

HB 1477-FN - AS INTRODUCED

2022 SESSION

22-2123

05/04

HOUSE BILL            ***1477-FN***

AN ACT                prohibiting abortions after detection of fetal heartbeat.

SPONSORS:            Rep. Testerman, Merr. 2; Rep. Stapleton, Sull. 5; Rep. Baldasaro, Rock. 5; Rep. G. Sanborn, Graf. 6; Rep. Roy, Rock. 32; Rep. Greeson, Graf. 16

COMMITTEE:          Judiciary

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ANALYSIS

This bill prohibits abortions after detection of a fetal heartbeat.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Two*

AN ACT prohibiting abortions after detection of fetal heartbeat.

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

1 1 New Chapter; Prohibiting Abortions After Detection of a Fetal Heartbeat. Amend RSA by  
2 inserting after chapter 132-A the following new chapter:

3 CHAPTER 132-B

4 PROHIBITING ABORTIONS AFTER DETECTION OF A FETAL HEARTBEAT

5 132-B:1 Definitions. In this chapter:

6 I. "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction  
7 of the fetal heart within the gestational sac.

8 II. "Physician" means a person licensed to practice medicine under RSA 329.

9 III. "Unborn human individual" means an individual organism of the species homo sapiens  
10 from fertilization until live birth.

11 132-B:2 Abortions Prohibited After Detection of Fetal Heartbeat: Exception.

12 I. Except as provided in paragraph II or III of this section, no person shall knowingly  
13 perform an abortion on a pregnant woman with the specific intent of causing or abetting the  
14 termination of the life of the unborn human individual that the pregnant woman is carrying and  
15 whose fetal heartbeat has been detected. Any person who acts based on the exception under  
16 paragraph II or III shall so note in the pregnant woman's medical records and shall specify in the  
17 pregnant woman's medical records which of the exceptions the person invoked.

18 II.(a) A person shall not be in violation of paragraph I if the person performs a medical  
19 procedure designed to or intended, in that person's reasonable medical judgment, to prevent the  
20 death of a pregnant woman or to prevent a serious risk of the substantial and irreversible  
21 impairment of a major bodily function of the pregnant woman.

22 (b) Any person who performs a medical procedure as described in subparagraph (a) shall  
23 declare in writing, under penalty of perjury, that the medical procedure was necessary, to the best of  
24 that person's reasonable medical judgment, to prevent the death of the pregnant woman or to  
25 prevent a serious risk of the substantial and irreversible impairment of a major bodily function of  
26 the pregnant woman. That person shall also provide in that written document, under penalty of  
27 perjury, the medical condition of the pregnant woman that the medical procedure performed as  
28 described in subparagraph (a) will address, and the medical rationale for the conclusion that the  
29 medical procedure was necessary to prevent the death of the pregnant woman or to prevent a serious  
30 risk of the substantial and irreversible impairment of a major bodily function of the pregnant  
31 woman.

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1           (c) The person who performs a medical procedure under subparagraph (a) shall place the  
2 written documentation required under subparagraph (b) in the pregnant woman's medical records,  
3 and shall maintain a copy of the written documentation in the person's own records for at least 7  
4 years.

5           (d) A person shall not be in violation of paragraph I if that person has performed an  
6 examination for the presence of a fetal heartbeat in the unborn human individual using standard  
7 medical practice and that examination does not reveal a fetal heartbeat or the person has been  
8 informed by a physician who has performed the examination for a fetal heartbeat that the  
9 examination did not reveal a fetal heartbeat.

10           III. This chapter shall not be construed to restrict or regulate the performance of an abortion  
11 by a particular method or during a particular stage of a pregnancy.

12           IV. Any physician who performs an abortion in violation of this chapter shall be subject to  
13 disciplinary action under RSA 329.

14           2 New Subparagraph; Physicians and Surgeons; Disciplinary Actions. Amend RSA 329:17, VI  
15 by inserting after subparagraph (l) the following new subparagraph:

16           (m) Has performed an abortion on a pregnant woman after determining that the unborn  
17 human individual that a pregnant woman is carrying has a detectable heartbeat as provided in RSA  
18 132-B.

19           3 Effective Date. This act shall take effect January 1, 2023.

**HB 1477-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT prohibiting abortions after detection of fetal heartbeat.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill prohibits abortions after detection of a fetal heartbeat. The Office of Professional Licensure indicates the fiscal impact of the bill cannot be determined. The Office does not have information on how many abortions are typically performed in New Hampshire each year after detecting a fetal heartbeat. The Office does not know how many physicians may violate the proposed statute, and therefore be subjected to disciplinary action under this proposed statute.

The Judicial Branch indicates under current law, disciplinary action taken under RSA 329:17 can be appealed to the Supreme Court. The Judicial Branch cannot predict the number of cases that would be appealed. The Branch assumes the changes to the law would result in additional litigation which would require additional judicial resources, but the additional number of cases that may be filed if this bill goes into effect, if any, cannot be predicted.

The Department of Justice states it would not be involved in investigations and/or prosecutions related to this bill. Any appeals that come to the Department could be performed within the Department's current budget.

**AGENCIES CONTACTED:**

Office of Professional Licensure and Certification, Judicial Branch and Department of Justice