



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5463

by Rep. Thomas Morrison

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Abortion Law of 1975. Adds various definitions to the Act. Provides that an abortion shall not be performed or induced without the voluntary and informed consent of the patient upon whom the abortion is to be performed or induced. Establishes what circumstances are considered informed consent. Provides that if the medical facility has the necessary equipment, consent to an abortion is voluntary and informed only if at least 24 hours before the abortion, the physician who is to perform the abortion on the pregnant woman, the referring physician, or a qualified person assisting the physician has offered the woman, orally and in person, the opportunity to: (1) view the active ultrasound image of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible; and (2) receive a physical picture of the ultrasound image of the unborn child. Provides that the Department of Public Health shall cause to be published printed materials and an informational DVD in English and Spanish within 30 days after the effective date of the amendatory Act. Provides that the materials shall include a comprehensive list of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies, and shall inform the woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care. Provides that a pregnant woman upon whom an abortion has been performed in violation of the Act, or the parent or legal guardian of that woman if she is an unemancipated minor, may commence a civil action against the abortion provider for any willful violation of the Act for actual and punitive damages.

LRB098 19271 RLC 54423 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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 Sections 2, 10, 10.1, 11, and 12 and by adding
6 Sections 3.2, 3.3, 3.4, and 11.2 as follows:

7 (720 ILCS 510/2) (from Ch. 38, par. 81-22)

8 Sec. 2. Definitions. Unless the language or context clearly
9 indicates a different meaning is intended, the following words
10 or phrases for the purpose of this Law shall be given the
11 meaning ascribed to them:

12 (1) "Viability" means that stage of fetal development when,
13 in the medical judgment of the attending physician based on the
14 particular facts of the case before him, there is a reasonable
15 likelihood of sustained survival of the fetus outside the womb,
16 with or without artificial support.

17 (2) "Physician" means any person licensed to practice
18 medicine in all its branches under the Illinois Medical
19 Practice Act of 1987, as amended.

20 (3) "Department" means the Department of Public Health,
21 State of Illinois.

22 (4) "Abortion" means the act of using or prescribing ~~use of~~
23 any instrument, medicine, drug or any other substance or device

1 to terminate the pregnancy of a woman known to be pregnant with
2 an intention other than to increase the probability of a live
3 birth, to preserve the life or health of the child after live
4 birth, ~~or~~ to remove a dead fetus, or to remove an ectopic
5 pregnancy.

6 (5) "Fertilization" and "conception" each mean the
7 fertilization of a human ovum by a human sperm, which shall be
8 deemed to have occurred at the time when it is known a
9 spermatozoon has penetrated the cell membrane of the ovum.

10 (6) "Fetus" and "unborn child" each mean an individual
11 organism of the species homo sapiens from fertilization until
12 live birth.

13 (7) "Abortifacient" means any instrument, medicine, drug,
14 or any other substance or device which is known to cause fetal
15 death when employed in the usual and customary use for which it
16 is manufactured, whether or not the fetus is known to exist
17 when such substance or device is employed.

18 (8) "Born alive", "live born", and "live birth", when
19 applied to an individual organism of the species homo sapiens,
20 each mean he or she was completely expelled or extracted from
21 his or her mother, regardless of the state of gestational
22 development, and after such separation breathed or showed
23 evidence of any of the following: beating of the heart,
24 pulsation of the umbilical cord, or definite movement of
25 voluntary muscles, irrespective of the duration of pregnancy
26 and whether or not the umbilical cord has been cut or the

1 placenta is attached.

2 (9) "Auscultation" means the act of listening for sounds
3 made by internal organs of the fetus, specifically for a fetal
4 heartbeat, utilizing an ultrasound transducer and fetal heart
5 rate (FHR) monitor.

6 (10) "Facility" or "medical facility" means any public or
7 private hospital, clinic, center, medical school, medical
8 training institution, health care facility, physician's
9 office, infirmary, dispensary, ambulatory surgical treatment
10 center, or other institution or location wherein medical care
11 is provided to any person.

12 (11) "Medical emergency" means that condition which, on the
13 basis of the physician's good faith clinical judgment, so
14 complicates the medical condition of a pregnant woman as to
15 necessitate the immediate termination of her pregnancy to avert
16 her death or for which a delay will create serious risk of
17 substantial and irreversible impairment of a major bodily
18 function.

19 (12) "Pregnant" or "pregnancy" means that female
20 reproductive condition of having an unborn child in the woman's
21 uterus.

22 (13) "Qualified person" means an agent of the physician who
23 is a psychologist, licensed social worker, licensed
24 professional counselor, registered nurse, or physician.

25 (14) "Ultrasound" means the use of ultrasonic waves for
26 diagnostic or therapeutic purposes, specifically to monitor a

1 developing fetus.

2 (Source: P.A. 85-1209.)

3 (720 ILCS 510/3.2 new)

4 Sec. 3.2. Informed consent requirement.

5 (a) An abortion shall not be performed or induced without
6 the voluntary and informed consent of the patient upon whom the
7 abortion is to be performed or induced.

8 (b) Except in the case of a medical emergency, consent to
9 an abortion is voluntary and informed if and only if:

10 (1) At least 24 hours before the abortion, the
11 physician who is to perform the abortion or the referring
12 physician has informed the patient, orally and in person,
13 of the following:

14 (A) the name of the physician who will perform the
15 abortion;

16 (B) the probable gestational age of the unborn
17 child at the time the abortion is to be performed;

18 (C) the probable anatomical and physiological
19 characteristics of the unborn child at the time the
20 abortion is to be performed;

21 (D) the medical risks associated with carrying her
22 child to term;

23 (E) medically accurate information that a
24 reasonable patient would consider material to the
25 decision of whether or not to undergo the abortion,

1 including (i) a description of the proposed abortion
2 method; (ii) the immediate and long-term medical risks
3 associated with the proposed abortion method
4 including, but not limited to, the risks of infection,
5 hemorrhage, cervical or uterine perforation, danger to
6 subsequent pregnancies, and increased risk of breast
7 cancer; and (iii) alternatives to the abortion; and

8 (F) any need for anti-Rh immune globulin therapy if
9 she is Rh negative, the likely consequences of refusing
10 the therapy, and the cost of the therapy.

11 (2) At least 24 hours before the abortion, the
12 physician who is to perform the abortion, the referring
13 physician, or a qualified person assisting the physician
14 has informed the patient, orally and in person, of the
15 following:

16 (A) medical assistance benefits may be available
17 for prenatal care, childbirth, and neonatal care, and
18 that more detailed information on the availability of
19 the assistance is contained in the printed materials
20 and informational DVD given to her and described in
21 Section 3.4;

22 (B) the printed materials and informational DVD in
23 Section 3.4 describe the unborn child and list agencies
24 that offer alternatives to abortion;

25 (C) the father of the unborn child is liable to
26 assist in the support of the child, even in instances

1 where he has offered to pay for the abortion. In the
2 case of sexual assault or incest, this information may
3 be omitted;

4 (D) she is free to withhold or withdraw her consent
5 to the abortion at any time without affecting her right
6 to future care or treatment and without the loss of any
7 State or federally-funded benefits to which she might
8 otherwise be entitled; and

9 (E) the information contained in the printed
10 materials and informational DVD given to her, as
11 described in Section 3.4, are also available on a
12 State-maintained website.

13 (3) At least 24 hours prior to an abortion being
14 performed or induced on an unborn child who is 20 weeks
15 gestation or more, the physician performing the abortion on
16 the pregnant woman, the referring physician, or a qualified
17 person assisting the physician shall, orally and in person,
18 offer information on fetal pain to the pregnant woman. This
19 information and counseling shall include, but shall not be
20 limited to, the following:

21 (A) that, by 20 weeks, the unborn child possesses
22 all anatomical links in its nervous system (including
23 spinal cord, nerve tracts, thalamus, and cortex) that
24 are necessary in order to feel pain;

25 (B) that an unborn child who is 20 weeks gestation
26 or more is fully capable of experiencing pain;

1 (C) a description of the actual steps in the
2 abortion procedure to be performed or induced, and at
3 which steps in the abortion procedure the unborn child
4 is capable of feeling pain;

5 (D) that maternal anesthesia typically offers
6 little pain prevention for the unborn child; and

7 (E) that an anesthetic or analgesic is available in
8 order to minimize or alleviate pain to the fetus, or
9 both.

