

Senate File 471

1 Amend Senate File 471, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <DIVISION I

6 RIGHTS AND PROTECTIONS BEGINNING AT FETAL HEARTBEAT DETECTION

7 Section 1. NEW SECTION. 1.19 Rights and protections
8 beginning at fetal heartbeat detection — construction.

9 1. The sovereign state of Iowa recognizes that life is
10 valued and protected, and each life, from the moment the fetal
11 heartbeat is detected in accordance with section 146A.1, is
12 accorded the same rights and protections, including the right
13 to life, guaranteed to all persons by the Constitution of the
14 United States, the Constitution of the State of Iowa, and the
15 laws of this state.

16 2. This section shall not be construed to create or
17 recognize a right to an abortion, to impose civil or criminal
18 liability on a woman upon whom an abortion is performed, or to
19 prohibit the use of any means of contraception.

20 3. Nothing in this section shall be construed to alter
21 existing provisions of law relating to inheritance, taxation,
22 or in vitro fertilization.

23 4. For the purposes of this section:

24 a. "Abortifacient" means a method of inhibiting the
25 development of a human pregnancy at any stage following
26 conception.

27 b. "Abortion" means the termination of a human pregnancy
28 with the intent other than to produce a live birth or to remove
29 a dead fetus.

30 c. "Conception" means the fusion of the human spermatozoa
31 with a human ovum.

32 d. "Contraception" means a method of inhibiting the
33 development of a human pregnancy at any stage prior to
34 conception. "Contraception" does not include an abortifacient.

35 DIVISION II

1 PREREQUISITES FOR ABORTION

2 Sec. 2. NEW SECTION. 146A.01 Definitions.

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

5 1. "*Abortion*" means the termination of a human pregnancy
6 with the intent other than to produce a live birth or to remove
7 a dead fetus.

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

11 3. "*Major bodily function*" includes but is not limited
12 to functions of the immune system, normal cell growth, and
13 digestive, bowel, bladder, neurological, brain, respiratory,
14 circulatory, endocrine, and reproductive functions.

15 4. "*Medical emergency*" means a situation in which an
16 abortion is performed to preserve the life of the pregnant
17 woman whose life is endangered by a physical disorder, physical
18 illness, or physical injury, including a life-endangering
19 physical condition caused by or arising from the pregnancy, or
20 when continuation of the pregnancy will create a serious risk
21 of substantial and irreversible impairment of a major bodily
22 function of the pregnant woman.

23 5. "*Perform*", "*performed*", or "*performing*", relative to an
24 abortion, means the use of any means, including medical or
25 surgical, to terminate the pregnancy of a woman known to be
26 pregnant with the intent other than to produce a live birth or
27 to remove a dead fetus.

28 6. "*Unborn child*" means an individual organism of the
29 species homo sapiens from fertilization to live birth.

30 Sec. 3. Section 146A.1, Code 2017, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **146A.1 Prerequisites for abortion — ultrasound —**
33 **fetal heartbeat detection testing — licensee discipline —**
34 **interpretation.**

35 1. A physician performing an abortion shall obtain written

1 certification from the pregnant woman of all of the following
2 at least seventy-two hours prior to performing an abortion:

3 *a.* That the woman has undergone an ultrasound imaging of the
4 unborn child that displays the approximate age of the fetus.

5 *b.* That the woman was given the opportunity to see the
6 unborn child by viewing the ultrasound image of the fetus.

7 *c.* That the woman was given the option of hearing a
8 description of the unborn child based on the ultrasound image
9 and hearing the heartbeat of the fetus.

10 *d.* (1) That the woman has been provided information
11 regarding all of the following, based upon the materials
12 developed by the department of public health pursuant to
13 subparagraph (2):

14 (i) The options relative to a pregnancy, including
15 continuing the pregnancy to term and retaining parental rights
16 following the child's birth, continuing the pregnancy to
17 term and placing the child for adoption, and terminating the
18 pregnancy.

19 (ii) The indicators, contra-indicators, and risk factors
20 including any physical, psychological, or situational factors
21 related to the abortion in light of the woman's medical history
22 and medical condition.

