

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 70

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DATE	D-PG	OFFICIAL STATUS
01/09/2023	110	Introduction and first reading Referred to Health and Human Services
01/19/2023	234	Comm report: To pass and re-referred to Judiciary and Public Safety
02/06/2023	235	Rule 12.10: report of votes in committee Comm report: To pass as amended and re-refer to Finance Rule 12.10: report of votes in committee

1.1 A bill for an act

1.2 relating to health; repealing certain statutes regulating abortion; repealing certain

1.3 sex offenses; repealing certain statutes governing the sale of certain articles and

1.4 information and prohibiting certain advertisements; removing a limitation on the

1.5 performance of abortions at birth centers; striking certain language regarding

1.6 medical assistance coverage of abortion; removing a limitation on MinnesotaCare

1.7 coverage of abortion; making conforming changes; amending Minnesota Statutes

1.8 2022, sections 13.3805, subdivision 1; 144.222, subdivision 1; 144.615, subdivision

1.9 7; 145.411, subdivisions 1, 5; 145.4235, subdivision 2; 148.261, subdivision 1;

1.10 256B.0625, subdivision 16; 256B.692, subdivision 2; 256L.03, subdivision 1;

1.11 518A.39, subdivision 2; 609.269; 617.22; 617.26; repealing Minnesota Statutes

1.12 2022, sections 62Q.145; 144.343, subdivisions 2, 3, 4, 5, 6, 7; 145.1621; 145.411,

1.13 subdivisions 2, 4; 145.412; 145.413, subdivisions 2, 3; 145.4131; 145.4132;

1.14 145.4133; 145.4134; 145.4135; 145.4136; 145.415; 145.416; 145.423; 145.4241;

1.15 145.4242; 145.4243; 145.4244; 145.4245; 145.4246; 145.4247; 145.4248;

1.16 145.4249; 145.925, subdivisions 2, 4; 256B.011; 256B.40; 261.28; 393.07,

1.17 subdivision 11; 609.293, subdivisions 1, 5; 609.34; 609.36; 617.20; 617.201;

1.18 617.202; 617.21; 617.28; 617.29; Minnesota Rules, parts 4615.3600; 9505.0235.

1.19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.20 Section 1. Minnesota Statutes 2022, section 13.3805, subdivision 1, is amended to read:

1.21 Subdivision 1. **Health data generally.** (a) **Definitions.** As used in this subdivision:

1.22 (1) "Commissioner" means the commissioner of health.

1.23 (2) "Health data" are data on individuals created, collected, received, or maintained by

1.24 the Department of Health, political subdivisions, or statewide systems relating to the

1.25 identification, description, prevention, and control of disease or as part of an epidemiologic

1.26 investigation the commissioner designates as necessary to analyze, describe, or protect the

1.27 public health.

2.1 (b) **Data on individuals.** (1) Health data are private data on individuals. Notwithstanding
 2.2 section 13.05, subdivision 9, health data may not be disclosed except as provided in this
 2.3 subdivision and section 13.04.

2.4 (2) The commissioner or a community health board as defined in section 145A.02,
 2.5 subdivision 5, may disclose health data to the data subject's physician as necessary to locate
 2.6 or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to
 2.7 identify persons at risk of illness, or to conduct an epidemiologic investigation.

2.8 (3) With the approval of the commissioner, health data may be disclosed to the extent
 2.9 necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to
 2.10 alert persons who may be threatened by illness as evidenced by epidemiologic data, to
 2.11 control or prevent the spread of serious disease, or to diminish an imminent threat to the
 2.12 public health.

2.13 ~~(c) **Health summary data.** Summary data derived from data collected under section~~
 2.14 ~~145.413 may be provided under section 13.05, subdivision 7.~~

2.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.16 Sec. 2. Minnesota Statutes 2022, section 144.222, subdivision 1, is amended to read:

2.17 Subdivision 1. **Fetal death report required.** A fetal death report must be filed within
 2.18 five days of the death of a fetus for whom 20 or more weeks of gestation have elapsed,
 2.19 except for abortions defined under section ~~145.4241~~ 145.411, subdivision 5. A fetal death
 2.20 report must be prepared in a format prescribed by the state registrar and filed in accordance
 2.21 with Minnesota Rules, parts 4601.0100 to 4601.2600 by:

2.22 (1) a person in charge of an institution or that person's authorized designee if a fetus is
 2.23 delivered in the institution or en route to the institution;

2.24 (2) a physician, certified nurse midwife, or other licensed medical personnel in attendance
 2.25 at or immediately after the delivery if a fetus is delivered outside an institution; or

2.26 (3) a parent or other person in charge of the disposition of the remains if a fetal death
 2.27 occurred without medical attendance at or immediately after the delivery.

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.29 Sec. 3. Minnesota Statutes 2022, section 144.615, subdivision 7, is amended to read:

2.30 Subd. 7. **Limitations of services.** (a) The following limitations apply to the services
 2.31 performed at a birth center:

3.1 (1) surgical procedures must be limited to those normally accomplished during an
 3.2 uncomplicated birth, including episiotomy and repair; and

3.3 ~~(2) no abortions may be administered; and~~

3.4 ~~(3)~~ (2) no general or regional anesthesia may be administered.

3.5 (b) Notwithstanding paragraph (a), local anesthesia may be administered at a birth center
 3.6 if the administration of the anesthetic is performed within the scope of practice of a health
 3.7 care professional.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.9 Sec. 4. Minnesota Statutes 2022, section 145.411, subdivision 1, is amended to read:

3.10 Subdivision 1. **Terms.** As used in sections 145.411 to ~~145.416~~ 145.414, the terms defined
 3.11 in this section have the meanings given to them.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.13 Sec. 5. Minnesota Statutes 2022, section 145.411, subdivision 5, is amended to read:

3.14 Subd. 5. **Abortion.** "Abortion" includes an act, procedure or use of any instrument,
 3.15 medicine or drug which is supplied or prescribed for or administered to ~~a pregnant woman~~
 3.16 an individual with the intention of terminating, and which results in the termination of,
 3.17 pregnancy.

3.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.19 Sec. 6. Minnesota Statutes 2022, section 145.4235, subdivision 2, is amended to read:

3.20 Subd. 2. **Eligibility for grants.** (a) The commissioner shall award grants to eligible
 3.21 applicants under paragraph (c) for the reasonable expenses of alternatives to abortion
 3.22 programs to support, encourage, and assist women in carrying their pregnancies to term and
 3.23 caring for their babies after birth by providing information on, referral to, and assistance
 3.24 with securing necessary services that enable women to carry their pregnancies to term and
 3.25 care for their babies after birth. Necessary services must include, but are not limited to:

3.26 (1) medical care;

3.27 (2) nutritional services;

3.28 (3) housing assistance;

3.29 (4) adoption services;

4.1 (5) education and employment assistance, including services that support the continuation
4.2 and completion of high school;

4.3 (6) child care assistance; and

4.4 (7) parenting education and support services.

4.5 An applicant may not provide or assist a woman to obtain adoption services from a provider
4.6 of adoption services that is not licensed.

4.7 (b) In addition to providing information and referral under paragraph (a), an eligible
4.8 program may provide one or more of the necessary services under paragraph (a) that assists
4.9 women in carrying their pregnancies to term. To avoid duplication of efforts, grantees may
4.10 refer to other public or private programs, rather than provide the care directly, if a woman
4.11 meets eligibility criteria for the other programs.

4.12 (c) To be eligible for a grant, an agency or organization must:

4.13 (1) be a private, nonprofit organization;

4.14 (2) demonstrate that the program is conducted under appropriate supervision;

4.15 (3) not charge women for services provided under the program;

4.16 (4) provide each pregnant woman counseled with accurate information on the
4.17 developmental characteristics of babies and of unborn children, ~~including offering the printed~~
4.18 ~~information described in section 145.4243~~ as determined by the commissioner;

4.19 (5) ensure that its alternatives-to-abortion program's purpose is to assist and encourage
4.20 women in carrying their pregnancies to term and to maximize their potentials thereafter;

4.21 (6) ensure that none of the money provided is used to encourage or affirmatively counsel
4.22 a woman to have an abortion not necessary to prevent her death, to provide her an abortion,
4.23 or to directly refer her to an abortion provider for an abortion. The agency or organization
4.24 may provide nondirective counseling; and

4.25 (7) have had the alternatives to abortion program in existence for at least one year as of
4.26 July 1, 2011; or incorporated an alternative to abortion program that has been in existence
4.27 for at least one year as of July 1, 2011.

4.28 (d) The provisions, words, phrases, and clauses of paragraph (c) are inseverable from
4.29 this subdivision, and if any provision, word, phrase, or clause of paragraph (c) or its
4.30 application to any person or circumstance is held invalid, the invalidity applies to all of this
4.31 subdivision.

