



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by John O. Jones

SYNOPSIS AS INTRODUCED:

720 ILCS 510/6

from Ch. 38, par. 81-26

Amends the Illinois Abortion Law of 1975. Provides that no abortion procedure that, in the medical judgment of the attending physician, has a reasonable likelihood of resulting in a live born child shall be undertaken unless there is in attendance a physician other than the physician performing or inducing the abortion who shall address the child's viability and provide medical care for the child. Provides that a physician inducing an abortion that results in a live born child shall provide for the soonest practicable attendance of a physician other than the physician performing or inducing the abortion to immediately assess the child's viability and provide medical care for the child. Provides that a live child born as a result of an abortion shall be fully recognized as a human person and that all reasonable measures consistent with good medical practice shall be taken to preserve the life and health of the child. Effective immediately.

LRB093 18466 RLC 44179 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning abortion.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Abortion Law of 1975 is amended by
5 changing Section 6 as follows:

6 (720 ILCS 510/6) (from Ch. 38, par. 81-26)

7 Sec. 6. (1) (a) Any physician who intentionally performs an
8 abortion when, in his medical judgment based on the particular
9 facts of the case before him, there is a reasonable likelihood
10 of sustained survival of the fetus outside the womb, with or
11 without artificial support, shall utilize that method of
12 abortion which, of those he knows to be available, is in his
13 medical judgment most likely to preserve the life and health of
14 the fetus.

15 (b) The physician shall certify in writing, on a form
16 prescribed by the Department under Section 10 of this Act, the
17 available methods considered and the reasons for choosing the
18 method employed.

19 (c) Any physician who intentionally, knowingly, or
20 recklessly violates the provisions of Section 6(1)(a) commits a
21 Class 3 felony.

22 (2) (a) No abortion shall be performed or induced when the
23 fetus is viable unless there is in attendance a physician other
24 than the physician performing or inducing the abortion who
25 shall take control of and provide immediate medical care for
26 any child born alive as a result of the abortion. No abortion
27 procedure which, in the medical judgment of the attending
28 physician, has a reasonable likelihood of resulting in a live
29 born child shall be undertaken unless there is in attendance a
30 physician other than the physician performing or inducing the
31 abortion who shall assess the child's viability and provide
32 medical care for the child. These requirements ~~This requirement~~

1 shall not apply when, in the medical judgment of the physician
2 performing or inducing the abortion based on the particular
3 facts of the case before him, there exists a medical emergency;
4 in such a case, the physician shall describe the basis of this
5 judgment on the form prescribed by Section 10 of this Act. In
6 any event, a physician inducing or performing an abortion which
7 results in a live born child shall provide for the soonest
8 practicable attendance of a physician other than the physician
9 performing or inducing the abortion to immediately assess the
10 child's viability and provide medical care for the child. Any
11 physician who intentionally performs or induces such an
12 abortion and who intentionally, knowingly, or recklessly fails
13 to arrange for the attendance of such a second physician in
14 violation of Section 6(2) (a) commits a Class 3 felony.

15 (b) Subsequent to the abortion, if a child is born alive,
16 the physician required by Section 6(2) (a) to be in attendance
17 shall exercise the same degree of professional skill, care and
18 diligence to preserve the life and health of the child as would
19 be required of a physician providing immediate medical care to
20 a child born alive in the course of a pregnancy termination
21 which was not an abortion. Any such physician who
22 intentionally, knowingly, or recklessly violates Section
23 6(2) (b) commits a Class 3 felony.

24 (3) The law of this State shall not be construed to imply
25 that any living individual organism of the species homo sapiens
26 who has been born alive is not an individual under the
27 "Criminal Code of 1961," approved July 28, 1961, as amended.

28 (3.5) A live child born as a result of an abortion shall be
29 fully recognized as a human person and accorded immediate
30 protection under the law. All reasonable measures consistent
31 with good medical practice, including the compilation of
32 appropriate medical records, shall be taken to preserve the
33 life and health of the child.

34 (4) (a) Any physician who intentionally performs an
35 abortion when, in his medical judgment based on the particular
36 facts of the case before him, there is a reasonable possibility

1 of sustained survival of the fetus outside the womb, with or
2 without artificial support, shall utilize that method of
3 abortion which, of those he knows to be available, is in his
4 medical judgment most likely to preserve the life and health of
5 the fetus.

6 (b) The physician shall certify in writing, on a form
7 prescribed by the Department under Section 10 of this Act, the
8 available methods considered and the reasons for choosing the
9 method employed.

10 (c) Any physician who intentionally, knowingly, or
11 recklessly violates the provisions of Section 6(4)(a) commits a
12 Class 3 felony.

13 (5) Nothing in Section 6 requires a physician to employ a
14 method of abortion which, in the medical judgment of the
15 physician performing the abortion based on the particular facts
16 of the case before him, would increase medical risk to the
17 mother.

18 (6) When the fetus is viable and when there exists
19 reasonable medical certainty (a) that the particular method of
20 abortion to be employed will cause organic pain to the fetus,
21 and (b) that use of an anesthetic or analgesic would abolish or
22 alleviate organic pain to the fetus caused by the particular
23 method of abortion to be employed, then the physician who is to
24 perform the abortion or his agent or the referring physician or
25 his agent shall inform the woman upon whom the abortion is to
26 be performed that such an anesthetic or analgesic is available,
27 if he knows it to be available, for use to abolish or alleviate
28 organic pain caused to the fetus by the particular method of
29 abortion to be employed. Any person who performs an abortion
30 with knowledge that any such reasonable medical certainty
31 exists and that such an anesthetic or analgesic is available,
32 and intentionally fails to so inform the woman or to ascertain
33 that the woman has been so informed commits a Class B
34 misdemeanor. The foregoing requirements of subsection (6) of
35 Section 6 shall not apply (a) when in the medical judgment of
36 the physician who is to perform the abortion or the referring

1 physician based upon the particular facts of the case before
2 him: (i) there exists a medical emergency, or (ii) the
3 administration of such an anesthetic or analgesic would
4 decrease a possibility of sustained survival of the fetus apart
5 from the body of the mother, with or without artificial
6 support, or (b) when the physician who is to perform the
7 abortion administers an anesthetic or an analgesic to the woman
8 or the fetus and he knows there exists reasonable medical
9 certainty that such use will abolish organic pain caused to the
10 fetus during the course of the abortion.

11 (7) No person shall sell or experiment upon a fetus
12 produced by the fertilization of a human ovum by a human sperm
13 unless such experimentation is therapeutic to the fetus thereby
14 produced. Intentional violation of this section is a Class A
15 misdemeanor. Nothing in this subsection (7) is intended to
16 prohibit the performance of in vitro fertilization.

17 (8) No person shall intentionally perform an abortion with
18 knowledge that the pregnant woman is seeking the abortion
19 solely on account of the sex of the fetus. Nothing in Section
20 6(8) shall be construed to proscribe the performance of an
21 abortion on account of the sex of the fetus because of a
22 genetic disorder linked to that sex. If the application of
23 Section 6(8) to the period of pregnancy prior to viability is
24 held invalid, then such invalidity shall not affect its
25 application to the period of pregnancy subsequent to viability.
26 (Source: P.A. 84-1001.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.