23 (2) The department of public health shall make available to
24 physicians, upon request, all of the following information:

25 (i) Geographically indexed materials designed to inform the
26 woman about public and private agencies and services available
27 to assist a woman through pregnancy, at the time of childbirth,
28 and while the child is dependent. The materials shall include
29 a comprehensive list of the agencies available, categorized by
30 the type of services offered, and a description of the manner
31 by which the agency may be contacted.

32 (ii) Materials that encourage consideration of placement for
33 adoption. The materials shall inform the woman of the benefits
34 of adoption, including the requirements of confidentiality in
35 the adoption process, the importance of adoption to individuals

1 and society, and the state's interest in promoting adoption by
2 preferring adoption over abortion.

3 (c) Materials that contain objective information describing
4 the methods of abortion procedures commonly used, the medical
5 risks commonly associated with each such procedure, and the
6 possible detrimental physical and psychological effects of
7 abortion.

8 2. A physician shall test, and shall certify in the woman's
9 medical record the testing of, a pregnant woman as specified
10 in this subsection, to determine if a fetal heartbeat is
11 detectable prior to performing an abortion.

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

18 b. (1) Following the testing of the pregnant woman for
19 a detectable fetal heartbeat, the physician shall inform the
20 pregnant woman, in writing, of all of the following:

21 (a) Whether a fetal heartbeat was detected.

22 (b) If a fetal heartbeat is detected, the statistical
23 probability of bringing the pregnancy to term based on the
24 gestational age of the fetus.

25 c. Upon receipt of the written information, the pregnant
26 woman shall sign a form acknowledging that the woman has
27 received the information as required under this subsection, and
28 a copy of the signed acknowledgment shall be included in the
29 woman's medical record.

30 d. A physician does not violate this subsection if the
31 physician does any of the following:

32 (1) Tests the pregnant woman for a detectable fetal
33 heartbeat utilizing standard medical practice, but the test
34 does not detect a fetal heartbeat.

35 (2) Relies on information provided by a licensed medical

1 professional who performed the test to detect a fetal
2 heartbeat, and the information indicates the test did not
3 detect a fetal heartbeat.

4 3. Compliance with the prerequisites of this section shall
5 not apply to any of the following:

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

8 b. An abortion performed in a medical emergency.

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

13 4. A physician who violates this section is subject to
14 licensee discipline pursuant to section 148.6.

15 5. This section shall not be construed to impose civil
16 or criminal liability on a woman upon whom an abortion is
17 performed, or to prohibit the sale, use, prescription, or
18 administration of a measure, drug, or chemical designed for
19 contraceptive purposes.

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

22 Sec. 4. CODE EDITOR DIRECTIVE.

23 1. The Code editor is directed to make the following
24 transfers:

25 a. Section 146A.01 to section 146A.1.

26 b. Section 146A.1 to section 146A.2.

27 2. The Code editor shall correct internal references in the
28 Code and in any enacted legislation as necessary due to the
29 enactment and implementation of this section.

30 Sec. 5. EFFECTIVE UPON ENACTMENT. This division of this
31 Act, being deemed of immediate importance, takes effect upon
32 enactment.

33

DIVISION III

34 PROHIBITIONS ON ABORTION — FETAL HEARTBEAT DETECTED OR TWENTY
35 WEEKS POSTFERTILIZATION

1 Sec. 6. NEW SECTION. 146B.1 Definitions.

2 As used in this chapter unless the context otherwise
3 requires:

4 1. *"Abortion"* means the termination of a human pregnancy
5 with the intent other than to produce a live birth or to remove
6 a dead fetus.

7 2. *"Attempt to perform an abortion"* means an act, or
8 an omission of a statutorily required act, that, under the
9 circumstances as the actor believes them to be, constitutes a
10 substantial step in a course of conduct planned to culminate in
11 the performing of an abortion.

12 3. *"Department"* means the department of public health.

13 4. *"Fertilization"* means the fusion of a human spermatozoon
14 with a human ovum.

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

18 6. *"Major bodily function"* includes but is not limited
19 to functions of the immune system, normal cell growth, and
20 digestive, bowel, bladder, neurological, brain, respiratory,
21 circulatory, endocrine, and reproductive functions.

22 7. *"Medical emergency"* means a situation in which an
23 abortion is performed to preserve the life of the pregnant
24 woman whose life is endangered by a physical disorder, physical
25 illness, or physical injury, including a life-endangering
26 physical condition caused by or arising from the pregnancy, or
27 when continuation of the pregnancy will create a serious risk
28 of substantial and irreversible impairment of a major bodily
29 function of the pregnant woman.

