

SS HCS HB 213 -- LATE-TERM ABORTIONS

This bill revises the definition of "abortion" to mean the act of using or prescribing an instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in the mother's womb. Except in the case of a medical emergency, no abortion of a viable, unborn child can be performed or induced unless the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, illness, or injury or when the continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. "Viable" means the stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

Except in the case of a medical emergency, a physician must, prior to performing or inducing an abortion, determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. If a physician determines that the gestational age of the unborn child is 20 weeks or more, he or she must, prior to performing or inducing an abortion, determine if the unborn child is viable by medically determining the gestational age, weight, and lung maturity of the unborn child and enter that information in the woman's medical record. If a physician determines the gestational age of the unborn child is 20 weeks or more and the unborn child is not viable and an abortion is performed or induced, the physician must report these findings and determinations and the reasons for the determinations to the health care facility in which the abortion is performed and to the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration. The physician must also enter the determinations in the woman's medical records and in the individual abortion report submitted to the Department of Health and Senior Services.

If a physician determines that the unborn child is viable, the physician cannot perform or induce an abortion except in the case of a medical emergency. A physician must certify in writing the medical threat posed to the life of the pregnant woman or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman before the physician can proceed with performing or inducing an abortion on a woman when it has been determined that the unborn child is viable. Before a physician may perform or induce an abortion on a woman carrying an unborn child that has been determined to be viable, he or she must:

(1) Obtain the agreement of a second physician who has knowledge of accepted obstetrical and neonatal practices and standards and concurs that the abortion is necessary to preserve the life of the pregnant woman or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. The second physician must also report the reasons and determinations to the health care facility and the board and enter that information in the woman's medical record and the individual report to the Department of Health and Senior Services. The second physician cannot have any legal or financial affiliation or relationship with the physician performing or inducing the abortion; however, this will not apply to a physician whose affiliation or relationship is the result of being employed by or having staff privileges at the same hospital;

(2) Use the available method or technique of abortion that is most likely to preserve the life or health of the unborn child;

(3) Certify in writing the available methods considered and the reasons for choosing the method used; and

(4) Have in attendance at the abortion a second physician who is responsible for taking control of and providing immediate medical care for a child born as a result of the abortion.

Any person who knowingly performs or induces an abortion of an unborn child in violation of these provisions will be guilty of a class C felony and subject to imprisonment for not less than one year and a fine of between \$10,000 and \$50,000. Any physician licensed in this state who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of these provisions can have his or her license suspended or revoked by the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration. Any licensed hospital or ambulatory surgical center that knowingly allows an abortion to be performed or induced in violation of these provisions can be subject to the suspension or revocation of its license.

The provisions of the bill are intended by the state legislature to be severable in regards to validity for purposes of upholding the state and federal constitutions. The General Assembly may appoint, by concurrent resolution, one or more sponsoring members of the bill to intervene if the provisions of the bill are constitutionally challenged.