

HOUSE BILL NO. HB0152

Life is a Human Right Act.

Sponsored by: Representative(s) Rodriguez-Williams, Andrew, Angelos, Banks, Bear, Haroldson, Heiner, Hornok, Jennings, Knapp, Lawley, Neiman, Niemiec, Olsen, Ottman, Penn, Singh, Slagle, Smith, Styvar, Ward, Washut and Winter and Senator(s) Biteman, Boner, Bouchard, Brennan, Dockstader, French, Furphy, Hutchings, Ide, Laursen, D, McKeown, Salazar, Schuler and Steinmetz

A BILL

for

1 AN ACT relating to abortion; creating the Life is a Human
 2 Right Act; providing findings and purposes; prohibiting
 3 abortion; specifying criminal and regulatory penalties and
 4 civil remedies; providing exceptions; specifying
 5 applicability and severability; providing a right of
 6 intervention; making conforming amendments; renumbering
 7 current provisions on abortion; repealing and removing
 8 obsolete or conflicting provisions; requiring rulemaking;
 9 and providing for effective dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1 **Section 1.** W.S. 35-6-120 through 35-6-128 are created
2 to read:

3

4 **35-6-120. Short title.**

5

6 This act shall be known and may be cited as the "Life is a
7 Human Right Act."

8

9 **35-6-121. Findings and purposes.**

10

11 (a) The legislature finds that:

12

13 (i) The legislature, as a coequal branch of
14 government, may make declarations interpreting the Wyoming
15 constitution;

16

17 (ii) As a consequence of an unborn baby being a
18 member of the species homo sapiens from conception, the
19 unborn baby is a member of the human race under article 1,
20 section 2 of the Wyoming constitution;

21

22 (iii) The legislature acknowledges that all
23 members of the human race are created equal and are endowed

1 by their creator with certain unalienable rights, the
2 foremost of which is the right to life;

3

4 (iv) This act promotes and furthers article 1,
5 section 3 of the Wyoming constitution, which guarantees
6 that citizens shall be without distinction of race, color,
7 sex or any circumstance or condition whatsoever;

8

9 (v) This act promotes and furthers article 1,
10 section 6 of the Wyoming constitution, which guarantees
11 that no person may be deprived of life or liberty without
12 due process of law;

13

14 (vi) The provisions of article 1, sections 7,
15 18, 33, 34 and 36 and article 21, section 25 of the Wyoming
16 constitution are also promoted and furthered by this act by
17 recognizing that an unborn baby is a member of the human
18 race;

19

20 (vii) Regarding article 1, section 38 of the
21 Wyoming constitution, abortion as defined in this act is
22 not health care. Instead of being health care, abortion is
23 the intentional termination of the life of an unborn baby.

1 It is within the authority of the state of Wyoming to
2 determine reasonable and necessary restrictions upon
3 abortion, including its prohibition. In accordance with
4 Article 1, Section 38(c) of the Wyoming constitution, the
5 legislature determines that the health and general welfare
6 of the people requires the prohibition of abortion as
7 defined in this act;

8

9 (viii) The legislature, in the exercise of its
10 constitutional duties and powers, has a fundamental duty to
11 provide equal protection for all human lives, including
12 unborn babies from conception;

13

14 (ix) The life of every human being begins at
15 conception;

16

17 (x) Wyoming's "legitimate interests include
18 respect for and preservation of prenatal life at all stages
19 of development; the protection of maternal health and
20 safety; the elimination of particularly gruesome or
21 barbaric medical procedures; the preservation of the
22 integrity of the medical profession; the mitigation of
23 fetal pain; and the prevention of discrimination on the

1 basis of race, sex, or disability." *Dobbs v. Jackson*
2 *Women's Health Org.*, 142 S. Ct. 2228, 2284 (2022) (internal
3 citations omitted).

4

5 **35-6-122. Definitions.**

6

7 (a) As used in this act:

8

9 (i) "Abortion" means the act of using or
10 prescribing any instrument, medicine, drug or any other
11 substance, device or means with the intent to terminate the
12 clinically diagnosable pregnancy of a woman, including the
13 elimination of one (1) or more unborn babies in a
14 multifetal pregnancy, with knowledge that the termination
15 by those means will, with reasonable likelihood, cause the
16 death of the unborn baby. "Abortion" shall not include any
17 use, prescription or means specified in this paragraph if
18 the use, prescription or means are done with the intent to:

19

20 (A) Save the life or preserve the health of
21 the unborn baby;

22

1 (B) Remove a dead unborn baby caused by
2 spontaneous abortion or intrauterine fetal demise; or

3

4 (C) Treat a woman for an ectopic pregnancy.

5

6 (ii) "Pregnant" means the human female
7 reproductive condition of having a living unborn baby or
8 human being within a human female's body throughout the
9 entire embryonic and fetal stages of the unborn human being
10 from fertilization to full gestation and childbirth;

11

12 (iii) "Reasonable medical judgment" means a
13 medical judgment that would be made by a reasonably prudent
14 physician who is knowledgeable about the case and the
15 treatment possibilities with respect to the medical
16 conditions involved;

17

18 (iv) "Unborn baby" or "unborn human being" means
19 an individual living member of the species homo sapiens
20 throughout the entire embryonic and fetal stages from
21 fertilization to full gestation and childbirth;

22

1 (v) "This act" means W.S. 35-6-120 through
2 35-6-138.

3

4 **35-6-123. Abortion prohibited.**

5

6 (a) Except as provided in W.S. 35-6-124, no person
7 shall knowingly:

8

9 (i) Administer to, prescribe for or sell to any
10 pregnant woman any medicine, drug or other substance with
11 the specific intent of causing or abetting an abortion; or

12

13 (ii) Use or employ any instrument, device, means
14 or procedure upon a pregnant woman with the specific intent
15 of causing or abetting an abortion.

16

17 (b) This act shall be effective five (5) days after
18 the date that the governor, on advice of the attorney
19 general, certifies to the secretary of state that the
20 Wyoming supreme court has determined that 2022 Wyoming
21 Session Laws, Chapter 88 is unconstitutional.

22

1 **35-6-124. Exceptions to abortion prohibition;**
2 **applicability.**

3

4 (a) It shall not be a violation of W.S. 35-6-123 for
5 a licensed physician to:

6

7 (i) Perform a pre-viability separation procedure
8 necessary in the physician's reasonable medical judgment to
9 prevent the death of the pregnant woman, a substantial risk
10 of death for the pregnant woman because of a physical
11 condition or the serious and permanent impairment of a
12 life-sustaining organ of a pregnant woman, provided that no
13 separation procedure shall be deemed necessary under this
14 paragraph unless the physician makes all reasonable medical
15 efforts under the circumstances to preserve both the life
16 of the pregnant woman and the life of the unborn baby in a
17 manner consistent with reasonable medical judgment;

18

19 (ii) Provide medical treatment to a pregnant
20 woman that results in the accidental or unintentional
21 injury to, or the death of, an unborn baby.

22

1 (b) Nothing in this act shall be construed to
2 prohibit the use, sale, prescription or administration of a
3 contraceptive measure, drug, chemical or device if the
4 contraceptive measure, drug, chemical or device is used,
5 sold, prescribed or administered in accordance with
6 manufacturer instructions and is not used, sold, prescribed
7 or administered with the specific intent to cause or induce
8 an abortion.

9

10 **35-6-125. Penalties and remedies.**

11

12 (a) Any person who violates W.S. 35-6-123 is guilty
13 of a felony punishable by a fine not to exceed twenty
14 thousand dollars (\$20,000.00), imprisonment for not more
15 than five (5) years, or both.

16

17 (b) Nothing in this act shall be construed to subject
18 a pregnant woman upon whom any abortion is performed or
19 attempted to any criminal penalty under this act.

20

21 **35-6-126. Professional sanctions; civil penalties.**

22

1 (a) In addition to any other penalties available
2 under law, a physician or any other professionally licensed
3 person who intentionally, knowingly or recklessly violates
4 W.S. 35-6-123 commits an act of unprofessional conduct, and
5 the physician's or person's license to practice in Wyoming
6 shall be immediately revoked by the state board of medicine
7 after due process in accordance with the rules and
8 procedures of the state board of medicine. Any person may
9 file a complaint against a physician or other licensed
10 person under this section, or the state board of medicine
11 may on its own accord initiate a complaint against a
12 physician or other licensed person. The state board of
13 medicine may assess or impose the costs of any
14 investigation, fines not to exceed five thousand dollars
15 (\$5,000.00) and any other disciplinary actions authorized
16 by law that the board deems appropriate.

17

18 (b) No civil penalty shall be assessed against a
19 pregnant woman upon whom an abortion is performed or
20 attempted for a violation of this act.

