

Senate File 359 - Enrolled

Senate File 359

AN ACT

PROHIBITING AND REQUIRING CERTAIN ACTIONS RELATING TO A FETUS
AND PROVIDING PENALTIES.

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

DIVISION I

FETAL BODY PARTS

Section 1. NEW SECTION. 146D.1 Fetal body parts — actions prohibited — penalties.

1. A person shall not knowingly acquire, provide, receive, otherwise transfer, or use a fetal body part in this state, regardless of whether the acquisition, provision, receipt, transfer, or use is for valuable consideration.

2. Subsection 1 shall not apply to any of the following:

a. Diagnostic or remedial tests, procedures, or observations which have the sole purpose of determining the life or health of the fetus in order to provide that information to the pregnant woman or to preserve the life or health of the fetus or pregnant woman.

b. The actions of a person taken in furtherance of the final disposition of a fetal body part.

c. The pathological study of body tissue, including genetic testing, for diagnostic or forensic purposes.

d. A fetal body part if the fetal body part results from a spontaneous termination of pregnancy or stillbirth and is willingly donated for the purpose of medical research.

3. A person who violates this section is guilty of a class "C" felony.

4. For the purposes of this section:

a. "Abortion" means as defined in section 146.1.

b. "Fetal body part" means a cell, tissue, organ, or other part of a fetus that is terminated by an abortion. "Fetal body part" does not include any of the following:

(1) Cultured cells or cell lines derived from a spontaneous termination of pregnancy or stillbirth and willingly donated for the purposes of medical research.

(2) A cell, tissue, organ, or other part of a fetus that is terminated by an abortion that occurred prior to July 1, 2018.

(3) All cells and tissues external to the fetal body proper.

c. "Final disposition" means the disposition of fetal body parts by burial, interment, entombment, cremation, or incineration.

d. "Valuable consideration" means any payment including but not limited to payment associated with the transportation, processing, preservation, quality control, or storage of fetal body parts.

DIVISION II

ABORTION PREREQUISITES AND PROHIBITIONS — FETAL HEARTBEAT

Sec. 2. Section 146A.1, subsections 2 and 6, Code 2018, are amended to read as follows:

2. Compliance with the prerequisites of [this section](#) shall not apply to ~~any of the following:~~

~~a. An abortion performed to save the life of a pregnant woman.~~

~~b. An an abortion performed in a medical emergency.~~

~~c. The performance of a medical procedure by a physician that in the physician's reasonable medical judgment is designed to or intended to prevent the death or to preserve the life of the pregnant woman.~~

6. As used in [this section](#), "~~unborn child~~":

a. "Medical emergency" means a situation in which an abortion is performed to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, but

not including psychological conditions, emotional conditions, familial conditions, or the woman's age; or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

b. "Unborn child" means an individual organism of the species homo sapiens from fertilization to live birth.

Sec. 3. NEW SECTION. 146C.1 **Definitions.**

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

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.

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

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

4. "*Medically necessary*" means any of the following:

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

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

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

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

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

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

7. "*Unborn child*" means the same as defined in section

146A.1.

Sec. 4. NEW SECTION. 146C.2 Abortion prohibited —
detectable fetal heartbeat.

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

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

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

(1) Whether a fetal heartbeat was detected.

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

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

2. *a.* A physician shall not perform an abortion upon a pregnant woman when it has been determined that the unborn child has a detectable fetal heartbeat, unless, in the physician's reasonable medical judgment, a medical emergency exists, or when the abortion is medically necessary.

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

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

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

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

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

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

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 359, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor