

HB0791



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0791

Introduced 2/10/2021, by Rep. Patrick Windhorst and Adam Niemerg

SYNOPSIS AS INTRODUCED:

775 ILCS 55/1-10
775 ILCS 55/1-25

Amends the Reproductive Health Act. Provides that except in the case of a medical emergency, a health care professional shall not knowingly perform, induce, or attempt to perform an abortion upon a pregnant woman when the probable gestational age of her unborn child has been determined to be at least 20 weeks. Makes conforming changes.

LRB102 04197 LNS 14214 b

A BILL FOR

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Reproductive Health Act is amended by
5 changing Sections 1-10 and 1-25 and by adding Section 1-24 as
6 follows:

7 (775 ILCS 55/1-10)

8 Sec. 1-10. Definitions. As used in this Act:

9 "Abortion" means the use of any instrument, medicine,
10 drug, or any other substance or device to terminate the
11 pregnancy of an individual known to be pregnant with an
12 intention other than to increase the probability of a live
13 birth, to preserve the life or health of the child after live
14 birth, or to remove a dead fetus.

15 "Advanced practice registered nurse" has the same meaning
16 as it does in Section 50-10 of the Nurse Practice Act.

17 "Department" means the Illinois Department of Public
18 Health.

19 "Fetal viability" means that, in the professional judgment
20 of the attending health care professional, based on the
21 particular facts of the case, there is a significant
22 likelihood of a fetus' sustained survival outside the uterus
23 without the application of extraordinary medical measures.

1 "Health care professional" means a person who is licensed
2 as a physician, advanced practice registered nurse, or
3 physician assistant.

4 "Health of the patient" means all factors that are
5 relevant to the patient's health and well-being, including,
6 but not limited to, physical, emotional, psychological, and
7 familial health and age.

8 "Major bodily function" includes, but is not limited to,
9 functions of the immune system, normal cell growth, and
10 digestive bowel, bladder, neurological, brain, respiratory,
11 circulatory, endocrine, and reproductive functions.

12 "Maternity care" means the health care provided in
13 relation to pregnancy, labor and childbirth, and the
14 postpartum period, and includes prenatal care, care during
15 labor and birthing, and postpartum care extending through
16 one-year postpartum. Maternity care shall, seek to optimize
17 positive outcomes for the patient, and be provided on the
18 basis of the physical and psychosocial needs of the patient.
19 Notwithstanding any of the above, all care shall be subject to
20 the informed and voluntary consent of the patient, or the
21 patient's legal proxy, when the patient is unable to give
22 consent.

23 "Medical emergency" means a condition in which an abortion
24 is necessary to preserve the life of the pregnant woman whose
25 life is endangered by a physical disorder, physical illness,
26 or physical injury, including a life-endangering physical

1 condition caused by or arising from the pregnancy itself, or
2 when continuation of the pregnancy will create a serious risk
3 of substantial and irreversible impairment of a major bodily
4 function of the pregnant woman.

5 "Physician" means any person licensed to practice medicine
6 in all its branches under the Medical Practice Act of 1987.

7 "Physician assistant" has the same meaning as it does in
8 Section 4 of the Physician Assistant Practice Act of 1987.

9 "Pregnancy" means the human reproductive process,
10 beginning with the implantation of an embryo.

11 "Prevailing party" has the same meaning as in the Illinois
12 Civil Rights Act of 2003.

13 "Reproductive health care" means health care offered,
14 arranged, or furnished for the purpose of preventing
15 pregnancy, terminating a pregnancy, managing pregnancy loss,
16 or improving maternal health and birth outcomes. Reproductive
17 health care includes, but is not limited to: contraception;
18 sterilization; preconception care; maternity care; abortion
19 care; and counseling regarding reproductive health care.

20 "State" includes any branch, department, agency,
21 instrumentality, and official or other person acting under
22 color of law of this State or a political subdivision of the
23 State, including any unit of local government (including a
24 home rule unit), school district, instrumentality, or public
25 subdivision.

26 (Source: P.A. 101-13, eff. 6-12-19.)

1 (775 ILCS 55/1-25)

2 Sec. 1-25. Reporting of abortions performed by health care
3 professionals.

4 (a) Except in the case of a medical emergency, a health
5 care professional shall not knowingly perform, induce, or
6 attempt to perform an abortion upon a pregnant woman when the
7 probable gestational age of her unborn child has been
8 determined to be at least 20 weeks. Otherwise, a health care
9 professional may provide abortion care in accordance with the
10 health care professional's professional judgment and training
11 and based on accepted standards of clinical practice
12 consistent with the scope of his or her practice under the
13 Medical Practice Act of 1987, the Nurse Practice Act, or the
14 Physician Assistant Practice Act of 1987. ~~If the health care~~
15 ~~professional determines that there is fetal viability, the~~
16 ~~health care professional may provide abortion care only if, in~~
17 ~~the professional judgment of the health care professional, the~~
18 ~~abortion is necessary to protect the life or health of the~~
19 ~~patient.~~

20 (b) A report of each abortion performed by a health care
21 professional shall be made to the Department on forms
22 prescribed by it. Such reports shall be transmitted to the
23 Department not later than 10 days following the end of the
24 month in which the abortion is performed.

25 (c) The abortion reporting forms prescribed by the

1 Department shall not request or require information that
2 identifies a patient by name or any other identifying
3 information, and the Department shall secure anonymity of all
4 patients and health care professionals.

5 (d) All reports received by the Department pursuant to
6 this Section shall be treated as confidential and exempt from
7 the Freedom of Information Act. Access to such reports shall
8 be limited to authorized Department staff who shall use the
9 reports for statistical purposes only. Such reports must be
10 destroyed within 2 years after date of receipt.

11 (Source: P.A. 101-13, eff. 6-12-19.)