21

22 **35-6-127. Civil remedies.**

23

1 (a) In addition to any remedies available under law,
2 failure to comply with this act shall provide the basis for
3 a civil action as provided by this section.

4

5 (b) Any pregnant woman upon whom an abortion has been
6 performed, induced or coerced in violation of this act may
7 maintain an action against the person or persons who
8 violated this act for actual and punitive damages. In
9 addition to all other damages and separate and distinct
10 from all damages, a plaintiff prevailing in an action under
11 this section shall be entitled to statutory damages of ten
12 thousand dollars (\$10,000.00) for each violation of this
13 act from each defendant for each violation.

14

15 (c) A separate and distinct cause of action for
16 injunctive relief against any person who has violated this
17 act to enjoin further violations of this act may be
18 maintained by any of the following:

19

20 (i) The woman upon whom an abortion was
21 performed or induced in violation of this act;

22

1 (ii) The parent or guardian of the pregnant
2 woman if the woman had not attained eighteen (18) years of
3 age at the time of the abortion or if the woman died as a
4 result of the abortion;

5

6 (iii) A district attorney with proper
7 jurisdiction;

8

9 (iv) The attorney general.

10

11 (d) If judgment is rendered in favor of the plaintiff
12 in a civil action authorized by this section, the plaintiff
13 shall be entitled to receive reasonable costs and attorney
14 fees from the defendant.

15

16 **35-6-128. Construction; right of intervention;**
17 **severability.**

18

19 (a) It is the intent of the legislature that each
20 provision of this act shall operate with equal force and
21 shall be severable and that, in the event that any
22 provision of this act shall be held invalid or
23 unenforceable by a court of competent jurisdiction, the

1 invalid or unenforceable provision shall be deemed
2 severable, and the remaining provisions of this act shall
3 be deemed fully enforceable.

4

5 (b) Notwithstanding any other provision of law, the
6 Wyoming legislature, by joint resolution, may appoint one
7 (1) or more of its members who sponsored or cosponsored
8 this act in the member's official capacity, to intervene as
9 a matter of right in any case in which the
10 constitutionality of this act or any portion thereof is
11 challenged. The legislature may pass a joint resolution
12 under this subsection concurrently with the enactment of
13 this act so that, in the event of a challenge to this act
14 or any part of this act, a member or members shall have
15 standing to defend this act.

16

17 **Section 2.** W.S. 5-8-102(a)(v) is amended to read:

18

19 **5-8-102. Jurisdiction.**

20

21 (a) The juvenile court has general jurisdiction in
22 all matters and proceedings commenced therein or

1 transferred to it by order of the district court
2 concerning:

3

4 (v) The parents, guardian or custodian of any
5 minor alleged to be delinquent, in need of supervision or
6 neglected, and all persons living in the household with the
7 minor ~~.~~ ~~and~~

8

9 **Section 3.** W.S. 35-6-108 as 35-6-132, 35-6-113 as
10 35-6-134, 35-6-114 as 35-6-135 and 35-6-117 as 35-6-138 are
11 amended and renumbered to read:

12

13 ~~35-6-108~~ 35-6-132. **Compilations of abortions; matter**
14 **of record; exception.**

15

16 (a) The state office of vital records services shall
17 prepare and keep on file for seven (7) years compilations
18 of the information submitted on the abortion reporting
19 forms. The compilations shall be available as provided in
20 this section. The state health officer, in order to
21 maintain and keep such compilations current, shall file
22 with the reports any new or amended information. The
23 information submitted under W.S. ~~35-6-107~~ 35-6-131 and

1 compiled under this section, except the report required
2 under subsection (c) of this section, shall not be stored
3 in any computer.

4
5 (b) An abortion reporting form received under W.S.
6 ~~35-6-107~~ 35-6-131 shall be maintained in strict confidence
7 by the state office of vital records services, shall not be
8 a public record and shall not be made available except to
9 the attorney general or a district attorney with
10 appropriate jurisdiction pursuant to a criminal
11 investigation or to the state board of medicine pursuant to
12 an investigation. The attorney general or a district
13 attorney receiving an abortion form pursuant to this
14 subsection shall keep the form and information from the
15 form confidential except as may be required by law for a
16 criminal prosecution. The state board of medicine receiving
17 an abortion form pursuant to this subsection shall keep the
18 form and information from the form confidential except as
19 may be required by law to determine or enforce an action
20 regarding licensure.

