

1.1 Senator moves to amend S.F. No. 1 as follows:

1.2 Page 2, after line 4, insert:

1.3 "Sec. 2. [145.418] PROTECTION OF UNBORN CHILD DURING THE THIRD
1.4 TRIMESTER.

1.5 Subdivision 1. Definitions. (a) The terms defined in this subdivision apply to this section
1.6 and to sections 145.4181 and 145.4182.

1.7 (b) "Abortion" has the meaning given in section 145.411, subdivision 5.

1.8 (c) "Medical emergency" means a condition that, in reasonable medical judgment, so
1.9 complicates the medical condition of the pregnant woman as to necessitate the immediate
1.10 abortion of her pregnancy to avert her death or for which a delay will create serious risk of
1.11 substantial and irreversible physical impairment of a major bodily function, not including
1.12 psychological or emotional conditions. A condition is not a medical emergency if it is based
1.13 on a claim, diagnosis, or determination that the woman may engage in conduct which she
1.14 intends to result in her death or in the substantial and irreversible physical impairment of a
1.15 major bodily function.

1.16 (d) "Third trimester" means the stage of pregnancy that begins at the end of the 26th
1.17 week from the beginning of the pregnant woman's last menstrual period.

1.18 Subd. 2. Legal protection of unborn child during the third trimester. Notwithstanding
1.19 section 145.409 and except as provided in subdivision 3, a person who knowingly or
1.20 intentionally causes an abortion in the third trimester of pregnancy that results in the death
1.21 of the unborn child commits unlawful abortion and is guilty of a felony punishable by a
1.22 fine of not more than \$20,000, imprisonment for not more than two years, or both.

1.23 Subd. 3. Exceptions. (a) Medical treatment provided to a pregnant woman that results
1.24 in the accidental death of, or unintentional injury to, the unborn child is not a violation of
1.25 subdivision 2.

1.26 (b) Subdivision 2 does not apply to an abortion performed:

1.27 (1) if the pregnancy is the result of conduct that would constitute a violation of section
1.28 609.342, 609.343, 609.344, 609.345, or 609.3451, provided documentation is presented to
1.29 the attending physician that the conduct was reported to law enforcement within the first
1.30 15 weeks of pregnancy; or

2.1 (2) if the pregnancy is the result of conduct that would constitute a violation of section
2.2 609.365, provided documentation is presented to the attending physician that the conduct
2.3 was reported to law enforcement within the first 15 weeks of pregnancy.

2.4 Subd. 4. **Affirmative defense.** (a) It is an affirmative defense to a violation of this section
2.5 if a person proves, by a preponderance of the evidence, each of the following:

2.6 (1) the physician performing the abortion determined, based on reasonable medical
2.7 judgment, that the abortion was necessary to prevent the death of the pregnant woman. This
2.8 clause does not apply to a claim or diagnosis that the pregnant woman will engage in conduct
2.9 that would result in her death;

2.10 (2) the physician performing the abortion, based on reasonable medical judgment,
2.11 performed the abortion in the manner that provided the best opportunity for the unborn child
2.12 to survive, unless the physician determined that performing the abortion in that manner
2.13 poses a greater risk of death of the pregnant woman or of substantial and irreversible
2.14 impairment of a major bodily function of the pregnant woman; and

2.15 (3) the physician performing the abortion arranged for the attendance, in the same room
2.16 in which the abortion was to be performed, of another physician who was to take control
2.17 of, provide immediate medical care for, and take all steps reasonably necessary to preserve
2.18 the life and health of, the unborn child immediately upon the child's expulsion or extraction
2.19 from the pregnant woman.

2.20 (b) A physician who complies with paragraph (a), clauses (1) and (2), may assert an
2.21 affirmative defense without complying with paragraph (a), clause (3), if a medical emergency
2.22 prevents compliance with paragraph (a), clause (3).

2.23 Subd. 5. **Consent.** If a physician did not obtain the consent of a parent or guardian of a
2.24 pregnant minor before performing an abortion because of a medical emergency, the physician
2.25 must notify the pregnant minor's parent or guardian within 24 hours after the abortion and
2.26 must so certify in the pregnant minor's medical record.