10 (4) The information required in paragraphs (1), (2),
11 and (3) of this subsection (b) is provided to the woman
12 individually and in a private room to protect her privacy,
13 to maintain the confidentiality of her decision, and to
14 ensure that the information focuses on her individual
15 circumstances and that she has an adequate opportunity to
16 ask questions.

17 (5) At least 24 hours before the abortion, the woman is
18 given a copy of the printed materials and permitted to view
19 them or given a copy of the informational DVD described in
20 Section 3.4. If the woman is unable to read the materials,
21 they shall be read to her. If the woman asks questions
22 concerning any of the information or materials, answers
23 shall be provided to her in a language she can understand.

24 (6) Prior to the abortion, the woman certifies in
25 writing on a checklist form provided or approved by the
26 Department that the information required to be provided

1 under paragraphs (1), (2), and (3) of this subsection (b)
2 and Section 3.4 has been provided. All physicians who
3 perform abortions shall report the total number of
4 certifications received monthly to the Department. The
5 Department shall make the number of certifications
6 received available to the public on an annual basis.

7 (c) Except in the case of a medical emergency, the
8 physician who is to perform the abortion shall receive and sign
9 a copy of the written certification prescribed in paragraph (6)
10 of subsection (b) prior to performing the abortion. The
11 physician shall retain a copy of the checklist certification
12 form in the woman's medical record.

13 (d) When a medical emergency compels the performance of an
14 abortion, the physician shall:

15 (1) inform the woman, before the abortion if possible,
16 of the medical indications supporting the physician's
17 judgment that an immediate abortion is necessary to avert
18 her death or that a 24-hour delay will cause substantial
19 and irreversible impairment of a major bodily function; and

20 (2) clearly certify in writing the nature of the
21 medical emergency and the circumstances which necessitated
22 the waiving of the informed consent requirements of this
23 Act. This certification shall be signed by the physician
24 who performed the emergency abortion, and shall be
25 permanently filed in both the records of the physician
26 performing the abortion and the records of the facility

1 where the abortion takes place.

2 (e) A physician shall not require or obtain payment for a
3 service provided in relation to an abortion from a patient who
4 has inquired about an abortion or scheduled an abortion until
5 the expiration of the 24-hour period required in paragraphs
6 (1), (2), (3), and (5) of subsection (b) of this Section.

7 (f) A person who intentionally, knowingly, or recklessly
8 violates the provisions of this Section commits a Class B
9 misdemeanor.

10 (720 ILCS 510/3.3 new)

11 Sec. 3.3. Ultrasound requirement.

12 (a) If the facility has the necessary equipment, consent to
13 an abortion is voluntary and informed only if, at least 24
14 hours before the abortion, the physician who is to perform the
15 abortion on the pregnant woman, the referring physician, or a
16 qualified person assisting the physician has offered the woman,
17 orally and in person, the opportunity to:

18 (1) view the active ultrasound image of the unborn
19 child and hear the heartbeat of the unborn child if the
20 heartbeat is audible; and

21 (2) receive a physical picture of the ultrasound image
22 of the unborn child.

23 (b) At the woman's request, the physician or qualified
24 person assisting the physician must, at least 24 hours prior to
25 the performance of the abortion:

1 (1) provide the active ultrasound image to the pregnant
2 woman for her to view and auscultation of fetal heart tone
3 for her to hear; and

4 (2) provide a physical picture of the ultrasound image
5 of the unborn child.

6 (c) If the facility has the necessary equipment, at least
7 24 hours prior to the performance of the abortion, a physician
8 or qualified person assisting the physician shall obtain the
9 woman's signature on a certification form stating the
10 following:

11 (1) that she has been offered the opportunity to view
12 the active ultrasound image of the unborn child and to hear
13 the heartbeat of the unborn child if the heartbeat is
14 audible;

15 (2) that she has been offered the opportunity to
16 receive the physical picture of the ultrasound image of the
17 unborn child; and

18 (3) that the woman either (A) requested to view the
19 active ultrasound imaging and hear auscultation of fetal
20 heart tone or receive the physical picture of the
21 ultrasound image, or both; or (B) opted not to view the
22 active ultrasound imaging and hear auscultation of fetal
23 heart tone or receive the physical picture of the
24 ultrasound image, or both.

25 (d) The active ultrasound image must be of a quality
26 consistent with standard medical practice in the community,

1 shall contain the dimensions of the unborn child, and shall
2 accurately portray the presence of external members and
3 internal organs, if present or viewable, of the unborn child.

