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**ABORTION REVISIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions regulating an abortion.

**Highlighted Provisions:**

This bill:

- ▶ modifies and consolidates definitions;
- ▶ repeals the statute that established a prohibition on abortions after 18 weeks and incorporates its contents into existing statute, replacing language that established now-superseded viability standards;
- ▶ standardizes language between various statues that regulate abortion;
- ▶ clarifies the conditions under which an abortion may be performed to protect the health of the mother;
- ▶ amends language related to medical defects of a fetus; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63I-2-276**, as last amended by Laws of Utah 2022, Chapter 117



- 28 [76-7-301](#), as last amended by Laws of Utah 2021, Chapter 262
- 29 [76-7-302](#), as last amended by Laws of Utah 2022, Chapter 335
- 30 [76-7-302.4](#), as enacted by Laws of Utah 2019, Chapter 124
- 31 [76-7-304](#), as last amended by Laws of Utah 2018, Chapter 282
- 32 [76-7-304.5](#), as last amended by Laws of Utah 2022, Chapter 287
- 33 [76-7-305](#), as last amended by Laws of Utah 2022, Chapter 181
- 34 [76-7-308.5](#), as last amended by Laws of Utah 2016, Chapter 362
- 35 [76-7-314](#), as last amended by Laws of Utah 2019, Chapter 208
- 36 [76-7-314.5](#), as last amended by Laws of Utah 2010, Chapter 13
- 37 [76-7a-101](#), as last amended by Laws of Utah 2021, Chapter 262
- 38 [76-7a-201](#), as enacted by Laws of Utah 2020, Chapter 279

39 REPEALS:

- 40 [76-7-302.5](#), as enacted by Laws of Utah 2019, Chapter 208

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42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **63I-2-276** is amended to read:

44 **63I-2-276. Repeal dates: Title 76.**

45 (1) Subsection [76-5-102.7\(2\)\(b\)](#), regarding assault or threat of violence against an  
46 owner, employee, or contractor of a health facility, is repealed January 1, 2027.

47 [~~(2) If Section [76-7-302.4](#) is not in effect before January 1, 2029, Section [76-7-302.4](#) is~~  
48 ~~repealed January 1, 2029.~~]

49 [~~(3)~~] (2) Section [76-7-305.7](#) is repealed January 1, 2023.

50 Section 2. Section **76-7-301** is amended to read:

51 **76-7-301. Definitions.**

52 As used in this part:

53 (1) (a) "Abortion" means~~[-(i)]~~ the intentional termination or attempted termination of  
54 human pregnancy after implantation of a fertilized ovum [~~through a medical procedure carried~~  
55 ~~out by a physician or through a substance used under the direction of a physician;~~] with the  
56 intention of ending the life of the unborn child by:

- 57 (i) a surgical procedure; or
- 58 (ii) the prescribing of medications.

59 ~~[(ii) the intentional killing or attempted killing of a live unborn child through a medical~~  
60 ~~procedure carried out by a physician or through a substance used under the direction of a~~  
61 ~~physician; or]~~

62 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~  
63 ~~procedure carried out by a physician or through a substance used under the direction of a~~  
64 ~~physician.]~~

65 (b) "Abortion" does not include:

66 (i) removal of a dead unborn child;

67 (ii) removal of an ectopic pregnancy; or

68 (iii) the killing or attempted killing of an unborn child without the consent of the  
69 pregnant woman, unless:

70 (A) the killing or attempted killing is done through a medical procedure carried out by  
71 a physician or through a substance used under the direction of a physician; and

72 (B) the physician is unable to obtain the consent due to a medical emergency.

73 (2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.

74 (3) "Abuse" means the same as that term is defined in Section 80-1-102.

75 (4) "Department" means the Department of Health and Human Services.

76 (5) "Down syndrome" means a genetic condition associated with an extra chromosome  
77 21, in whole or in part, or an effective trisomy for chromosome 21.

78 (6) "Gestational age" means the age of an unborn child as calculated from the first day  
79 of the last menstrual period of the pregnant woman.