2.27 Subd. 6. **Pregnant woman.** A pregnant woman who sought or obtained an unlawful
2.28 abortion shall not be subject to criminal penalties or civil liability for that act under this
2.29 section, section 145.4181, section 145.4182, or any law of this state.

2.30 Subd. 7. **Other law.** A person who causes an unlawful abortion in violation of this
2.31 section shall not also be prosecuted for violating any other law for the same conduct.

3.1 Subd. 8. **Born alive child.** Any unborn child who is born alive shall be treated as a
3.2 person under the law, and a birth certificate shall be issued certifying the child's birth. If
3.3 the child later dies, a death certificate shall be issued.

3.4 Subd. 9. **Not a defense.** In any proceeding to revoke or suspend a physician's license
3.5 under chapter 147, it is not a defense that the physician was not prosecuted for violating
3.6 this section, or that the physician was acquitted for violating this section.

3.7 Sec. 3. ~~[145.4181]~~ **CIVIL ACTION FOR EQUITABLE RELIEF AND DAMAGES.**

3.8 (a) Notwithstanding section 145.409 and except as provided in paragraph (b), the
3.9 following individuals may bring an action against a person who violated section 145.418:

3.10 (1) the attorney general;

3.11 (2) a prosecuting attorney exercising jurisdiction in the county where the unlawful
3.12 abortion was provided;

3.13 (3) the father of the unborn child;

3.14 (4) the maternal and paternal grandparents of the unborn child; and

3.15 (5) a parent or guardian of a pregnant minor.

3.16 (b) A person who impregnated the pregnant woman on whom an unlawful abortion was
3.17 performed may not bring an action under this section if the pregnancy was the result of the
3.18 person's criminal act.

3.19 (c) If a party who brings an action under this section prevails, the party is entitled to:

3.20 (1) injunctive relief to remedy an unlawful abortion activity;

3.21 (2) compensatory damages, including damages for loss of relationship, custody, and
3.22 companionship of the child, and emotional distress from an unlawful abortion activity;

3.23 (3) punitive damages; and

3.24 (4) court costs and reasonable attorney fees.

3.25 (d) A woman who obtained an unlawful abortion shall not be named as a defendant in
3.26 an action brought under this section.

4.1 Sec. 4. [145.4182] CIVIL ACTION FOR WRONGFUL DEATH OF AN UNBORN
4.2 CHILD.

4.3 (a) Notwithstanding section 145.409, a woman who obtained an unlawful abortion may
4.4 bring an action for the wrongful death of her unborn child against the person who engaged
4.5 in unlawful abortion activity, if the unlawful abortion activity was a proximate cause of the
4.6 death of her unborn child.

4.7 (b) Notwithstanding section 145.409 and except as provided in paragraph (e), the
4.8 following individuals may bring an action for the wrongful death of the unborn child against
4.9 the person who engaged in unlawful abortion activity, if the unlawful abortion activity was
4.10 the proximate cause of the unborn child's death:

4.11 (1) the father of the unborn child, if the woman described in paragraph (a) or her estate
4.12 does not bring an action within one year after the unlawful abortion;

4.13 (2) a parent or guardian of a pregnant minor who obtained an unlawful abortion, if the
4.14 pregnant minor obtained an unlawful abortion and the pregnant minor or her estate does
4.15 not bring an action within one year after the unlawful abortion; and

4.16 (3) the estate of the pregnant woman.

4.17 (c) An action for wrongful death of an unborn child is subject to the same defenses and
4.18 requirements of proof, except any requirement of a live birth, as would apply to an action
4.19 for wrongful death of a child who had been born alive.

4.20 (d) In an action for the wrongful death of an unborn child, the person who brings the
4.21 action may recover:

4.22 (1) compensatory damages if the person suffered injury or harm from the person's
4.23 unlawful abortion activity, including, but not limited to, loss of relationship, custody, and
4.24 companionship of the child, and emotional distress;

4.25 (2) punitive damages; and

4.26 (3) court costs and reasonable attorney fees.

4.27 (e) A person who impregnated the pregnant woman on whom an unlawful abortion is
4.28 performed may not bring an action under this section if the pregnancy was the result of the
4.29 person's criminal act."

4.30 Amend the title accordingly