4 (720 ILCS 510/3.4 new)

5 Sec. 3.4. Publication of materials.

6 (a) The Department shall cause to be published printed
7 materials and an informational DVD in English and Spanish
8 within 30 days after the effective date of this amendatory Act
9 of the 98th General Assembly. The Department shall develop and
10 maintain a secure Internet website, which may be part of an
11 existing website, to provide the information described in this
12 Section. No information regarding persons using the website
13 shall be collected or maintained. The Department shall monitor
14 the website on a weekly basis to prevent and correct tampering.

15 On an annual basis, the Department shall review and update,
16 if necessary, the following easily comprehensible printed
17 materials and informational DVD:

18 (1) Geographically indexed materials that inform the
19 woman of public and private agencies and services available
20 to assist a woman through pregnancy, upon childbirth, and
21 while her child is dependent, including but not limited to
22 adoption agencies.

23 (2) A comprehensive list of the agencies, a description
24 of the services they offer, and the telephone numbers and
25 addresses of the agencies, and shall inform the woman about

1 available medical assistance benefits for prenatal care,
2 childbirth, and neonatal care.

3 The Department shall ensure that the materials described in
4 this Section are comprehensive and do not directly or
5 indirectly promote, exclude, or discourage the use of any
6 agency or service described in this Section. The materials
7 shall also contain a toll-free, 24-hour-a-day telephone number
8 which may be called to obtain information about the agencies in
9 the locality of the caller and of the services they offer.

10 The materials shall state that it is unlawful for any
11 individual to coerce a woman to undergo an abortion and that if
12 a minor is denied financial support by the minor's parents,
13 guardian, or custodian due to the minor's refusal to have an
14 abortion performed, the minor shall be deemed emancipated for
15 the purposes of eligibility for public-assistance benefits,
16 except that the benefits may not be used to obtain an abortion.
17 The materials shall also state that any physician who performs
18 an abortion upon a woman without her informed consent may be
19 liable to her for damages in a civil action at law and that the
20 law permits adoptive parents to pay costs of prenatal care,
21 childbirth, and neonatal care. The materials shall also include
22 the following statement:

23 "There are many public and private agencies willing and
24 able to help you to carry your child to term, and to assist you
25 and your child after your child is born, whether you choose to
26 keep your child or to place her or him for adoption. The State

1 of Illinois strongly urges you to contact one or more of these
2 agencies before making a final decision about abortion. The law
3 requires that your physician or his agent give you the
4 opportunity to call agencies like these before you undergo an
5 abortion."

6 (b) Materials that include information on the support
7 obligations of the father of a child who is born alive,
8 including but not limited to the father's legal duty to support
9 his child, which may include child support payments and health
10 insurance, and the fact that paternity may be established by
11 the father's signature on a birth certificate, by a statement
12 of paternity, or by court action. The printed material shall
13 also state that more information concerning establishment of
14 paternity and child support services and enforcement may be
15 obtained by calling State or county public assistance agencies.

16 (c) Materials that inform the pregnant woman of the
17 probable anatomical and physiological characteristics of the
18 unborn child at 2-week gestational increments from
19 fertilization to full term, including color photographs of the
20 developing unborn child at 2-week gestational increments. The
21 descriptions shall include information about brain and heart
22 functions, the presence of external members and internal organs
23 during the applicable stages of development, and any relevant
24 information on the possibility of the unborn child's survival.
25 If a photograph is not available, a picture must contain the
26 dimensions of the unborn child and must be realistic. The

1 materials shall be objective, non-judgmental, and designed to
2 convey only accurate scientific information about the unborn
3 child at the various gestational ages.

4 (d) Materials which contain objective information
5 describing the various surgical and drug-induced methods of
6 abortion, and the immediate and long-term medical risks
7 commonly associated with each abortion method including, but
8 not limited to, the risks of infection, hemorrhage, cervical or
9 uterine perforation or rupture, danger to subsequent
10 pregnancies, increased risk of breast cancer, the possible
11 adverse psychological effects associated with an abortion, and
12 the medical risks associated with carrying a child to term.

13 (e) A uniform resource locator (URL) for the
14 State-maintained website where the materials described in
15 subsections (a), (b), (c), and (d) of this Section may be
16 found.