80 (7) "Hospital" means:

81 (a) a general hospital licensed by the department according to Title 26, Chapter 21,  
82 Health Care Facility Licensing and Inspection Act; ~~[and]~~ or

83 (b) a clinic or other medical facility to the extent that ~~[such]~~ the clinic or other medical  
84 facility is certified by the department as providing equipment and personnel sufficient in  
85 quantity and quality to provide the same degree of safety to ~~[the]~~ a pregnant woman and ~~[the]~~  
86 an unborn child as would be provided for the particular medical ~~[procedures]~~ procedure  
87 undertaken by a general hospital licensed by the department.

88 (8) "Information module" means the pregnancy termination information module  
89 prepared by the department.

90 (9) "Medical emergency" means that condition which, on the basis of the physician's  
91 good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the  
92 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious  
93 risk of substantial ~~[and irreversible]~~ impairment of major bodily function.

94 (10) "Minor" means an individual who is:

- 95 (a) under 18 years old;
- 96 (b) unmarried; and
- 97 (c) not emancipated.

98 (11) (a) "Partial birth abortion" means an abortion in which the person performing the  
99 abortion:

100 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a  
101 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of  
102 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,  
103 for the purpose of performing an overt act that the person knows will kill the partially delivered  
104 living fetus; and

105 (ii) performs the overt act, other than completion of delivery, that kills the partially  
106 living fetus.

107 (b) "Partial birth abortion" does not include the dilation and evacuation procedure  
108 involving dismemberment prior to removal, the suction curettage procedure, or the suction  
109 aspiration procedure for abortion.

110 (12) "Physician" means:

111 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter  
112 67, Utah Medical Practice Act;

113 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,  
114 Chapter 68, Utah Osteopathic Medical Practice Act; or

115 (c) a physician employed by the federal government who has qualifications similar to  
116 ~~[a person]~~ an individual described in Subsection (12)(a) or (b).

117 ~~[(13) (a) "Severe brain abnormality" means a malformation or defect that causes an  
118 individual to live in a mentally vegetative state.]~~

119 ~~[(b) "Severe brain abnormality" does not include:]~~

120 ~~[(i) Down syndrome;]~~

- 121 ~~[(ii) spina bifida;]~~  
 122 ~~[(iii) cerebral palsy; or]~~  
 123 ~~[(iv) any other malformation, defect, or condition that does not cause an individual to~~  
 124 ~~live in a mentally vegetative state.]~~

125 Section 3. Section **76-7-302** is amended to read:

126 **76-7-302. Circumstances under which abortion authorized.**

127 ~~[(1) As used in this section, "viable" means that the unborn child has reached a stage of~~  
 128 ~~fetal development when the unborn child is potentially able to live outside the womb, as~~  
 129 ~~determined by the attending physician to a reasonable degree of medical certainty.]~~

130 ~~[(2)]~~ (1) An abortion may be performed in this state only by a physician.

131 ~~[(3)]~~ (2) An abortion may be performed in this state only under the following  
 132 circumstances:

133 (a) the unborn child ~~[is not viable]~~ has not reached 18 weeks gestational age; or

134 (b) the unborn child ~~[is viable]~~ has reached 18 weeks gestational age, if:

135 (i) the abortion is necessary to avert:

136 (A) the death of the woman on whom the abortion is performed; or

137 (B) a serious risk of substantial ~~[and irreversible]~~ impairment of a major bodily  
 138 function of the woman on whom the abortion is performed;

139 (ii) two physicians who practice maternal fetal medicine concur, in writing, in the  
 140 patient's medical record that the fetus:

141 (A) ~~[has a defect that is uniformly diagnosable and uniformly lethal]~~ has a severe  
 142 medical condition that will likely be fatal once the fetus is outside the womb; or

143 (B) ~~[has a severe brain abnormality that is uniformly diagnosable]~~ has a severe defect,  
 144 not to include Down syndrome or uncomplicated spina bifida, that will require long-term  
 145 intensive life sustaining measures and that will result in prolonged suffering for the infant; or

146 (iii) (A) the woman is pregnant as a result of:

147 (I) rape, as described in Section [76-5-402](#);

148 (II) rape of a child, as described in Section [76-5-402.1](#); or

149 (III) incest, as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#); and

150 (B) before the abortion is performed, the physician who performs the abortion:

151 (I) verifies that the incident described in Subsection ~~[(3)(b)(iii)(A)]~~ (2)(b)(iii)(A) has

152 been reported to law enforcement; and

153 (II) if applicable, complies with the requirements of Section 80-2-602.