5.1 (e) An organization that provides abortions, promotes abortions, or directly refers to an
5.2 abortion provider for an abortion is ineligible to receive a grant under this program. An
5.3 affiliate of an organization that provides abortions, promotes abortions, or directly refers
5.4 to an abortion provider for an abortion is ineligible to receive a grant under this section
5.5 unless the organizations are separately incorporated and independent from each other. To
5.6 be independent, the organizations may not share any of the following:

5.7 (1) the same or a similar name;

5.8 (2) medical facilities or nonmedical facilities, including but not limited to, business
5.9 offices, treatment rooms, consultation rooms, examination rooms, and waiting rooms;

5.10 (3) expenses;

5.11 (4) employee wages or salaries; or

5.12 (5) equipment or supplies, including but not limited to, computers, telephone systems,
5.13 telecommunications equipment, and office supplies.

5.14 (f) An organization that receives a grant under this section and that is affiliated with an
5.15 organization that provides abortion services must maintain financial records that demonstrate
5.16 strict compliance with this subdivision and that demonstrate that its independent affiliate
5.17 that provides abortion services receives no direct or indirect economic or marketing benefit
5.18 from the grant under this section.

5.19 (g) The commissioner shall approve any information provided by a grantee on the health
5.20 risks associated with abortions to ensure that the information is medically accurate.

5.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.22 Sec. 7. Minnesota Statutes 2022, section 148.261, subdivision 1, is amended to read:

5.23 Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition
5.24 the license and registration of any person to practice advanced practice, professional, or
5.25 practical nursing under sections 148.171 to 148.285, or to otherwise discipline a licensee
5.26 or applicant as described in section 148.262. The following are grounds for disciplinary
5.27 action:

5.28 (1) Failure to demonstrate the qualifications or satisfy the requirements for a license
5.29 contained in sections 148.171 to 148.285 or rules of the board. In the case of a person
5.30 applying for a license, the burden of proof is upon the applicant to demonstrate the
5.31 qualifications or satisfaction of the requirements.

6.1 (2) Employing fraud or deceit in procuring or attempting to procure a permit, license,
6.2 or registration certificate to practice advanced practice, professional, or practical nursing
6.3 or attempting to subvert the licensing examination process. Conduct that subverts or attempts
6.4 to subvert the licensing examination process includes, but is not limited to:

6.5 (i) conduct that violates the security of the examination materials, such as removing
6.6 examination materials from the examination room or having unauthorized possession of
6.7 any portion of a future, current, or previously administered licensing examination;

6.8 (ii) conduct that violates the standard of test administration, such as communicating with
6.9 another examinee during administration of the examination, copying another examinee's
6.10 answers, permitting another examinee to copy one's answers, or possessing unauthorized
6.11 materials; or

6.12 (iii) impersonating an examinee or permitting an impersonator to take the examination
6.13 on one's own behalf.

6.14 (3) Conviction of a felony or gross misdemeanor reasonably related to the practice of
6.15 professional, advanced practice registered, or practical nursing. Conviction as used in this
6.16 subdivision includes a conviction of an offense that if committed in this state would be
6.17 considered a felony or gross misdemeanor without regard to its designation elsewhere, or
6.18 a criminal proceeding where a finding or verdict of guilt is made or returned but the
6.19 adjudication of guilt is either withheld or not entered.

6.20 (4) Revocation, suspension, limitation, conditioning, or other disciplinary action against
6.21 the person's professional or practical nursing license or advanced practice registered nursing
6.22 credential, in another state, territory, or country; failure to report to the board that charges
6.23 regarding the person's nursing license or other credential are pending in another state,
6.24 territory, or country; or having been refused a license or other credential by another state,
6.25 territory, or country.

6.26 (5) Failure to or inability to perform professional or practical nursing as defined in section
6.27 148.171, subdivision 14 or 15, with reasonable skill and safety, including failure of a
6.28 registered nurse to supervise or a licensed practical nurse to monitor adequately the
6.29 performance of acts by any person working at the nurse's direction.

6.30 (6) Engaging in unprofessional conduct, including, but not limited to, a departure from
6.31 or failure to conform to board rules of professional or practical nursing practice that interpret
6.32 the statutory definition of professional or practical nursing as well as provide criteria for
6.33 violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and
6.34 prevailing professional or practical nursing practice, or any nursing practice that may create

7.1 unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not
7.2 be established under this clause.

7.3 (7) Failure of an advanced practice registered nurse to practice with reasonable skill and
7.4 safety or departure from or failure to conform to standards of acceptable and prevailing
7.5 advanced practice registered nursing.

7.6 (8) Delegating or accepting the delegation of a nursing function or a prescribed health
7.7 care function when the delegation or acceptance could reasonably be expected to result in
7.8 unsafe or ineffective patient care.

7.9 (9) Actual or potential inability to practice nursing with reasonable skill and safety to
7.10 patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as
7.11 a result of any mental or physical condition.

7.12 (10) Adjudication as mentally incompetent, mentally ill, a chemically dependent person,
7.13 or a person dangerous to the public by a court of competent jurisdiction, within or without
7.14 this state.

7.15 (11) Engaging in any unethical conduct, including, but not limited to, conduct likely to
7.16 deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for
7.17 the health, welfare, or safety of a patient. Actual injury need not be established under this
7.18 clause.

7.19 (12) Engaging in conduct with a patient that is sexual or may reasonably be interpreted
7.20 by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning
7.21 to a patient, or engaging in sexual exploitation of a patient or former patient.

7.22 (13) Obtaining money, property, or services from a patient, other than reasonable fees
7.23 for services provided to the patient, through the use of undue influence, harassment, duress,
7.24 deception, or fraud.

7.25 (14) Revealing a privileged communication from or relating to a patient except when
7.26 otherwise required or permitted by law.

7.27 (15) Engaging in abusive or fraudulent billing practices, including violations of federal
7.28 Medicare and Medicaid laws or state medical assistance laws.

7.29 (16) Improper management of patient records, including failure to maintain adequate
7.30 patient records, to comply with a patient's request made pursuant to sections 144.291 to
7.31 144.298, or to furnish a patient record or report required by law.

8.1 (17) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage
8.2 in the unlawful practice of advanced practice, professional, or practical nursing.

8.3 (18) Violating a rule adopted by the board, an order of the board, or a state or federal
8.4 law relating to the practice of advanced practice, professional, or practical nursing, or a
8.5 state or federal narcotics or controlled substance law.

8.6 (19) Knowingly providing false or misleading information that is directly related to the
8.7 care of that patient unless done for an accepted therapeutic purpose such as the administration
8.8 of a placebo.

8.9 (20) Aiding suicide or aiding attempted suicide in violation of section 609.215 as
8.10 established by any of the following:

8.11 (i) a copy of the record of criminal conviction or plea of guilty for a felony in violation
8.12 of section 609.215, subdivision 1 or 2;

8.13 (ii) a copy of the record of a judgment of contempt of court for violating an injunction
8.14 issued under section 609.215, subdivision 4;

8.15 (iii) a copy of the record of a judgment assessing damages under section 609.215,
8.16 subdivision 5; or

8.17 (iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2.
8.18 The board shall investigate any complaint of a violation of section 609.215, subdivision 1
8.19 or 2.

8.20 (21) Practicing outside the scope of practice authorized by section 148.171, subdivision
8.21 5, 10, 11, 13, 14, 15, or 21.

8.22 (22) Making a false statement or knowingly providing false information to the board,
8.23 failing to make reports as required by section 148.263, or failing to cooperate with an
8.24 investigation of the board as required by section 148.265.

8.25 (23) Engaging in false, fraudulent, deceptive, or misleading advertising.

8.26 (24) Failure to inform the board of the person's certification or recertification status as
8.27 a certified registered nurse anesthetist, certified nurse-midwife, certified nurse practitioner,
8.28 or certified clinical nurse specialist.

8.29 (25) Engaging in clinical nurse specialist practice, nurse-midwife practice, nurse
8.30 practitioner practice, or registered nurse anesthetist practice without a license and current
8.31 certification or recertification by a national nurse certification organization acceptable to
8.32 the board.

9.1 ~~(26) Engaging in conduct that is prohibited under section 145.412.~~

9.2 ~~(27) (26)~~ Failing to report employment to the board as required by section 148.211,
9.3 subdivision 2a, or knowingly aiding, assisting, advising, or allowing a person to fail to report
9.4 as required by section 148.211, subdivision 2a.

