing an abortion-inducing drug to a pregnant woman:

a. Obtain the signature of the woman on the United States food and drug administration patient agreement form required for each abortion-inducing drug authorized to be manufactured or sold in the United States.

b. Obtain written confirmation from the woman that the woman has been informed of all of the following information:

(1) The gestational age-specific risks of abortion-inducing drugs.

(2) The risks related to the specific abortion-inducing drug or drugs to be used, including hemorrhage, failure to remove all tissue of the unborn child, sepsis, sterility, and possible continuation of the pregnancy.

(3) That the United States federal food and drug administration recommends that the pregnant woman follow up with the woman's health care provider approximately seven to fourteen calendar days after the administration of an abortion-inducing drug to confirm complete termination of pregnancy has occurred and to evaluate the degree of bleeding.

(4) That women using abortion-inducing drugs have suffered trauma from seeing the remains of the unborn child in the process of a chemical abortion.

(5) That it may be possible to reverse the intended effects of a chemical abortion, but time is of the essence.

(6) That information on reversing the effects of a chemical abortion is available on the department's internet site.

c. Advise the pregnant woman how to access emergency surgical intervention in case of an incomplete abortion, severe bleeding, or other medical complications.

3. Subsection 2 shall not apply to a chemical abortion performed in a medical emergency.

4. This section shall not be construed to impose civil or criminal liability on a woman upon whom a chemical abortion has been performed.

5. A physician who fails to comply with this section is subject to licensee discipline under chapter 148.

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

Sec. 5. NEW SECTION. **146A.3 Informational materials.**

1. As used in this section, "*chemical abortion*" means the same as defined in section 146F.1.

2. The department shall publish on the department's internet site, in an easily accessible location and format, all of the following:

a. Notice that it may be possible to reverse the effects of a chemical abortion.

b. Information and resources on reversing the effects of a chemical abortion.

DIVISION III

DISPENSING AND REPORTING —— ABORTION-INDUCING DRUGS

Sec. 6. NEW SECTION. **146F.1 Definitions.**

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

1. "*Abortion-inducing drug*" means any of the following:

a. Mifepristone.

b. Misoprostol.

c. Any other drug, measure, or chemical approved by the

United States food and drug administration when prescribed or administered with the intent to terminate the pregnancy of a woman known to be pregnant. *"Abortion-inducing drug"* includes off-label use of a drug known to have abortion-inducing properties, which is prescribed with the intent of causing an abortion. *"Abortion-inducing drug"* does not include drugs that may be known to cause an abortion but that are prescribed for other medical conditions.

2. *"Abortion-inducing drug complication"* means any physical or psychological condition which, in the reasonable medical judgment of a health care provider, may occur as a primary or secondary result of the patient's use of abortion-inducing drugs including but not limited to:

a. Uterine rupture, bleeding, or hemorrhage.

b. Failure to actually terminate the pregnancy.

c. Incomplete abortion or retained tissue.

d. Missed ectopic pregnancy.

e. Infection.

f. Sepsis.

3. *"Chemical abortion"* means an abortion performed by the administration or use of an abortion-inducing drug.

4. *"Department"* means the department of health and human services.

5. *"Dispense"* means to distribute, administer, or send an abortion-inducing drug to the ultimate user.

6. *"Health care provider"* means the same as defined in section 146A.1.

7. *"Health care setting"* means a clinic, medical office, or hospital.

8. *"Hospital"* means the same as defined in section 135B.1.

9. *"Interested party"* means any of the following persons:

a. A woman upon whom a chemical abortion was performed or attempted.

b. The personal representative of a woman upon whom a chemical abortion was performed or attempted.

10. *"Medical emergency"* means the same as defined in section 146A.1.

11. *"Personal representative"* means an administrator or an executor, or if there is no such personal representative appointed, then a person legally authorized to perform substantially the same functions.

12. *"Physician"* means the same as defined in section 146B.1.

13. *"Postfertilization age"* means the same as defined in section 146B.1.

14. *"Pregnancy"* or *"pregnant"* means the same as defined in section 146A.2.

15. *"Rural emergency hospital"* means the same as defined in section 135B.1.

Sec. 7. NEW SECTION. **146F.2 Dispensing of abortion-inducing drugs —— restrictions.**

1. A person shall not dispense an abortion-inducing drug in this state unless all of the following criteria are met:

a. The drug is dispensed in a health care setting directly to the woman prescribed the drug.

b. The person dispensing the drug is authorized to do so pursuant to section 147.107.