154 [(4)] (3) An abortion may be performed only in an abortion clinic or a hospital, unless  
155 it is necessary to perform the abortion in another location due to a medical emergency.

156 Section 4. Section 76-7-302.4 is amended to read:

157 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**

158 Notwithstanding any other provision of this part, an abortion may not be performed if  
159 the pregnant mother's sole reason for the abortion is that the unborn child has or may have  
160 Down syndrome, unless the abortion is permissible for a reason described in [~~Subsection~~  
161 ~~76-7-302(3)(b)~~] Section 76-7-302.

162 Section 5. Section 76-7-304 is amended to read:

163 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**

164 **Exceptions.**

165 (1) To enable the physician to exercise the physician's best medical judgment, the  
166 physician shall consider all factors relevant to the well-being of a pregnant woman upon whom  
167 an abortion is to be performed, including:

168 (a) her physical, emotional, and psychological health and safety;

169 (b) her age; and

170 (c) her familial situation.

171 (2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion  
172 on a minor, the physician shall notify a parent or guardian of the minor that the minor intends  
173 to have an abortion.

174 (3) A physician is not required to comply with Subsection (2) if:

175 (a) subject to Subsection (4)(a):

176 (i) a medical condition exists that, on the basis of the physician's good faith clinical  
177 judgment, so complicates the medical condition of a pregnant minor as to necessitate the  
178 abortion of her pregnancy to avert:

179 (A) the minor's death; or

180 (B) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
181 function of the minor; and

182 (ii) there is not sufficient time to give the notice required under Subsection (2) before it

183 is necessary to terminate the minor's pregnancy in order to avert the minor's death or  
184 impairment described in Subsection (3)(a)(i);

185 (b) subject to Subsection (4)(b):

186 (i) the physician complies with Subsection (5); and

187 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a  
188 party; or

189 (B) the parent or guardian has abused the minor; or

190 (c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility  
191 for the minor's care and upbringing.

192 (4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the  
193 24-hour notice described in Subsection (2), the physician shall give the required notice as early  
194 as possible before the abortion, unless it is necessary to perform the abortion immediately in  
195 order to avert the minor's death or impairment described in Subsection (3)(a)(i).

196 (b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor  
197 is not notified that the minor intends to have an abortion, the physician shall notify another  
198 parent or guardian of the minor, if the minor has another parent or guardian that is not exempt  
199 from notification under Subsection (3)(b) or (c).

200 (5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not  
201 notify a parent or guardian of a minor that the minor intends to have an abortion, the physician  
202 shall report the incest or abuse to the Division of Child and Family Services within the  
203 Department of Health and Human Services.

204 Section 6. Section **76-7-304.5** is amended to read:

205 **76-7-304.5. Consent required for abortions performed on minors -- Division of**  
206 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**  
207 **self-consent -- Appeals.**

208 (1) In addition to the other requirements of this part, a physician may not perform an  
209 abortion on a minor unless:

210 (a) the physician obtains the informed written consent of a parent or guardian of the  
211 minor, in accordance with Sections [76-7-305](#) and [76-7-305.5](#);

212 (b) the minor is granted the right, by court order under Subsection (4)(b), to consent to  
213 the abortion without obtaining consent from a parent or guardian; or

214 (c) (i) a medical condition exists that, on the basis of the physician's good faith clinical  
215 judgment, so complicates the medical condition of a pregnant minor as to necessitate the  
216 abortion of her pregnancy to avert:

217 (A) the minor's death; or

218 (B) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
219 function of the minor; and

220 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor  
221 under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert  
222 the minor's death or impairment described in Subsection (1)(c)(i).