9.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.6 Sec. 8. Minnesota Statutes 2022, section 256B.0625, subdivision 16, is amended to read:

9.7 Subd. 16. **Abortion services.** Medical assistance covers abortion services, ~~but only if~~
9.8 ~~one of the following conditions is met:~~ determined to be medically necessary by the treating
9.9 provider and delivered in accordance with all applicable Minnesota laws.

9.10 ~~(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written~~
9.11 ~~statement of two physicians indicating the abortion is medically necessary to prevent the~~
9.12 ~~death of the mother, and (2) the patient has given her consent to the abortion in writing~~
9.13 ~~unless the patient is physically or legally incapable of providing informed consent to the~~
9.14 ~~procedure, in which case consent will be given as otherwise provided by law;~~

9.15 ~~(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342,~~
9.16 ~~subdivision 1, clauses (a), (b), (c)(i) and (ii), and (e), and subdivision 1a, clauses (a), (b),~~
9.17 ~~(c)(i) and (ii), and (d), and the incident is reported within 48 hours after the incident occurs~~
9.18 ~~to a valid law enforcement agency for investigation, unless the victim is physically unable~~
9.19 ~~to report the criminal sexual conduct, in which case the report shall be made within 48 hours~~
9.20 ~~after the victim becomes physically able to report the criminal sexual conduct; or~~

9.21 ~~(c) The pregnancy is the result of incest, but only if the incident and relative are reported~~
9.22 ~~to a valid law enforcement agency for investigation prior to the abortion.~~

9.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.24 Sec. 9. Minnesota Statutes 2022, section 256B.692, subdivision 2, is amended to read:

9.25 Subd. 2. **Duties of commissioner of health.** (a) Notwithstanding chapters 62D and 62N,
9.26 a county that elects to purchase medical assistance in return for a fixed sum without regard
9.27 to the frequency or extent of services furnished to any particular enrollee is not required to
9.28 obtain a certificate of authority under chapter 62D or 62N. The county board of
9.29 commissioners is the governing body of a county-based purchasing program. In a multicounty
9.30 arrangement, the governing body is a joint powers board established under section 471.59.

10.1 (b) A county that elects to purchase medical assistance services under this section must
10.2 satisfy the commissioner of health that the requirements for assurance of consumer protection,
10.3 provider protection, and fiscal solvency of chapter 62D, applicable to health maintenance
10.4 organizations will be met according to the following schedule:

10.5 (1) for a county-based purchasing plan approved on or before June 30, 2008, the plan
10.6 must have in reserve:

10.7 (i) at least 50 percent of the minimum amount required under chapter 62D as of January
10.8 1, 2010;

10.9 (ii) at least 75 percent of the minimum amount required under chapter 62D as of January
10.10 1, 2011;

10.11 (iii) at least 87.5 percent of the minimum amount required under chapter 62D as of
10.12 January 1, 2012; and

10.13 (iv) at least 100 percent of the minimum amount required under chapter 62D as of January
10.14 1, 2013; and

10.15 (2) for a county-based purchasing plan first approved after June 30, 2008, the plan must
10.16 have in reserve:

10.17 (i) at least 50 percent of the minimum amount required under chapter 62D at the time
10.18 the plan begins enrolling enrollees;

10.19 (ii) at least 75 percent of the minimum amount required under chapter 62D after the first
10.20 full calendar year;

10.21 (iii) at least 87.5 percent of the minimum amount required under chapter 62D after the
10.22 second full calendar year; and

10.23 (iv) at least 100 percent of the minimum amount required under chapter 62D after the
10.24 third full calendar year.

10.25 (c) Until a plan is required to have reserves equaling at least 100 percent of the minimum
10.26 amount required under chapter 62D, the plan may demonstrate its ability to cover any losses
10.27 by satisfying the requirements of chapter 62N. A county-based purchasing plan must also
10.28 assure the commissioner of health that the requirements of sections 62J.041; 62J.48; 62J.71
10.29 to 62J.73; all applicable provisions of chapter 62Q, including sections 62Q.075; 62Q.1055;
10.30 62Q.106; 62Q.12; 62Q.135; 62Q.14; ~~62Q.145~~; 62Q.19; 62Q.23, paragraph (c); 62Q.43;
10.31 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.68 to 62Q.72; and 72A.201 will be met.

11.1 (d) All enforcement and rulemaking powers available under chapters 62D, 62J, 62N,
 11.2 and 62Q are hereby granted to the commissioner of health with respect to counties that
 11.3 purchase medical assistance services under this section.

11.4 (e) The commissioner, in consultation with county government, shall develop
 11.5 administrative and financial reporting requirements for county-based purchasing programs
 11.6 relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and 62N.31,
 11.7 and other sections as necessary, that are specific to county administrative, accounting, and
 11.8 reporting systems and consistent with other statutory requirements of counties.

11.9 (f) The commissioner shall collect from a county-based purchasing plan under this
 11.10 section the following fees:

11.11 (1) fees attributable to the costs of audits and other examinations of plan financial
 11.12 operations. These fees are subject to the provisions of Minnesota Rules, part 4685.2800,
 11.13 subpart 1, item F; and

11.14 (2) an annual fee of \$21,500, to be paid by June 15 of each calendar year.

11.15 All fees collected under this paragraph shall be deposited in the state government special
 11.16 revenue fund.

11.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.18 Sec. 10. Minnesota Statutes 2022, section 256L.03, subdivision 1, is amended to read:

11.19 Subdivision 1. **Covered health services.** (a) "Covered health services" means the health
 11.20 services reimbursed under chapter 256B, with the exception of special education services,
 11.21 home care nursing services, adult dental care services other than services covered under
 11.22 section 256B.0625, subdivision 9, orthodontic services, nonemergency medical transportation
 11.23 services, personal care assistance and case management services, community first services
 11.24 and supports under section 256B.85, behavioral health home services under section
 11.25 256B.0757, housing stabilization services under section 256B.051, and nursing home or
 11.26 intermediate care facilities services.

11.27 ~~(b) No public funds shall be used for coverage of abortion under MinnesotaCare except~~
 11.28 ~~where the life of the female would be endangered or substantial and irreversible impairment~~
 11.29 ~~of a major bodily function would result if the fetus were carried to term; or where the~~
 11.30 ~~pregnancy is the result of rape or incest.~~

11.31 ~~(e)~~ (b) Covered health services shall be expanded as provided in this section.

12.1 ~~(d)~~ (c) For the purposes of covered health services under this section, "child" means an
12.2 individual younger than 19 years of age.

12.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.4 Sec. 11. Minnesota Statutes 2022, section 518A.39, subdivision 2, is amended to read:

12.5 Subd. 2. **Modification.** (a) The terms of an order respecting maintenance or support
12.6 may be modified upon a showing of one or more of the following, any of which makes the
12.7 terms unreasonable and unfair: (1) substantially increased or decreased gross income of an
12.8 obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or
12.9 the child or children that are the subject of these proceedings; (3) receipt of assistance under
12.10 the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to ~~256B.40~~
12.11 256B.39, or chapter 256J or 256K; (4) a change in the cost of living for either party as
12.12 measured by the federal Bureau of Labor Statistics; (5) extraordinary medical expenses of
12.13 the child not provided for under section 518A.41; (6) a change in the availability of
12.14 appropriate health care coverage or a substantial increase or decrease in health care coverage
12.15 costs; (7) the addition of work-related or education-related child care expenses of the obligee
12.16 or a substantial increase or decrease in existing work-related or education-related child care
12.17 expenses; or (8) upon the emancipation of the child, as provided in subdivision 5.

12.18 (b) It is presumed that there has been a substantial change in circumstances under
12.19 paragraph (a) and the terms of a current support order shall be rebuttably presumed to be
12.20 unreasonable and unfair if:

12.21 (1) the application of the child support guidelines in section 518A.35, to the current
12.22 circumstances of the parties results in a calculated court order that is at least 20 percent and
12.23 at least \$75 per month higher or lower than the current support order or, if the current support
12.24 order is less than \$75, it results in a calculated court order that is at least 20 percent per
12.25 month higher or lower;

12.26 (2) the medical support provisions of the order established under section 518A.41 are
12.27 not enforceable by the public authority or the obligee;

12.28 (3) health coverage ordered under section 518A.41 is not available to the child for whom
12.29 the order is established by the parent ordered to provide;

12.30 (4) the existing support obligation is in the form of a statement of percentage and not a
12.31 specific dollar amount;

12.32 (5) the gross income of an obligor or obligee has decreased by at least 20 percent through
12.33 no fault or choice of the party; or

13.1 (6) a deviation was granted based on the factor in section 518A.43, subdivision 1, clause
13.2 (4), and the child no longer resides in a foreign country or the factor is otherwise no longer
13.3 applicable.

13.4 (c) A child support order is not presumptively modifiable solely because an obligor or
13.5 obligee becomes responsible for the support of an additional nonjoint child, which is born
13.6 after an existing order. Section 518A.33 shall be considered if other grounds are alleged
13.7 which allow a modification of support.

