

1 AMENDMENT TO SENATE BILL 1093

2 AMENDMENT NO. _____. Amend Senate Bill 1093 by replacing
3 everything after the enacting clause with the following:

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

1 the fetus is viable unless there is in attendance a physician
2 other than the physician performing or inducing the abortion
3 who shall take control of and provide immediate medical care
4 for any child born alive as a result of the abortion. No
5 abortion procedure which, in the medical judgment of the
6 attending physician, has a reasonable likelihood of resulting
7 in a live born child shall be undertaken unless there is in
8 attendance a physician other than the physician performing or
9 inducing the abortion who shall assess the child's viability
10 and provide medical care for the child. These requirements
11 ~~This--requirement~~ shall not apply when, in the medical
12 judgment of the physician performing or inducing the abortion
13 based on the particular facts of the case before him, there
14 exists a medical emergency; in such a case, the physician
15 shall describe the basis of this judgment on the form
16 prescribed by Section 10 of this Act. In any event, a
17 physician inducing or performing an abortion which results in
18 a live born child shall provide for the soonest practicable
19 attendance of a physician other than the physician performing
20 or inducing the abortion to immediately assess the child's
21 viability and provide medical care for the child. Any
22 physician who intentionally performs or induces such an
23 abortion and who intentionally, knowingly, or recklessly
24 fails to arrange for the attendance of such a second
25 physician in violation of Section 6(2)(a) commits a Class 3
26 felony.

27 (b) Subsequent to the abortion, if a child is born
28 alive, the physician required by Section 6(2)(a) to be in
29 attendance shall exercise the same degree of professional
30 skill, care and diligence to preserve the life and health of
31 the child as would be required of a physician providing
32 immediate medical care to a child born alive in the course of
33 a pregnancy termination which was not an abortion. Any such
34 physician who intentionally, knowingly, or recklessly

1 violates Section 6(2)(b) commits a Class 3 felony.

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

7 (3.5) A live child born as a result of an abortion shall
8 be fully recognized as a human person and accorded immediate
9 protection under the law. All reasonable measures consistent
10 with good medical practice, including the compilation of
11 appropriate medical records, shall be taken to preserve the
12 life and health of the child.

13 (4) (a) Any physician who intentionally performs an
14 abortion when, in his medical judgment based on the
15 particular facts of the case before him, there is a
16 reasonable possibility of sustained survival of the fetus
17 outside the womb, with or without artificial support, shall
18 utilize that method of abortion which, of those he knows to
19 be available, is in his medical judgment most likely to
20 preserve the life and health of the fetus.

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

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

28 (5) Nothing in Section 6 requires a physician to employ
29 a method of abortion which, in the medical judgment of the
30 physician performing the abortion based on the particular
31 facts of the case before him, would increase medical risk to
32 the mother.

33 (6) When the fetus is viable and when there exists
34 reasonable medical certainty (a) that the particular method

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

29 (7) No person shall sell or experiment upon a fetus
30 produced by the fertilization of a human ovum by a human
31 sperm unless such experimentation is therapeutic to the fetus
32 thereby produced. Intentional violation of this section is a
33 Class A misdemeanor. Nothing in this subsection (7) is
34 intended to prohibit the performance of in vitro

1 fertilization.

2 (8) No person shall intentionally perform an abortion
3 with knowledge that the pregnant woman is seeking the
4 abortion solely on account of the sex of the fetus. Nothing
5 in Section 6(8) shall be construed to proscribe the
6 performance of an abortion on account of the sex of the fetus
7 because of a genetic disorder linked to that sex. If the
8 application of Section 6(8) to the period of pregnancy prior
9 to viability is held invalid, then such invalidity shall not
10 affect its application to the period of pregnancy subsequent
11 to viability.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."