

# HB0614



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0614

by Rep. Michael J. Madigan

### SYNOPSIS AS INTRODUCED:

720 ILCS 510/6

from Ch. 38, par. 81-26

Amends the Illinois Abortion Law of 1975. Makes a technical change in a Section concerning duties of physicians.

LRB101 03611 SLF 48619 b

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 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 ~~the~~  
9 particular facts of the case before him, there is a reasonable  
10 likelihood of sustained survival of the fetus outside the womb,  
11 with or without artificial support, shall utilize that method  
12 of 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 in the course of a pregnancy termination  
20 which was not an abortion. Any such physician who  
21 intentionally, knowingly, or recklessly violates Section  
22 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.)