17 (f) A checklist certification form to be used by the
18 physician or a qualified person under paragraph (6) of
19 subsection (b) of Section 3.2 of this Act, which shall list all
20 the items of information which are to be given to the woman by
21 a physician or the agent under this Act.

22 (g) The materials shall be printed in a typeface large
23 enough to be clearly legible.

24 (h) The Department shall produce a standardized DVD that
25 may be used statewide, presenting the information described in
26 subsections (a), (b), (c), (d), and (e) of this Section, in

1 accordance with the requirements of those subsections. In
2 preparing the DVD, the Department may summarize and make
3 reference to the printed comprehensive list of geographically
4 indexed names and services described in subsection (a) of this
5 Section. The DVD shall, in addition to the information
6 described in subsections (a), (b), (c), (d), and (e) of this
7 Section, show an ultrasound of the heartbeat of an unborn child
8 at 4 to 5 weeks gestational age, at 6 to 8 weeks gestational
9 age, and each month thereafter, until viability. That
10 information shall be presented in an objective, unbiased manner
11 designed to convey only accurate scientific information.

12 (i) The materials required under this Section and the DVD
13 described in subsection (h) of this Section shall be available
14 at no cost from the Department upon request and in appropriate
15 number to any person, facility, or hospital.

16 (720 ILCS 510/10) (from Ch. 38, par. 81-30)

17 Sec. 10. For the purpose of promoting maternal health and
18 adding to the sum of medical and public health knowledge
19 through the compilation of relevant data, a ~~A~~ report of each
20 abortion performed shall be made to the Department on forms
21 prescribed by it. Such report forms shall not identify the
22 patient by name, but by an individual number to be noted in the
23 patient's permanent record in the possession of the physician,
24 and shall include information concerning:

25 (1) Identification of the physician who performed the

1 abortion and the facility where the abortion was performed and
2 a patient identification number;

3 (2) State in which the patient resides;

4 (3) Patient's date of birth, race and marital status;

5 (4) Patient's number ~~Number~~ of prior pregnancies and prior
6 abortions;

7 (5) Date of last menstrual period;

8 (6) Type of abortion procedure performed or prescribed;

9 (7) Complications and whether the abortion resulted in a
10 live birth;

11 (8) The date the abortion was performed;

12 (9) Medical indications for any abortion performed when the
13 fetus was viable;

14 (10) The information required by Sections 6(1)(b) and
15 6(4)(b) of this Act, if applicable;

16 (11) Basis for any medical judgment that a medical
17 emergency existed when required under Sections 6(2)(a) and 6(6)
18 and when required to be reported in accordance with this
19 Section by any provision of this Law; ~~and~~

20 (12) The pathologist's test results pursuant to Section 12
21 of this Act; ~~and~~

22 (13) The probable gestational age of the unborn child;

23 (14) Preexisting medical conditions of the patient which
24 would complicate pregnancy, if any;

25 (15) Identification of the referring physician, agency, or
26 service, if any. Notwithstanding any provision of law to the

1 contrary, the Department shall ensure that the identification
2 of any physician or other health care provider reporting under
3 this Section shall not be released or otherwise made available
4 to the general public;

5 (16) Basis for any medical judgment that a medical
6 emergency existed which excused the physician from compliance
7 with any provision of this Act; and

8 (17) The length and weight of the aborted child for any
9 abortion performed under a medical emergency as defined in
10 paragraph (11) of Section 2 of this Act.

11 Such form shall be completed by the hospital or other
12 licensed facility, signed by the physician who performed the
13 abortion or pregnancy termination, and transmitted to the
14 Department not later than 10 days following the end of the
15 month in which the abortion was performed.

16 In the event that a complication of an abortion occurs or
17 becomes known after submission of such form, a correction using
18 the same patient identification number shall be submitted to
19 the Department within 10 days of its becoming known.

20 The Department may prescribe rules and regulations
21 regarding the administration of this Law and shall prescribe
22 regulations to secure the confidentiality of the woman's
23 identity in the information to be provided under the "Vital
24 Records Act". All reports received by the Department shall be
25 treated as confidential and the Department shall secure the
26 woman's anonymity. Such reports shall be used only for

1 statistical purposes.

