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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3900

03/03/2022 Authored by Scott, Poston, Neu Brindley, Daniels, Kiel and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to public health; defining certain terms; providing for certain penalties
1.3 and remedies; permitting certain persons to maintain an action; providing for
1.4 injunctive relief; authorizing the provision of attorney fees in certain circumstances;
1.5 prohibiting certain persons to be the subject of specified actions; providing for
1.6 anonymity of specified party; providing for severability; proposing coding for new
1.7 law in Minnesota Statutes, chapter 145.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. [145.418] REGULATION OF ABORTIONS INDUCED BY A DRUG OR
1.10 CHEMICAL.

1.11 Subdivision 1. Definitions. (a) For purposes of this section the following terms have
1.12 the meanings given.

1.13 (b) "Abortion" means the use or prescription of any instrument, medicine, drug, or any
1.14 other substance or device to:

1.15 (1) intentionally kill the unborn child of a woman known to be pregnant; or

1.16 (2) intentionally terminate the pregnancy of a woman known to be pregnant, with an
1.17 intention other than:

1.18 (i) after viability to produce a live birth and preserve the life and health of the child born
1.19 alive; or

1.20 (ii) to remove a dead unborn child.

1.21 (c) "Attempt to perform or induce an abortion" means an act, or an omission of a
1.22 statutorily required act, that, under the circumstances as the actor believes them to be,

2.1 constitutes a substantial step in a course of conduct planned to culminate in the performance  
2.2 or induction of an abortion in violation of this section.

2.3 (d) "Physician" means a doctor of medicine or osteopathic medicine licensed to practice  
2.4 in this state under chapter 147.

2.5 Subd. 2. **Requirements.** (a) When RU-486 (mifepristone) or any drug or chemical is  
2.6 used for the purpose of inducing an abortion, the drug or chemical must be administered in  
2.7 the same room and in the physical presence of the physician who prescribed, dispensed, or  
2.8 otherwise provided the drug or chemical to the patient.

2.9 (b) The physician inducing the abortion, or a person acting on behalf of the physician  
2.10 inducing the abortion, shall make all reasonable efforts to ensure that the patient returns 12  
2.11 to 18 days after the administration or use of RU-486 (mifepristone) or any drug or chemical  
2.12 for a follow-up visit so that the physician can confirm that the pregnancy has been terminated  
2.13 and assess the patient's medical condition. A brief description of the efforts made to comply  
2.14 with this paragraph, including the date, time, and identification by name of the person  
2.15 making such efforts, shall be included in the patient's medical record.

2.16 Subd. 3. **Criminal penalties.** (a) Any person who knowingly or recklessly performs or  
2.17 attempts to perform an abortion in violation of this section shall be guilty of a felony.

2.18 (b) No penalty shall be assessed against the female upon whom the abortion is performed  
2.19 or attempted to be performed.

2.20 Subd. 4. **Civil penalties.** (a) Any female upon whom an abortion has been performed,  
2.21 the father of the unborn child who was the subject of the abortion if the father was married  
2.22 to the woman who received the abortion at the time the abortion was performed, or a maternal  
2.23 grandparent of the unborn child, may maintain an action against the person who performed  
2.24 the abortion in knowing or reckless violation of this section for actual and punitive damages.  
2.25 Any female upon whom an abortion has been attempted in knowing or reckless violation  
2.26 of this section may maintain an action against the person who attempted to perform the  
2.27 abortion for actual and punitive damages.

2.28 (b) A cause of action for injunctive relief against any person who has knowingly or  
2.29 recklessly violated this section may be maintained by the woman upon whom an abortion  
2.30 was performed or attempted to be performed in violation of this section; by any person who  
2.31 is the spouse, parent, sibling, or guardian of, or a current or former licensed health care  
2.32 provider of, the woman upon whom an abortion has been performed or attempted to be  
2.33 performed in violation of this section; by a county attorney with appropriate jurisdiction;  
2.34 or by the Attorney General. The injunction shall prevent the abortion provider from

3.1 performing further abortions in violation of this section in this state. A cause of action may  
3.2 not be maintained by a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

3.3 (c) No pregnant female who obtains or possesses RU-486 (mifepristone) or any drug or  
3.4 chemical for the purpose of inducing an abortion to terminate her own pregnancy shall be  
3.5 subject to any action brought under this subdivision.

3.6 Subd. 5. **Attorney fees.** If a judgment is rendered in favor of the plaintiff in any action  
3.7 described in subdivision 4, the court shall also render judgment for a reasonable attorney  
3.8 fee in favor of the plaintiff against the defendant. If a judgment is rendered in favor of the  
3.9 defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith,  
3.10 the court shall also render judgment for a reasonable attorney fee in favor of the defendant  
3.11 against the plaintiff.

3.12 Subd. 6. **Protection of privacy.** (a) In every civil or criminal proceeding or action  
3.13 brought under this section, the court shall rule whether the anonymity of any female upon  
3.14 whom an abortion has been performed or attempted shall be preserved from public disclosure  
3.15 if she does not give her consent to such disclosure. The court, upon motion or sua sponte,  
3.16 shall make such a ruling and, upon determining that her anonymity should be preserved,  
3.17 shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the  
3.18 record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary  
3.19 to safeguard her identity from public disclosure. Each such order shall be accompanied by  
3.20 specific written findings explaining why the anonymity of the female should be preserved  
3.21 from public disclosure, why the order is essential to that end, how the order is narrowly  
3.22 tailored to serve that interest, and why no reasonable less restrictive alternative exists.

3.23 (b) In the absence of written consent of the female upon whom an abortion has been  
3.24 performed or attempted, anyone, other than a public official, who brings an action under  
3.25 subdivision 4 shall do so under a pseudonym. Nothing in this subdivision shall not be  
3.26 construed to conceal the identity of the plaintiff or of witnesses for the defendant.

3.27 Subd. 7. **Severability.** If any one or more provision, section, subdivision, sentence,  
3.28 clause, phrase, or word of this section or the application thereof to any person or circumstance  
3.29 is found to be unconstitutional, the same is hereby declared to be severable and the balance  
3.30 of this section shall remain effective notwithstanding such unconstitutionality. The legislature  
3.31 hereby declares that it would have passed this section, and each provision, subdivision,  
3.32 sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more  
3.33 provision, subdivision, sentence, clause, phrase, or word be declared unconstitutional.