



One Hundred First Legislature - Second Session - 2010
Introducer's Statement of Intent
LB 1103

Chairperson: Brad Ashford
Committee: Judiciary
Date of Hearing: February 25, 2010

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1103 would adopt the "Abortion Pain Prevention Act" ("the Act"), a summary of which is provided below.

The Act first provides, in Section 2, definitions for the following terms: (1) "abortion," (2) "attempt to perform or induce an abortion," (3) "gestational age," (4) "fertilization," (5) "medical emergency," (6) "reasonable medical judgment," (7) "physician," (8) "probable gestational age," (9) "unborn child" or "fetus," and (10) "woman."

Proposed legislative findings are contained in Section 3. There are findings concerning fetal development and ability to experience pain, abortion methods used at and after 20 weeks, anesthesia, and the state's interest in reducing or preventing actions that inflict pain.

After supplying definitions and findings, the bill states a requirement that, except in a case of medical emergency, no abortion shall be performed unless a physician has made a determination of probable gestational age of the unborn child. The Act then provides a general prohibition on abortions performed when the probable gestational age of the unborn child is 20 or more weeks, unless, "in reasonable medical judgment," the woman is experiencing a medical emergency.

Also included in the Act are certain physician reporting requirements and penalties for violations of the Act (Sections 6 and 7 respectively). No penalty shall be assessed against the woman upon whom the abortion is performed or attempted to be performed.

Section 8 provides that (1) any woman upon whom an abortion has been performed in violation of the Act, (2) the father of the unborn child who was the subject of such abortion, or (3) the grandparent of such an unborn child may maintain an action against the person who performed the abortion in knowing or reckless violation of the Act for actual damages. Section 8 also provides a cause of action for attempted violations of the Act as well as injunctive relief. In addition, this section addresses attorney's fees.

Section 9 pertains to the preservation of the anonymity of any woman upon whom an abortion has been performed or attempted in civil or criminal proceedings brought under the Act.

Finally, Section 10 provides for severability if any part of the Act is found to be unconstitutional.

Principal Introducer:

_____ **Senator Mike Flood**