223 (2) (a) A minor who wants to have an abortion may choose:

224 (i) to seek consent from the minor's parent or guardian as described in Subsection (1);  
225 or

226 (ii) to seek a court order as described in Subsection (1).

227 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain  
228 consent from the minor's parent or guardian if the circumstances described in Subsection  
229 76-7-304(3)(b)(ii) exist.

230 (3) If a minor does not obtain the consent of the minor's parent or guardian, the minor  
231 may file a petition with the juvenile court to obtain a court order as described in Subsection (1).

232 (4) (a) The juvenile court shall close the hearing on a petition described in Subsection  
233 (3) to the public.

234 (b) After considering the evidence presented at the hearing, the court shall order that  
235 the minor may obtain an abortion without the consent of a parent or guardian of the minor if  
236 the court finds by a preponderance of the evidence that:

237 (i) the minor:

238 (A) has given her informed consent to the abortion; and

239 (B) is mature and capable of giving informed consent to the abortion; or

240 (ii) an abortion would be in the minor's best interest.

241 (5) The Judicial Council shall make rules that:

242 (a) provide for the administration of the proceedings described in this section;

243 (b) provide for the appeal of a court's decision under this section;

244 (c) ensure the confidentiality of the proceedings described in this section and the



245 records related to the proceedings; and

246 (d) establish procedures to expedite the hearing and appeal proceedings described in  
247 this section.

248 Section 7. Section **76-7-305** is amended to read:

249 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**  
250 **-- Exceptions.**

251 (1) A person may not perform an abortion, unless, before performing the abortion, the  
252 physician who will perform the abortion obtains from the woman on whom the abortion is to  
253 be performed a voluntary and informed written consent that is consistent with:

254 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,  
255 Current Opinions; and

256 (b) the provisions of this section.

257 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and  
258 informed only if, at least 72 hours before the abortion:

259 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse  
260 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
261 physician's assistant presents the information module to the pregnant woman;

262 (b) the pregnant woman views the entire information module and presents evidence to  
263 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire  
264 information module;

265 (c) after receiving the evidence described in Subsection (2)(b), the individual described  
266 in Subsection (2)(a):

267 (i) documents that the pregnant woman viewed the entire information module;

268 (ii) gives the pregnant woman, upon her request, a copy of the documentation  
269 described in Subsection (2)(c)(i); and

270 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician  
271 who is to perform the abortion, upon request of that physician or the pregnant woman;

272 (d) after the pregnant woman views the entire information module, the physician who  
273 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse  
274 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
275 physician's assistant, in a face-to-face consultation in any location in the state, orally informs

276 the woman of:

277 (i) the nature of the proposed abortion procedure;

278 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the  
279 fetus;

280 (iii) the risks and alternatives to the abortion procedure or treatment;

281 (iv) the options and consequences of aborting a medication-induced abortion, if the  
282 proposed abortion procedure is a medication-induced abortion;

283 (v) the probable gestational age and a description of the development of the unborn  
284 child at the time the abortion would be performed;

285 (vi) the medical risks associated with carrying her child to term;

286 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant  
287 woman, upon her request; and

288 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn  
289 child has or may have Down syndrome, the Department of Health and Human Services website  
290 containing the information described in Section 26-10-14, including the information on the  
291 informational support sheet; and

292 (e) after the pregnant woman views the entire information module, a staff member of  
293 the abortion clinic or hospital provides to the pregnant woman:

294 (i) on a document that the pregnant woman may take home:

295 (A) the address for the department's website described in Section 76-7-305.5; and

296 (B) a statement that the woman may request, from a staff member of the abortion clinic  
297 or hospital where the woman viewed the information module, a printed copy of the material on  
298 the department's website;

299 (ii) a printed copy of the material on the department's website described in Section  
300 76-7-305.5, if requested by the pregnant woman; and

301 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the  
302 disposition of the aborted fetus.