13.8 (d) If child support was established by applying a parenting expense adjustment or
13.9 presumed equal parenting time calculation under previously existing child support guidelines
13.10 and there is no parenting plan or order from which overnights or overnight equivalents can
13.11 be determined, there is a rebuttable presumption that the established adjustment or calculation
13.12 will continue after modification so long as the modification is not based on a change in
13.13 parenting time. In determining an obligation under previously existing child support
13.14 guidelines, it is presumed that the court shall:

13.15 (1) if a 12 percent parenting expense adjustment was applied, multiply the obligor's
13.16 share of the combined basic support obligation calculated under section 518A.34, paragraph
13.17 (b), clause (5), by 0.88; or

13.18 (2) if the parenting time was presumed equal but the parents' parental incomes for
13.19 determining child support were not equal:

13.20 (i) multiply the combined basic support obligation under section 518A.34, paragraph
13.21 (b), clause (5), by 0.75;

13.22 (ii) prorate the amount under item (i) between the parents based on each parent's
13.23 proportionate share of the combined PICS; and

13.24 (iii) subtract the lower amount from the higher amount.

13.25 (e) On a motion for modification of maintenance, including a motion for the extension
13.26 of the duration of a maintenance award, the court shall apply, in addition to all other relevant
13.27 factors, the factors for an award of maintenance under section 518.552 that exist at the time
13.28 of the motion. On a motion for modification of support, the court:

13.29 (1) shall apply section 518A.35, and shall not consider the financial circumstances of
13.30 each party's spouse, if any; and

13.31 (2) shall not consider compensation received by a party for employment in excess of a
13.32 40-hour work week, provided that the party demonstrates, and the court finds, that:

- 14.1 (i) the excess employment began after entry of the existing support order;
- 14.2 (ii) the excess employment is voluntary and not a condition of employment;
- 14.3 (iii) the excess employment is in the nature of additional, part-time employment, or
14.4 overtime employment compensable by the hour or fractions of an hour;
- 14.5 (iv) the party's compensation structure has not been changed for the purpose of affecting
14.6 a support or maintenance obligation;
- 14.7 (v) in the case of an obligor, current child support payments are at least equal to the
14.8 guidelines amount based on income not excluded under this clause; and
- 14.9 (vi) in the case of an obligor who is in arrears in child support payments to the obligee,
14.10 any net income from excess employment must be used to pay the arrearages until the
14.11 arrearages are paid in full.
- 14.12 (f) A modification of support or maintenance, including interest that accrued pursuant
14.13 to section 548.091, may be made retroactive only with respect to any period during which
14.14 the petitioning party has pending a motion for modification but only from the date of service
14.15 of notice of the motion on the responding party and on the public authority if public assistance
14.16 is being furnished or the county attorney is the attorney of record, unless the court adopts
14.17 an alternative effective date under paragraph (l). The court's adoption of an alternative
14.18 effective date under paragraph (l) shall not be considered a retroactive modification of
14.19 maintenance or support.
- 14.20 (g) Except for an award of the right of occupancy of the homestead, provided in section
14.21 518.63, all divisions of real and personal property provided by section 518.58 shall be final,
14.22 and may be revoked or modified only where the court finds the existence of conditions that
14.23 justify reopening a judgment under the laws of this state, including motions under section
14.24 518.145, subdivision 2. The court may impose a lien or charge on the divided property at
14.25 any time while the property, or subsequently acquired property, is owned by the parties or
14.26 either of them, for the payment of maintenance or support money, or may sequester the
14.27 property as is provided by section 518A.71.
- 14.28 (h) The court need not hold an evidentiary hearing on a motion for modification of
14.29 maintenance or support.
- 14.30 (i) Sections 518.14 and 518A.735 shall govern the award of attorney fees for motions
14.31 brought under this subdivision.

15.1 (j) An enactment, amendment, or repeal of law constitutes a substantial change in the
 15.2 circumstances for purposes of modifying a child support order when it meets the standards
 15.3 for modification in this section.

15.4 (k) On the first modification following implementation of amended child support
 15.5 guidelines, the modification of basic support may be limited if the amount of the full variance
 15.6 would create hardship for either the obligor or the obligee. Hardship includes, but is not
 15.7 limited to, eligibility for assistance under chapter 256J.

15.8 (l) The court may select an alternative effective date for a maintenance or support order
 15.9 if the parties enter into a binding agreement for an alternative effective date.

15.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.11 Sec. 12. Minnesota Statutes 2022, section 609.269, is amended to read:

15.12 **609.269 EXCEPTION.**

15.13 Sections 609.2661 to 609.268 do not apply to ~~any act described in section 145.412.~~ a
 15.14 person providing reproductive health care offered, arranged, or furnished:

15.15 (1) for the purpose of terminating a pregnancy; and

15.16 (2) with the consent of the pregnant individual or the pregnant individual's representative,
 15.17 except in a medical emergency in which consent cannot be obtained.

15.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.19 Sec. 13. Minnesota Statutes 2022, section 617.22, is amended to read:

15.20 **617.22 CONCEALING BIRTH.**

15.21 ~~Every~~ Any person who ~~shall endeavor~~ attempts to conceal the birth of a child by any
 15.22 disposition of its dead body, ~~whether when~~ when the child died ~~before or~~ after its birth, shall be
 15.23 guilty of a misdemeanor. ~~Every person who, having been convicted of endeavoring to~~
 15.24 ~~conceal the stillbirth of any issue, or the death of any issue under the age of two years, shall,~~
 15.25 ~~subsequent to that conviction, endeavor to conceal any subsequent birth or death, shall be~~
 15.26 ~~punished by imprisonment for not more than five years.~~ This section does not apply to the
 15.27 disposition of remains resulting from an abortion or miscarriage.

15.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

16.1 Sec. 14. Minnesota Statutes 2022, section 617.26, is amended to read:

16.2 **617.26 MAILING AND CARRYING OBSCENE MATTER.**

16.3 Every person who shall deposit or cause to be deposited in any post office in the state,
 16.4 or place in charge of any express company or other common carrier or person for
 16.5 transportation, any of the articles or things specified in section ~~617.201~~ or 617.241, or any
 16.6 circular, book, pamphlet, advertisement or notice relating thereto, with the intent of having
 16.7 the same conveyed by mail, express, or in any other manner; or who shall knowingly or
 16.8 willfully receive the same with intent to carry or convey it, or shall knowingly carry or
 16.9 convey the same by express, or in any other manner except by United States mail, shall be
 16.10 guilty of a misdemeanor. The provisions of this section ~~and section 617.201~~ shall not be
 16.11 construed to apply to an article or instrument used by physicians lawfully practicing, or by
 16.12 their direction or prescription, for the cure or prevention of disease.

16.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

16.14 Sec. 15. **REPEALER.**

16.15 (a) Minnesota Statutes 2022, sections 62Q.145; 144.343, subdivisions 2, 3, 4, 5, 6, and
 16.16 7; 145.1621; 145.411, subdivisions 2 and 4; 145.412; 145.413, subdivisions 2 and 3;
 16.17 145.4131; 145.4132; 145.4133; 145.4134; 145.4135; 145.4136; 145.415; 145.416; 145.423;
 16.18 145.4241; 145.4242; 145.4243; 145.4244; 145.4245; 145.4246; 145.4247; 145.4248;
 16.19 145.4249; 145.925, subdivisions 2 and 4; 256B.011; 256B.40; 261.28; 393.07, subdivision
 16.20 11; 609.293, subdivisions 1 and 5; 609.34; 609.36; 617.20; 617.201; 617.202; 617.21;
 16.21 617.28; and 617.29, are repealed.

16.22 (b) Minnesota Rules, parts 4615.3600; and 9505.0235, are repealed.

16.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

62Q.145 ABORTION AND SCOPE OF PRACTICE.

Health plan company policies related to scope of practice for allied independent health providers, midlevel practitioners as defined in section 144.1501, subdivision 1, and other nonphysician health care professionals must comply with the requirements governing the performance of abortions in section 145.412, subdivision 1.

144.343 PREGNANCY, VENEREAL DISEASE, ALCOHOL OR DRUG ABUSE, ABORTION.

Subd. 2. **Notification concerning abortion.** Notwithstanding the provisions of section 13.02, subdivision 8, no abortion operation shall be performed upon an unemancipated minor or upon a woman for whom a guardian has been appointed pursuant to sections 524.5-101 to 524.5-502 because of a finding of incapacity, until at least 48 hours after written notice of the pending operation has been delivered in the manner specified in subdivisions 2 to 4.

(a) The notice shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent.

