
A BILL FOR AN ACT

RELATING TO ABORTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to require that a
2 mother be informed of whether her fetus has a detectable
3 heartbeat prior to consenting to an abortion.

4 SECTION 2. Section 453-16, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§453-16 Intentional termination of pregnancy; fetal**
7 **heartbeat check; penalties; refusal to perform.** (a) No
8 abortion shall be performed in this State unless:

9 (1) The abortion is performed by a licensed physician or
10 surgeon, or by a licensed osteopathic physician and
11 surgeon; [~~and~~]

12 (2) The abortion is performed in a hospital licensed by
13 the department of health or operated by the federal
14 government or an agency thereof, or in a clinic or
15 physician's or osteopathic physician's office[~~-~~]; and

16 (3) The physician or surgeon who performs the abortion
17 first determines, according to standard medical



1 practice, whether the fetus has a detectable
2 heartbeat, and obtains the informed consent of the
3 mother to proceed with the abortion, with full
4 knowledge of the results of that determination;
5 provided that this paragraph shall not apply to an
6 abortion that is necessary to save the life of a
7 mother whose life is endangered by a physical
8 disorder, physical illness, or physical injury,
9 including a life-endangering physical condition caused
10 by or arising from the pregnancy itself, but not
11 including psychological or emotional conditions.

12 (b) Abortion shall mean an operation to intentionally
13 terminate the pregnancy of a nonviable fetus. The termination
14 of a pregnancy of a viable fetus is not included in this
15 section.

16 (c) The State shall not deny or interfere with a female's
17 right to choose or obtain an abortion of a nonviable fetus or an
18 abortion that is necessary to protect the life or health of the
19 female.



1 (d) Any person who knowingly violates subsection (a) shall
2 be fined not more than \$1,000 or imprisoned not more than five
3 years, or both.

4 (e) Nothing in this section shall require any hospital or
5 any person to participate in an abortion nor shall any hospital
6 or any person be liable for a refusal.

7 (f) A defendant charged with violating subsection (a)(3)
8 may seek a hearing before the board of medical examiners on
9 whether the defendant's conduct was necessary to save the life
10 of the mother whose life was endangered by a physical disorder,
11 physical illness, or physical injury, including a life-
12 endangering physical condition caused by or arising from the
13 pregnancy itself, but not including psychological or emotional
14 conditions. The findings by the board of medical examiners
15 shall be admissible at the trial of the defendant. Upon a
16 motion of the defendant, the court shall delay the beginning of
17 the trial for not more than thirty days to permit a hearing
18 before the board of medical examiners to take place. A mother
19 upon whom an abortion performed shall not be prosecuted under
20 subsection (a)(3) for a conspiracy to violate that section.



1 (g) A physician or surgeon who has performed an abortion
2 shall document in the mother's medical file the fetal heartbeat
3 determination made pursuant to subsection (a)(3), the results of
4 that determination, notification of the mother of the results,
5 and any information entered into evidence in any proceedings
6 under subsection (f). Title 45, Code of Federal Regulations,
7 section 164.530(j)(2) shall apply to the documentation."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Pratt

JAN 21 2020



H.B. NO. 2231

Report Title:

Abortion; Fetal Heartbeat; Informed Consent

Description:

Requires that a mother be informed of whether her fetus has a detectable heartbeat prior to consenting to an abortion. Provides for criminal penalties against a physician or surgeon who performs an abortion without obtaining informed consent relating to fetal heartbeat.

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