30 8. *"Medical facility"* means any public or private hospital,
31 clinic, center, medical school, medical training institution,
32 health care facility, physician's office, infirmary,
33 dispensary, ambulatory surgical center, or other institution or
34 location where medical care is provided to any person.

35 9. *"Perform", "performed", or "performing",* relative to an

1 abortion, means the use of any means, including medical or
2 surgical, to terminate the pregnancy of a woman known to be
3 pregnant with the intent other than to produce a live birth or
4 to remove a dead fetus.

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

6 11. *"Postfertilization age"* means the age of the unborn
7 child as calculated from fertilization.

8 12. *"Probable postfertilization age"* means what, in
9 reasonable medical judgment, will with reasonable probability
10 be the postfertilization age of the unborn child at the time
11 the abortion is to be performed.

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

16 14. *"Unborn child"* means an individual organism of the
17 species homo sapiens from fertilization until live birth.

18 **Sec. 7. NEW SECTION. 146B.2 Detection of fetal heartbeat**
19 **and determination of postfertilization age — abortion**
20 **prohibited at detection of heartbeat or twenty or more weeks**
21 **postfertilization age — exceptions — reporting requirements —**
22 **penalties.**

23 1. Except in the case of a medical emergency, in addition
24 to compliance with the prerequisites of chapter 146A, an
25 abortion shall not be performed or be attempted to be performed
26 unless the physician performing the abortion has first made
27 a determination of the probable postfertilization age of the
28 unborn child or relied upon such a determination made by
29 another physician. In making such a determination, a physician
30 shall make such inquiries of the pregnant woman and perform or
31 cause to be performed such medical examinations and tests the
32 physician considers necessary in making a reasonable medical
33 judgment to accurately determine the postfertilization age of
34 the unborn child.

35 2. a. A physician shall not perform or attempt to perform

1 an abortion upon a pregnant woman when a fetal heartbeat is
2 detectable pursuant to section 146A.1 or when it has been
3 determined, by the physician performing the abortion or by
4 another physician upon whose determination that physician
5 relies, that the probable postfertilization age of the unborn
6 child is twenty or more weeks, whichever occurs earlier in
7 the pregnancy, unless, in the physician's reasonable medical
8 judgment, any of the following applies:

9 (1) The pregnant woman has a condition which the physician
10 deems a medical emergency.

11 (2) The abortion is necessary to preserve the life of an
12 unborn child.

13 b. If an abortion is performed under this subsection, the
14 physician shall terminate the human pregnancy in the manner
15 which, in the physician's reasonable medical judgment, provides
16 the best opportunity for an unborn child to survive, unless, in
17 the physician's reasonable medical judgment, termination of the
18 human pregnancy in that manner would pose a greater risk than
19 any other available method of the death of the pregnant woman
20 or of the substantial and irreversible physical impairment of a
21 major bodily function. A greater risk shall not be deemed to
22 exist if it is based on a claim or diagnosis that the pregnant
23 woman will engage in conduct which would result in the pregnant
24 woman's death or in substantial and irreversible physical
25 impairment of a major bodily function.

26 3. A physician who performs or attempts to perform an
27 abortion shall report to the department, on a schedule and in
28 accordance with forms and rules adopted by the department, all
29 of the following:

30 a. Whether a fetal heartbeat was detected pursuant to
31 section 146A.1.

32 b. If a fetal heartbeat was detected, the basis of the
33 determination of a medical emergency, or the basis of the
34 determination that the abortion was necessary to preserve the
35 life of an unborn child.

1 *c.* If a determination of probable postfertilization age of
2 the unborn child was made, the probable postfertilization age
3 determined and the method and basis of the determination.

4 *d.* If a determination of probable postfertilization age of
5 the unborn child was not made, the basis of the determination
6 that a medical emergency existed.

7 *e.* If the probable postfertilization age of the unborn
8 child was determined to be twenty or more weeks, the basis of
9 the determination of a medical emergency, or the basis of the
10 determination that the abortion was necessary to preserve the
11 life of an unborn child.