2. Subsection 1 does not apply to the dispensing of an abortion-inducing drug in response to a medical emergency.

Sec. 8. NEW SECTION. **146F.3 Abortion-inducing drug complication —— reporting.**

1. *a.* Within thirty calendar days of the date of discharge or death of a woman who presented with or was treated for an abortion-inducing drug complication, a hospital, rural emergency hospital, or an attending physician shall file a report with the department. The report shall be in a form prescribed by the department and include a list of the most common abortion complications and the most recent international classification of diseases code as maintained by the world health organization for each. The report must be completed and signed by the woman's attending physician and contain all of the following information:

(1) The age of the woman who presented with or was treated for an abortion-inducing drug complication.

(2) The state and county of residence of the woman who presented with or was treated for an abortion-inducing drug complication.

(3) The date the abortion-inducing drug was used by the woman.

(4) The probable postfertilization age of the unborn child on the date of the abortion-inducing drug complication.

(5) The identity of the physician who performed the chemical abortion, the facility where the chemical abortion was performed, and the referring physician, agency, or service, if any.

(6) The specific complication or complications that led to the treatment and the most recent international classification of diseases code for each complication as maintained by the world health organization, if applicable.

b. A report shall not contain the name of the woman or other information or identifiers that would make it possible to identify the woman who suffered the reported abortion-inducing drug complication.

2. A report filed pursuant to subsection 1 shall be confidential and not subject to disclosure under chapter 22.

3. *a.* On or before December 31, 2026, and every calendar year thereafter, the department shall prepare a comprehensive statistical report based upon the aggregated data gathered from reports filed pursuant to subsection 1 for the immediately preceding calendar year. The aggregated data shall be anonymized to prevent public disclosure of either of the following:

(1) The hospital, rural emergency hospital, or attending physician that filed a report.

(2) The woman about whom a report was filed.

b. The anonymized aggregated data shall be made available to the public by the department in a downloadable format on the department's internet site.

Sec. 9. NEW SECTION. **146F.4 Private cause of action ——**

strict liability.

1. A person who dispenses an abortion-inducing drug in violation of this chapter shall be strictly liable to any interested party for all damages caused by the abortion-inducing drug.

2. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under this section is entitled to all of the following:

a. Statutory damages in the amount of fifty thousand dollars.

b. Court costs.

c. Reasonable attorney fees.

3. In an action brought under this section, the name and other identifying characteristics of a woman who sought or obtained an abortion-inducing drug shall be redacted without a court order from all pleadings and documents filed in the action. The court may make further orders as necessary to protect the identity and privacy of the woman who sought or obtained an abortion-inducing drug.

4. This section shall not be construed to impose civil or criminal liability on a woman upon whom a chemical abortion is performed.

Sec. 10. NEW SECTION. **146F.5 Licensee discipline.**

A licensee who fails to comply with this chapter is subject to licensee discipline under chapter 148.

DIVISION IV

ABORTION-RELATED PROVISIONS

Sec. 11. Section 144.29A, subsection 1, paragraph k, Code 2026, is amended to read as follows:

k. The method used for an induced termination, including whether mifepristone or misoprostol was used.

Sec. 12. Section 144.29A, subsection 1, Code 2026, is amended by adding the following new paragraph:

NEW PARAGRAPH. *l.* If a spontaneous termination of pregnancy, whether the patient ingested mifepristone or misoprostol within fourteen calendar days prior to the date of the spontaneous

termination of pregnancy.

Sec. 13. Section 144.29A, subsection 7, paragraph c, Code 2026, is amended to read as follows:

c. "Spontaneous termination of pregnancy", commonly known as a miscarriage, means the occurrence of an unintended termination of pregnancy at any time during the period from conception to twenty weeks gestation and which is not a spontaneous termination of pregnancy at any time during the period from twenty weeks or greater which is reported to the department as a fetal death under this chapter.

EXPLANATION

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

This bill relates to abortions, including informed consent, dispensing of abortion-inducing drugs, and reporting abortion-inducing drug complications.

DIVISION I —— ABORTION DEFINED. The bill excludes a spontaneous termination of pregnancy, if not all the products of conception are expelled, from the definition of abortion for the purpose of the reporting requirements and penalties on abortions under Code chapter 146B (abortion —— postfertilization age).

DIVISION II —— INFORMED CONSENT. Under the bill, a physician, prior to performing or attempting to perform an abortion, is required to perform an in-person examination of the woman seeking an abortion, including screening for indicia of coercion or abuse; if necessary, the physician shall make a referral to an appropriate health care provider consistent with the examination results.

