

HB 591-FN - AS INTRODUCED

2023 SESSION

23-0262

05/04

HOUSE BILL ***591-FN***

AN ACT prohibiting abortions after detection of fetal heartbeat.

SPONSORS: Rep. Testerman, Merr. 3; Rep. Sellers, Graf. 18; Rep. Peternel, Carr. 6

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits abortions after detection of a fetal heartbeat.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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, 2024.

**HB 591-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 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Office of Professional Licensure and Certification Fund			

METHODOLOGY:

This bill prohibits abortions after detection of a fetal heartbeat. The Office of Professional Licensure and Certification (OPLC) provides administrative services to the various licensing boards including the Board of Medicine. The disciplinary process for the Board of Medicine requires that all complaints must first go before the Medical Review Subcommittee before being heard by the Board. Because of this, OPLC has needed to contract with a vendor to review cases and make recommendations to the Subcommittee. The OPLC indicates the bill is likely to increase the number of complaints. In FY 2022, the OPLC received approximately 150 complaints on behalf of the Board of Medicine. The OPLC states New Hampshire does not currently track the number of abortions in the state so the potential increase in the number of complaints cannot be estimated. The OPLC assumes additional staff, associated costs, legal support and additional vendor support would be necessary if there is an increase in complaints to the Board of Medicine. The OPLC estimates the additional costs could range from \$0 to \$456,000 based on the number of additional complaints. These costs would be assessed to licensed professional through license fees.

The Judicial Branch indicates under current law, disciplinary action taken under RSA 329 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 any, cannot be predicted.

AGENCIES CONTACTED:

Judicial Branch and Office of Professional Licensure and Certification