12 *f.* The method used for the abortion and, in the case of
13 an abortion performed when the probable postfertilization age
14 was determined to be twenty or more weeks, whether the method
15 of abortion used was one that, in the physician's reasonable
16 medical judgment, provided the best opportunity for an unborn
17 child to survive or, if such a method was not used, the basis
18 of the determination that termination of the human pregnancy
19 in that manner would pose a greater risk than would any other
20 available method of the death of the pregnant woman or of the
21 substantial and irreversible physical impairment of a major
22 bodily function.

23 4. *a.* By June 30, annually, the department shall issue a
24 public report providing statistics for the previous calendar
25 year, compiled from the reports for that year submitted in
26 accordance with subsection 3. The department shall ensure that
27 none of the information included in the public reports could
28 reasonably lead to the identification of any woman upon whom an
29 abortion was performed.

30 *b.* (1) A physician who fails to submit a report by the end
31 of thirty days following the due date shall be subject to a
32 late fee of five hundred dollars for each additional thirty-day
33 period or portion of a thirty-day period the report is overdue.

34 (2) A physician required to report in accordance with
35 subsection 3 who has not submitted a report or who has

1 submitted only an incomplete report more than one year
2 following the due date, may, in an action brought in the
3 manner in which actions are brought to enforce chapter 148,
4 be directed by a court of competent jurisdiction to submit a
5 complete report within a time period stated by court order or
6 be subject to contempt of court.

7 (3) A physician who intentionally or recklessly falsifies
8 a report required under this section is subject to a civil
9 penalty of one hundred dollars.

10 5. Any medical facility in which a physician is authorized
11 to perform an abortion shall implement written medical
12 policies and procedures consistent with the requirements and
13 prohibitions of this chapter.

14 6. The department shall adopt rules to implement this
15 section.

16 Sec. 8. NEW SECTION. **146B.3 Civil actions and penalties.**

17 1. Failure of a physician to comply with any provision of
18 section 146B.2, with the exception of the late filing of a
19 report or failure to submit a complete report in compliance
20 with a court order, is grounds for license discipline under
21 chapter 148.

22 2. A woman upon whom an abortion has been performed in
23 violation of this chapter or the biological father may maintain
24 an action against the physician who performed the abortion in
25 intentional or reckless violation of this chapter for actual
26 damages. This subsection shall not be interpreted to apply to
27 a biological father when the pregnancy is the result of rape
28 or incest.

29 3. A woman upon whom an abortion has been attempted in
30 violation of this chapter may maintain an action against the
31 physician who attempted the abortion in intentional or reckless
32 violation of this chapter for actual damages.

33 4. A cause of action for injunctive relief to prevent a
34 physician from performing abortions may be maintained against a
35 physician who has intentionally violated this chapter by the

1 woman upon whom the abortion was performed or attempted, by the
2 spouse of the woman, by a parent or guardian of the woman if the
3 woman is less than eighteen years of age or unmarried at the
4 time the abortion was performed or attempted, by a current or
5 former licensed health care provider of the woman, by a county
6 attorney with appropriate jurisdiction, or by the attorney
7 general.

8 5. If the plaintiff prevails in an action brought under
9 this section, the plaintiff shall be entitled to an award for
10 reasonable attorney fees.

11 6. If the defendant prevails in an action brought under
12 this section and the court finds that the plaintiff's suit was
13 frivolous and brought in bad faith, the defendant shall be
14 entitled to an award for reasonable attorney fees.

15 7. Damages and attorney fees shall not be assessed against
16 the woman upon whom an abortion was performed or attempted
17 except as provided in subsection 6.

18 8. In a civil proceeding or action brought under this
19 chapter, the court shall rule whether the anonymity of any
20 woman upon whom an abortion has been performed or attempted
21 shall be preserved from public disclosure if the woman does not
22 provide consent to such disclosure. The court, upon motion
23 or on its own motion, shall make such a ruling and, upon
24 determining that the woman's anonymity should be preserved,
25 shall issue orders to the parties, witnesses, and counsel
26 and shall direct the sealing of the record and exclusion of
27 individuals from courtrooms or hearing rooms to the extent
28 necessary to safeguard the woman's identity from public
29 disclosure. Each such order shall be accompanied by specific
30 written findings explaining why the anonymity of the woman
31 should be preserved from public disclosure, why the order is
32 essential to that end, how the order is narrowly tailored to
33 serve that interest, and why no reasonable less restrictive
34 alternative exists. In the absence of written consent of the
35 woman upon whom an abortion has been performed or attempted,

1 anyone, other than a public official, who brings an action
2 under this section shall do so under a pseudonym. This
3 subsection shall not be construed to conceal the identity
4 of the plaintiff or of witnesses from the defendant or from
5 attorneys for the defendant.

