

1 AN ACT concerning abortion.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Abortion Law of 1975 is amended  
5 by changing Section 6 as follows:

6 (720 ILCS 510/6) (from Ch. 38, par. 81-26)

7 Sec. 6. (1) (a) Any physician who intentionally performs  
8 an abortion when, in his medical judgment based on the  
9 particular facts of the case before him, there is a  
10 reasonable likelihood of sustained survival of the fetus  
11 outside the womb, with or without artificial support, shall  
12 utilize that method of abortion which, of those he knows to  
13 be available, is in his medical judgment most likely to  
14 preserve the life and health of the fetus.

15 (b) The physician shall certify in writing, on a form  
16 prescribed by the Department under Section 10 of this Act,  
17 the available methods considered and the reasons for choosing  
18 the method employed.

19 (c) Any physician who intentionally, knowingly, or  
20 recklessly violates the provisions of Section 6(1)(a) commits  
21 a Class 3 felony.

22 (2) (a) No abortion shall be performed or induced when  
23 the fetus is viable unless there is in attendance a physician  
24 other than the physician performing or inducing the abortion  
25 who shall take control of and provide immediate medical care  
26 for any child born alive as a result of the abortion. No  
27 abortion procedure which, in the medical judgment of the  
28 attending physician, has a reasonable likelihood of resulting  
29 in a live born child shall be undertaken unless there is in  
30 attendance a physician other than the physician performing or  
31 inducing the abortion who shall assess the child's viability

1 and provide medical care for the child. These requirements  
2 ~~This--requirement~~ shall not apply when, in the medical  
3 judgment of the physician performing or inducing the abortion  
4 based on the particular facts of the case before him, there  
5 exists a medical emergency; in such a case, the physician  
6 shall describe the basis of this judgment on the form  
7 prescribed by Section 10 of this Act. In any event, a  
8 physician inducing or performing an abortion which results in  
9 a live born child shall provide for the soonest practicable  
10 attendance of a physician other than the physician performing  
11 or inducing the abortion to immediately assess the child's  
12 viability and provide medical care for the child. Any  
13 physician who intentionally performs or induces such an  
14 abortion and who intentionally, knowingly, or recklessly  
15 fails to arrange for the attendance of such a second  
16 physician in violation of Section 6(2)(a) commits a Class 3  
17 felony.

18 (b) Subsequent to the abortion, if a child is born  
19 alive, the physician required by Section 6(2)(a) to be in  
20 attendance shall exercise the same degree of professional  
21 skill, care and diligence to preserve the life and health of  
22 the child as would be required of a physician providing  
23 immediate medical care to a child born alive in the course of  
24 a pregnancy termination which was not an abortion. Any such  
25 physician who intentionally, knowingly, or recklessly  
26 violates Section 6(2)(b) commits a Class 3 felony.

27 (3) The law of this State shall not be construed to  
28 imply that any living individual organism of the species homo  
29 sapiens who has been born alive is not an individual under  
30 the "Criminal Code of 1961," approved July 28, 1961, as  
31 amended.

32 (3.5) A live child born as a result of an abortion shall  
33 be fully recognized as a human person and accorded immediate  
34 protection under the law. All reasonable measures consistent

1 with good medical practice, including the compilation of  
2 appropriate medical records, shall be taken to preserve the  
3 life and health of the child.

4 (4) (a) Any physician who intentionally performs an  
5 abortion when, in his medical judgment based on the  
6 particular facts of the case before him, there is a  
7 reasonable possibility of sustained survival of the fetus  
8 outside the womb, with or without artificial support, shall  
9 utilize that method of abortion which, of those he knows to  
10 be available, is in his medical judgment most likely to  
11 preserve the life and health of the fetus.

12 (b) The physician shall certify in writing, on a form  
13 prescribed by the Department under Section 10 of this Act,  
14 the available methods considered and the reasons for choosing  
15 the method employed.

16 (c) Any physician who intentionally, knowingly, or  
17 recklessly violates the provisions of Section 6(4)(a) commits  
18 a Class 3 felony.

19 (5) Nothing in Section 6 requires a physician to employ  
20 a method of abortion which, in the medical judgment of the  
21 physician performing the abortion based on the particular  
22 facts of the case before him, would increase medical risk to  
23 the mother.

24 (6) When the fetus is viable and when there exists  
25 reasonable medical certainty (a) that the particular method  
26 of abortion to be employed will cause organic pain to the  
27 fetus, and (b) that use of an anesthetic or analgesic would  
28 abolish or alleviate organic pain to the fetus caused by the  
29 particular method of abortion to be employed, then the  
30 physician who is to perform the abortion or his agent or the  
31 referring physician or his agent shall inform the woman upon  
32 whom the abortion is to be performed that such an anesthetic  
33 or analgesic is available, if he knows it to be available,  
34 for use to abolish or alleviate organic pain caused to the

1 fetus by the particular method of abortion to be employed.  
2 Any person who performs an abortion with knowledge that any  
3 such reasonable medical certainty exists and that such an  
4 anesthetic or analgesic is available, and intentionally fails  
5 to so inform the woman or to ascertain that the woman has  
6 been so informed commits a Class B misdemeanor. The foregoing  
7 requirements of subsection (6) of Section 6 shall not apply  
8 (a) when in the medical judgment of the physician who is to  
9 perform the abortion or the referring physician based upon  
10 the particular facts of the case before him: (i) there exists  
11 a medical emergency, or (ii) the administration of such an  
12 anesthetic or analgesic would decrease a possibility of  
13 sustained survival of the fetus apart from the body of the  
14 mother, with or without artificial support, or (b) when the  
15 physician who is to perform the abortion administers an  
16 anesthetic or an analgesic to the woman or the fetus and he  
17 knows there exists reasonable medical certainty that such use  
18 will abolish organic pain caused to the fetus during the  
19 course of the abortion.

20 (7) No person shall sell or experiment upon a fetus  
21 produced by the fertilization of a human ovum by a human  
22 sperm unless such experimentation is therapeutic to the fetus  
23 thereby produced. Intentional violation of this section is a  
24 Class A misdemeanor. Nothing in this subsection (7) is  
25 intended to prohibit the performance of in vitro  
26 fertilization.

27 (8) No person shall intentionally perform an abortion  
28 with knowledge that the pregnant woman is seeking the  
29 abortion solely on account of the sex of the fetus. Nothing  
30 in Section 6(8) shall be construed to proscribe the  
31 performance of an abortion on account of the sex of the fetus  
32 because of a genetic disorder linked to that sex. If the  
33 application of Section 6(8) to the period of pregnancy prior  
34 to viability is held invalid, then such invalidity shall not

1 affect its application to the period of pregnancy subsequent  
2 to viability.

3 (Source: P.A. 84-1001.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.