

**ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB626**

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**Hearing Date:** Wednesday February 01, 2023  
**Committee On:** Health and Human Services  
**Introducer:** Albrecht  
**One Liner:** Adopt the Nebraska Heartbeat Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

<b>Aye:</b>	4	Senators Ballard, Hansen, B., Hardin, Riepe
<b>Nay:</b>	3	Senators Cavanaugh, M., Day, Walz
<b>Absent:</b>		
<b>Present Not Voting:</b>		

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**Testimony:**

**Proponents:**

Senator Joni Albrecht  
Angela Himmelberg  
Tara Sander Lee  
Elena Kraus  
Ingrid Skop  
Theresa Kenney  
Robert Bonebrake  
Katie Patrick  
Sean Kennedy  
Marion Miner  
Angela Giles  
Nate Grasz  
Cori Mooberry  
Michelle Witt  
Sandy Danek  
Jess Meeth  
Martin A Cannon  
Nicole Shassere  
Julie Sykes  
Jennifer Roush  
Haile Kucera  
Dale Michels  
Danielle Pimentel  
Orrin Petska  
Gary Nelson  
Courtney Miller

**Representing:**

Introducer  
Self  
Charlotte Lozier Institute  
OB-GYN  
Charlotte Lozier Institute  
Self  
Self  
Self  
Nebraska Catholic Conference  
Self  
Nebraska Family Alliance  
Self  
Essential Pregnancy Services  
Nebraska Right to Life  
Democrats for Life of America  
Thomas Moore Society  
Self  
Self  
The SperaVita Institute  
Self  
American Academy of Medical Ethics  
Americans United for Life  
Self  
Self  
Immaculate Heart of Mary Counseling Center

Dawn Liphart	Self
Ben Stangl	Self
Sherry Jones	Self
George Boll	Self
Carol Watson	Self
Lisa McInerny	Sidewalk Advocates for Life
David Zavolsky	Nebraskans Embracing Life
Jennifer Butcher	Self
Melissa Hume	Self
Rick Everhardt	Self
Brandi Burkett	Self
Dan Buhrdorf	Self
Jaehne Moebius Lamm	Self
Jeanne Greisen	Nebraskans For Founders Values
John Sciara	Self
Ward Greisen	Self
Greg Epp	Self
Heidi Gilliland	Self
Seth Brauning	Self
Amy Codr	Self
Sara Louise Peterson	Self
Mike Davis	Nebraska Right to Life
Elizabeth Davids	Self
Kathleen Horsley Self	Self
Isaac Davids	Self
Christina St Hilaire	Self
Mary Doher	Self
Hannah Yohman	Self
Anna Olson	Self
Alex Stephens	Self
Norman Haas	Self
Taylor Hickey	UNL Students for Life
Merlyn Bartels	Self
Kyle Poen	Students for Life Action

**Opponents:**

Megan Wilcox  
 Libby Crockett  
 Emily Patel  
 Mary Kinyoun  
 Christon McTaggart  
 Deyanna Boston  
 Meghan Sheehan  
 Daniel Rosenquist  
 Jennifer Griffin Miller  
 Linda Hardy  
 Julia Keown  
 Jodi Hedrick  
 Meghan Oakes

**Representing:**

Planned Parenthood  
 Self  
 Self  
 Nebraska Section of the American College of OB/GYN  
 Coalition to End Sexual and Domestic Violence  
 Self  
 Self  
 Nebraska Medical Association  
 Nebraska Medicine  
 Nebraska Nurses Association  
 Self  
 Self  
 Self

Rebecca Wells	Self
Abigail Delaney	Self
Janet Price	Self
Brady Kerr	Self
Toni Christensen	Self
Kacie Ware	Self
Macy Walz	Self
Katie Anaiya	Self
Darci O'Neel	Self
Rosemary Thornton	Self
Harper Schupbach	Self
Carol Hinke	Self
Smriti Ganesh	Self
Jennifer Hill	Self
Jennifer Harney	Self
Kerry Rodabaugh	Self
Tyne Tyson	Self
Deann Paulson	Self
Lauren Epling Nelson	Self
Alyssa Rutan	Self
Karen Bell-Darcy	YMCA Lincoln
Stephanie Gustin	Self
Alyson Kavanaugh	Self
Elizabeth Constance	Self
Stephanie Hartman	Self

**Neutral:**

Mindy L Lester  
 Angie Phillips  
 Jeff Spahr  
 Gina Frank  
 Timothy C Melcher  
 Susan L Kirchmann  
 Will Stewart-Starks

**Representing:**

Nebraska Attorney General's Office  
 Nebraska Legislative Study Group  
 End Abortion Now Nebraska  
 Self  
 Self  
 Self  
 Self

\* ADA Accommodation Written Testimony

**Summary of purpose and/or changes:**

**SUMMARY**

LB 626 prohibits a physician from the prescription or performance of abortion if the unborn child has a detectable fetal heartbeat unless a medical emergency exists or the unborn child was the result of sexual assault or incest. Abortion does not include ectopic pregnancy, still birth, miscarriage, accidental termination, intent to save the life of the child, or in vitro fertilization. A physician who violates this act is subject to licensing revocation under the Nebraska Uniform Credentialing Act.

