House File 138 - Introduced

HOUSE FILE 138

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A BILL FOR

- 1 An Act relating to the definition of person in the context of
- 2 the victim of the crime of murder, and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. Section 135.1, unnumbered paragraph 1, Code
- 2 2013, is amended to read as follows:
- 3 For the purposes of chapter 155 and Title IV, subtitle 2,
- 4 excluding chapter 146, unless otherwise defined:
- 5 Sec. 2. Section 135.11, subsections 10 and 12, Code 2013,
- 6 are amended to read as follows:
- 7 10. Enforce the law relative to chapter 146 and
- 8 "Health-related Professions", Title IV, subtitle 3, excluding
- 9 chapter 155.
- 10 12. Establish, publish, and enforce rules not inconsistent
- 11 with law for the enforcement of the provisions of chapters 125
- 12 and 155, and Title IV, subtitle 2, excluding chapter 146 and
- 13 for the enforcement of the various laws, the administration and
- 14 supervision of which are imposed upon the department.
- 15 Sec. 3. Section 144.29A, subsections 1 and 2, Code 2013, are
- 16 amended to read as follows:
- 17 l. A health care provider who initially identifies and
- 18 diagnoses a spontaneous termination of pregnancy or who induces
- 19 a termination of pregnancy shall file with the department
- 20 a report for each termination within thirty days of the
- 21 occurrence. The health care provider shall make a good faith
- 22 effort to obtain all of the following information that is
- 23 available with respect to each termination:
- 24 a. The confidential health care provider code as assigned
- 25 by the department.
- 26 b. The report tracking number.
- 27 c. The maternal health services region of the Iowa
- 28 department of public health, as designated as of July 1, 1997,
- 29 in which the patient resides.
- 30 d. The race of the patient.
- 31 e. The age of the patient.
- 32 f. The marital status of the patient.
- 33 g. The educational level of the patient.
- 34 h. The number of previous pregnancies, live births, and
- 35 spontaneous or induced terminations of pregnancies.

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- 1 i. The month and year in which the termination occurred.
- 2 j. The number of weeks since the patient's last menstrual 3 period and a clinical estimate of gestation.
- 4 k. The method used for an induced termination, including
- 5 whether mifepristone was used.
- 6 2. It is the intent of the general assembly that the
- 7 information shall be collected, reproduced, released, and
- 8 disclosed in a manner specified by rule of the department,
- 9 adopted pursuant to chapter 17A, which ensures the anonymity
- 10 of the patient who experiences a termination of pregnancy,
- 11 the health care provider who identifies and diagnoses or
- 12 induces a termination of pregnancy, and the hospital, clinic,
- 13 or other health facility in which a termination of pregnancy
- 14 is identified and diagnosed or induced. The department may
- 15 share information with federal public health officials for
- 16 the purposes of securing federal funding or conducting public
- 17 health research. However, in sharing the information, the
- 18 department shall not relinquish control of the information,
- 19 and any agreement entered into by the department with federal
- 20 public health officials to share information shall prohibit the
- 21 use, reproduction, release, or disclosure of the information
- 22 by federal public health officials in a manner which violates
- 23 this section. The department shall publish, annually, a
- 24 demographic summary of the information obtained pursuant to
- 25 this section, except that the department shall not reproduce,
- 26 release, or disclose any information obtained pursuant to this
- 27 section which reveals the identity of any patient, health care
- 28 provider, hospital, clinic, or other health facility, and shall
- 29 ensure anonymity in the following ways:
- 30 a. The department may use information concerning the report
- 31 tracking number or concerning the identity of a reporting
- 32 health care provider, hospital, clinic, or other health
- 33 facility only for purposes of information collection. The
- 34 department shall not reproduce, release, or disclose this
- 35 information for any purpose other than for use in annually

- 1 publishing the demographic summary under this section.
- 2 b. The department shall enter the information, from
- 3 any report of termination submitted, within thirty days of
- 4 receipt of the report, and shall immediately destroy the
- 5 report following entry of the information. However, entry of
- 6 the information from a report shall not include any health
- 7 care provider, hospital, clinic, or other health facility
- 8 identification information including, but not limited to, the
- 9 confidential health care provider code, as assigned by the
- 10 department.
- 11 c. To protect confidentiality, the department shall limit
- 12 release of information to release in an aggregate form which
- 13 prevents identification of any individual patient, health care
- 14 provider, hospital, clinic, or other health facility. For the
- 15 purposes of this paragraph, "aggregate form" means a compilation
- 16 of the information received by the department on termination
- 17 of pregnancies for each information item listed, with the
- 18 exceptions of the report tracking number, the health care
- 19 provider code, and any set of information for which the amount
- 20 is so small that the confidentiality of any person to whom the
- 21 information relates may be compromised. The department shall
- 22 establish a methodology to provide a statistically verifiable
- 23 basis for any determination of the correct amount at which
- 24 information may be released so that the confidentiality of any
- 25 person is not compromised.
- Sec. 4. Section 144.29A, subsection 8, Code 2013, is amended
- 27 by striking the subsection.
- 28 Sec. 5. Section 216.6, subsection 2, paragraph c, Code 2013,
- 29 is amended by striking the paragraph.
- 30 Sec. 6. Section 216.13, Code 2013, is amended to read as
- 31 follows:
- 32 216.13 Exceptions for retirement plans, abortion coverage,
- 33 life, disability, and health benefits.
- 34 The provisions of this chapter relating to discrimination
- 35 because of age do not apply to a retirement plan or benefit