21

22 (c) Not later than June 30 of each year the office of
23 vital records services shall issue a public report

1 providing summary statistics for the previous calendar year
2 compiled from all of the abortion reporting forms from that
3 year submitted in accordance with this section for each of
4 the items listed in W.S. ~~35-6-107~~35-6-131. The report
5 shall also include the statistics for all previous calendar
6 years during which this subsection was in effect, adjusted
7 to reflect any additional information from late or
8 corrected reports. The office shall ensure that no
9 information included in the public reports could reasonably
10 lead to the identification of any woman upon whom an
11 abortion was performed, induced or attempted. The report
12 shall be transmitted to the United States centers for
13 disease control and prevention for the national abortion
14 surveillance report.

15

16 ~~35-6-113~~35-6-134. **Penalty for violating W.S.**
17 **35-6-130.**

18

19 Any person, firm, corporation, group or association who
20 violates W.S. ~~35-6-106~~35-6-130 is guilty of an offense
21 punishable by a fine of not more than ten thousand dollars
22 (\$10,000.00).

23

1 ~~35-6-114~~ 35-6-135. Right to damages for
2 discriminatory employment practices for refusal to perform
3 abortion.

4

5 Any person or persons injured by any action prohibited in
6 W.S. ~~35-6-106~~ 35-6-130 may by civil action obtain
7 injunctive relief or damages.

8

9 ~~35-6-117~~ 35-6-138. Use of appropriated funds for
10 abortion prohibited.

11

12 ~~(a) No funds appropriated by the legislature of the~~
13 ~~state of Wyoming shall be used to pay for abortions except~~
14 ~~when the pregnancy is the result of incest as defined by~~
15 ~~W.S. 6-4-402 or sexual assault as defined by W.S. 6-2-301~~
16 ~~if the assault is reported to a law enforcement agency~~
17 ~~within five (5) days after the assault or within five (5)~~
18 ~~days after the time the victim is capable of reporting the~~
19 ~~assault, or when the life of the mother would be endangered~~
20 ~~if the unborn child was carried to full term. This~~
21 ~~subsection is repealed on the date that subsection (b) of~~
22 ~~this section becomes effective.~~

23

1 (b) No funds appropriated by the legislature of the
2 state of Wyoming shall be used to pay for abortions. ~~except~~
3 ~~when necessary to preserve the woman from a serious risk of~~
4 ~~death or of substantial and irreversible physical~~
5 ~~impairment of a major bodily function, not including any~~
6 ~~psychological or emotional conditions, or the pregnancy is~~
7 ~~the result of incest as defined by W.S. 6-4-402 or sexual~~
8 ~~assault as defined by W.S. 6-2-301. This subsection is~~
9 ~~effective on the same date that W.S. 35-6-102(b) is~~
10 ~~effective.~~

11
12 **Section 4.** W.S. 35-6-105 through 35-6-107, 35-6-109,
13 35-6-115 and 35-6-116 are renumbered as 35-6-129 through
14 35-6-131, 35-6-133, 35-6-136 and 35-6-137.

15
16 **Section 5.** W.S. 5-8-102(a)(vi), 35-6-101 through
17 35-6-104, 35-6-110 through 35-6-112, 35-6-118 and 35-6-119
18 are repealed.

19
20 **Section 6.** W.S. 35-6-117(a), renumbered as
21 35-6-138(a) by section 3 of this act, is repealed.

22

1 **Section 7.** The department of health shall promulgate
2 all rules necessary to implement this act.

3

4 **Section 8.** This act shall be effective five (5) days
5 after the date that the governor, on advice of the attorney
6 general, certifies to the secretary of state that the
7 Wyoming supreme court has determined that 2022 Wyoming
8 Session Laws, Chapter 88 is unconstitutional. After
9 receiving certification from the governor that this act is
10 effective, the secretary of state shall report that fact to
11 the management council of the legislature and the Wyoming
12 state board of medicine and shall immediately publish the
13 effective date of this act on the website of the secretary
14 of state's office, which effective date shall be five (5)
15 days from the date that the secretary of state received the
16 certification.

17

1 **Section 9.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2023.

5

6 (b) Sections 7 and 9 of this act are effective
7 immediately upon completion of all acts necessary for a
8 bill to become law as provided by Article 4, Section 8 of
9 the Wyoming Constitution.

10

11

(END)