

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 933**

Introduced by Albrecht, 17; Flood, 19.

Read first time January 10, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to abortion; to amend sections 28-101 and  
2 38-2021, Revised Statutes Cumulative Supplement, 2020; to adopt the  
3 Nebraska Human Life Protection Act; to provide a penalty; to provide  
4 for severability of provisions as prescribed; to redefine  
5 unprofessional conduct; to harmonize provisions; and to repeal the  
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and  
4 sections 2 to 9 of this act shall be known and may be cited as the  
5 Nebraska Criminal Code.

6 Sec. 2. Sections 2 to 9 of this act shall be known and may be cited  
7 as the Nebraska Human Life Protection Act.

8 Sec. 3. For purposes of the Nebraska Human Life Protection Act,  
9 unborn child means an individual living member of the species homo  
10 sapiens, throughout the embryonic and fetal stages of development from  
11 fertilization to full gestation and childbirth.

12 Sec. 4. (1) Notwithstanding any other provision of law, it shall be  
13 unlawful for any person to administer, prescribe, sell, or otherwise  
14 provide any medicine, drug, or other substance with the specific intent  
15 of causing or abetting the termination of the life of an unborn child.

16 (2) Notwithstanding any other provision of law, it shall be unlawful  
17 for any person to use or employ any instrument or procedure upon a  
18 pregnant woman with the specific intent of causing or abetting the  
19 termination of the life of an unborn child.

20 (3) The intentional and knowing violation of subsection (1) or (2)  
21 of this section is a Class IIA felony.

22 (4) No woman upon whom an abortion is performed or attempted shall  
23 be liable for a violation of this section.

24 Sec. 5. Nothing in the Nebraska Human Life Protection Act may be  
25 construed to prohibit the administration, prescription, or sale of a  
26 contraceptive measure, drug, or chemical if the contraceptive measure,  
27 drug, or chemical is administered, prescribed, or sold in accordance with  
28 manufacturer's instructions and is not administered, prescribed, or sold  
29 to cause or abet the termination of the life of an unborn child.

30 Sec. 6. Medical treatment provided to a pregnant mother by a  
31 licensed physician which results in accidental or unintentional injury or

1 death to her unborn child shall not be a violation of section 4 of this  
2 act.

3       Sec. 7. In any prosecution of a licensed physician under section 4  
4 of this act, it shall be an affirmative defense that it was necessary in  
5 reasonable medical judgment for the physician to perform the medical  
6 procedure to prevent the death of the pregnant woman, to prevent a  
7 substantial risk of death to the pregnant woman because of a physical  
8 condition, or to prevent the serious, permanent impairment of a life-  
9 sustaining organ of the pregnant woman, and that the physician who  
10 performed such medical procedure made every reasonable effort under the  
11 circumstances to preserve both the life of the mother and the life of the  
12 unborn child in a manner consistent with reasonable medical practice.

13       Sec. 8. The Nebraska Human Life Protection Act shall become  
14 operative only upon the occurrence of one or more of the following  
15 events:

16       (1) The United States Supreme Court overrules, in whole or in part,  
17 Roe v. Wade, 410 U.S. 113 (1973), restoring or granting to the State of  
18 Nebraska the authority to regulate abortion to the extent set forth in  
19 the act;

20       (2) An amendment to the Constitution of the United States has been  
21 adopted that has the effect of restoring or granting to the State of  
22 Nebraska the authority to regulate abortion to the extent set forth in  
23 the act; or

24       (3) The United States Congress has enacted a law that has the effect  
25 of restoring or granting to the State of Nebraska the authority to  
26 regulate abortion to the extent set forth in the act.

27       Sec. 9. If any section, any part of any section, or any application  
28 of any section or part of any section of the Nebraska Human Life  
29 Protection Act to any person or circumstance is declared invalid or  
30 unconstitutional, the remaining portions of the act and the application  
31 of the act to any person or circumstance shall not be affected.

1           Sec. 10. Section 38-2021, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           38-2021 Unprofessional conduct means any departure from or failure  
4 to conform to the standards of acceptable and prevailing practice of  
5 medicine and surgery or the ethics of the profession, regardless of  
6 whether a person, patient, or entity is injured, or conduct that is  
7 likely to deceive or defraud the public or is detrimental to the public  
8 interest, including, but not limited to:

9           (1) Performance by a physician of an abortion as defined in  
10 subdivision (1) of section 28-326 under circumstances when he or she will  
11 not be available for a period of at least forty-eight hours for  
12 postoperative care unless such postoperative care is delegated to and  
13 accepted by another physician;

14           (2) Performing an abortion upon a minor without having satisfied the  
15 requirements of sections 71-6901 to 71-6911;

16           (3) The intentional and knowing performance of a partial-birth  
17 abortion as defined in subdivision (8) of section 28-326, unless such  
18 procedure is necessary to save the life of the mother whose life is  
19 endangered by a physical disorder, physical illness, or physical injury,  
20 including a life-endangering physical condition caused by or arising from  
21 the pregnancy itself;~~and~~

22           (4) Performance by a physician of an abortion in violation of the  
23 Pain-Capable Unborn Child Protection Act; and -

24           (5) Performance of an abortion in violation of the Nebraska Human  
25 Life Protection Act.

26           Sec. 11. Original sections 28-101 and 38-2021, Revised Statutes  
27 Cumulative Supplement, 2020, are repealed.