

S.F. No. 70 – Repealing abortion provisions (1st Engrossment)

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Section 1 (13.3805, subdivision 1) (Health data, generally) strikes language referring to health summary data derived from the data collected under section 145.413 (this section is being repealed).

Section 2 (144.222, subd. 1) (Reports of fetal or infant health) refers to another definition of “abortion” (current definition is being repealed) for purposes of reporting fetal deaths.

Section 3 (144.615, subd. 7) repeals language that prohibits an abortion from being performed in a birth center.

Section 4 (145.411, subd. 1) (Terms) makes a conforming change to this subdivision to reflect the repeal of sections 145.415 and 145.416.

Section 5 (145.411, subd. 5) (Abortion) modifies the definition of abortion to refer to “an individual” instead of a “pregnant woman” and includes to the definition “with the intention of terminating” a pregnancy.

Section 6 (145.4235, subd.2) (Eligibility) makes a conforming change to reflect the repeal of section 145.4243.

Section 7 (148.261, subd. 1) (Grounds listed) strikes from the list of grounds for disciplinary action against a licensee by the board of nursing engaging in conduct that is prohibited under section 145.412 (this section is being repealed).

Section 8 (256B.0625, subd. 16) (Abortion services) updates this subdivision to clarify that abortion services are covered under medical assistance if the service is determined to be medically necessary by the treating provider and delivered in accordance with all applicable Minnesota laws.

Section 9 (256B.692, subd. 2) (County-based purchasing, duties of the commissioner of health) strikes section 62Q.145 from the sections that a county-based purchasing plan must meet (section 62Q.145 is being repealed).

Section 10 (256L.03, subd. 1) repeals language that prohibits public funding to be used for coverage of abortions under MinnesotaCare unless certain circumstances are met.

Section 11 (518A.39) (Modification) makes a conforming change due to the repeal of section 256B.40.

Section 12 (609.269) (Exception) makes a conforming change due to the repeal of section 145.412.

Section 13 (617.22) (Concealing birth) modifies this section to clarify that concealing a birth of a child by any disposition of its dead body when the child died after its birth is guilty of a misdemeanor and does not apply to the disposition of remains resulting from an abortion or miscarriage.

Section 14 (617.26) (Mailing and carrying obscene matter) makes a conforming change due to the repeal of section 617.201.

Section 15 repeals the following sections:

62Q.145 (Abortion and scope of practice). States that health plan policies related to scope of practice for allied independent providers, mid-level practitioners, and other non-physician health care professionals must comply with the requirements of section 145.412, subd. 1, which is being repealed.

144.343, subs. 2, 3, 4, 5, 6, and 7 (Two parent notification and judiciary bypass requirement). The prohibition of performing an abortion involving an unemancipated minor or a woman for whom a guardian has been appointed based on a finding of incapacity until 48 hours after written notice of the pending abortion has been provided to both parents, or a judge has determined that the best interests of the woman would be served and has authorized the performance of the abortion.

145.1621 (Disposition of aborted or miscarried fetuses). The requirement that the remains of a human fetus resulting from an abortion or miscarriage at a hospital, clinic, or medical facility must be deposited or disposed of by cremation, interment by burial, or by a manner directed by the commissioner of health.

145.411, subs. 2 and 4 (Regulation of abortions; definitions). Definitions for “viable” and “abortion facility”.

145.412, subd. 1 (Requirement). The requirements that an abortion must be performed by a licensed physician; that it must be performed in a hospital after the first trimester; must be performed in a manner consistent with the lawful rules promulgated by the commissioner of health; and must be performed with the informed consent of the woman after a full explanation of the procedure and effect of the abortion.

145.412, subd. 2 (Unconsciousness; lifesaving). An abortion may not be performed upon a woman who is unconscious except if rendered unconscious to perform the abortion or to save her life.

145.412, subd. 3 (Viability). The prohibition on performing an abortion if the fetus is potentially viable unless performed in a hospital; the attending physician certifies in writing that in the physician’s medical judgment the abortion is necessary to preserve the life or

health of the pregnant woman; and the abortion is performed under circumstances that will reasonably assure a live birth and survival of the fetus.

145.412, subd. 4 (Penalty). The criminal penalty for violating this section.

145.413, subd. 2 (Death of a woman). The requirement that if any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that this fact must be reported to the commissioner of health.

