

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 990

Introduced by Davis, 43.

Read first time January 15, 2016

Committee:

- 1 A BILL FOR AN ACT relating to abortion; to amend section 38-2021, Revised
- 2 Statutes Cumulative Supplement, 2014; to adopt the Fetal Dignity
- 3 Protection Act; to provide for a violation of the act to be
- 4 unprofessional conduct; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Fetal Dignity Protection Act.

3 Sec. 2. For purposes of the Fetal Dignity Protection Act:

4 (1) Human fetal tissue means tissue or cells obtained from a dead
5 human embryo or fetus after a spontaneous or induced abortion or after a
6 stillbirth; and

7 (2) Valuable consideration does not include reasonable payments
8 associated with the transportation, implantation, processing,
9 preservation, quality control, or storage of human fetal tissue.

10 Sec. 3. It shall be unlawful for any person acting within this
11 state to knowingly acquire, receive, or otherwise transfer any human
12 fetal tissue for valuable consideration.

13 Sec. 4. The Director of Children and Family Services of the
14 Division of Children and Family Services of the Department of Health and
15 Human Services shall adopt and promulgate rules and regulations to ensure
16 that all facilities authorized to terminate pregnancies shall dispose of
17 the remains in a manner limited to burial, cremation, or approved
18 hospital-type incineration.

19 Sec. 5. Any person who performs abortions within this state shall
20 file monthly reports as to the treatment of each aborted human fetus. If
21 a corporation or other entity employes, or engages as independent
22 contractors, one or more persons who perform abortions, the corporation
23 or entity shall file a report on behalf of all persons performing
24 abortions while in its employ or with whom it contracts. However, the
25 person performing the abortions shall have an affirmative duty to ensure
26 that the report filed on the person's behalf is true and accurate. The
27 report shall exclude the name and all identifying information as to the
28 woman from whom the fetus was aborted. The Director of Children and
29 Family Services of the Division of Children and Family Services of the
30 Department of Health and Human Services shall create a form for reporting
31 the treatment of each aborted fetus and the report shall be filed with

1 the department and available for public inspection. The director may
2 combine the form for reporting treatment of the aborted fetus with other
3 reporting obligations of persons performing abortions. The department may
4 adopt and promulgate rules and regulations as are necessary and proper to
5 carry out the purposes of the Fetal Dignity Protection Act.

6 Sec. 6. Failure to comply with the Fetal Dignity Protection Act is
7 a violation of the professional standards of any person holding a
8 professional license. The Attorney General may seek in the district court
9 of the county in which the abortions are performed an injunction
10 preventing the further performance of abortions by any person violating
11 the act. The court shall grant such injunction if it finds by a
12 preponderance of the evidence that the person performing the abortions
13 has willfully and materially violated the act. If the person performing
14 abortions did so while in the employ of, or under contract with, a
15 corporation or entity that corporation or entity shall also be named as a
16 party. The injunction shall prevent the further performance of abortions
17 by that corporation or other entity. The court issuing the injunction
18 shall have the power to enforce the injunction by any and all means
19 available in law or equity.

20 Sec. 7. If any provision, word, phrase, or clause of the Fetal
21 Dignity Protection Act or the application thereof to any person or
22 circumstance is held invalid, such invalidity shall not affect the
23 provisions, words, phrases, clauses, or applications of the act which can
24 be given effect without the invalid provision, word, phrase, clause, or
25 application and to this end, the provisions, words, phrases, and clauses
26 of the act are declared to be severable.

27 Sec. 8. Section 38-2021, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 38-2021 Unprofessional conduct means any departure from or failure
30 to conform to the standards of acceptable and prevailing practice of
31 medicine and surgery or the ethics of the profession, regardless of

1 whether a person, patient, or entity is injured, or conduct that is
2 likely to deceive or defraud the public or is detrimental to the public
3 interest, including, but not limited to:

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

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

11 (3) The intentional and knowing performance of a partial-birth
12 abortion as defined in subdivision (7) of section 28-326, unless such
13 procedure is necessary to save the life of the mother whose life is
14 endangered by a physical disorder, physical illness, or physical injury,
15 including a life-endangering physical condition caused by or arising from
16 the pregnancy itself;~~and~~

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

19 (5) Violation by a physician of the Fetal Dignity Protection Act.

20 Sec. 9. Original section 38-2021, Revised Statutes Cumulative
21 Supplement, 2014, is repealed.