**SECTION BY SECTION SUMMARY:**

Sec. 1: Sections 1 to 6 of this act shall be known and may be cited as the Nebraska Heartbeat Act.

Sec. 2: The Nebraska Heartbeat Act shall only apply to intrauterine pregnancies

Sec. 3: DEFINITIONS:

1. Abortion means the prescription or use of any instrument, device, medicine, drug, or substance to or upon a woman known to be pregnant with the specific intent of terminating the life of her unborn child. Abortion shall under no circumstances be interpreted to include the following:

- i. Removal of ectopic pregnancy;
- ii. Removal of the remains of an unborn child who has already died;
- iii. An act done with the intention to save the life or preserve the health of the unborn child;
- iv. The accidental or unintentional termination of the life of an unborn child; or

v. During the practice of in vitro fertilization or another assisted reproductive technology, the termination or loss of the life of an unborn child who is not being carried inside a woman's body;

2. Fetal heartbeat means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac;

3. Medical emergency means any condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the termination of her pregnancy to avert her death or for which a delay in terminating her pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function;

4. Pregnant means the condition of having a living unborn child inside one's body;

5. Reasonable medical judgment means a medical judgment that could be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

6. Unborn child means an individual living member of the species homo sapiens, throughout the embryonic and fetal stages of development to full gestation and childbirth.

Sec. 4: (1) Any physician, before performing or inducing an abortion, shall first:

(a) Estimate the gestational age of the unborn child;

(b) Perform an ultrasound in accordance with standard medical procedure to determine if a fetal heartbeat is present; and

(c) Record in the pregnant woman's medical record:

(i) The method used to estimate the gestational age of the unborn child;

(ii) The method used to test for a fetal heartbeat; and

(iii) The date, time, and results of such estimate and test.

(2) Notwithstanding any provision of law in conflict with the Nebraska Heartbeat Act, it shall be unlawful for any physician to perform or induce an abortion:

(a) Before fulfilling the requirements of subsection (1) of this section; or

(b) After determining that the unborn child has a detectable fetal heartbeat.

(3) It shall not be a violation of this section for a physician to perform or induce an abortion in the case of:

(a) Medical emergency;

(b) Pregnancy resulting from sexual assault as defined in section 28-319 or 28-319.01; or

(c) Pregnancy resulting from incest as defined in section 28-703

Sec. 5: (1) If a physician performs or induces an abortion because of a medical emergency pursuant to

subdivision (3)(a) of section 4 of this act, the physician shall certify in writing that a medical emergency existed and explain the medical emergency in the written certification.

The physician shall keep the written certification in the woman's medical record.

(2) If the physician performs or induces an abortion in the case of sexual assault or incest pursuant to subdivision (3)(b) or (c) of section 4 of this act, the physician shall certify in writing that the abortion was performed because of sexual assault or incest and that the physician complied with all the duties of a health care provider required by section 28-902 that are applicable to that case. The physician shall keep the written certification in the woman's medical record

Sec. 6: No woman upon whom an abortion is attempted, induced, or 18 performed shall be liable for a

violation of the Nebraska Heartbeat Act

Sec. 7: (1) A credential to practice a profession may be issued subject to discipline denied,

refused renewal, or have other disciplinary measures taken against it in accordance with section 38-183 on any of the following:

(27) The Nebraska Heartbeat Act

Sec. 8: Unprofessional conduct means . . . but is not limited to:

(15) Violation of the Nebraska Heartbeat Act . . .

Sec. 9: (3) If the director determines upon completion of a hearing under section 38-183 or 38-186 that a

licensee has performed or induced an unlawful abortion in violation of section 4 of this act, the director shall enter an order imposing a sanction authorized under subdivision (2) of section 38-196.

Sec. 10: (2) If the petition is brought with respect to subdivision (5) of section 38-2021, the director shall

make findings as to whether the licensee performed or induced an unlawful abortion in violation of section 4 of this act. If the director finds such a violation, the director shall enter an order revoking the licensee's credential to practice pursuant to the Uniform Credentialing Act in the State of Nebraska in accordance with subsection (2) of section 38-196 and section 38-1,100.

Sec. 11: (2) Upon completion of any hearing regarding discipline of a 8 credential for performing or

inducing an unlawful abortion in violation 9 of section 4 of this act, if the director determines that such violation 10 occurred, the director shall impose a sanction of revocation in accordance with section 38-1,100

Sec. 12: Under 38-2021 Unprofessional conduct means . . . Violation of the Nebraska Heartbeat Act

Sec. 13: A registration to practice as a pharmacy technician may be denied, refused renewal, removed, or

suspended or have other disciplinary measures taken against it by the department, with the recommendation of the board, for failure to meet the requirements of or for violation of any of the provisions of subdivisions (1) through (18) and (20) through (27){the Nebraska Heartbeat Act}

Sec. 14: Severability Clause

Sec. 15: Repealer

Sec. 16: Emergency Clause

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Ben Hansen, Chairperson