



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1620

by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

720 ILCS 510/6

from Ch. 38, par. 81-26

Amends the Illinois Abortion Law of 1975. Provides that subsequent to the abortion, if a child is born alive, the physician required to be in attendance shall exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as would be required of a physician providing immediate medical care to a child born alive at the same gestational age (rather than in the course of a pregnancy termination which was not an abortion).

LRB101 07142 SLF 52180 b

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 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

1 than the physician performing or inducing the abortion who
2 shall take control of and provide immediate medical care for
3 any child born alive as a result of the abortion. This
4 requirement shall not apply when, in the medical judgment of
5 the physician performing or inducing the abortion based on the
6 particular facts of the case before him, there exists a medical
7 emergency; in such a case, the physician shall describe the
8 basis of this judgment on the form prescribed by Section 10 of
9 this Act. Any physician who intentionally performs or induces
10 such an abortion and who intentionally, knowingly, or
11 recklessly fails to arrange for the attendance of such a second
12 physician in violation of Section 6(2)(a) commits a Class 3
13 felony.

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

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

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

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

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

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

21 (6) When the fetus is viable and when there exists
22 reasonable medical certainty (a) that the particular method of
23 abortion to be employed will cause organic pain to the fetus,
24 and (b) that use of an anesthetic or analgesic would abolish or
25 alleviate organic pain to the fetus caused by the particular
26 method of abortion to be employed, then the physician who is to

1 perform the abortion or his agent or the referring physician or
2 his agent shall inform the woman upon whom the abortion is to
3 be performed that such an anesthetic or analgesic is available,
4 if he knows it to be available, for use to abolish or alleviate
5 organic pain caused to the fetus by the particular method of
6 abortion to be employed. Any person who performs an abortion
7 with knowledge that any such reasonable medical certainty
8 exists and that such an anesthetic or analgesic is available,
9 and intentionally fails to so inform the woman or to ascertain
10 that the woman has been so informed commits a Class B
11 misdemeanor. The foregoing requirements of subsection (6) of
12 Section 6 shall not apply (a) when in the medical judgment of
13 the physician who is to perform the abortion or the referring
14 physician based upon the particular facts of the case before
15 him: (i) there exists a medical emergency, or (ii) the
16 administration of such an anesthetic or analgesic would
17 decrease a possibility of sustained survival of the fetus apart
18 from the body of the mother, with or without artificial
19 support, or (b) when the physician who is to perform the
20 abortion administers an anesthetic or an analgesic to the woman
21 or the fetus and he knows there exists reasonable medical
22 certainty that such use will abolish organic pain caused to the
23 fetus during the course of the abortion.

24 (7) No person shall sell or experiment upon a fetus
25 produced by the fertilization of a human ovum by a human sperm
26 unless such experimentation is therapeutic to the fetus thereby

1 produced. Intentional violation of this section is a Class A
2 misdemeanor. Nothing in this subsection (7) is intended to
3 prohibit the performance of in vitro fertilization.

4 (8) No person shall intentionally perform an abortion with
5 knowledge that the pregnant woman is seeking the abortion
6 solely on account of the sex of the fetus. Nothing in Section
7 6(8) shall be construed to proscribe the performance of an
8 abortion on account of the sex of the fetus because of a
9 genetic disorder linked to that sex. If the application of
10 Section 6(8) to the period of pregnancy prior to viability is
11 held invalid, then such invalidity shall not affect its
12 application to the period of pregnancy subsequent to viability.
13 (Source: P.A. 84-1001.)