

HB 1541-FN - AS INTRODUCED

2024 SESSION

24-2502
05/10

HOUSE BILL

1541-FN

AN ACT relative to conditions for an abortion performed after viability or 15 weeks gestation.

SPONSORS: Rep. Testerman, Merr. 3; Rep. K. Perez, Rock. 16; Rep. Sellers, Graf. 18

COMMITTEE: Judiciary

ANALYSIS

This bill requires an abortion performed after viability or 15 weeks gestation to be performed in a hospital with an intensive care unit and in the presence of a second physician. The bill requires the second physician to make all reasonable attempts to preserve the life of the unborn child, provides that a child born under such circumstances shall be considered a person, and provides that failure to comply with the requirements of the section may result in criminal prosecution.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to conditions for an abortion performed after viability or 15 weeks gestation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Fetal Life Protection Act; Conditions for Abortion after Viability of 15 Weeks.
2 Amend RSA 329 by inserting after section 44 the following new section:

3 329:44-a Conditions for Abortion after Viability of 15 Weeks.

4 I. All abortions performed on and after the earlier of the time a fetus is viable or the time
5 the post fertilization age of the fetus is at least fifteen 15 weeks shall be:

6 (a) Performed in a hospital having premature birth intensive care units, unless
7 compliance with this requirement would result in an increased risk to the life or health of the
8 mother; and

9 (b) Performed in the presence of a second physician as provided in paragraph II.

10 II. An abortion may be performed after the earlier of the time a fetus is viable or the time
11 the post fertilization age of the fetus is at least 15 weeks only if there is in attendance a physician,
12 other than the physician performing the abortion, who shall take control of and provide immediate
13 care for a child born alive as a result of the abortion. During the performance of the abortion, the
14 physician performing the abortion, and after the abortion, the physician required by this section to
15 be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent
16 with the procedure used, to preserve the life and health of the viable unborn child. However, this
17 section does not apply if compliance would result in an increased risk to the life or health of the
18 mother.

19 III. Any fetus born alive shall be treated as a person under the law, and a birth certificate
20 shall be issued certifying the child's birth even though the child may subsequently die, in which
21 event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good
22 medical practice, to preserve the life and health of the live born person shall subject the responsible
23 persons to state laws governing homicide, manslaughter, and civil liability for wrongful death and
24 medical malpractice.

25 IV. If, before the abortion, the mother, and if married, her husband, has or have stated in
26 writing that she does or they do not wish to keep the child in the event that the abortion results in a
27 live birth, and this writing is not retracted before the abortion, the child, if born alive, shall
28 immediately upon birth become a ward of the department of health and human services.

29 2 Effective Date. This act shall take effect January 1, 2025.

HB 1541-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to conditions for an abortion performed after viability or 15 weeks gestation.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund and Office of Professional Licensure and Certification Fund			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ N/A

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill makes changes to RSA 329, introducing conditions for abortions after fetal viability or at 15 weeks gestation. It mandates that such abortions occur in a hospital with a premature birth intensive care unit, with a second physician present to oversee the child's care and make efforts to preserve their life. Additionally, it establishes that a child born under these circumstances will be considered a person and issued appropriate certificates. Failure to comply could lead to criminal prosecution and civil liability. Furthermore, if the parents do not wish to keep the child, the child becomes the responsibility of the Department of Health and Human Services (DHHS).

DHHS states this bill expands the responsibilities of the DHHS by allowing more reports of child abuse and neglect, potentially leading to increased investigations and management cases. This could result in an unknown number of children becoming wards of the Department, with no increase in funding for this purpose. While the Department expects changes in state expenditures or revenues due to this legislation, the precise fiscal impact remains indeterminable because the exact increase in children becoming wards of the state is unknown at present.

The Office of Professional Licensure and Certification (OPLC) states this bill might raise the volume of cases requiring investigation and enforcement by both the OPLC and the Board of Medicine. The fiscal impact on OPLC is indeterminable as the quantity of complaints is unknown.

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Department of Health and Human Services, Office of Professional Licensure and Certification, Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association