(b) In lieu of the delivery required by paragraph (a), notice shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee which means postal employee can only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

Subd. 3. **Parent, abortion; definitions.** (a) For purposes of this section, "parent" means both parents of the pregnant woman if they are both living, one parent of the pregnant woman if only one is living or if the second one cannot be located through reasonably diligent effort, or the guardian or conservator if the pregnant woman has one.

(b) For purposes of this section, "abortion" means the use of any means to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus and "fetus" means any individual human organism from fertilization until birth.

Subd. 4. **Limitations.** No notice shall be required under this section if:

(1) the attending physician certifies in the pregnant woman's medical record that the abortion is necessary to prevent the woman's death and there is insufficient time to provide the required notice; or

(2) the abortion is authorized in writing by the person or persons who are entitled to notice; or

(3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or physical abuse as defined in chapter 260E. Notice of that declaration shall be made to the proper authorities as provided in section 260E.06.

Subd. 5. **Penalty.** Performance of an abortion in violation of this section shall be a misdemeanor and shall be grounds for a civil action by a person wrongfully denied notification. A person shall not be held liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant woman regarding information necessary to comply with this section are bona fide and true, or if the person has attempted with reasonable diligence to deliver notice, but has been unable to do so.

Subd. 6. **Substitute notification provisions.** If subdivision 2 of this law is ever temporarily or permanently restrained or enjoined by judicial order, subdivision 2 shall be enforced as though the following paragraph were incorporated as paragraph (c) of that subdivision; provided, however, that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, subdivision 2 shall have full force and effect, without being modified by the addition of the following substitute paragraph which shall have no force or effect until or unless an injunction or restraining order is again in effect.

(c)(1) If such a pregnant woman elects not to allow the notification of one or both of her parents or guardian or conservator, any judge of a court of competent jurisdiction shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if said judge determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion. If said judge determines that the pregnant woman is not mature, or if the pregnant woman does not claim to be mature, the judge shall determine whether the performance of an

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abortion upon her without notification of her parents, guardian, or conservator would be in her best interests and shall authorize a physician to perform the abortion without such notification if said judge concludes that the pregnant woman's best interests would be served thereby.

(2) Such a pregnant woman may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel.

(3) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant woman. A judge of the court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained including the judge's own findings and conclusions.

(4) An expedited confidential appeal shall be available to any such pregnant woman for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant woman at either the trial or the appellate level. Access to the trial court for the purposes of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant woman 24 hours a day, seven days a week.

Subd. 7. **Severability.** If any provision, word, phrase or clause of this section or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses or application of this section which can be given effect without the invalid provision, word, phrase, clause, or application, and to this end the provisions, words, phrases, and clauses of this section are declared to be severable.

145.1621 DISPOSITION OF ABORTED OR MISCARRIED FETUSES.

Subdivision 1. **Purpose.** The purpose of this section is to protect the public health and welfare by providing for the dignified and sanitary disposition of the remains of aborted or miscarried human fetuses in a uniform manner and to declare violations of this section to be a public nuisance.

Subd. 2. **Definition; remains of a human fetus.** For the purposes of this section, the term "remains of a human fetus" means the remains of the dead offspring of a human being that has reached a stage of development so that there are cartilaginous structures, fetal or skeletal parts after an abortion or miscarriage, whether or not the remains have been obtained by induced, spontaneous, or accidental means.

Subd. 3. **Regulation of disposal.** Remains of a human fetus resulting from an abortion or miscarriage, induced or occurring accidentally or spontaneously at a hospital, clinic, or medical facility must be deposited or disposed of in this state only at the place and in the manner provided by this section or, if not possible, as directed by the commissioner of health.

Subd. 4. **Disposition; tests.** Hospitals, clinics, and medical facilities in which abortions are induced or occur spontaneously or accidentally and laboratories to which the remains of human fetuses are delivered must provide for the disposal of the remains by cremation, interment by burial, or in a manner directed by the commissioner of health. The hospital, clinic, medical facility, or laboratory may complete laboratory tests necessary for the health of the woman or her future offspring or for purposes of a criminal investigation or determination of parentage prior to disposing of the remains.

Subd. 5. **Violation; penalty.** Failure to comply with this section constitutes a public nuisance. A person, firm, or corporation failing to comply with this section is guilty of a misdemeanor.

Subd. 6. **Exclusions.** To comply with this section, a religious service or ceremony is not required as part of the disposition of the remains of a human fetus, and no discussion of the method of disposition is required with the woman obtaining an induced abortion.

145.411 REGULATION OF ABORTIONS; DEFINITIONS.

Subd. 2. **Viable.** "Viable" means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially "viable."

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Subd. 4. **Abortion facility.** "Abortion facility" means those places properly recognized and licensed by the state commissioner of health under lawful rules promulgated by the commissioner for the performance of abortions.

145.412 CRIMINAL ACTS.

Subdivision 1. **Requirements.** It shall be unlawful to willfully perform an abortion unless the abortion is performed:

(1) by a physician licensed to practice medicine pursuant to chapter 147, or a physician in training under the supervision of a licensed physician;

(2) in a hospital or abortion facility if the abortion is performed after the first trimester;

(3) in a manner consistent with the lawful rules promulgated by the state commissioner of health; and

(4) with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.

Subd. 2. **Unconsciousness; lifesaving.** It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save the life of the woman.

Subd. 3. **Viability.** It shall be unlawful to perform an abortion when the fetus is potentially viable unless:

(1) the abortion is performed in a hospital;

(2) the attending physician certifies in writing that in the physician's best medical judgment the abortion is necessary to preserve the life or health of the pregnant woman; and

(3) to the extent consistent with sound medical practice the abortion is performed under circumstances which will reasonably assure the live birth and survival of the fetus.

Subd. 4. **Penalty.** A person who performs an abortion in violation of this section is guilty of a felony.

145.413 RECORDING AND REPORTING HEALTH DATA.

Subd. 2. **Death of woman.** If any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that fact shall be reported to the state commissioner of health.

Subd. 3. **Penalty.** A physician who performs an abortion and who fails to comply with subdivision 1 and transmit the required information to the state commissioner of health within 30 days after the abortion is guilty of a misdemeanor.

145.4131 RECORDING AND REPORTING ABORTION DATA.

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

(1) the number of abortions performed by the physician in the previous calendar year, reported by month;

(2) the method used for each abortion;

(3) the approximate gestational age expressed in one of the following increments:

(i) less than nine weeks;

(ii) nine to ten weeks;

(iii) 11 to 12 weeks;

(iv) 13 to 15 weeks;

(v) 16 to 20 weeks;

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- (vi) 21 to 24 weeks;
- (vii) 25 to 30 weeks;
- (viii) 31 to 36 weeks; or
- (ix) 37 weeks to term;
- (4) the age of the woman at the time the abortion was performed;
- (5) the specific reason for the abortion, including, but not limited to, the following:
 - (i) the pregnancy was a result of rape;
 - (ii) the pregnancy was a result of incest;
 - (iii) economic reasons;
 - (iv) the woman does not want children at this time;
 - (v) the woman's emotional health is at stake;
 - (vi) the woman's physical health is at stake;
 - (vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;
 - (viii) the pregnancy resulted in fetal anomalies; or
 - (ix) unknown or the woman refused to answer;
- (6) the number of prior induced abortions;
- (7) the number of prior spontaneous abortions;
- (8) whether the abortion was paid for by:
 - (i) private coverage;
 - (ii) public assistance health coverage; or
 - (iii) self-pay;
- (9) whether coverage was under:
 - (i) a fee-for-service plan;
 - (ii) a capitated private plan; or
 - (iii) other;
- (10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form;
- (11) the medical specialty of the physician performing the abortion;
- (12) if the abortion was performed via telehealth, the facility code for the patient and the facility code for the physician; and
- (13) whether the abortion resulted in a born alive infant, as defined in section 145.423, subdivision 4, and:
 - (i) any medical actions taken to preserve the life of the born alive infant;
 - (ii) whether the born alive infant survived; and
 - (iii) the status of the born alive infant, should the infant survive, if known.

Subd. 2. **Submission.** A physician performing an abortion or a facility at which an abortion is performed shall complete and submit the form to the commissioner no later than April 1 for abortions performed in the previous calendar year. The annual report to the commissioner shall include the methods used to dispose of fetal tissue and remains.

Subd. 3. **Additional reporting.** Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

145.4132 RECORDING AND REPORTING ABORTION COMPLICATION DATA.

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare an abortion complication reporting form for all physicians licensed and practicing in the state. A copy of this section shall be attached to the form.