303 (3) Before performing an abortion, the physician who is to perform the abortion shall:

304 (a) in a face-to-face consultation, provide the information described in Subsection

305 (2)(d), unless the attending physician or referring physician is the individual who provided the  
306 information required under Subsection (2)(d); and

- 307 (b) (i) obtain from the pregnant woman a written certification that the information  
308 required to be provided under Subsection (2) and this Subsection (3) was provided in  
309 accordance with the requirements of Subsection (2) and this Subsection (3);
- 310 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and  
311 (iii) ensure that:
- 312 (A) the woman has received the information described in Subsections 26-21-33(3) and  
313 (4); and
- 314 (B) if the woman has a preference for the disposition of the aborted fetus, the woman  
315 has informed the health care facility of the woman's decision regarding the disposition of the  
316 aborted fetus.
- 317 (4) When a serious medical emergency compels the performance of an abortion, the  
318 physician shall inform the woman prior to the abortion, if possible, of the medical indications  
319 supporting the physician's judgment that an abortion is necessary.
- 320 (5) If an ultrasound is performed on a woman before an abortion is performed, the  
321 individual who performs the ultrasound, or another qualified individual, shall:
- 322 (a) inform the woman that the ultrasound images will be simultaneously displayed in a  
323 manner to permit her to:
- 324 (i) view the images, if she chooses to view the images; or  
325 (ii) not view the images, if she chooses not to view the images;
- 326 (b) simultaneously display the ultrasound images in order to permit the woman to:
- 327 (i) view the images, if she chooses to view the images; or  
328 (ii) not view the images, if she chooses not to view the images;
- 329 (c) inform the woman that, if she desires, the person performing the ultrasound, or  
330 another qualified person shall provide a detailed description of the ultrasound images,  
331 including:
- 332 (i) the dimensions of the unborn child;  
333 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and  
334 (iii) the presence of external body parts or internal organs, if present and viewable; and  
335 (d) provide the detailed description described in Subsection (5)(c), if the woman  
336 requests it.
- 337 (6) The information described in Subsections (2), (3), and (5) is not required to be

338 provided to a pregnant woman under this section if the abortion is performed for a reason  
339 described in:

340 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician  
341 concur, in writing, that the abortion is necessary to avert:

342 (i) the death of the woman on whom the abortion is performed; or

343 (ii) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
344 function of the woman on whom the abortion is performed; or

345 (b) Subsection 76-7-302(3)(b)(ii).

346 (7) In addition to the criminal penalties described in this part, a physician who violates  
347 the provisions of this section:

348 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

349 and

350 (b) shall be subject to:

351 (i) suspension or revocation of the physician's license for the practice of medicine and  
352 surgery in accordance with Section 58-67-401 or 58-68-401; and

353 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

354 (8) A physician is not guilty of violating this section for failure to furnish any of the  
355 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

356 (a) the physician can demonstrate by a preponderance of the evidence that the  
357 physician reasonably believed that furnishing the information would have resulted in a severely  
358 adverse effect on the physical or mental health of the pregnant woman;

359 (b) in the physician's professional judgment, the abortion was necessary to avert:

360 (i) the death of the woman on whom the abortion is performed; or

361 (ii) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
362 function of the woman on whom the abortion is performed;

363 (c) the pregnancy was the result of rape or rape of a child, as described in Sections  
364 76-5-402 and 76-5-402.1;

365 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and  
366 Section 76-7-102; or

367 (e) at the time of the abortion, the pregnant woman was 14 years old or younger.

368 (9) A physician who complies with the provisions of this section and Section

369 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain  
370 informed consent under Section 78B-3-406.

371 (10) (a) The department shall provide an ultrasound, in accordance with the provisions  
372 of Subsection (5)(b), at no expense to the pregnant woman.

373 (b) A local health department shall refer a pregnant woman who requests an ultrasound  
374 described in Subsection (10)(a) to the department.

375 (11) A physician is not guilty of violating this section if:

376 (a) the information described in Subsection (2) is provided less than 72 hours before  
377 the physician performs the abortion; and

378 (b) in the physician's professional judgment, the abortion was necessary in a case  
379 where:

380 (i) a ruptured membrane, documented by the attending or referring physician, will  
381 cause a serious infection; or

382 (ii) a serious infection, documented by the attending or referring physician, will cause a  
383 ruptured membrane.

