

PLEASE NOTE:

THIS DOCUMENT INCLUDES BOTH THE BILL AND ALSO A TRANSMITTAL LETTER THAT CONTAINS PASSED AMENDMENTS BUT NOT INCORPORATED INTO THE BILL.



# UTAH STATE SENATE

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February 28, 2007

Mr. Speaker:

The Senate passed **2nd Sub. H.B. 235**, ABORTION LAW REVISIONS, by Representative P. Ray, et al, with the following amendments:

1. Page 1, Lines 14 through 22

- 14           ▶     *provides that, if Roe v. Wade is overturned, the provisions of this bill will*  
15 *immediately be in effect and will supercede conflicting provisions of the Utah*  
16 *Code;*  
17           ▶     *provides that, if Roe v. Wade is overturned, no person may perform an abortion,*  
18 *unless:*  
19                 •     *it is necessary in order to avert a woman's death or to avert a serious risk to a*  
20 *woman of substantial and irreversible impairment of a major bodily function;    {~~or~~}*  
21                 •     *the woman is pregnant as the result of incest or rape that is reported to law*  
22 *enforcement before the abortion is performed   and the abortion is performed while the unborn child is under*  
*20 weeks gestational age ; or*  
*the unborn child has a medical condition that makes it highly unlikely that the unborn*  
*child will survive more than 24 hours after birth and there is not a medically acceptable intervention or*  
*procedure that may be performed without undue risk to the mother's health and that has a reasonable chance*  
*of extending the unborn child's life beyond 24 hours;*

2. Page 1, Lines 23 through 25:

- 23           ▶     *addresses the confidentiality of the name of a victim of incest or rape;   and*  
24           ▶     *provides a severability clause;    {~~and~~*  
25     ————▶    *includes legislative intent for the appropriations made in this bill} .*

3. Page 2, Lines 27 through 29:

- 27           { ~~This bill appropriates:~~
- 28     ————▶    ~~as a one time appropriation, \$173,000; and~~
- 29     ————▶    ~~as ongoing appropriations, \$2,640,600.}    None~~

4. Page 2, Line 42

After "Constitution" insert "outlawing abortion"

5. Page 2, Line 44

After "United States Constitution" insert "outlawing abortion"

6. Page 2, Line 49 through Page 3, Line 61:

49 (3) Subject to Subsection (1), no person may perform an abortion unless:  
50 (a) a medical condition exists that, on the basis of the attending physician's good faith  
51 clinical judgment, so complicates the medical condition of a woman as to necessitate the  
52 abortion of her pregnancy to avert:  
53 (i) the woman's death; or  
54 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
55 of the woman; {or}  
56 (b) (i) the woman upon whom the abortion is performed is pregnant as a result of:  
57 (A) incest, as defined in Subsection 76-5-406(10) or Section 76-7-102;  
58 (B) rape, as defined in Section 76-5-402; or  
59 (C) rape of a child, as defined in Section 76-5-402.1; {and}  
60 (ii) the incident described in Subsection (3)(b)(i) is reported to a law enforcement  
61 agency before the abortion is performed {;} ; and  
(iii) the unborn child is under 20 weeks gestational age; or  
(c) on the basis of the attending physician's good faith clinical judgment;  
(i) the unborn child has a medical condition that makes it highly unlikely that the unborn child will  
survive more than 24 hours after birth; and  
(ii) there is not a medically acceptable intervention or procedure that:  
(A) may be performed before or after the child's birth;  
(B) may be performed without undue risk to the mother's health; and  
(C) has a reasonable chance of extending the unborn child's life beyond 24 hours.

7. Page 3, Line 75 through Page 4, Line 92:

75 ~~{Section 2. One time appropriation for Early Intervention Services -- Ongoing~~  
76 ~~appropriations for Early Intervention Services and Utah Birth Defect Network --~~  
77 ~~Legislative intent.~~  
78 ~~(1) As a one time appropriation, there is appropriated for the fiscal year 2006-07,~~  
79 ~~\$173,000 from the General Fund to the Department of Health, Children with Special~~  
~~Health~~  
80 ~~Care Needs, for Early Intervention Services.~~  
81 ~~(2) As on ongoing appropriation, subject to future budget constraints, there is~~  
82 ~~appropriated for the fiscal year 2007-08, \$360,000 from the General Fund to the~~  
~~Department of~~  
83 ~~Health, Children with Special Health Care Needs, for Early Intervention Services.~~  
84 ~~(3) As on ongoing appropriation, subject to future budget constraints, there is~~

85 ~~—appropriated for the fiscal year 2007-08, \$2,280,600 from the General Fund to the~~  
86 ~~Department~~  
87 ~~—of Health, Community and Family Health Services, for the Utah Birth Defect Network.~~  
88 ~~—(4) It is the intent of the Legislature that the appropriations described in~~  
89 ~~Subsections (1)~~  
90 ~~—and (2) will assist families who have children with special needs, thereby encouraging~~  
91 ~~pregnant~~  
92 ~~—women to not seek an abortion to avoid the birth of a child who has birth defects.~~  
93 ~~—(5) It is the intent of the Legislature that the appropriation described in Subsection~~  
94 ~~(3)~~  
95 ~~—will reduce the incidence of birth defects, thereby reducing the number of abortions of~~  
96 ~~unborn~~  
97 ~~—children that are performed to avoid the birth of a child with birth defects. }~~

and it is transmitted to the House for consideration.