(b) The Board of Medical Practice shall ensure that the abortion complication reporting form is distributed:

(1) to all physicians licensed to practice in the state, within 120 days after July 1, 1998, and by December 1 of each subsequent year; and

(2) to a physician who is newly licensed to practice in the state, at the same time as official notification to the physician that the physician is so licensed.

Subd. 2. **Required reporting.** A physician licensed and practicing in the state who knowingly encounters an illness or injury that, in the physician's medical judgment, is related to an induced abortion or the facility where the illness or injury is encountered shall complete and submit an abortion complication reporting form to the commissioner.

Subd. 3. **Submission.** A physician or facility required to submit an abortion complication reporting form to the commissioner shall do so as soon as practicable after the encounter with the abortion-related illness or injury.

Subd. 4. **Additional reporting.** Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortion complications.

145.4133 REPORTING OUT-OF-STATE ABORTIONS.

The commissioner of human services shall report to the commissioner by April 1 each year the following information regarding abortions paid for with state funds and performed out of state in the previous calendar year:

(1) the total number of abortions performed out of state and partially or fully paid for with state funds through the medical assistance or MinnesotaCare program, or any other program;

(2) the total amount of state funds used to pay for the abortions and expenses incidental to the abortions; and

(3) the gestational age at the time of abortion.

145.4134 COMMISSIONER'S PUBLIC REPORT.

(a) By July 1 of each year, except for 1998 and 1999 information, the commissioner shall issue a public report providing statistics for the previous calendar year compiled from the data submitted under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249. For 1998 and 1999 information, the report shall be issued October 1, 2000. Each report shall provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner shall ensure that none of the information included in the public reports can reasonably lead to identification of an individual having performed or having had an abortion. All data included on the forms under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249 must be included in the public report, except that the commissioner shall maintain as confidential, data which alone or in combination may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles.

(b) The commissioner may, by rules adopted under chapter 14, alter the submission dates established under sections 145.4131 to 145.4133 for administrative convenience, fiscal savings, or other valid reason, provided that physicians or facilities and the commissioner of human services submit the required information once each year and the commissioner issues a report once each year.

145.4135 ENFORCEMENT; PENALTIES.

(a) If the commissioner finds that a physician or facility has failed to submit the required form under section 145.4131 within 60 days following the due date, the commissioner shall notify the physician or facility that the form is late. A physician or facility who fails to submit the required form under section 145.4131 within 30 days following notification from the commissioner that a report is late is subject to a late fee of \$500 for each 30-day period, or portion thereof, that the form is overdue. If a physician or facility required to report under this section does not submit a report, or submits only an incomplete report, more than one year following the due date, the commissioner

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may take action to fine the physician or facility or may bring an action to require that the physician or facility be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt. Notwithstanding section 13.39 to the contrary, action taken by the commissioner to enforce the provision of this section shall be treated as private if the data related to this action, alone or in combination, may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles.

(b) If the commissioner fails to issue the public report required under section 145.4134 or fails in any way to enforce this section, a group of 100 or more citizens of the state may seek an injunction in a court of competent jurisdiction against the commissioner requiring that a complete report be issued within a period stated by court order or requiring that enforcement action be taken.

(c) A physician or facility reporting in good faith and exercising due care shall have immunity from civil, criminal, or administrative liability that might otherwise result from reporting. A physician who knowingly or recklessly submits a false report under this section is guilty of a misdemeanor.

(d) The commissioner may take reasonable steps to ensure compliance with sections 145.4131 to 145.4133 and to verify data provided, including but not limited to, inspection of places where abortions are performed in accordance with chapter 14.

(e) The commissioner shall develop recommendations on appropriate penalties and methods of enforcement for physicians or facilities who fail to submit the report required under section 145.4132, submit an incomplete report, or submit a late report. The commissioner shall also assess the effectiveness of the enforcement methods and penalties provided in paragraph (a) and shall recommend appropriate changes, if any. These recommendations shall be reported to the chairs of the senate Health and Family Security Committee and the house of representatives Health and Human Services Committee by November 15, 1998.

145.4136 SEVERABILITY.

If any one or more provision, section, subdivision, sentence, clause, phrase, or word in sections 145.4131 to 145.4135, or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4131 to 145.4135 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4131 to 145.4135, and each provision, section, subdivision, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subdivision, sentence, clause, phrase, or word be declared unconstitutional.

145.415 LIVE FETUS AFTER ABORTION, TREATMENT.

Subdivision 1. **Recognition.** A potentially viable fetus which is live born following an attempted abortion shall be fully recognized as a human person under the law.

Subd. 2. **Medical care.** If an abortion of a potentially viable fetus results in a live birth, the responsible medical personnel shall take all reasonable measures, in keeping with good medical practice, to preserve the life and health of the live born person.

Subd. 3. **Status.** (1) Unless the abortion is performed to save the life of the woman or child, or, (2) unless one or both of the parents of the unborn child agrees within 30 days of the birth to accept the parental rights and responsibilities for the child if it survives the abortion, whenever an abortion of a potentially viable fetus results in a live birth, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to section 260C.301. The child shall be provided for pursuant to chapter 256J.

145.416 LICENSING AND REGULATION OF FACILITIES.

The state commissioner of health shall license and promulgate rules for facilities as defined in section 145.411, subdivision 4, which are organized for purposes of delivering abortion services.

145.423 ABORTION; LIVE BIRTHS.

Subdivision 1. **Recognition; medical care.** A born alive infant as a result of an abortion shall be fully recognized as a human person, and accorded immediate protection under the law. All reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, shall be taken by the responsible medical personnel to preserve the life and health of the born alive infant.

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Subd. 2. **Physician required.** When an abortion is performed after the 20th week of pregnancy, a physician, other than the physician performing the abortion, shall be immediately accessible to take all reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, to preserve the life and health of any born alive infant that is the result of the abortion.

Subd. 3. **Death.** If a born alive infant described in subdivision 1 dies after birth, the body shall be disposed of in accordance with the provisions of section 145.1621.

Subd. 4. **Definition of born alive infant.** (a) In determining the meaning of any Minnesota statute, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of Minnesota, the words "person," "human being," "child," and "individual" shall include every infant member of the species *Homo sapiens* who is born alive at any stage of development.

(b) As used in this section, the term "born alive," with respect to a member of the species *Homo sapiens*, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of a natural or induced labor, cesarean section, or induced abortion.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species *Homo sapiens* at any point prior to being born alive, as defined in this section.

Subd. 5. **Civil and disciplinary actions.** (a) Any person upon whom an abortion has been performed, or the parent or guardian of the mother if the mother is a minor, and the abortion results in the infant having been born alive, may maintain an action for death of or injury to the born alive infant against the person who performed the abortion if the death or injury was a result of simple negligence, gross negligence, wantonness, willfulness, intentional conduct, or another violation of the legal standard of care.

(b) Any responsible medical personnel that does not take all reasonable measures consistent with good medical practice to preserve the life and health of the born alive infant, as required by subdivision 1, may be subject to the suspension or revocation of that person's professional license by the professional board with authority over that person. Any person who has performed an abortion and against whom judgment has been rendered pursuant to paragraph (a) shall be subject to an automatic suspension of the person's professional license for at least one year and said license shall be reinstated only after the person's professional board requires compliance with this section by all board licensees.

(c) Nothing in this subdivision shall be construed to hold the mother of the born alive infant criminally or civilly liable for the actions of a physician, nurse, or other licensed health care provider in violation of this section to which the mother did not give her consent.

Subd. 6. **Protection of privacy in court proceedings.** In every civil action brought under this section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order must be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Subd. 7. **Status of born alive infant.** Unless the abortion is performed to save the life of the woman or fetus, or, unless one or both of the parents of the born alive infant agree within 30 days of the birth to accept the parental rights and responsibilities for the child, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to section 260C.301. The child shall be provided for pursuant to chapter 256J.

Subd. 8. **Severability.** If any one or more provision, section, subdivision, sentence, clause, phrase, or word of this section or the application of it to any person or circumstance is found to be

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unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature intends that it would have passed this section, and each provision, section, subdivision, sentence, clause, phrase, or word, regardless of the fact that any one provision, section, subdivision, sentence, clause, phrase, or word is declared unconstitutional.

Subd. 9. **Short title.** This section may be cited as the "Born Alive Infants Protection Act."

145.4241 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 145.4241 to 145.4249, the following terms have the meanings given them.

Subd. 2. **Abortion.** "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

Subd. 3. **Attempt to perform an abortion.** "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in Minnesota in violation of sections 145.4241 to 145.4249.

Subd. 3a. **Fetal anomaly incompatible with life.** "Fetal anomaly incompatible with life" means a fetal anomaly diagnosed before birth that will with reasonable certainty result in death of the unborn child within three months. Fetal anomaly incompatible with life does not include conditions which can be treated.