6 9. This chapter shall not be construed to impose civil
7 or criminal liability on a woman upon whom an abortion is
8 performed or attempted.

9 Sec. 9. NEW SECTION. 146B.4 Construction.

10 1. Nothing in this chapter shall be construed as creating or
11 recognizing a right to an abortion.

12 2. Nothing in this chapter shall be construed as determining
13 life to begin when a fetal heartbeat is detectable or at twenty
14 weeks' gestation. Instead, it is recognized that life begins
15 at fertilization.

16 Sec. 10. EFFECTIVE UPON ENACTMENT. This division of this
17 Act, being deemed of immediate importance, takes effect upon
18 enactment.

19 DIVISION IV

20 PROHIBITIONS ON ABORTION — TWENTY WEEKS POSTFERTILIZATION

21 Sec. 11. NEW SECTION. 146C.1 Definitions.

22 As used in this chapter unless the context otherwise
23 requires:

24 1. "*Abortion*" means the termination of a human pregnancy
25 with the intent other than to produce a live birth or to remove
26 a dead fetus.

27 2. "*Attempt to perform an abortion*" means an act, or
28 an omission of a statutorily required act, that, under the
29 circumstances as the actor believes them to be, constitutes a
30 substantial step in a course of conduct planned to culminate in
31 the performing of an abortion.

32 3. "*Department*" means the department of public health.

33 4. "*Fertilization*" means the fusion of a human spermatozoon
34 with a human ovum.

35 5. "*Major bodily function*" includes but is not limited

1 to functions of the immune system, normal cell growth, and
2 digestive, bowel, bladder, neurological, brain, respiratory,
3 circulatory, endocrine, and reproductive functions.

4 6. "*Medical emergency*" means a situation in which an
5 abortion is performed to preserve the life of the pregnant
6 woman whose life is endangered by a physical disorder, physical
7 illness, or physical injury, including a life-endangering
8 physical condition caused by or arising from the pregnancy, or
9 when continuation of the pregnancy will create a serious risk
10 of substantial and irreversible impairment of a major bodily
11 function of the pregnant woman.

12 7. "*Medical facility*" means any public or private hospital,
13 clinic, center, medical school, medical training institution,
14 health care facility, physician's office, infirmary,
15 dispensary, ambulatory surgical center, or other institution or
16 location where medical care is provided to any person.

17 8. "*Perform*", "*performed*", or "*performing*", relative to an
18 abortion, means the use of any means, including medical or
19 surgical, to terminate the pregnancy of a woman known to be
20 pregnant with the intent other than to produce a live birth or
21 to remove a dead fetus.

22 9. "*Physician*" means a person licensed under chapter 148.

23 10. "*Postfertilization age*" means the age of the unborn
24 child as calculated from fertilization.

25 11. "*Probable postfertilization age*" means what, in
26 reasonable medical judgment, will with reasonable probability
27 be the postfertilization age of the unborn child at the time
28 the abortion is to be performed.

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

33 13. "*Unborn child*" means an individual organism of the
34 species homo sapiens from fertilization until live birth.

35 Sec. 12. NEW SECTION. 146C.2 Determination of

1 postfertilization age — abortion prohibited at twenty or
2 more weeks postfertilization age — exceptions — reporting
3 requirements — penalties.

4 1. Except in the case of a medical emergency, an abortion
5 shall not be performed or be attempted to be performed
6 unless the physician performing the abortion has first made
7 a determination of the probable postfertilization age of the
8 unborn child or relied upon such a determination made by
9 another physician. In making such a determination, a physician
10 shall make such inquiries of the pregnant woman and perform or
11 cause to be performed such medical examinations and tests the
12 physician considers necessary in making a reasonable medical
13 judgment to accurately determine the postfertilization age of
14 the unborn child.