Respectfully,



Annette B. Moore  
Secretary of the Senate

*Representative Stephen H. Urquhart proposes the following substitute bill:*

**ABORTION LAW REVISIONS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

**Senate Sponsor: Curtis S. Bramble**

Cosponsors:

Glenn A. Donnelson

Kerry W. Gibson

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**LONG TITLE**

**General Description:**

*This bill provides for an immediate revision of the portion of the Utah Criminal Code relating to abortion if Roe v. Wade is overturned.*

**Highlighted Provisions:**

*This bill:*

- ▶ *provides that, if Roe v. Wade is overturned, the provisions of this bill will immediately be in effect and will supercede conflicting provisions of the Utah Code;*
- ▶ *provides that, if Roe v. Wade is overturned, no person may perform an abortion, unless:*
  - *it is necessary in order to avert a woman's death or to avert a serious risk to a woman of substantial and irreversible impairment of a major bodily function; or*
  - *the woman is pregnant as the result of incest or rape that is reported to law enforcement before the abortion is performed;*
- ▶ *addresses the confidentiality of the name of a victim of incest or rape;*
- ▶ *provides a severability clause; and*
- ▶ *includes legislative intent for the appropriations made in this bill.*



26 **Monies Appropriated in this Bill:**

27 *This bill appropriates:*

- 28 ▶ *as a one time appropriation, \$173,000; and*
- 29 ▶ *as ongoing appropriations, \$2,640,600.*

30 **Other Special Clauses:**

31 *None*

32 **Utah Code Sections Affected:**

33 **ENACTS:**

34 **76-7-302.2, Utah Code Annotated 1953**



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

37 *Section 1. Section 76-7-302.2 is enacted to read:*

38 **76-7-302.2. Circumstances under which abortion authorized if Roe v. Wade is**  
39 **overturned.**

40 (1) This section shall not be in effect until Roe v. Wade, 410 U.S. 113 (1973) is  
41 overturned by the United States Supreme Court, or by an amendment to the United States  
42 Constitution.

43 (2) If Roe v. Wade, 410 U.S. 113 (1973) is overturned by the United States Supreme  
44 Court, or by an amendment to the United States Constitution, this section, and the provisions of  
45 this section, shall:

46 (a) immediately be in effect; and

47 (b) supercede any provision of this part, or any other provision of the Utah Code, that  
48 is in conflict with this section or the provisions of this section.

49 (3) Subject to Subsection (1), no person may perform an abortion unless:

50 (a) a medical condition exists that, on the basis of the attending physician's good faith  
51 clinical judgment, so complicates the medical condition of a woman as to necessitate the  
52 abortion of her pregnancy to avert:

53 (i) the woman's death; or

54 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
55 of the woman; or

56 (b) (i) the woman upon whom the abortion is performed is pregnant as a result of:

57 (A) incest, as defined in Subsection 76-5-406(10) or Section 76-7-102;  
 58 (B) rape, as defined in Section 76-5-402; or  
 59 (C) rape of a child, as defined in Section 76-5-402.1; and  
 60 (ii) the incident described in Subsection (3)(b)(i) is reported to a law enforcement  
 61 agency before the abortion is performed.

62 (4) The name of a victim of an incident reported to law enforcement under Subsection  
 63 (3)(b) is confidential and may not be disclosed by law enforcement or any other person, unless  
 64 the disclosure:

65 (a) is approved by the victim;  
 66 (b) is permitted or required under Section 76-7-304 or 76-7-304.5; or  
 67 (c) is required by law or court order.

68 (5) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
 69 section or the application thereof to any person or circumstance is found to be unconstitutional,  
 70 the same is hereby declared to be severable and the balance of this section shall remain  
 71 effective notwithstanding such unconstitutionality. The Legislature hereby declares that it  
 72 would have passed this section, and each provision, subsection, sentence, clause, phrase, or  
 73 word thereof, irrespective of the fact that any one or more provision, subsection, sentence,  
 74 clause, phrase, or word be declared unconstitutional.

75 **Section 2. One time appropriation for Early Intervention Services -- Ongoing**  
 76 **appropriations for Early Intervention Services and Utah Birth Defect Network --**  
 77 **Legislative intent.**

78 (1) As a one time appropriation, there is appropriated for the fiscal year 2006-07,  
 79 \$173,000 from the General Fund to the Department of Health, Children with Special Health  
 80 Care Needs, for Early Intervention Services.

81 (2) As on ongoing appropriation, subject to future budget constraints, there is  
 82 appropriated for the fiscal year 2007-08, \$360,000 from the General Fund to the Department of  
 83 Health, Children with Special Health Care Needs, for Early Intervention Services.

84 (3) As on ongoing appropriation, subject to future budget constraints, there is  
 85 appropriated for the fiscal year 2007-08, \$2,280,600 from the General Fund to the Department  
 86 of Health, Community and Family Health Services, for the Utah Birth Defect Network.

87 (4) It is the intent of the Legislature that the appropriations described in Subsections (1)

88 and (2) will assist families who have children with special needs, thereby encouraging pregnant  
89 women to not seek an abortion to avoid the birth of a child who has birth defects.

90 (5) It is the intent of the Legislature that the appropriation described in Subsection (3)  
91 will reduce the incidence of birth defects, thereby reducing the number of abortions of unborn  
92 children that are performed to avoid the birth of a child with birth defects.



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**H.B. 235 2nd Sub. (Gray) - Abortion Law Revisions**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will appropriate \$173,000 in one-time supplemental General Fund revenues in FY 2007 to the Department of Health for early intervention services. The bill will also appropriate \$2,640,600 in ongoing General Fund revenues beginning in FY 2008 to the Department of Health, which includes \$360,000 for early intervention services and \$2,280,600 for the Utah Birth Defect Network.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$2,640,600	\$2,640,600	\$0	\$0	\$0
General Fund, One-Time	\$173,000	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$173,000</b>	<b>\$2,640,600</b>	<b>\$2,640,600</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill will provide additional services to children indentified by programs outlined in the bill. Private providers of these services will likely see an increased demand for services.