145.413, subd. 3 (Penalty). The criminal penalty for violating this section.

145.4131 (Recording and reporting abortion data). The requirement that the commissioner of health develop a reporting form for the use of physicians or facilities performing abortions; the requirement that a physician or facility complete and submit the form to the commissioner of health for abortions performed in the previous calendar year; and that this requirement does not preclude voluntary or required submissions of other reports or forms regarding abortions.

145.4132 (Recording and reporting abortion complication data). The requirement that the commissioner of health develop an abortion complication reporting form and the requirement that the Board of Medical Practice ensures that this form is distributed to all physicians licensed to practice in the state; that any physician licensed in the state who encounters an illness or injury that is related to an induced abortion or the facility where the illness or injury is encountered complete and submit this form to the commissioner of health; that this form be submitted as soon as practicable; and that this requirement does not preclude the voluntary or required submission of other reports regarding abortion complications.

145.4133 (Reporting out-of-state abortions). The requirement that the commissioner of human services report to the commissioner of health information regarding abortions paid with state funds and performed out of state in the previous calendar year.

145.4134 (Commissioner's public report). The requirement that the commissioner of health issue a public report providing statistics for the previous calendar year compiled from the data reported.

145.4135 (Enforcement; penalties). The penalties and enforcement regarding failure to submit the required data under sections 145.4131 to 145.4133, and sections 145.4241 to 145.4249.

145.4136 (Severability). The severability provision for sections 145.4131 to 145.4135.

145.415 (Live fetus after abortion, treatment). The recognition of a potentially viable fetus which is live born following an attempted abortion as a human person. Requires medical personnel to take all reasonable measures to preserve the life and health of the live born person. Specifies the status of the child.

145.416 (Licensing and regulation of facilities). The requirement that the commissioner of health license abortion facilities.

145.423 (Abortion; live births). The recognition that a born alive infant as a result of an abortion is a human person and accorded immediate protection under the law. Requires that when an abortion is performed after the 20th week a physician other than the physician performing the abortion be immediately accessible to take all reasonable measures consistent with good medical practice to preserve the life and health of any born alive infant. Specifies how the body of a born alive infant's body must be disposed of if it dies after birth. Defines born alive infant. Describes the civil and disciplinary actions that may be taken. Specifies the protection of privacy in court proceedings. Specifies the status of a born alive infant if one or both parents do not accept parental responsibility of the born alive infant. Contains a severability clause and a title to this section.

145.4241 (Definitions, Woman's Right to Know Act). Definitions for abortion, attempt to perform an abortion, fetal anomaly incompatible with life, medical emergency, perinatal hospice, physician, probable gestational age of the unborn child, stable Internet website, and unborn child for the woman's right to know act. (which is being repealed)

145.4242 (Informed consent; Woman's Right to Know Act). The requirement that no abortion be performed without the voluntary and informed consent of the female except in the case of a medical emergency or if the fetus has an anomaly incompatible with life and the female has declined perinatal hospice care. Also states the specifications that must be met to constitute a voluntary and informed consent.

145.4243 (Printed information; Woman's Right to Know Act). The requirement that the commissioner of health make available materials that inform the female of public and private agencies and social services available to assist a female through pregnancy, upon childbirth, and while the child is dependent; materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two week gestational increments; and materials containing information concerning an unborn child of 20 weeks gestational age at two weeks gestational increments including the development of the nervous system, fetal responsiveness to adverse stimuli and the impact on fetal organic pain for each of the methods of abortion procedures commonly employed at this stage of pregnancy.

145.4244 (Internet website; Woman's Right to Know Act). The requirement that the commissioner of health develop and maintain a stable Internet website to provide the printed information required under section 145.4243, which is being repealed.

145.4245 (Procedure in case of medical emergency; Woman's Right to Know Act). In a medical emergency that compels the performance of an abortion, the physician must inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay will create a serious risk of substantial and irreversible impairment of a major bodily function. (24-hour delay is being repealed).

