

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2024 BUDGET SESSION

AN ACT relating to public health and safety; requiring the licensure of surgical abortion facilities as specified; requiring licensed physicians to perform chemical and surgical abortions after an ultrasound; providing criminal penalties for violations; specifying civil liability for damages resulting from abortions; providing definitions; making conforming amendments; specifying applicability; requiring rulemaking; and providing for an effective date.

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

**Section 1.** W.S. 35-6-201 through 35-6-205 are created to read:

ARTICLE 2  
REGULATION OF SURGICAL ABORTIONS

**35-6-201. Definitions.**

(a) As used in this article:

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

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

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

(C) Treat a woman for an ectopic pregnancy;  
or

(D) Provide treatment for a pregnant woman when a medical procedure or treatment is necessary, based on reasonable medical judgment, to save or preserve the life of the pregnant woman.

(ii) "Hospital" means those institutions licensed by the Wyoming department of health as hospitals;

(iii) "Physician" means any person licensed to practice medicine in this state;

(iv) "Pregnancy" or "pregnant" means the human female reproductive condition of having a living unborn baby or human being within a human female's body throughout the entire embryonic and fetal stages of the unborn human being from fertilization to full gestation and childbirth;

(v) "Reasonable medical judgment" means a medical judgment that would be made or a medical action that would be undertaken by a reasonably prudent, qualified physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;

(vi) "Surgical abortion" means an induced abortion performed or attempted through use of a machine, medical device, surgical instrument or surgical tool, or any combination thereof, to terminate the clinically diagnosable pregnancy of a woman with knowledge and the

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intent that the termination by those means will cause, with reasonable likelihood, the death of the unborn child;

(vii) "Surgical abortion facility" means any facility, other than a hospital, that provides a surgical abortion to a woman and performs not less than three (3) first-trimester surgical abortions in any one (1) month or not less than one (1) second-trimester or third-trimester surgical abortion in any one (1) year.

**35-6-202. Surgical abortion facilities; licensure requirement; prohibitions; penalties.**

(a) Each surgical abortion facility in Wyoming shall be licensed as an ambulatory surgical center in accordance with W.S. 35-2-901 through 35-2-914 and the rules of the department of health. Each surgical abortion facility performing surgical abortions shall have a separate license.

(b) No surgical abortion facility shall provide surgical abortions to any pregnant woman without first being licensed as an ambulatory surgical center.

(c) Each surgical abortion facility shall comply with all rules of the department of health concerning the operation and regulation of ambulatory surgical centers. No license issued to a surgical abortion facility shall be transferable or assignable to any other person or facility.

(d) Each licensed physician performing at least one (1) surgical abortion at a surgical abortion facility shall:

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(i) Report each surgical abortion to the department of health and shall attest in the report that the physician is licensed and in good standing with the state board of medicine;

(ii) Submit documentation in a form and frequency required by the department of health that demonstrates that the licensed physician has admitting privileges at a hospital located not more than ten (10) miles from the abortion facility where the licensed physician is performing or will perform surgical abortions.

(e) Any person who violates this section shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00). Each calendar day in which a violation of this section occurs or continues is a separate offense.

**35-6-203. Abortion facilities; surgical abortions; requirements; rulemaking.**

(a) Any surgical abortion performed at a surgical abortion facility in the state shall only be performed by a physician licensed in the state of Wyoming.

(b) Any person who performs in the state any surgical abortion at a surgical abortion facility in violation of subsection (a) of this section is guilty of a felony punishable by imprisonment for not less than one (1) year nor more than fourteen (14) years.

(c) No person shall perform a surgical abortion at a surgical abortion facility in Wyoming who is not a licensed physician with admitting privileges at a hospital located

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not more than ten (10) miles from the abortion facility where the surgical abortion is performed.

(d) Any person who violates subsection (c) of this section or if a pharmacist or physician violates W.S. 35-6-205 shall be guilty of a misdemeanor punishable by a fine of one thousand dollars (\$1,000,00). For purposes of this subsection, each surgical abortion at a surgical abortion facility shall constitute a separate offense of subsection (c) of this section.

(e) The department of health shall promulgate rules necessary to regulate surgical abortion facilities as ambulatory surgical centers under W.S. 35-2-901 through 35-2-914, provided that the rules:

(i) Applicable to surgical abortion facilities are not less stringent than those rules applicable to ambulatory surgical centers;

(ii) Provide for the physical inspection of surgical abortion facilities by the department of health every three (3) years.

**35-6-204. Applicability; effect.**

If any provision of this article conflicts with the Life is a Human Right Act or W.S. 35-6-139, the provisions of the Life is a Human Right Act and W.S. 35-6-139 shall control over this article to the extent that the Life is a Human Right Act and W.S. 35-6-139 are enforceable.

**35-6-205. Abortion facilities; ultrasounds.**

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Not less than forty-eight (48) hours before a pregnant woman procures the drugs or substances for a chemical abortion, before a physician or pharmacist dispenses the drugs or substances necessary for a chemical abortion or before a pregnant woman undergoes a surgical abortion, the physician or pharmacist shall ensure that the pregnant woman receives an ultrasound in order to determine the gestational age of the unborn child, to determine the location of the pregnancy, to verify a viable intrauterine pregnancy and to provide the pregnant woman the opportunity to view the active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible. The provider of the ultrasound shall provide the pregnant woman with a document that specifies the date, time and place of the ultrasound.

**Section 2.** W.S. 35-2-901(a)(ii) is amended to read:

**35-2-901. Definitions; applicability of provisions.**

(a) As used in this act:

(ii) "Ambulatory surgical center" means a facility which provides surgical treatment to patients not requiring hospitalization and is not part of a hospital or offices of private physicians, dentists or podiatrists. "Ambulatory surgical center" shall include any surgical abortion facility as defined by W.S. 35-6-201(a)(vii);

**Section 3.**

(a) Nothing in this act shall be construed as creating an individual right to abortion.

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(b) It is the intent of the legislature that this act shall not be construed as holding abortion as lawful in the state pending a decision from a court of competent jurisdiction on the current state of the law.

(c) It is the intent of the legislature that this act shall not recognize or define abortion as a health care decision under Article 1, section 38 of the Wyoming Constitution.

**Section 4.** The department of health shall promulgate all rules necessary to implement this act.

ORIGINAL HOUSE  
BILL NO. HB0148

ENGROSSED

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**Section 5.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk