

1 **DOWN SYNDROME NONDISCRIMINATION ABORTION ACT**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karianne Lisonbee**

5 Senate Sponsor: Curtis S. Bramble

6

LONG TITLE

7 **General Description:**

8 This bill prohibits the abortion of an unborn child because of Down syndrome.

9 **Highlighted Provisions:**

10 This bill:

11 ▶ defines "Down syndrome";

12 ▶ requires a physician to provide certain information to a pregnant woman when a
13 prenatal screening or diagnostic test indicates that the pregnant woman's unborn
14 child has or may have Down syndrome;

15 ▶ prohibits a person from performing, inducing, or attempting to perform or induce an
16 abortion on a pregnant woman who is seeking the abortion ~~H→~~ solely ~~←H~~ because an unborn child
17 has, or may have, Down syndrome;

18 ▶ requires the pathology report to provide information about whether an aborted child
19 had or may have had Down syndrome;

20 ▶ requires a physician who performed an abortion to affirm that the physician did not
21 have knowledge that the pregnant woman sought the abortion ~~H→~~ solely ~~←H~~ because the unborn
22 child had or may have had Down syndrome; and

23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**



121 possible;] whether:

122 (1) the pregnancy was aborted by evacuating the uterus[-]; and

123 (2) a medical record indicates that, through a prenatal screening or other diagnostic
124 test, the aborted fetus had or may have had Down syndrome.

125 Section 4. Section **76-7-310** is amended to read:

126 **76-7-310. Experimentation with unborn children prohibited -- Testing for genetic**
127 **defects -- Providing test results -- Prohibition of abortion due to Down syndrome.**

128 (1) Live unborn children may not be used for experimentation, but when advisable, in
129 the best medical judgment of [the] a physician, may be tested for genetic defects.

130 (2) The result of any prenatal screening or diagnostic test that indicates that an unborn
131 child has or may have Down syndrome shall be delivered to the pregnant woman:

132 (a) by a ~~H→~~ [physician] **licensed prenatal health care provider** ~~←H~~ at an in-person
132a consultation or a ~~H→~~ [scheduled telephone] **telemedicine or telephone** ~~←H~~ conference;

133 (b) with contact information for ~~H→~~ a ~~←H~~ state or national Down syndrome parents'
133a group ~~H→~~ [s] ~~←H~~ ; and

134 (c) with a referral to a physician or other specialist who is knowledgeable about
135 providing medical care to a child with Down syndrome.

136 (3) A person may not intentionally perform or attempt to perform an abortion if that
137 person has knowledge that the pregnant woman is seeking the abortion ~~H→~~ solely ~~←H~~ because:

138 (a) the unborn child has been diagnosed with Down syndrome; or

139 (b) the pregnant woman believes that the unborn child may have Down syndrome.

140 (4) A person who performs an abortion described in Subsection (3) is guilty of a class
141 A misdemeanor.

142 (5) A pregnant woman upon whom an abortion is performed in violation of this section
143 may not be prosecuted for violating or conspiring to violate this section.

144 Section 5. Section **76-7-313** is amended to read:

145 **76-7-313. Physician's report to Department of Health.**

146 (1) In order for the state Department of Health to maintain necessary statistical
147 information and ensure enforcement of the provisions of this part, any physician performing an
148 abortion must obtain and record in writing:

149 (a) the age, marital status, and county of residence of the woman on whom the abortion
150 was performed;

151 (b) the number of previous abortions performed on the woman described in Subsection

152 (1)(a);

153 (c) the hospital or other facility where the abortion was performed;

154 (d) the weight in grams of the unborn child aborted, if it is possible to ascertain;

155 (e) the pathological description of the unborn child;

156 (f) the given menstrual age of the unborn child;

157 (g) the measurements of the unborn child, if possible to ascertain; and

158 (h) the medical procedure used to abort the unborn child.

159 (2) Each physician who performs an abortion shall provide the following to the

160 Department of Health within 30 days after the day on which the abortion is performed:

161 (a) the information described in Subsection (1);

162 (b) a copy of the pathologist's report described in Section 76-7-309;

163 (c) an affidavit indicating whether:

164 (i) ~~[that]~~ the required consent was obtained pursuant to Sections 76-7-305, 76-7-305.5,
165 and 76-7-305.6; and

166 ~~[(ii) described in Subsection 76-7-305.6(4), if applicable; and]~~

167 (ii) at the time the physician performed the abortion, the physician had any knowledge

168 that the pregnant woman sought the abortion ~~H~~→ solely ←~~H~~ because the unborn child had

168a or may have had

169 Down syndrome;

170 (d) a certificate indicating:

171 (i) whether the unborn child was or was not viable, as defined in Subsection

172 76-7-302(1), at the time of the abortion; and

173 (ii) if the unborn child was viable, as defined in Subsection 76-7-302(1), at the time of

174 the abortion, the reason for the abortion[-]; and

175 (e) the affidavit described in Subsection 76-7-305.6(4), if applicable.

176 (3) All information supplied to the Department of Health shall be confidential and

177 privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

178 Section 6. Section **76-7-317** is amended to read:

179 **76-7-317. Severability clause.**

180 If any ~~[one or more]~~ provision, section, subsection, sentence, clause, phrase, or word of

181 this part or the application thereof to any person or circumstance is found to be

182 unconstitutional, the same is ~~[hereby declared to be]~~ severable and the balance of this part shall