

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 361

BY SCOTT

AN ACT

1 RELATING TO ABORTION; PROVIDING LEGISLATIVE INTENT; REPEALING SECTION
2 18-4016, IDAHO CODE, RELATING TO THE DEFINITION OF A HUMAN EMBRYO AND
3 FETUS AND PROHIBITING THE PROSECUTION OF CERTAIN PERSONS; AMENDING
4 CHAPTER 40, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
5 18-4016, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO
6 PROVIDE THAT ABORTION SHALL BE ILLEGAL, TO PROVIDE THAT THE ATTORNEY
7 GENERAL SHALL PERFORM CERTAIN TASKS, TO PROVIDE IMMUNITY FOR CERTAIN
8 PERSONS, TO PROVIDE THAT CERTAIN ACTIONS SHALL NOT BE CONSIDERED ABOR-
9 TION, AND TO PROVIDE THAT CERTAIN CONDUCT AND OFFENSES SHALL NOT BE
10 RETROACTIVE.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
14 protect the Idaho state government and any political subdivision in Idaho
15 from being directed by any federal law or federal court opinion to allow
16 abortions in Idaho. Abortion is contrary to Section 1, Article I, of the
17 Idaho Constitution, which states the inalienable right to life and to secure
18 safety to all men. Allowing abortion in Idaho statute in the manner Idaho
19 presently does is also contrary to Sections 2 and 18, Article I, of the Idaho
20 Constitution, particularly where it is stated that for every person "right
21 and justice shall be administered without sale, denial, delay, or preju-
22 dice." While Idaho criminal law currently treats the killing of a human fetus
23 as unlawful, it unequally applies those homicide statutes by permitting
24 abortions. This act asserts Idaho's authority to establish equal justice
25 and protection for all humans in the jurisdiction of Idaho, including the au-
26 thority of Idaho to nullify contrary federal law and federal court opinions.

27 SECTION 2. That Section [18-4016](#), Idaho Code, be, and the same is hereby
28 repealed.

29 SECTION 3. That Chapter 40, Title 18, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 18-4016, Idaho Code, and to read as follows:

32 18-4016. IDAHO ABORTION HUMAN RIGHTS ACT -- ABORTION PROHIBITION EN-
33 FORCEMENT. (1) This act shall be known and may be cited as the "Idaho Abortion
34 Human Rights Act."

35 (2) For purposes of this section:
36 (a) "Abortion" means the use or prescription of any instrument,
37 medicine, drug, or any other substance or device to intentionally kill
38 an unborn human being.
39 (b) "Conception" means the fertilization of the ovum of a female indi-
40 vidual by the sperm of a male individual.

1 (c) "Unborn human being" means the offspring of human beings from the
2 moment of conception until either live birth or death, including the hu-
3 man conceptus, zygote, morula, blastocyst, embryo, and fetus, whether
4 conceived or located inside or outside the body of a human female.

5 (3) It shall be unlawful for any person to perform, procure, or attempt
6 to perform an abortion.

7 (4) Notwithstanding any other provision of law, the attorney general
8 shall monitor this state's enforcement of this chapter in relation to abor-
9 tion. The attorney general shall direct state agencies to enforce this chap-
10 ter in relation to abortion regardless of any contrary or conflicting fed-
11 eral statutes, regulations, executive orders, or court decisions. All po-
12 litical subdivisions of this state shall enforce this chapter in relation to
13 abortion regardless of any contrary or conflicting federal statutes, regu-
14 lations, executive orders, or court decisions.

15 (5) All prosecuting attorneys shall have the authority to extend immu-
16 nity to a mother when she assists in the investigation or prosecution of any
17 person for conduct relating to the abortion that killed her own unborn human
18 being.

19 (6) Any medical practitioner attempting to save the life of a pregnant
20 patient, which attempt results in the unintended death of an unborn human be-
21 ing, shall not be found guilty of violating the provisions of this chapter.

22 (7) The changes in law made by this act apply only to conduct that occurs
23 on or after the effective date of this act. Conduct that occurs before the
24 effective date of this act is governed by the law in effect immediately be-
25 fore the effective date of this act, and that law is continued in effect for
26 that purpose.

27 (8) The changes in law made by this act apply only to an offense commit-
28 ted on or after the effective date of this act. An offense committed before
29 the effective date of this act is governed by the law in effect when the of-
30 fense was committed, and the former law is continued in effect for that pur-
31 pose. For purposes of this subsection, an offense is committed before the
32 effective date of this act if any element of the offense occurs before the ef-
33 fective date.