

Effective 6/24/2022

Chapter 7a Abortion Prohibition

Part 1 Definitions

76-7a-101 Definitions.

As used in this chapter:

- (1)
 - (a) "Abortion" means the act, by a physician, of using an instrument, or prescribing a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant, except as permitted under this chapter.
 - (b) "Abortion" does not include:
 - (i) removal of a dead unborn child;
 - (ii) removal of an ectopic pregnancy; or
 - (iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:
 - (A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and
 - (B) the physician is unable to obtain the consent due to a medical emergency.
- (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.
- (3) "Department" means the Department of Health and Human Services.
- (4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- (5) "Hospital" means:
 - (a) a general hospital licensed by the department; or
 - (b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.
- (6) "Medical emergency" means a life threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of a major bodily function, unless the abortion is performed or induced.
- (7) "Perinatal hospice" means comprehensive support to the mother and her family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth, and through the postpartum period, that:
 - (a) focuses on alleviating fear and ensuring that the woman and her family experience the life and death of a child in a comfortable and supportive environment; and
 - (b) may include counseling or medical care by:
 - (i) maternal-fetal medical specialists;
 - (ii) obstetricians;
 - (iii) neonatologists;
 - (iv) anesthesia specialists;

- (v) psychiatrists, psychologists, or other mental health providers;
 - (vi) clergy;
 - (vii) social workers; or
 - (viii) specialty nurses.
- (8) "Physician" means:
- (a) a medical doctor licensed to practice medicine and surgery in the state;
 - (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
 - (c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (7)(a) or (b).
- (9)
- (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.
 - (b) "Severe brain abnormality" does not include:
 - (i) Down syndrome;
 - (ii) spina bifida;
 - (iii) cerebral palsy; or
 - (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Part 2 Prohibition

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

- (1) An abortion may be performed in this state only under the following circumstances:
- (a) the abortion is necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a serious physical risk of substantial impairment of a major bodily function of the woman on whom the abortion is performed;
 - (b) subject to Subsection (3), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or
 - (c) the unborn child has not reached 18 weeks gestational age and:
 - (i)
 - (A) the woman is pregnant as a result of:
 - (I) rape, as described in Section 76-5-402;
 - (II) rape of a child, as described in Section 76-5-402.1; or
 - (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or
 - (B) the pregnant child is under the age of 14; and
 - (ii) before the abortion is performed, the physician who performs the abortion:
 - (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident described in Subsection (1)(c)(i)(A) has been reported to law enforcement; and
 - (B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.
- (2) An abortion may be performed only:
- (a) by a physician; and

- (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.
- (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice services and perinatal palliative care are available and are an alternative to abortion.
- (4) A person who performs an abortion in violation of this section is guilty of a second degree felony.
- (5) In addition to the penalty described in Subsection (4), the department may take appropriate corrective action against a health care facility, including revoking the health care facility's license, if a violation of this chapter occurs at the health care facility.
- (6) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.
- (7) A physician who performs an abortion under Subsection (1)(c) shall:
 - (a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (1)(c)(ii)(A); and
 - (b) report the information described in Subsection (7)(a) to the department in accordance with Section 76-7-313.

Part 3 Superseding Clause

76-7a-301 Superseding clause.

If, at the time this chapter takes effect, any provision in the Utah Code conflicts with a provision of this chapter, the provision of this chapter supersedes the conflicting provision.

Enacted by Chapter 279, 2020 General Session