

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 693

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ABORTION; AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-616, IDAHO CODE, TO PROHIBIT CERTAIN CONDUCT RELATING TO SEX-SELECTION AND RACE-SELECTION ABORTIONS, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE THAT THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF, TO PROVIDE FOR CIVIL CAUSES OF ACTION, TO PROVIDE REPORTING REQUIREMENTS AND TO PROVIDE AN EXCEPTION TO PROSECUTION AND CIVIL LIABILITY; AND AMENDING SECTION 18-616, IDAHO CODE, TO REDESIGNATE THE SECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-616, Idaho Code, and to read as follows:

18-616. DISCRIMINATION AGAINST THE UNBORN ON THE BASIS OF RACE OR SEX. (1) Whoever knowingly:

(a) Performs an abortion knowing that such abortion is sought based on the sex, gender, color or race of the child, or the race of a parent of that child;

(b) Uses force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion;

(c) Solicits or accepts funds for the purpose of financing a sex-selection or race-selection abortion; or

(d) Attempts to do any of the acts in paragraphs (a) through (c) of this subsection;

shall be guilty of a felony punishable in an amount not to exceed five thousand dollars (\$5,000), or imprisonment for a term not to exceed five (5) years, or by both such fine and imprisonment.

(2) The attorney general may, in a civil action, obtain appropriate prospective injunctive relief to enjoin a violation of subsection (1) of this section.

(3) The father of the child, if married to the mother at the time she receives a sex-selection or race-selection abortion, or if the mother has not attained the age of eighteen (18) years at the time of the abortion, the maternal grandparents of the unborn child, may, on behalf of the unborn child obtain appropriate relief in a civil action with respect to a violation of the provisions of subsection (1) of this section. The court may award a reasonable attorney's fee as part of the costs in an action under this subsection. Appropriate relief includes money damages for all injuries, whether psychological, physical or financial, including loss of companionship and support occasioned by the violation.

1 (4) A physician, physician's assistant, nurse, counselor or other med-  
2 ical or mental health professional shall report known or suspected viola-  
3 tions of any of the provisions of this section to appropriate law enforcement  
4 authorities. Whoever violates this requirement shall be guilty of a misde-  
5 meanor punishable in an amount not to exceed one thousand dollars (\$1,000),  
6 or imprisonment in the county jail for a term not to exceed one (1) year, or by  
7 both such fine and imprisonment.

8 (5) A woman upon whom a sex-selection or race-selection abortion is  
9 performed may not be prosecuted or held civilly liable for any violation of  
10 the provisions of this section, or for a conspiracy to violate the provisions  
11 of this section.

12 SECTION 2. That Section 18-616, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 18-6167. SEVERABILITY. If any one (1) or more provision, section, sub-  
15 section, sentence, clause, phrase, or word of this chapter or the applica-  
16 tion thereof to any person or circumstance is found to be unconstitutional,  
17 the same is hereby declared to be severable and the balance of this chap-  
18 ter shall remain effective notwithstanding such unconstitutionality. The  
19 legislature hereby declares that it would have passed every section of this  
20 chapter and each provision, section, subsection, sentence, clause, phrase  
21 or word thereof irrespective of the fact that any one (1) or more provision,  
22 section, subsection, sentence, clause, phrase or word be declared unconsti-  
23 tutional.