LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature Second Regular Session - 2022

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 460

BY SCOTT AND NATE

AN ACT
RELATING TO ABORTION; PROVIDING LEGISLATIVE INTENT; REPEALING SECTION 18-4016, IDAHO CODE, RELATING TO THE DEFINITION OF A HUMAN EMBRYO AND FETUS AND PROHIBITING THE PROSECUTION OF CERTAIN PERSONS; AMENDING CHAPTER 40, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-4016, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE THAT ABORTION SHALL BE ILLEGAL, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL PERFORM CERTAIN TASKS, TO PROVIDE IMMUNITY FOR CERTAIN PERSONS, TO PROVIDE THAT CERTAIN ACTIONS SHALL NOT BE CONSIDERED ABORTION, AND TO PROVIDE THAT CERTAIN CONDUCT AND OFFENSES SHALL NOT BE RETROACTIVE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

SECTION 2. That Section 18-4016, Idaho Code, be, and the same is hereby repealed.

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

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

(2) For purposes of this section:
(a) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill an unborn human being.
(b) "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual.
(c) "Unborn human being" means the offspring of human beings from the moment of conception until either live birth or death, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus, whether conceived or located inside or outside the body of a human female.

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

(4) Notwithstanding any other provision of law, the attorney general shall monitor this state's enforcement of this act in relation to abortion. The attorney general shall direct state agencies to enforce this act in relation to abortion regardless of any contrary or conflicting federal statutes, regulations, executive orders, or court decisions. All political subdivisions of this state shall enforce this act in relation to abortion regardless of any contrary or conflicting federal statutes, regulations, executive orders, or court decisions.

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

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

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

(8) The changes in law made by this act apply only to an offense committed on or after the effective date of this act. An offense committed before the effective date of this act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of this act if any element of the offense occurs before the effective date of this act.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2022.