15 2. *a.* A physician shall not perform or attempt to perform
16 an abortion upon a pregnant woman when it has been determined,
17 by the physician performing the abortion or by another
18 physician upon whose determination that physician relies,
19 that the probable postfertilization age of the unborn child
20 is twenty or more weeks unless, in the physician's reasonable
21 medical judgment, any of the following applies:

22 (1) The pregnant woman has a condition which the physician
23 deems a medical emergency.

24 (2) The abortion is necessary to preserve the life of an
25 unborn child.

26 *b.* If an abortion is performed under this subsection, the
27 physician shall terminate the human pregnancy in the manner
28 which, in the physician's reasonable medical judgment, provides
29 the best opportunity for an unborn child to survive, unless, in
30 the physician's reasonable medical judgment, termination of the
31 human pregnancy in that manner would pose a greater risk than
32 any other available method of the death of the pregnant woman
33 or of the substantial and irreversible physical impairment of a
34 major bodily function. A greater risk shall not be deemed to
35 exist if it is based on a claim or diagnosis that the pregnant

1 woman will engage in conduct which would result in the pregnant
2 woman's death or in substantial and irreversible physical
3 impairment of a major bodily function.

4 3. A physician who performs or attempts to perform an
5 abortion shall report to the department, on a schedule and in
6 accordance with forms and rules adopted by the department, all
7 of the following:

8 a. If a determination of probable postfertilization age of
9 the unborn child was made, the probable postfertilization age
10 determined and the method and basis of the determination.

11 b. If a determination of probable postfertilization age of
12 the unborn child was not made, the basis of the determination
13 that a medical emergency existed.

14 c. If the probable postfertilization age of the unborn
15 child was determined to be twenty or more weeks, the basis of
16 the determination of a medical emergency, or the basis of the
17 determination that the abortion was necessary to preserve the
18 life of an unborn child.

19 d. The method used for the abortion and, in the case of
20 an abortion performed when the probable postfertilization age
21 was determined to be twenty or more weeks, whether the method
22 of abortion used was one that, in the physician's reasonable
23 medical judgment, provided the best opportunity for an unborn
24 child to survive or, if such a method was not used, the basis
25 of the determination that termination of the human pregnancy
26 in that manner would pose a greater risk than would any other
27 available method of the death of the pregnant woman or of the
28 substantial and irreversible physical impairment of a major
29 bodily function.

30 4. a. By June 30, annually, the department shall issue a
31 public report providing statistics for the previous calendar
32 year, compiled from the reports for that year submitted in
33 accordance with subsection 3. The department shall ensure that
34 none of the information included in the public reports could
35 reasonably lead to the identification of any woman upon whom an

1 abortion was performed.

2 *b.* (1) A physician who fails to submit a report by the end
3 of thirty days following the due date shall be subject to a
4 late fee of five hundred dollars for each additional thirty-day
5 period or portion of a thirty-day period the report is overdue.

6 (2) A physician required to report in accordance with
7 subsection 3 who has not submitted a report or who has
8 submitted only an incomplete report more than one year
9 following the due date, may, in an action brought in the
10 manner in which actions are brought to enforce chapter 148,
11 be directed by a court of competent jurisdiction to submit a
12 complete report within a time period stated by court order or
13 be subject to contempt of court.

14 (3) A physician who intentionally or recklessly falsifies
15 a report required under this section is subject to a civil
16 penalty of one hundred dollars.

17 5. Any medical facility in which a physician is authorized
18 to perform an abortion shall implement written medical
19 policies and procedures consistent with the requirements and
20 prohibitions of this chapter.

21 6. The department shall adopt rules to implement this
22 section.

23 Sec. 13. NEW SECTION. **146C.3 Civil actions and penalties.**

24 1. Failure of a physician to comply with any provision of
25 section 146C.2, with the exception of the late filing of a
26 report or failure to submit a complete report in compliance
27 with a court order, is grounds for license discipline under
28 chapter 148.

29 2. A woman upon whom an abortion has been performed in
30 violation of this chapter or the biological father may maintain
31 an action against the physician who performed the abortion in
32 intentional or reckless violation of this chapter for actual
33 damages. This subsection shall not be interpreted to apply to
34 a biological father when the pregnancy is the result of rape
35 or incest.

1 3. A woman upon whom an abortion has been attempted in
2 violation of this chapter may maintain an action against the
3 physician who attempted the abortion in intentional or reckless
4 violation of this chapter for actual damages.