Subd. 4. **Medical emergency.** "Medical emergency" means any condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

Subd. 4a. **Perinatal hospice.** (a) "Perinatal hospice" means comprehensive support to the female and her family that includes support from the time of diagnosis through the time of birth and death of the infant and through the postpartum period. Supportive care may include maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses.

(b) The availability of perinatal hospice provides an alternative to families for whom elective pregnancy termination is not chosen.

Subd. 5. **Physician.** "Physician" means a person licensed as a physician or osteopathic physician under chapter 147.

Subd. 6. **Probable gestational age of the unborn child.** "Probable gestational age of the unborn child" means what will, in the judgment of the physician, with reasonable probability, be the gestational age of the unborn child at the time the abortion is planned to be performed.

Subd. 7. **Stable Internet website.** "Stable Internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the commissioner of health.

Subd. 8. **Unborn child.** "Unborn child" means a member of the species *Homo sapiens* from fertilization until birth.

145.4242 INFORMED CONSENT.

(a) No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency or if the fetus has an anomaly incompatible with life, and the female has declined perinatal hospice care, consent to an abortion is voluntary and informed only if:

(1) the female is told the following, by telephone or in person, by the physician who is to perform the abortion or by a referring physician, at least 24 hours before the abortion:

(i) the particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility;

(ii) the probable gestational age of the unborn child at the time the abortion is to be performed;

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(iii) the medical risks associated with carrying her child to term; and

(iv) for abortions after 20 weeks gestational, whether or not an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed and the particular medical benefits and risks associated with the particular anesthetic or analgesic.

The information required by this clause may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied to the physician by the female and whatever other relevant information is reasonably available to the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician is able to ask questions of the female and the female is able to ask questions of the physician. If a physical examination, tests, or the availability of other information to the physician subsequently indicate, in the medical judgment of the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time prior to the performance of the abortion. Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator;

(2) the female is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by an agent of either physician at least 24 hours before the abortion:

(i) that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(ii) that the father is liable to assist in the support of her child, even in instances when the father has offered to pay for the abortion; and

(iii) that she has the right to review the printed materials described in section 145.4243, that these materials are available on a state-sponsored website, and what the website address is. The physician or the physician's agent shall orally inform the female that the materials have been provided by the state of Minnesota and that they describe the unborn child, list agencies that offer alternatives to abortion, and contain information on fetal pain. If the female chooses to view the materials other than on the website, they shall either be given to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee.

The information required by this clause may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her;

(3) the female certifies in writing, prior to the abortion, that the information described in clauses (1) and (2) has been furnished to her and that she has been informed of her opportunity to review the information referred to in clause (2), item (iii); and

(4) prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent obtains a copy of the written certification prescribed by clause (3) and retains it on file with the female's medical record for at least three years following the date of receipt.

(b) Prior to administering the anesthetic or analgesic as described in paragraph (a), clause (1), item (iv), the physician must disclose to the woman any additional cost of the procedure for the administration of the anesthetic or analgesic. If the woman consents to the administration of the anesthetic or analgesic, the physician shall administer the anesthetic or analgesic or arrange to have the anesthetic or analgesic administered.

(c) A female seeking an abortion of her unborn child diagnosed with fetal anomaly incompatible with life must be informed of available perinatal hospice services and offered this care as an alternative to abortion. If perinatal hospice services are declined, voluntary and informed consent by the female seeking an abortion is given if the female receives the information required in paragraphs (a), clause (1), and (b). The female must comply with the requirements in paragraph (a), clauses (3) and (4).

145.4243 PRINTED INFORMATION.

(a) Within 90 days after July 1, 2003, the commissioner of health shall cause to be published, in English and in each language that is the primary language of two percent or more of the state's population, and shall cause to be available on the state website provided for under section 145.4244

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the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) geographically indexed materials designed to inform the female of public and private agencies and services available to assist a female through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers, in which they might be contacted or, at the option of the commissioner of health, printed materials including a toll-free, 24-hours-a-day telephone number that may be called to obtain, orally or by a tape recorded message tailored to a zip code entered by the caller, such a list and description of agencies in the locality of the caller and of the services they offer;

(2) materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival and pictures or drawings representing the development of unborn children at two-week gestational increments, provided that any such pictures or drawings must contain the dimensions of the fetus and must be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a child to term; and

(3) materials with the following information concerning an unborn child of 20 weeks gestational age and at two weeks gestational increments thereafter in such a way as to ensure that the information is easily comprehensible:

(i) the development of the nervous system of the unborn child;

(ii) fetal responsiveness to adverse stimuli and other indications of capacity to experience organic pain; and

(iii) the impact on fetal organic pain of each of the methods of abortion procedures commonly employed at this stage of pregnancy.

The material under this clause shall be objective, nonjudgmental, and designed to convey only accurate scientific information.

(b) The materials referred to in this section must be printed in a typeface large enough to be clearly legible. The website provided for under section 145.4244 shall be maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on the website shall be a minimum of 200x300 pixels. All letters on the website shall be a minimum of 11-point font. All information and pictures shall be accessible with an industry standard browser, requiring no additional plug-ins. The materials required under this section must be available at no cost from the commissioner of health upon request and in appropriate number to any person, facility, or hospital.

145.4244 INTERNET WEBSITE.

The commissioner of health shall develop and maintain a stable Internet website to provide the information described under section 145.4243. No information regarding who uses the website shall be collected or maintained. The commissioner of health shall monitor the website on a weekly basis to prevent and correct tampering.

145.4245 PROCEDURE IN CASE OF MEDICAL EMERGENCY.

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.

145.4246 REPORTING REQUIREMENTS.

Subdivision 1. **Reporting form.** Within 90 days after July 1, 2003, the commissioner of health shall prepare a reporting form for physicians containing a reprint of sections 145.4241 to 145.4249 and listing:

(1) the number of females to whom the physician provided the information described in section 145.4242, clause (1); of that number, the number provided by telephone and the number provided

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in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion;

(2) the number of females to whom the physician or an agent of the physician provided the information described in section 145.4242, clause (2); of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

(3) the number of females who availed themselves of the opportunity to obtain a copy of the printed information described in section 145.4243 other than on the website and the number who did not; and of each of those numbers, the number who, to the best of the reporting physician's information and belief, went on to obtain the abortion; and

(4) the number of abortions performed by the physician in which information otherwise required to be provided at least 24 hours before the abortion was not so provided because an immediate abortion was necessary to avert the female's death and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

Subd. 2. Distribution of forms. The commissioner of health shall ensure that copies of the reporting forms described in subdivision 1 are provided:

(1) by December 1, 2003, and by December 1 of each subsequent year thereafter to all physicians licensed to practice in this state; and

(2) to each physician who subsequently becomes newly licensed to practice in this state, at the same time as official notification to that physician that the physician is so licensed.

Subd. 3. Reporting requirement. By April 1, 2005, and by April 1 of each subsequent year thereafter, each physician who provided, or whose agent provided, information to one or more females in accordance with section 145.4242 during the previous calendar year shall submit to the commissioner of health a copy of the form described in subdivision 1 with the requested data entered accurately and completely.

Subd. 4. Additional reporting. Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

Subd. 5. Failure to report as required. Reports that are not submitted by the end of a grace period of 30 days following the due date shall be subject to a late fee of \$500 for each additional 30-day period or portion of a 30-day period they are overdue. Any physician required to report according to this section who has not submitted a report, or has submitted only an incomplete report, more than one year following the due date, may, in an action brought by the commissioner of health, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

Subd. 6. Public statistics. By July 1, 2005, and by July 1 of each subsequent year thereafter, the commissioner of health shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted according to this section for each of the items listed in subdivision 1. Each report shall also provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner of health shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any individual providing or provided information according to section 145.4242.

Subd. 7. Consolidation. The commissioner of health may consolidate the forms or reports described in this section with other forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements.

145.4247 REMEDIES.

Subdivision 1. **Civil remedies.** Any person upon whom an abortion has been performed without complying with sections 145.4241 to 145.4249 may maintain an action against the person who performed the abortion in knowing or reckless violation of sections 145.4241 to 145.4249 for actual and punitive damages. Any person upon whom an abortion has been attempted without complying with sections 145.4241 to 145.4249 may maintain an action against the person who attempted to perform the abortion in knowing or reckless violation of sections 145.4241 to 145.4249 for actual and punitive damages. No civil liability may be assessed for failure to comply with section 145.4242,

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clause (2), item (iii), or that portion of section 145.4242, clause (2), requiring written certification that the female has been informed of her opportunity to review the information referred to in section 145.4242, clause (2), item (iii), unless the commissioner of health has made the printed materials or website address available at the time the physician or the physician's agent is required to inform the female of her right to review them.

