

IN THE SENATE

SENATE BILL NO. 1229

BY FOREMAN

AN ACT

RELATING TO ABORTION; AMENDING SECTION 18-622, IDAHO CODE, TO REMOVE CERTAIN EXCEPTIONS; AMENDING SECTION 18-8804, IDAHO CODE, TO REMOVE CERTAIN EXCEPTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-622, Idaho Code, be, and the same is hereby amended to read as follows:

18-622. DEFENSE OF LIFE ACT. (1) Except as provided in subsection (2) of this section, every person who performs or attempts to perform an abortion as defined in this chapter commits the crime of criminal abortion. Criminal abortion shall be a felony punishable by a sentence of imprisonment of no less than two (2) years and no more than five (5) years in prison. The professional license of any health care professional who performs or attempts to perform an abortion or who assists in performing or attempting to perform an abortion in violation of this subsection shall be suspended by the appropriate licensing board for a minimum of six (6) months upon a first offense and shall be permanently revoked upon a subsequent offense.

(2) ~~The following~~ An abortion performed or attempted by a physician as defined in this chapter shall not be considered a criminal abortion for purposes of subsection (1) of this section if:

~~(a) The abortion was performed or attempted by a physician as defined in this chapter and:~~

~~(i) (a) The physician determined, in his good faith medical judgment and based on the facts known to the physician at the time, that the abortion was necessary to prevent the death of the pregnant woman. No abortion shall be deemed necessary to prevent the death of the pregnant woman because the physician believes that the woman may or will take action to harm herself; and~~

~~(ii) (b) The physician performed or attempted to perform the abortion in the manner that, in his good faith medical judgment and based on the facts known to the physician at the time, provided the best opportunity for the unborn child to survive, unless, in his good faith medical judgment, termination of the pregnancy in that manner would have posed a greater risk of the death of the pregnant woman. No such greater risk shall be deemed to exist because the physician believes that the woman may or will take action to harm herself; or.~~

~~(b) The abortion was performed or attempted by a physician as defined in this chapter during the first trimester of pregnancy and:~~

~~(i) If the woman is not a minor or subject to a guardianship, then, prior to the performance of the abortion, the woman has reported to a law enforcement agency that she is the victim of an act of rape or incest and provided a copy of such report to the physician who is~~

1 to perform the abortion. The copy of the report shall remain a con-
2 fidential part of the woman's medical record subject to applicable
3 privacy laws; or

4 (ii) If the woman is a minor or subject to a guardianship, then,
5 prior to the performance of the abortion, the woman or her parent
6 or guardian has reported to a law enforcement agency or child pro-
7 tective services that she is the victim of an act of rape or incest
8 and a copy of such report has been provided to the physician who is
9 to perform the abortion. The copy of the report shall remain a con-
10 fidential part of the woman's medical record subject to applicable
11 privacy laws.

12 (3) If a report concerning an act of rape or incest is made to a law en-
13 forcement agency or child protective services pursuant to subsection (2) (b)
14 of this section, then the person who made the report shall, upon request, be
15 entitled to receive a copy of such report within seventy-two (72) hours of
16 the report being made, provided that the report may be redacted as necessary
17 to avoid interference with an investigation.

18 (4) (3) Medical treatment provided to a pregnant woman by a health care
19 professional as defined in this chapter that results in the accidental death
20 of, or unintentional injury to, the unborn child shall not be a violation of
21 this section.

22 (5) (4) Nothing in this section shall be construed to subject a pregnant
23 woman on whom any abortion is performed or attempted to any criminal convic-
24 tion and penalty.

25 SECTION 2. That Section 18-8804, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 18-8804. ABORTION FOLLOWING DETECTION OF A FETAL HEARTBEAT PROHIB-
28 ITED. (1) A person may not perform an abortion on a pregnant woman when a
29 fetal heartbeat has been detected, except in the case of a medical emergency,
30 in the case of rape as defined in section 18-6101, Idaho Code, or in the case
31 of incest as described in section 18-6601, Idaho Code. In the case of rape or
32 incest:

33 (a) If the woman is not a minor or subject to guardianship, then, prior
34 to the performance of the abortion, the woman has reported the act of
35 rape or incest to a law enforcement agency and provided a copy of such
36 report to the physician who is to perform the abortion; or

37 (b) If the woman is a minor or subject to guardianship, then, prior to
38 the performance of the abortion, the woman or her parent or guardian has
39 reported the act of rape or incest to a law enforcement agency or child
40 protective services and a copy of such report have been provided to the
41 physician who is to perform the abortion.

42 (2) Nothing in this section recognizes a right to abortion before a fe-
43 tal heartbeat is detected.

44 SECTION 3. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2024.