REP. HENEMANN
#2
HB 1257

HB 1257D – Revised
South Dakota Legislature

An Act to amend the definition of an abortion.

Section 1. That § 22-17-5.1 be AMENDED:

22-17-5.1. Any person who administers to any pregnant female or who prescribes or procures for any pregnant female any medicine, drug, or substance or uses or employs any instrument or other means with intent thereby to procure an abortion **as defined in § 34-23A-1**, unless there is appropriate and reasonable medical judgment that performance of an abortion is necessary to preserve the life of the pregnant female, is guilty of a Class 6 felony.

Section 2. That § 34-23A-1 be AMENDED:

34-23A-1. Terms used in this chapter mean:

(1) "Abortion," the intentional termination of the life of a human being in the uterus**, provided the term does not include:**

(a) Medical treatment that is provided to a pregnant female and results in the accidental or unintentional death of the unborn child;

(b) Treatment to resolve a miscarriage;

(c) The treatment or removal of an ectopic pregnancy;

(d) The removal from the uterus of a deceased unborn child; or

(e) Any medical procedure performed for the purpose of saving the life of preserving the health of the unborn child;

(1A) "Abortion facility," a place where abortions are performed;

(1B) "Department," the South Dakota Department of Health;

(2) "Fetus," the biological offspring, including the implanted embryo or unborn child, of human parents;

(3) "Fertilization," that point in time when a male human sperm penetrates the zona pellucida of a female human ovum;

(4) "Human being," an individual living member of the species of Homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation;

(5) "Medical emergency," any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;

(6) "Miscarriage," the spontaneous loss of a pregnancy;

(7) "Parent," one parent or guardian of the pregnant minor or the guardian or conservator of the pregnant woman;

(8) "Physician," a person licensed under the provisions of chapter 36-4 or a physician practicing medicine or osteopathy in the employ of the government of the United States or of this state;

(9) "Probable gestational age of the unborn child," what, in the judgment of the physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.