



2024 South Dakota Legislature

Senate Bill 178

Introduced by: **Senator Nesiba**

1 **An Act to expand the authorization for performance of an abortion beyond**
2 **preserving the life of a pregnant female.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 22-17 be amended with a NEW SECTION:**

5 Any person who performs, procures, or advises an abortion other than authorized
6 by chapter 34-23A is guilty of a Class 6 felony.

7 **Section 2. That chapter 34-23A be amended with a NEW SECTION:**

8 An abortion may be performed in this state only if it is performed in compliance
9 with section 3, 4, or 5 of this Act.

10 **Section 3. That chapter 34-23A be amended with a NEW SECTION:**

11 An abortion may be performed by a physician during the first twelve weeks of
12 pregnancy. The abortion decision and its effectuation must be left to the medical judgment
13 of the pregnant woman's attending physician during the first twelve weeks of pregnancy.

14 **Section 4. That chapter 34-23A be amended with a NEW SECTION:**

15 An abortion may be performed following the twelfth week of pregnancy and
16 through the twenty-second week of pregnancy by a physician only in a hospital licensed
17 under the provisions of chapter 34-12 or in a hospital operated by the United States, this
18 state, or any department, agency, or political subdivision of either, or in the case of
19 hospital facilities not being available, in the licensed physician's medical clinic or office of
20 practice subject to the requirements of § 34-23A-6.

21 **Section 5. That chapter 34-23A be amended with a NEW SECTION:**

1 An abortion may be performed following the twenty-second week of pregnancy by
2 a physician only in a hospital authorized under § 34-23A-4 and only in the case of a
3 medical emergency.

4 **Section 6. That § 34-23A-6 be AMENDED:**

5 **34-23A-6.** Any abortion performed under the provisions of ~~§ 34-23A-4~~ section 4
6 ~~or 34-23A-5 shall~~ section 5 of this Act must be performed only in a facility ~~which~~ that has
7 a blood bank or a sufficient supply of blood immediately available ~~and such~~. The facilities
8 shall provide for Rhesus factor (Rh) testing ~~and~~ and Rho-gam, Gammulin, or any other
9 product of equivalency inoculations ~~shall~~ must be required for ~~women~~ a woman
10 undergoing abortion who ~~have~~ has the Rh-negative factor.

11 **Section 7. That § 22-17-5.1 be REPEALED:**

12 ~~Any person who administers to any pregnant female or who prescribes or procures~~
13 ~~for any pregnant female any medicine, drug, or substance or uses or employs any~~
14 ~~instrument or other means with intent thereby to procure an abortion, unless there is~~
15 ~~appropriate and reasonable medical judgment that performance of an abortion is~~
16 ~~necessary to preserve the life of the pregnant female, is guilty of a Class 6 felony.~~

17 **Section 8. That § 22-17-5.2 be REPEALED:**

18 ~~A female who undergoes an unlawful abortion, as set forth in § 22-17-5.1, may~~
19 ~~not be held criminally liable for the abortion.~~