384 Section 8. Section 76-7-308.5 is amended to read:

385 **76-7-308.5. Administration of anesthetic or analgesic to an unborn child.**

386 A physician who performs an abortion of an unborn child who is at least 20 weeks  
387 gestational age shall administer an anesthetic or analgesic to eliminate or alleviate organic pain  
388 to the unborn child caused by the particular method of abortion to be employed, unless:

389 (1) the abortion is necessary to avert:

390 (a) the death of the woman on whom the abortion is performed; or

391 (b) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
392 function of the woman on whom the abortion is performed;

393 (2) the abortion is performed because the fetus has a defect that is uniformly  
394 diagnosable and uniformly lethal, based on the written concurrence of two physicians who  
395 practice maternal fetal medicine; or

396 (3) the treating physician and one other physician concur, in writing, that the  
397 administration of an anesthetic or analgesic would:

398 (a) cause the death of the woman on whom the abortion is performed; or

399 (b) create a serious risk of substantial [~~or irreversible~~] impairment of a major bodily

400 function of the woman on whom the abortion is performed.

401 Section 9. Section **76-7-314** is amended to read:

402 **76-7-314. Violations of abortion laws -- Classifications.**

403 (1) A willful violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#), [76-7-310.5](#), [76-7-311](#),  
404 or [76-7-312](#) is a felony of the third degree.

405 (2) A violation of Section [76-7-326](#) is a felony of the third degree.

406 (3) A violation of Section [~~[76-7-302.5](#)~~ or] [76-7-314.5](#) is a felony of the second degree.

407 (4) A violation of any other provision of this part, including Subsections

408 [76-7-305](#)(2)(a) through (c), and (e), is a class A misdemeanor.

409 (5) The Department of Health and Human Services shall report a physician's violation  
410 of any provision of this part to the Physicians Licensing Board, described in Section [58-67-201](#).

411 (6) Any person with knowledge of a physician's violation of any provision of this part  
412 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).

413 (7) In addition to the penalties described in this section, the department may take any  
414 action described in Section [26-21-11](#) against an abortion clinic if a violation of this chapter  
415 occurs at the abortion clinic.

416 Section 10. Section **76-7-314.5** is amended to read:

417 **76-7-314.5. Killing an unborn child.**

418 (1) A person is guilty of killing an unborn child if the person causes the death of an  
419 unborn child by performing an abortion of the unborn child in violation of the provisions of  
420 Subsection [~~[76-7-302\(3\)](#)~~] [76-7-302\(2\)](#).

421 (2) A woman is not criminally liable for:

422 (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or

423 (b) a physician's failure to comply with Subsection [~~[76-7-302\(3\)\(b\)\(ii\)](#)~~]

424 [76-7-302\(2\)\(b\)\(ii\)](#) or Section [76-7-305](#).

425 Section 11. Section **76-7a-101** is amended to read:

426 **76-7a-101. Definitions.**

427 As used in this chapter:

428 (1) (a) "Abortion" means[~~:(i)~~] the intentional termination or attempted termination of  
429 human pregnancy after implantation of a fertilized ovum [~~through a medical procedure carried~~  
430 ~~out by a physician or through a substance used under the direction of a physician;~~] with the

431 intention of ending the life of the unborn child by:

432 (i) a surgical procedure; or

433 (ii) the prescribing of medications.

434 ~~[(ii) the intentional killing or attempted killing of a live unborn child through a medical~~  
435 ~~procedure carried out by a physician or through a substance used under the direction of a~~  
436 ~~physician; or]~~

437 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~  
438 ~~procedure carried out by a physician or through a substance used under the direction of a~~  
439 ~~physician.]~~

440 (b) "Abortion" does not include:

441 (i) removal of a dead unborn child;

442 (ii) removal of an ectopic pregnancy; or

443 (iii) the killing or attempted killing of an unborn child without the consent of the  
444 pregnant woman, unless:

445 (A) the killing or attempted killing is done through a medical procedure carried out by  
446 a physician or through a substance used under the direction of a physician; and

447 (B) the physician is unable to obtain the consent due to a medical emergency.