5 4. A cause of action for injunctive relief to prevent a
6 physician from performing abortions may be maintained against a
7 physician who has intentionally violated this chapter by the
8 woman upon whom the abortion was performed or attempted, by the
9 spouse of the woman, by a parent or guardian of the woman if the
10 woman is less than eighteen years of age or unmarried at the
11 time the abortion was performed or attempted, by a current or
12 former licensed health care provider of the woman, by a county
13 attorney with appropriate jurisdiction, or by the attorney
14 general.

15 5. If the plaintiff prevails in an action brought under
16 this section, the plaintiff shall be entitled to an award for
17 reasonable attorney fees.

18 6. If the defendant prevails in an action brought under
19 this section and the court finds that the plaintiff's suit was
20 frivolous and brought in bad faith, the defendant shall be
21 entitled to an award for reasonable attorney fees.

22 7. Damages and attorney fees shall not be assessed against
23 the woman upon whom an abortion was performed or attempted
24 except as provided in subsection 6.

25 8. In a civil proceeding or action brought under this
26 chapter, the court shall rule whether the anonymity of any
27 woman upon whom an abortion has been performed or attempted
28 shall be preserved from public disclosure if the woman does not
29 provide consent to such disclosure. The court, upon motion
30 or on its own motion, shall make such a ruling and, upon
31 determining that the woman's anonymity should be preserved,
32 shall issue orders to the parties, witnesses, and counsel
33 and shall direct the sealing of the record and exclusion of
34 individuals from courtrooms or hearing rooms to the extent
35 necessary to safeguard the woman's identity from public

1 disclosure. Each such order shall be accompanied by specific
2 written findings explaining why the anonymity of the woman
3 should be preserved from public disclosure, why the order is
4 essential to that end, how the order is narrowly tailored to
5 serve that interest, and why no reasonable less restrictive
6 alternative exists. In the absence of written consent of the
7 woman upon whom an abortion has been performed or attempted,
8 anyone, other than a public official, who brings an action
9 under this section shall do so under a pseudonym. This
10 subsection shall not be construed to conceal the identity
11 of the plaintiff or of witnesses from the defendant or from
12 attorneys for the defendant.

13 9. This chapter shall not be construed to impose civil
14 or criminal liability on a woman upon whom an abortion is
15 performed or attempted.

16 Sec. 14. NEW SECTION. 146C.4 Construction.

17 1. Nothing in this chapter shall be construed as creating or
18 recognizing a right to an abortion.

19 2. Nothing in this chapter shall be construed as determining
20 life to begin at twenty weeks' gestation. Instead, it is
21 recognized that life begins at fertilization.

22 Sec. 15. EFFECTIVE UPON ENACTMENT. This division of this
23 Act, being deemed of immediate importance, takes effect upon
24 enactment.

25 DIVISION V

26 SEVERABILITY, IMPLEMENTATION, AND CONTINGENT REPEAL

27 Sec. 16. SEVERABILITY CLAUSE. If any provision of this Act
28 or its application to a person or circumstance is held invalid,
29 the invalidity does not affect other provisions of applications
30 of this Act which can be given effect without the invalid
31 provision or application, and to this end the provisions of
32 this Act are severable.

33 Sec. 17. CONTINGENT IMPLEMENTATION — CONTINGENT REPEAL.

34 1. The division of this Act enacting chapter 146C, relating
35 to twenty weeks postfertilization relative to the performance

1 of an abortion, shall be implemented only if the division of
2 this Act enacting chapter 146B, relating to fetal heartbeat
3 detection or twenty weeks postfertilization relative to the
4 performance of an abortion is not implemented.

5 2. If the division of this Act enacting chapter 146B,
6 relating to fetal heartbeat detection or twenty weeks
7 postfertilization relative to the performance of an abortion
8 is implemented, chapter 146C, relating to twenty weeks
9 postfertilization relative to the performance of an abortion,
10 is repealed.>

11 2. Title page, by striking lines 1 and 2 and inserting
12 <An Act relating to limitations on and prerequisites for an
13 abortion, providing for licensee discipline, providing civil
14 penalties, including effective date provisions, and providing
15 for contingent implementation and repeal.>

PROPOSED COMMITTEE AMENDMENT