

PROTECTING UNBORN CHILDREN AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies sections of the Utah Criminal Code related to ~~H~~→ [adoption] abortion←H .

Highlighted Provisions:

This bill:

- ▶ amends informed consent requirements for abortion;
- ▶ amends provisions related to the Department of Health's requirements for publishing printed materials; and
- ▶ requires a physician who performs an abortion of an unborn child who is at least 20 weeks gestational age to administer an anesthetic or analgesic to eliminate or alleviate organic pain to the unborn child.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-7-305, as last amended by Laws of Utah 2015, Chapter 258

76-7-305.5, as last amended by Laws of Utah 2013, Chapter 278

76-7-308.5, as enacted by Laws of Utah 2009, Chapter 57



59 (A) that substantial medical evidence from studies concludes that an unborn child who
60 is at least 20 weeks gestational age ~~H~~→ [is] may be ←~~H~~ capable of experiencing pain during
60a an abortion
61 procedure; and

62 (B) the measures that shall be taken in accordance with Section 76-7-308.5;

63 (b) at least 72 hours prior to the abortion the physician who is to perform the abortion,
64 the referring physician, or, as specifically delegated by either of those physicians, a physician, a
65 registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered
66 nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical
67 social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation
68 in any location in the state, informs the pregnant woman that:

69 (i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed
70 material and an informational video that:

71 (A) provides medically accurate information regarding all abortion procedures that may
72 be used;

73 (B) describes the gestational stages of an unborn child; and

74 (C) includes information regarding public and private services and agencies available
75 to assist her through pregnancy, at childbirth, and while the child is dependent, including
76 private and agency adoption alternatives;

77 (ii) the printed material and a viewing of or a copy of the informational video shall be
78 made available to her, free of charge, on the Department of Health's website;

79 (iii) medical assistance benefits may be available for prenatal care, childbirth, and
80 neonatal care, and that more detailed information on the availability of that assistance is
81 contained in the printed materials and the informational video published by the Department of
82 Health;

83 (iv) except as provided in Subsection (3)(b):

84 (A) the father of the unborn child is legally required to assist in the support of her
85 child, even if he has offered to pay for the abortion; and

86 (B) the Office of Recovery Services within the Department of Human Services will
87 assist her in collecting child support; and

88 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,
89 upon her request;

245 services, agencies, and adoption attorneys in the locality of the caller.

246 (5) In addition to the requirements described in Subsection (2), the printed material
247 described in Subsection (1)(a) shall:

248 (a) be printed in a typeface large enough to be clearly legible;

249 (b) in accordance with Subsection (6), include a geographically indexed list of public
250 and private services and agencies available to assist a woman, financially or otherwise, through
251 pregnancy, at childbirth, and while the child is dependent; and

252 (c) except as provided in Subsection (7), include a separate brochure that contains
253 truthful, nonmisleading information regarding:

254 [~~(i) the ability of an unborn child to experience pain during an abortion procedure;~~]

255 [~~(ii) the measures that may be taken, including the administration of an anesthetic or
256 analgesic to an unborn child, to alleviate or eliminate pain to an unborn child during an
257 abortion procedure;~~]

258 [~~(iii) the effectiveness and advisability of taking the measures described in Subsection
259 (5)(c)(ii); and~~]

260 [~~(iv) potential medical risks to a pregnant woman that are associated with the
261 administration of an anesthetic or analgesic to an unborn child during an abortion procedure.~~]

262 (i) substantial medical evidence from studies concluding that an unborn child who is at
263 least 20 weeks gestational age ~~is~~ **is** may be ~~is~~ capable of experiencing pain during an
263a abortion procedure;

264 and

265 (ii) the measures that shall be taken in accordance with Section 76-7-308.5.

266 (6) The list described in Subsection (5)(b) shall include:

267 (a) private attorneys whose practice includes adoption; and

268 (b) the names, addresses, and telephone numbers of each person listed under
269 Subsection (5)(b) or (6)(a).

270 (7) A person or facility is not required to provide the information described in
271 Subsection (5)(c) to a patient or potential patient, if the abortion is to be performed:

272 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
273 abortion; or

274 (b) on an unborn child who is at least 20 weeks gestational age at the time of the
275 abortion, if:

276 (i) the abortion is being performed for a reason described in Subsection

277 76-7-302(3)(b)(i) ~~§~~ **→ or (ii) ←** ~~§~~ ; and

278 (ii) due to a serious medical emergency, time does not permit compliance with the

279 requirement to provide the information described in Subsection (5)(c).

280 (8) In addition to the requirements described in Subsection (2), the video described in

281 Subsection (1)(b) shall:

282 (a) make reference to the list described in Subsection (5)(b); and

283 (b) show an ultrasound of the heartbeat of an unborn child at:

284 (i) four weeks from conception;

285 (ii) six to eight weeks from conception; and

286 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age.

287 Section 3. Section ~~76-7-308.5~~ is amended to read:

288 **76-7-308.5. Administration of anesthetic or analgesic to an unborn child.**

289 A physician who performs an abortion of an unborn child who is at least 20 weeks

290 gestational age shall administer an anesthetic or analgesic to eliminate or alleviate organic pain

291 to the unborn child ~~[that may be]~~ caused by the particular method of abortion to be employed,

292 ~~[if the woman having the abortion consents to the administration of an anesthetic or analgesic~~

293 ~~to the unborn child,]~~ unless:

294 (1) ~~§~~ **→ [the treating physician is prevented from administering the anesthetic or analgesic by**
295 **a medical emergency[-]; or] the abortion is necessary to avert:**

295a (a) the death of the woman on whom the abortion is performed; or

295b (b) a serious risk of substantial and irreversible impairment of a major bodily function

295c of the woman on whom the abortion is performed; ~~Ĥ~~ [Ĥ ~~→ or ←~~ Ĥ] ←Ĥ

295d (2) ~~Ĥ~~ **→ [the abortion is performed because the fetus has a defect that is uniformly**

295e **diagnosable and uniformly lethal, based on the written concurrence of two physicians who**

295f **practice maternal fetal medicine; or ←Ĥ ←** ~~§~~ **Ĥ** **→ the abortion is performed because the fetus has a**

295g **defect that is uniformly diagnosable and uniformly lethal, based on the written concurrence of two**

295h **physicians who practice maternal fetal medicine; or**

295i (3) ~~←Ĥ~~

296 ~~Ĥ~~ **→ [§ ~~→ [(2)] (3) ←~~ §] ←Ĥ** the treating physician and one other physician concur, in writing,

296a that the

297 administration of an anesthetic or analgesic would:

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

299 (b) create a serious risk of substantial ~~Ĥ~~ [and] or ←Ĥ irreversible impairment of a

299a major bodily

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