448 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II  
449 abortion clinic licensed by the state.

450 (3) "Department" means the Department of Health and Human Services.

451 (4) "Down syndrome" means a genetic condition associated with an extra chromosome  
452 21, in whole or in part, or an effective trisomy for chromosome 21.

453 (5) "Hospital" means:

454 (a) a general hospital licensed by the department; or

455 (b) a clinic or other medical facility to the extent the clinic or other medical facility is  
456 certified by the department as providing equipment and personnel sufficient in quantity and  
457 quality to provide the same degree of safety to a pregnant woman and an unborn child as would  
458 be provided for the particular medical procedure undertaken by a general hospital licensed by  
459 the department.

460 (6) "Incest" means the same as that term is defined in Section [80-1-102](#).

461 (7) "Medical emergency" means a condition which, on the basis of the physician's good

462 faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the  
463 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious  
464 risk of substantial [~~and irreversible~~] impairment of major bodily function.

465 (8) "Physician" means:

466 (a) a medical doctor licensed to practice medicine and surgery in the state;

467 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

468 (c) a physician employed by the federal government who has qualifications similar to  
469 an individual described in Subsection (8)(a) or (b).

470 [~~(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]~~

471 [~~(10) (a) "Severe brain abnormality" means a malformation or defect that causes an  
472 individual to live in a mentally vegetative state.]~~

473 [~~(b) "Severe brain abnormality" does not include:]~~

474 [~~(i) Down syndrome;]~~

475 [~~(ii) spina bifida;]~~

476 [~~(iii) cerebral palsy; or]~~

477 [~~(iv) any other malformation, defect, or condition that does not cause an individual to  
478 live in a mentally vegetative state.]~~

479 Section 12. Section ~~76-7a-201~~ is amended to read:

480 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

481 (1) An abortion may be performed in this state only under the following circumstances:

482 (a) the abortion is necessary to avert:

483 (i) the death of the woman on whom the abortion is performed; or

484 (ii) a serious risk of substantial [~~and irreversible~~] impairment of a major bodily  
485 function of the woman on whom the abortion is performed;

486 (b) two physicians who practice maternal fetal medicine concur, in writing, in the  
487 patient's medical record that the fetus:

488 (i) [~~has a defect that is uniformly diagnosable and uniformly lethal; or~~] has a severe  
489 medical condition that will likely be fatal once the fetus is outside the womb; or

490 (ii) has a severe defect, not to include Down syndrome or uncomplicated spina bifida,  
491 that will require long-term intensive life sustaining measures and that will result in prolonged  
492 suffering for the infant; or



- 493 ~~[(ii) has a severe brain abnormality that is uniformly diagnosable; or]~~  
494 (c) (i) the woman is pregnant as a result of:  
495 (A) rape, as described in Section [76-5-402](#);  
496 (B) rape of a child, as described in Section [76-5-402.1](#); or  
497 (C) incest, as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#); and  
498 (ii) before the abortion is performed, the physician who performs the abortion:  
499 (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law  
500 enforcement; and  
501 (B) if applicable, complies with requirements related to reporting suspicions of or  
502 known child abuse.  
503 (2) An abortion may be performed only:  
504 (a) by a physician; and  
505 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in  
506 another location due to a medical emergency.  
507 (3) A person who performs an abortion in violation of this section is guilty of a second  
508 degree felony.  
509 (4) In addition to the penalty described in Subsection (3), the department may take  
510 appropriate corrective action against an abortion clinic, including revoking the abortion clinic's  
511 license, if a violation of this chapter occurs at the abortion clinic.  
512 (5) The department shall report a physician's violation of any provision of this section  
513 to the state entity that regulates the licensing of a physician.
- 514 Section 13. **Repealer.**  
515 This bill repeals:  
516 Section [76-7-302.5](#), **Circumstances under which abortion prohibited.**