- 1 system of an employer unless the plan or system is a mere
- 2 subterfuge adopted for the purpose of evading this chapter.
- 3 1. However, a retirement plan or benefit system shall not
- 4 require the involuntary retirement of a person under the age of
- 5 seventy because of that person's age. This paragraph does not
- 6 prohibit the following:
- 7 a. The involuntary retirement of a person who has attained
- 8 the age of sixty-five and has for the two prior years been
- 9 employed in a bona fide executive or high policymaking position
- 10 and who is entitled to an immediate, nonforfeitable annual
- 11 retirement benefit from a pension, profit-sharing, savings,
- 12 or deferred compensation plan of the employer which equals
- 13 twenty-seven thousand dollars. This retirement benefit test
- 14 may be adjusted according to the regulations prescribed by
- 15 the United States secretary of labor pursuant to Pub. L. No.
- 16 95-256, section 3.
- 17 b. The involuntary retirement of a person covered by a
- 18 collective bargaining agreement which was entered into by a
- 19 labor organization and was in effect on September 1, 1977.
- 20 This exemption does not apply after the termination of that
- 21 agreement or January 1, 1980, whichever first occurs.
- 22 2. A health insurance program provided by an employer may
- 23 exclude coverage of abortion, except where the life of the
- 24 mother would be endangered if the fetus were carried to term or
- 25 where medical complications have arisen from an abortion.
- 26 3. 2. An employee welfare plan may provide life, disability
- 27 or health insurance benefits which vary by age based on
- 28 actuarial differences if the employer contributes equally for
- 29 all the participating employees or may provide for employer
- 30 contributions differing by age if the benefits for all the
- 31 participating employees do not vary by age.
- 32 Sec. 7. Section 602.8102, subsection 31, Code 2013, is
- 33 amended by striking the subsection.
- 34 Sec. 8. Section 707.1, Code 2013, is amended to read as
- 35 follows:

- 1 707.1 Murder defined.
- A person who kills another person with malice
- 3 aforethought either express or implied commits murder.
- 4 2. "Person", when referring to the victim of a murder,
- 5 means an individual human being, without regard to age of
- 6 development, from the moment of conception, when a zygote is
- 7 formed, until natural death.
- 8 3. Murder includes killing another person through any
- 9 means that terminates the life of the other person including
- 10 but not limited to the use of abortion-inducing drugs. For
- 11 the purposes of this section, "abortion-inducing drug" means a
- 12 medicine, drug, or any other substance prescribed or dispensed
- 13 with the intent of terminating the clinically diagnosable
- 14 pregnancy of a woman, with knowledge that the drug will
- 15 with reasonable likelihood cause the termination of the
- 16 pregnancy. "Abortion-inducing drug" includes the off-label
- 17 use of drugs known to have abortion-inducing properties,
- 18 which are prescribed specifically with the intent of causing
- 19 an abortion, but does not include drugs that may be known to
- 20 cause an abortion, but which are prescribed for other medical
- 21 indications.
- 22 4. Murder does not include a fetal death as defined in
- 23 section 144.1 or the spontaneous termination of pregnancy as
- 24 defined in section 144.29A.
- 25 Sec. 9. REPEAL. Sections 232.5, 702.20, 707.7, 707.8,
- 26 707.8A, 707.9, and 707.10, Code 2013, are repealed.
- 27 Sec. 10. REPEAL. Chapters 135L and 146, Code 2013, are
- 28 repealed.
- 29 Sec. 11. SEVERABILITY. If any provision of this Act or
- 30 the application of this Act to any person or circumstances is
- 31 held invalid, the invalidity shall not affect other provisions
- 32 or applications of the Act which can be given effect without
- 33 the invalid provisions or application and, to this end, the
- 34 provisions of this Act are severable.
- 35 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed

1 of immediate importance, takes effect upon enactment. 2 **EXPLANATION** 3 This bill defines "person" in the context of the victim of 4 the crime of murder to be an individual human being without 5 regard to age of development, from the moment of conception, 6 when the zygote is formed, until natural death. The bill provides that murder includes killing another 7 8 person through any means that terminates the life of 9 the other person including but not limited to the use of 10 abortion-inducing drugs, and defines "abortion-inducing drug". The bill also provides that murder does not include a fetal 11 12 death as defined in Code section 144.1 or the spontaneous 13 termination of pregnancy as defined in Code section 144.29A. 14 The bill makes conforming changes throughout the Code to 15 eliminate any reference to allowing abortions or terminations 16 of pregnancy in keeping with the definition of "murder" under 17 the bill. 18 The bill amends the termination of pregnancy reporting 19 section (Code section 144.29A) to only include the reporting of 20 spontaneous terminations of pregnancy. 21 The bill amends a Code section relating to unfair employment 22 practices (Code section 216.6) to eliminate references to 23 disabilities caused or contributed to by legal abortion. 24 The bill amends a Code section relating to discrimination 25 relating to health insurance abortion coverage (Code section 26 216.13) to eliminate the reference to abortion coverage. 27 The bill strikes and repeals Code provisions that relate 28 to allowing abortions under certain circumstances. 29 repeals Code section 232.5 (abortion performed on a minor — 30 waiver of notification proceedings), Code section 702.20 (the

31 definition of "viability"), Code section 707.7 (feticide), 32 Code section 707.8 (nonconsensual termination — serious 33 injury to a human pregnancy), Code section 707.8A (partial

34 birth abortion), Code section 707.9 (murder of a fetus aborted 35 alive), Code section 707.10 (duty to preserve the life of the

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- 1 fetus), Code chapter 135L (notification requirements regarding
- 2 pregnant minors), and Code chapter 146 (abortions refusal
- 3 to perform). The bill also makes conforming changes to strike
- 4 references to Code provisions stricken or repealed in the bill.
- 5 The bill provides for severability of any provision
- 6 or application of the bill that is held invalid from the
- 7 provisions or applications of the bill which can be given
- 8 effect without the invalid provisions or application. The bill
- 9 takes effect upon enactment.