

LEGISLATIVE BILL 663

Approved by the Governor February 21, 1986

Introduced by Labedz, 5; Higgins, 9; Schmit, 23;
L. Johnson, 15; Hefner, 19; Hall, 7;
Lynch, 13; Pirsch, 10; Remmers, 1;
Sieck, 24; Rogers, 41; Beyer, 3; Hartnett,
45; Peterson, 21; Chronister, 18; Rupp, 22;
Chizek, 31; Carsten, 2; Barrett, 39; Lamb,
43; Goodrich, 20; Conway, 17; Pappas, 42

AN ACT relating to crimes and punishments; to amend section 28-326, Revised Statutes Supplement, 1984; to redefine a term relating to abortions; and to repeal the original section. Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-326, Revised Statutes Supplement, 1984, be amended to read as follows:

28-326. As used in sections 28-325 to 28-345, unless the context otherwise requires:

(1) Abortion shall mean an act, procedure, device, or prescription administered to a woman known by the person so administering to be pregnant and performed with the intent and result of producing the premature expulsion, removal, or termination of the human life within the womb of the pregnant woman, except that in cases in which the unborn child's viability is threatened by continuation of the pregnancy, early delivery after viability shall not be construed as an abortion for the purposes of sections 28-325 to 28-345;

(2) Hospital shall mean those institutions licensed by the Department of Health pursuant to sections 71-2017 to 71-2029;

(3) Physician shall mean any person licensed to practice medicine in this state as provided in sections 71-102 to 71-110;

(4) Pregnant shall mean that condition of a woman who has unborn human life within her as the result of conception;

(5) Conception shall mean the fecundation of the ovum by the spermatozoa;

(6) Viability shall mean that stage of human development when the unborn child is potentially able to live more than merely momentarily outside the womb of the mother by natural or artificial means;

(7) Emergency situation shall mean a condition exists that in the sound medical judgment of the physician the abortion should be performed without delay so as not to adversely affect the best physical or mental health of the woman;

(8) Informed consent shall mean a written statement, voluntarily entered into by the person upon whom an abortion is to be performed, whereby she specifically consents to such abortion. Such consent shall be deemed to be an informed consent only if it affirmatively appears in the written statement that the person upon whom the abortion is to be performed has been advised (a) of possible alternatives to abortion, including childbirth and adoption, and ~~including~~ that there are agencies and services available to assist her to carry her pregnancy to a natural term, and (b) of the abortion procedures to be used, (c) of the particular risks associated with the abortion procedures to be employed in her case, and (d) that there are agencies and services available for prevention of future unintended pregnancies. The person providing the information specified in subdivision (8) of this section to the person upon whom the abortion is to be performed shall be deemed qualified to so advise and provide such information only if, at a minimum, he or she has had training in each of the following subjects: Sexual and reproductive health, abortion technology, contraceptive technology, short-term counseling skills, community resources and referral, and informed consent. Such statement shall bear the signature of the person upon whom the abortion is to be performed and be signed by the attending physician; and

(9) The word signature includes the mark of a person unable to write her name. A mark shall have the same effect as a signature when the name is written by some other person and the mark is made near thereto by the person unable to write her name.

Sec. 2. That original section 28-326, Revised Statutes Supplement, 1984, is repealed.