2 Upon 30 days public notice, the Department is empowered to
3 require reporting of any additional information which, in the
4 sound discretion of the Department, is necessary to develop
5 statistical data relating to the protection of maternal or
6 fetal life or health, or is necessary to enforce the provisions
7 of this Law, or is necessary to develop useful criteria for
8 medical decisions. The Department shall annually report to the
9 General Assembly all statistical data gathered under this Law
10 and its recommendations to further the purpose of this Law.

11 The requirement for reporting to the General Assembly shall
12 be satisfied by filing copies of the report with the Speaker,
13 the Minority Leader and the Clerk of the House of
14 Representatives and the President, the Minority Leader and the
15 Secretary of the Senate and the Legislative Research Unit, as
16 required by Section 3.1 of "An Act to revise the law in
17 relation to the General Assembly", approved February 25, 1874,
18 as amended, and filing such additional copies with the State
19 Government Report Distribution Center for the General Assembly
20 as is required under paragraph (t) of Section 7 of the State
21 Library Act.

22 (Source: P.A. 84-1438.)

23 (720 ILCS 510/10.1) (from Ch. 38, par. 81-30.1)

24 Sec. 10.1. Any physician who diagnoses a woman as having
25 complications, requiring medical treatment, or suffering death

1 as the primary, secondary or tertiary result of ~~resulting from~~
2 an abortion shall report, ~~within a reasonable period of time,~~
3 the diagnosis and a summary of the complications ~~of her~~
4 ~~physical symptoms~~ to the Illinois Department of PublicHealth.
5 The report shall be filed within 30 days of the discharge or
6 death of the patient. Each report shall contain, at minimum,
7 the following information:

8 (1) patient's date of birth, race, and marital status;

9 (2) patient's number of prior pregnancies and prior
10 abortions;

11 (3) the date the abortion was performed, the reason for
12 the abortion if known, and the method used if known;

13 (4) the type or classification of the facility where
14 the abortion was performed;

15 (5) the name or location of the facility where the
16 abortion was performed, if known;

17 (6) the specific complications that led to the
18 treatment, including, but not limited to, failure to
19 actually terminate the pregnancy, missed ectopic
20 pregnancy, uterine perforation, cervical perforation,
21 incomplete abortion (retained tissue), bleeding infection,
22 hemorrhage, blood clots, cardiac arrest, respiratory
23 arrest, pelvic inflammatory disease, damage to pelvic
24 organs, endometritis, renal failure, metabolic disorder,
25 shock, embolism, free fluid in the abdomen, acute abdomen,
26 adverse reaction to anesthesia or other drugs, hemolytic

1 reaction due to the administration of ABO-incompatible
2 blood or blood products, hypoglycemia where onset occurs
3 while patient is being cared for in the abortion facility,
4 physical injury associated with therapy performed in the
5 abortion facility, coma, death, and psychological or
6 emotional complications including but not limited to
7 depression, suicidal ideation, anxiety, and sleep
8 disorders; and

9 (7) the amount billed to cover the treatment of the
10 specific complications, including whether the treatment
11 was billed to Medicaid, insurance, private pay, or other
12 method. This should include charges from any physician,
13 hospital, emergency room, prescription or other drugs,
14 laboratory tests, and any other costs for the treatment
15 rendered. ~~in accordance with procedures and upon forms~~
16 ~~required by such Department. The Department of Public~~
17 ~~Health shall define the complications required to be~~
18 ~~reported by rule. The complications defined by rule shall~~
19 ~~be those which, according to contemporary medical~~
20 ~~standards, are manifested by symptoms with severity equal~~
21 ~~to or greater than hemorrhaging requiring transfusion,~~
22 ~~infection, incomplete abortion, or punctured organs. If~~
23 ~~the physician making the diagnosis of a complication knows~~
24 ~~the name or location of the facility where the abortion was~~
25 ~~performed, he shall report such information to the~~
26 ~~Department of Public Health.~~

1 Any physician who intentionally violates this Section
2 shall be subject to revocation of his license pursuant to
3 paragraph (22) of Section 22 of the Medical Practice Act of
4 1987.

5 (Source: P.A. 85-1209.)

6 (720 ILCS 510/11) (from Ch. 38, par. 81-31)

7 Sec. 11. Violations.

8 (1) Any person who intentionally violates any provision of
9 this Law commits a Class A misdemeanor unless a specific
10 penalty is otherwise provided. Any person who intentionally
11 falsifies any writing required by this Law commits a Class A
12 misdemeanor.

