



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB2891**

by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

720 ILCS 510/2

from Ch. 38, par. 81-22

720 ILCS 510/3.2 new

Amends the Illinois Abortion Law of 1975. Defines "dismemberment abortion". Provides that no person shall perform, or attempt to perform, a dismemberment abortion on an unborn child unless: (1) the dismemberment abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Provides that no woman upon whom an abortion is performed or attempted to be performed shall be criminally or civilly liable for performing or attempting to perform a dismemberment abortion. Provides that no nurse, technician, secretary, receptionist, or other employee or agent who is not a physician, but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be criminally or civilly liable for performing or attempting to perform a dismemberment abortion.

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CORRECTIONAL  
BUDGET AND  
IMPACT 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 Section 2 and by adding Section 3.2 as follows:

6 (720 ILCS 510/2) (from Ch. 38, par. 81-22)

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

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

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

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

21 (4) "Abortion" means the use of any instrument, medicine,  
22 drug or any other substance or device to terminate the  
23 pregnancy of a woman known to be pregnant with an intention

1 other than to increase the probability of a live birth, to  
2 preserve the life or health of the child after live birth, or  
3 to remove a dead fetus.

4 (4.1) "Dismemberment abortion" means, with the purpose of  
5 causing the death of an unborn child, purposely to dismember a  
6 living unborn child and extract him or her one piece at a time  
7 from the uterus through use of clamps, grasping forceps, tongs,  
8 scissors, or similar instruments that, through the convergence  
9 of 2 rigid levers, slice, crush, or grasp a portion of the  
10 unborn child's body to cut or rip it off. "Dismemberment  
11 abortion" does not include an abortion which uses suction to  
12 dismember the body of the developing unborn child by sucking  
13 fetal parts into a collection container.

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

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

21 (7) "Abortifacient" means any instrument, medicine, drug,  
22 or any other substance or device which is known to cause fetal  
23 death when employed in the usual and customary use for which it  
24 is manufactured, whether or not the fetus is known to exist  
25 when such substance or device is employed.

26 (8) "Born alive", "live born", and "live birth", when

1 applied to an individual organism of the species homo sapiens,  
2 each mean he or she was completely expelled or extracted from  
3 his or her mother and after such separation breathed or showed  
4 evidence of any of the following: beating of the heart,  
5 pulsation of the umbilical cord, or definite movement of  
6 voluntary muscles, irrespective of the duration of pregnancy  
7 and whether or not the umbilical cord has been cut or the  
8 placenta is attached.

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

10 (720 ILCS 510/3.2 new)

11 Sec. 3.2. Dismemberment abortion prohibited; exceptions.

12 (a) No person shall perform, or attempt to perform, a  
13 dismemberment abortion on an unborn child unless:

14 (1) the dismemberment abortion is necessary to  
15 preserve the life of the pregnant woman; or

16 (2) a continuation of the pregnancy will cause a  
17 substantial and irreversible physical impairment of a  
18 major bodily function of the pregnant woman.

19 No condition shall be deemed to exist if it is based on a  
20 claim or diagnosis that the woman will engage in conduct that  
21 would result in her death or in substantial and irreversible  
22 physical impairment of a major bodily function.

23 (b) No woman upon whom an abortion is performed or  
24 attempted to be performed shall be criminally or civilly liable  
25 for performing or attempting to perform a dismemberment

1 abortion. No nurse, technician, secretary, receptionist, or  
2 other employee or agent who is not a physician, but who acts at  
3 the direction of a physician, and no pharmacist or other  
4 individual who is not a physician, but who fills a prescription  
5 or provides instruments or materials used in an abortion at the  
6 direction of or to a physician shall be criminally or civilly  
7 liable for performing or attempting to perform a dismemberment  
8 abortion.