145.4246 (Reporting requirements, Woman's Right to Know Act). The requirement that the commissioner of health prepare a reporting form for physicians on their compliance with the women's right to know act (most of which is being repealed in Article 1) including the number of females to whom the physician provided the information described in section 145.4242, clause (1), which is being repealed in Article 1; the number of females to whom the physician provided the information described in section 145.4242, clause (2), which is

being repealed in Article 1; the number of females who availed themselves of the opportunity to obtain a copy of the printed information described in section 145.4243; and the number of abortions performed by the physician in which information otherwise required to be provided at least 24 hours before was not provided because an immediate abortion was necessary.

145.4247 (Remedies, Woman’s Right to Know Act). Remedies for when an abortion was performed without complying with the woman’s right to know act.

145.4248 (Severability, Woman’s Right to Know Act). Severability clause for the woman’s right to know act, sections 145.4241 to 145.4249.

145.4249 (Supreme court jurisdiction, Woman’s Right to Know Act). Gives the Minnesota supreme Court original jurisdiction over an action challenging the constitutionality of the Woman’s right to know act, sections 145.4241 to 145.4249.

145.925, subs. 2 and 4 (Family planning grants). Limits grants from going to any nonprofit corporation that performs abortions and requires a grantee to notify a minor’s parents if the grantee advice includes an abortion or sterilization.

256B.011 (Policy for childbirth and abortion funding). The declaration within the medical assistance chapter that it is the policy of the state that between childbirth and abortion, normal childbirth is to be given preference and support by law and state action.

256B.40 (Subsidy for abortion prohibited). The provision prohibiting the state, or any agency, county, municipality, or any other subdivision thereof from authorizing the use of or paying any person or entity using state or federal funds for or in connection with any abortion that is not eligible for funding under section 256B.02 subd. 8, or section 256B.0625.

261.28 (Subsidy of abortion prohibited). The provision prohibiting the authorization for or use of state funds or funds of any subdivision thereof administered under chapter 261 in connection with any abortion that is not eligible for funding under sections 256B.02, subd. 8 and 256B.0625.

393.07, subd. 11 (Abortion services; policy and powers). Prohibits any local social services agencies from providing any medical assistance grant or reimbursement for any abortion that is not eligible for funding under sections 256B.02, subd. 8 and 256B.0625.

609.293, subs. 1 and 5 (Sodomy). The definition of sodomy and the criminal penalty involving the voluntary act of sodomy that does not fall within criminal sexual conduct in the first degree or the third degree.

609.34 (Fornication). The criminal penalty involving fornication between “any man and a single woman”.

609.36 (Adultery). The criminal penalty for acts constituting adultery or “when a married woman has sexual intercourse with a man other than her husband, whether married or not”.

617.20 (Drugs to produce miscarriage). The criminal penalty for manufacturing, giving, or selling an instrument, drug, or medicine, or any other substance, with the intent that it may be unlawfully used in producing a miscarriage.

617.201 (Indecent articles and information). The criminal penalty involving the selling, lending, or giving away any instrument or article, or any drug or medicine for causing an unlawful abortion or to write or print a card, circular, pamphlet, advertisement or notice of any kind, or give oral information that states when, where, how, or by what means such an article or medicine could be obtained or who manufactures it.

617.202 (Sale of articles relating to prevention of conception or disease). The criminal penalty against selling, offering to sell, distributing or dispensing instruments, articles, drugs, or medicines for the prevention of conception or disease unless the person or organization is recognized as dealing primarily with health or welfare.

617.21 (Evidence). The provision that in any prosecution for abortion or attempting an abortion no person is excused from testifying as a witness on the grounds that the person's testimony may incriminate the person.

617.28 (Certain medical advertisements). The prohibition on advertising the treatment of venereal diseases, the restoration of "lost virility" or that a person is a specialist in diseases of the sex organs, diseases caused by sexual weakness, self-abuse or excessive sexual indulgence or any medicine, drug, or appliance to cure sexual diseases or produce a miscarriage or abortion.

617.29 (Evidence). Establishes that any advertisement material is prima facie evidence that a person is guilty of advertising to cure a disease in violation of section 617.28, which is being repealed.

Minnesota Rules 4615.3600 (Reports to the commissioner of health). Report to the commissioner of health from ambulatory facilities on all pregnancy terminations performed by its staff including all surgery related or anesthesia related complications which result in a morbidity or death.

Minnesota Rules 9505.0235 (Abortion services) defines abortion services and payment limitations for when medical assistance pays for the services (old language that does not reflect how abortion services are currently covered and paid for under medical assistance).