Subd. 2. **Suit to compel statistical report.** If the commissioner of health fails to issue the public report required under section 145.4246, subdivision 6, or fails in any way to enforce Laws 2003, chapter 14, any group of ten or more citizens of this state may seek an injunction in a court of competent jurisdiction against the commissioner of health requiring that a complete report be issued within a period stated by court order. Failure to abide by such an injunction shall subject the commissioner to sanctions for civil contempt.

Subd. 3. **Attorney fees.** If judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for reasonable attorney fees in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney fees in favor of the defendant against the plaintiff.

Subd. 4. **Protection of privacy in court proceedings.** In every civil action brought under sections 145.4241 to 145.4249, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order must be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under subdivision 1, shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

145.4248 SEVERABILITY.

If any one or more provision, section, subsection, sentence, clause, phrase, or word of sections 145.4241 to 145.4249 or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4241 to 145.4249 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4241 to 145.4249, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

145.4249 SUPREME COURT JURISDICTION.

The Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality of sections 145.4241 to 145.4249 and shall expedite the resolution of the action.

145.925 FAMILY PLANNING GRANTS.

Subd. 2. **Prohibition.** The commissioner shall not make special grants pursuant to this section to any nonprofit corporation which performs abortions. No state funds shall be used under contract from a grantee to any nonprofit corporation which performs abortions. This provision shall not apply to hospitals licensed pursuant to sections 144.50 to 144.56, or health maintenance organizations certified pursuant to chapter 62D.

Subd. 4. **Parental notification.** Except as provided in sections 144.341 and 144.342, any person employed to provide family planning services who is paid in whole or in part from funds provided under this section who advises an abortion or sterilization to any unemancipated minor shall, following such a recommendation, so notify the parent or guardian of the reasons for such an action.

256B.011 POLICY FOR CHILDBIRTH AND ABORTION FUNDING.

Between normal childbirth and abortion it is the policy of the state of Minnesota that normal childbirth is to be given preference, encouragement and support by law and by state action, it being in the best interests of the well being and common good of Minnesota citizens.

256B.40 SUBSIDY FOR ABORTIONS PROHIBITED.

No medical assistance funds of this state or any agency, county, municipality or any other subdivision thereof and no federal funds passing through the state treasury or the state agency shall be authorized or paid pursuant to this chapter to any person or entity for or in connection with any abortion that is not eligible for funding pursuant to sections 256B.02, subdivision 8, and 256B.0625.

261.28 SUBSIDY FOR ABORTIONS PROHIBITED.

No funds of this state or any subdivision thereof administered under this chapter shall be authorized for or in connection with any abortion that is not eligible for funding pursuant to sections 256B.02, subdivision 8, and 256B.0625.

393.07 POWERS AND DUTIES.

Subd. 11. **Abortion services; policy and powers.** In keeping with the public policy of Minnesota to give preference to childbirth over abortion, Minnesota local social services agencies shall not provide any medical assistance grant or reimbursement for any abortion not eligible for funding pursuant to sections 256B.02, subdivision 8, and 256B.0625.

609.293 SODOMY.

Subdivision 1. **Definition.** "Sodomy" means carnally knowing any person by the anus or by or with the mouth.

Subd. 5. **Consensual acts.** Whoever, in cases not coming within the provisions of sections 609.342 or 609.344, voluntarily engages in or submits to an act of sodomy with another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

609.34 FORNICATION.

When any man and single woman have sexual intercourse with each other, each is guilty of fornication, which is a misdemeanor.

609.36 ADULTERY.

Subdivision 1. **Acts constituting.** When a married woman has sexual intercourse with a man other than her husband, whether married or not, both are guilty of adultery and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 2. **Limitations.** No prosecution shall be commenced under this section except on complaint of the husband or the wife, except when such husband or wife lacks the mental capacity, nor after one year from the commission of the offense.

Subd. 3. **Defense.** It is a defense to violation of this section if the marital status of the woman was not known to the defendant at the time of the act of adultery.

617.20 DRUGS TO PRODUCE MISCARRIAGE.

Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony.

617.201 INDECENT ARTICLES AND INFORMATION.

Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, or whom, or by what means such article or medicine can be obtained or who manufactures it, shall be guilty of a gross misdemeanor and punished by imprisonment in the county jail for not more than one year or by a fine of not more than \$3,000, or by both.

617.202 SALE OF ARTICLES RELATING TO PREVENTION OF CONCEPTION OR DISEASE.

Instruments, articles, drugs or medicines for the prevention of conception or disease may be sold, offered for sale, distributed or dispensed only by persons or organizations recognized as dealing

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primarily with health or welfare. Anyone convicted of violation of this section shall be guilty of a gross misdemeanor and punished by imprisonment not to exceed one year or by a fine of not more than \$3,000 or both.

617.21 EVIDENCE.

In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that the person's testimony would tend to criminate the person.

617.28 CERTAIN MEDICAL ADVERTISEMENTS.

Subdivision 1. **Placing advertisement; penalty.** Any person who shall advertise, in the person's own name or in the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by the owner, publisher, or manager, the treatment or curing of venereal diseases, the restoration of "lost virility" or "lost vitality," or shall advertise in any manner that the person is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$3,000 or by imprisonment in the county jail for not more than six months.

Subd. 2. **Publication; penalty.** Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter hereinabove prohibited, shall be guilty of a misdemeanor and punished as prescribed in subdivision 1.

617.29 EVIDENCE.

The production of any advertisement or advertising matter published or distributed contrary to the provisions of this section and section 617.28 shall be of itself prima facie evidence of the guilt of the person advertising to cure any such disease hereinabove mentioned, or of the publishers who publish any matter such as is herein prohibited.

4615.3600 REPORTS TO THE COMMISSIONER OF HEALTH.

Subpart 1. **Statistical reports.** Each ambulatory facility shall submit a written compilation of statistical data quarterly to the commissioner of health on such forms and in such manner as the commissioner may prescribe.

Subp. 2. **Reporting terminations.** An ambulatory facility shall report all pregnancy terminations performed by its staff as follows:

A. By the tenth of each month all pregnancy terminations performed in the ambulatory facility during the preceding month shall be reported on forms prescribed by the commissioner which shall include but not be limited to the following items:

- (1) patient's city, county and state of residency;
- (2) census tract for city of Minneapolis and city of Saint Paul;
- (3) patient or chart number;
- (4) age;
- (5) race;
- (6) marital status;
- (7) number of living children;
- (8) facility name;
- (9) facility address;
- (10) number of previous induced pregnancy terminations patient;
- (11) estimate of gestational age;
- (12) date of pregnancy termination; and
- (13) type of termination procedure.

B. All surgery-related or anesthesia-related complications which result in morbidity or death of a patient shall be reported in writing to the commissioner within 15 days from the notification to the ambulatory facility of the morbidity or death of the patient.

C. The commissioner shall ensure and maintain confidentiality of all individual pregnancy termination records.

9505.0235 ABORTION SERVICES.

Subpart 1. **Definition.** For purposes of this part, "abortion related services" means services provided in connection with an elective abortion except those services which would otherwise be provided in the course of a pregnancy. Examples of abortion related services include hospitalization when the abortion is performed in an inpatient setting, the use of a facility when the abortion is performed in an outpatient setting, counseling about the abortion, general and local anesthesia provided in connection with the abortion, and antibiotics provided directly after the abortion.

Medically necessary services that are not considered to be abortion related include family planning services as defined in part 9505.0280, subpart 1, history and physical examination, tests for pregnancy and venereal disease, blood tests, rubella titer, ultrasound tests, rhoGAM(TM), pap smear, and laboratory examinations for the purpose of detecting fetal abnormalities.

Treatment for infection or other complications of the abortion are covered services.

Subp. 2. **Payment limitation.** Unless otherwise provided by law, an abortion related service provided to a recipient is eligible for medical assistance payment if the abortion meets the conditions in item A, B, or C.

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A. The abortion must be necessary to prevent the death of a pregnant woman who has given her written consent to the abortion. If the pregnant woman is physically or legally incapable of giving her written consent to the procedure, authorization for the abortion must be obtained as specified in Minnesota Statutes, section 144.343. The necessity of the abortion to prevent the death of the pregnant woman must be certified in writing by two physicians before the abortion is performed.

B. The pregnancy is the result of criminal sexual conduct as defined in Minnesota Statutes, section 609.342, paragraphs (c) to (f). The conduct must be reported to a law enforcement agency within 48 hours after its occurrence. If the victim is physically unable to report the criminal sexual conduct within 48 hours after its occurrence, the report must be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct.

C. The pregnancy is the result of incest. Before the abortion, the incest and the name of the relative allegedly committing the incest must be reported to a law enforcement agency.