

AMENDMENTS TO LB 462

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 28-101, Revised Statutes Supplement,
4 2000, is amended to read:

5 28-101. Sections 28-101 to 28-1348 and sections 2 to 9
6 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. It is the intent of the Legislature that the
9 University of Nebraska discontinue its use of fetal tissue from
10 abortions for research as soon as an adequate substitute material
11 can be obtained. The University of Nebraska shall report to the
12 Legislature prior to January 1 of each year its progress in finding
13 an adequate substitute material for as long as fetal tissue
14 continues to be used.

15 Sec. 3. For purposes of sections 2 to 9 of this act:

16 (1) Abortion has the same meaning as in section 28-326;

17 (2)(a) Consideration means:

18 (i) Any payment made or debt incurred;

19 (ii) Any gift, honorarium, or recognition of value
20 bestowed;

21 (iii) Any price, charge, or fee which is waived,
22 forgiven, reduced, or indefinitely delayed;

23 (iv) Any loan or debt which is canceled or otherwise
24 forgiven; or

1 (v) The transfer of any item from one person to another
2 or provision of any service or granting of any opportunity for
3 which a charge is customarily made, without charge or for a reduced
4 charge.

5 (b) Consideration does not mean:

6 (i) A payment in an amount not exceeding fifty dollars
7 for the cost of transporting, processing, preserving, and storing
8 fetal tissue; or

9 (ii) A payment in an amount not to exceed the actual
10 cost, as documented by the delivery service, of transporting fetal
11 tissue.

12 (3) Delivery service means a motor carrier as defined in
13 section 75-302 or any other person or entity used to transport
14 fetal tissue;

15 (4) Fetal tissue means any tissue, cells, or organs
16 obtained from a dead human embryo or fetus after an abortion; and

17 (5) Person has the same meaning as in section 49-801.

18 Sec. 4. Except as specifically provided in sections 2 to
19 9 of this act, nothing in such sections shall be construed as
20 either permitting or prohibiting the use of fetal tissue for any
21 type of scientific, research, laboratory, or other kind of
22 experimentation, either prior to or subsequent to any abortion.

23 Sec. 5. This act does not apply to:

24 (1) The transfer of fetal tissue to a pathologist for
25 testing or examination; or

26 (2) The transfer of fetal tissue for the purpose of
27 immediate burial, cremation, or final disposition.

1 Sec. 6. (1) No person shall solicit, offer, knowingly
2 acquire, accept, or transfer any fetal tissue for consideration.

3 (2) No person shall solicit, offer, knowingly acquire,
4 accept, or transfer any fetal tissue for the purpose of
5 transplantation of such tissue into another person if:

6 (a) The fetal tissue will be or is obtained pursuant to
7 an abortion; and

8 (b)(i) The donation of such fetal tissue will be or is
9 made pursuant to a promise to the donating individual that the
10 donated tissue will be transplanted into a recipient specified by
11 such donating individual;

12 (ii) Such fetal tissue will be transplanted into a
13 relative of the donating individual; or

14 (iii) The person who solicits or knowingly acquires or
15 accepts the donation of such fetal tissue has provided
16 consideration for the costs associated with such abortion.

17 (3) Any person who intentionally, knowingly, or
18 recklessly violates this section is guilty of a Class IV felony.

19 Sec. 7. (1) Every person who transfers fetal tissue to
20 another person shall submit annually a written report to the
21 Director of Health and Human Services which contains the following:

22 (a) The date of transfer;

23 (b) A description of the fetal tissue;

24 (c) The name and address of the transferor and the
25 transferee;

26 (d) The amount of consideration received by the
27 transferor for making the transfer;

1 (e) The mode of transfer or shipment; and

2 (f) The name of the delivery service.

3 (2) The identity of the woman donating the fetal tissue
4 shall be confidential and shall not be included in the report
5 required by this section.

6 (3) No person shall ship fetal tissue without disclosing
7 to the delivery service that human tissue is contained in such
8 shipment.

9 (4) Except as provided in this section, information
10 obtained by the director under this section is confidential and
11 shall not be disclosed in any manner that would reveal the identity
12 of any person who submits a report to the director under this
13 section. Such information, including information identifying any
14 person submitting a report hereunder, may be disclosed to the
15 Attorney General upon a showing that a reasonable cause exists to
16 believe that a violation of sections 2 to 9 of this act has
17 occurred. Any information disclosed to the Attorney General
18 pursuant to this subsection shall be used solely for the purposes
19 of a criminal prosecution.

20 (5) For purposes of maintaining confidentiality, a report
21 required by this section shall identify the name and address of the
22 person submitting such report only by confidential code number
23 assigned by the director to such person, and the Department of
24 Health and Human Services shall maintain the reports only by
25 confidential code number.

26 (6) Any person who intentionally, knowingly, or
27 recklessly violates this section is guilty of a Class I

1 misdemeanor.

2 Sec. 8. (1) No person shall offer any monetary or other
3 inducement to any other person for the purpose of procuring an
4 abortion for the medical, scientific, experimental, or therapeutic
5 use of fetal organs or tissue.

6 (2) No person shall offer or accept any valuable
7 consideration for the fetal organs or tissue resulting from an
8 abortion. However, nothing in this subsection prohibits payment
9 for burial or other final disposition of the fetal remains or
10 payment for a pathological examination, autopsy, or postmortem
11 examination of the fetal remains.

12 (3) Any person who intentionally, knowingly, or
13 recklessly violates this section is guilty of a Class I
14 misdemeanor.

15 Sec. 9. (1) No person shall use fetal organs or tissue
16 for medical, scientific, experimental, or therapeutic use without
17 the voluntary and informed consent of the woman donating such
18 tissue. Such consent shall not be discussed or obtained prior to
19 obtaining the consent for an abortion required under section
20 28-327.

21 (2) Any person who intentionally, knowingly, or
22 recklessly violates this section is guilty of a Class I
23 misdemeanor.

24 Sec. 10. If any section in this act or any part of any
25 section is declared invalid or unconstitutional, the declaration
26 shall not affect the validity or constitutionality of the remaining
27 portions.

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- 1 Sec. 11. This act becomes operative on January 1, 2002.
- 2 Sec. 12. Original section 28-101, Revised Statutes
- 3 Supplement, 2000, is repealed.".