The bill requires a physician who is performing or attempting to perform a chemical abortion, prior to prescribing or dispensing an abortion-inducing drug, to do all of the following: have the woman being prescribed or dispensed the drug sign a patient agreement form, obtain written confirmation that the physician has informed the woman of specific health and safety information related to abortion-inducing drugs as detailed in

the bill, and advise the pregnant woman how to access emergency surgical intervention in cases of an incomplete abortion, severe bleeding, or other medical complications. The bill specifies that these requirements shall not apply to a chemical abortion performed in response to a medical emergency. The bill provides that the prohibition on dispensing of abortion-inducing drugs shall not be construed to impose civil or criminal liability on a woman upon whom a chemical abortion has been performed. Under the bill, a physician who fails to comply with the informed consent requirements is subject to licensee discipline. The bill requires the board of medicine to adopt rules to administer this division of the bill. The bill defines "abortion-inducing drug", "chemical abortion", "dispense", "medical emergency", and "pregnant" or "pregnancy".

The bill requires the department of health and human services (HHS) to publish on HHS's internet site notice that it may be possible to reverse the effects of a chemical abortion, and information and resources on reversing the effects of a chemical abortion.

DIVISION III —— DISPENSING AND REPORTING —— ABORTION-INDUCING DRUGS. The bill defines "abortion-inducing drug", "abortion-inducing drug complication", "chemical abortion", "dispense", "interested party", "medical emergency", "physician", "postfertilization age", and "rural emergency hospital".

The bill prohibits a person from dispensing an abortion-inducing drug in this state unless the drug is dispensed in a health care setting directly to the woman prescribed the drug, and the person dispensing the drug is authorized to do so pursuant to Code section 147.107 (drug dispensing, supplying, and prescribing —— limitations). These requirements do not apply to a medical emergency.

The bill requires a hospital, rural emergency hospital, or the attending physician to file a report with HHS using a prescribed form within 30 days of discharge or death of a

woman who presented with or was treated for an abortion-inducing drug complication. The form must be signed and completed by the attending physician and contain the age of the woman experiencing the abortion-inducing drug complication, the woman's state and county of residence, the date the abortion-inducing drug was used by the woman, and the probable postfertilization age of the unborn child at the time of the abortion-inducing drug complication. The report must identify the physician who performed the chemical abortion, the facility where the chemical abortion was performed, the referring physician, agency, or service, if any, and the specific complication or complications that led to the treatment performed along with the most recent international classification of diseases code for each, if applicable. The report shall be confidential and not subject to disclosure under Code chapter 22 (open records).

The bill also requires HHS to prepare annually on or before December 31 a comprehensive statistical report based upon the aggregated data gathered from the reports filed on abortion-inducing drug complications. Under the bill, the data gathered by HHS must be anonymized to prevent public disclosure of either the physician or hospital that filed a report, or the woman about whom a report is filed. HHS is required to make the anonymized data publicly available in a downloadable format on its internet site.

This division of the bill creates a private cause of action against any person who dispenses an abortion-inducing drug in violation of this division of the bill for all damages caused by the abortion-inducing drug suffered by a woman upon whom a chemical abortion was performed or was attempted or the personal representative of the woman upon whom a chemical abortion was performed or was attempted. The bill defines "personal representative" as an administrator or an executor, or if there is no such personal representative appointed, then a person legally authorized to perform substantially the same functions. A prevailing plaintiff in an action brought under

this division of the bill, in addition to compensatory and punitive damages, is entitled to statutory damages in the amount of $50,000, court costs, and reasonable attorney fees. In an action brought under this division of the bill, the name and other identifying characteristics of a woman who sought or obtained an abortion-inducing drug shall be redacted from all pleadings and documents filed in the action without a court order, and the court may make further orders as necessary to protect the identity and privacy of the woman who sought or obtained an abortion-inducing drug. This division of the bill is not to be construed to impose civil or criminal liability upon a woman upon whom a chemical abortion is performed.

Under the bill, a licensee that fails to comply with this division of the bill is subject to licensee discipline.

DIVISION IV —— ABORTION-RELATED PROVISIONS. The bill amends Code section 144.29A (termination of pregnancy reporting —— legislative intent) to require a health care provider that diagnoses or induces a spontaneous termination of pregnancy to include in the required report to HHS if mifepristone or misoprostol was used to induce a spontaneous termination of pregnancy. Current law requires the health care provider to only disclose if mifepristone was used to induce a spontaneous termination of pregnancy. The bill also requires the health care provider to disclose whether mifepristone or misoprostol were ingested by the patient within 14 days prior to the spontaneous termination of pregnancy.