13 Intentional, knowing, reckless, or negligent violations of
14 this Law shall constitute unprofessional conduct which causes
15 public harm under Section 22 of the Medical Practice Act of
16 1987, as amended; Section 70-5 of the Nurse Practice Act, and
17 Section 21 of the Physician Assistant Practice Act of 1987, as
18 amended.

19 Intentional, knowing, reckless or negligent violations of
20 this Law will constitute grounds for refusal, denial,
21 revocation, suspension, or withdrawal of license, certificate,
22 or permit under Section 30 of the Pharmacy Practice Act, as
23 amended; Section 7 of the Ambulatory Surgical Treatment Center
24 Act, effective July 19, 1973, as amended; and Section 7 of the
25 Hospital Licensing Act.

1 (2) Any hospital or licensed facility which, or any
2 physician who intentionally, knowingly, or recklessly fails to
3 submit a complete report to the Department in accordance with
4 the provisions of Section 10 or 10.1 of this Law and any person
5 who intentionally, knowingly, recklessly or negligently fails
6 to maintain the confidentiality of any reports required under
7 this Law or reports required by Sections 10.1 or 12 of this Law
8 commits a Class B misdemeanor.

9 Upon conviction, the hospital or licensed facility shall:

10 (A) Have its license suspended for a period of 6 months
11 for the first violation.

12 (B) Have its license suspended for a period of one year
13 for the second violation.

14 (C) Have its license revoked upon a third or subsequent
15 violation.

16 (3) Any person who sells any drug, medicine, instrument or
17 other substance which he knows to be an abortifacient and which
18 is in fact an abortifacient, unless upon prescription of a
19 physician, is guilty of a Class B misdemeanor. Any person who
20 prescribes or administers any instrument, medicine, drug or
21 other substance or device, which he knows to be an
22 abortifacient, and which is in fact an abortifacient, and
23 intentionally, knowingly or recklessly fails to inform the
24 person for whom it is prescribed or upon whom it is
25 administered that it is an abortifacient commits a Class C
26 misdemeanor.

1 (4) Any person who intentionally, knowingly or recklessly
2 performs upon a woman what he represents to that woman to be an
3 abortion when he knows or should know that she is not pregnant
4 commits a Class 2 felony and shall be answerable in civil
5 damages equal to 3 times the amount of proved damages.

6 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
7 95-876, eff. 8-21-08.)

8 (720 ILCS 510/11.2 new)

9 Sec. 11.2. Private right of action. A pregnant woman upon
10 whom an abortion has been performed in violation of this Act,
11 or the parent or legal guardian of that woman if she is an
12 unemancipated minor, may commence a civil action against the
13 abortion provider for any willful violation of this Act for
14 actual and punitive damages.

15 (720 ILCS 510/12) (from Ch. 38, par. 81-32)

16 Sec. 12. Tissue examination.

17 (a) When an abortion is performed during the first
18 trimester of pregnancy, the tissue that is removed shall be
19 subjected to a gross or microscopic examination, as needed, by
20 the physician or a qualified person designated by the physician
21 to determine if a pregnancy existed and was terminated. If the
22 examination indicates no fetal remains, that information shall
23 immediately be made known to the physician and sent to the
24 Department within 7 days of the analysis.

1 (b) When an abortion is performed after the first trimester
2 of pregnancy, the physician must certify whether or not the
3 child was viable. The dead unborn child ~~fetus~~ and all tissue
4 removed at the time of abortion shall be submitted for a gross
5 and microscopic analysis and tissue report to a board eligible
6 or certified pathologist as a matter of record ~~in all cases~~.
7 The results of the analysis and report shall be given to the
8 physician who performed the abortion within 7 days of the
9 abortion and such physician shall report any complications
10 relevant to the woman's medical condition to his patient within
11 48 hours of receiving a report if possible. Any evidence of
12 live birth or of viability shall be reported within 7 days, if
13 possible, to the Department by the pathologist. Intentional
14 failure of the pathologist to report any evidence of live birth
15 or of viability or lack of evidence of fetal remains to the
16 Department is a Class B misdemeanor.

17 (Source: P.A. 83-1128.)

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6	720 ILCS 510/3.4 new	
7	720 ILCS 510/10	from Ch. 38, par. 81-30
8	720 ILCS 510/10.1	from Ch. 38, par. 81-30.1
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