

Iowa Fetal Heartbeat Law to Go Into Effect on July 29, 2024

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Iowa's fetal heartbeat law, [House File 732](#), which was signed into law by Governor Kim Reynolds in 2023, will go into effect on Monday, July 29, 2024. This blog post gives a brief background and summary to help hospitals and providers understand their obligations under the law.

The fetal heartbeat law has been temporarily enjoined from enforcement since July 2023. However, a [4-3 decision](#) from the Iowa Supreme Court in June 2024 in *Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, 2024 Iowa Sup. LEXIS 74, 2024 WL 3209943, and a subsequent order from District Court Judge Jeffrey Farrell dissolving the temporary injunction, will allow the fetal heartbeat law to go into effect on July 29.



The fetal heartbeat law bans abortions, with exceptions for rape, incest, non-viability of the fetus and medical emergencies, after a fetal heartbeat can be detected. A fetal heartbeat can be detected as early as six weeks into a pregnancy. In order to be effective as an exception to the law, the rape and

incest exceptions require reporting to law enforcement, a public health agency, or doctor within 45 days for rape, and 140 days for incest. With regard to the medical emergency exception, some have read the Iowa Supreme Court in *Planned Parenthood of the Heartland, Inc.*, to interpret this exception narrowly. Under this narrow reading, “medical emergency” (which permits an abortion after fetal heartbeat detection), would include neither “psychological conditions, emotional conditions, familial conditions, or the woman’s age” or, “when continuation of the pregnancy will create a serious risk of

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substantial and irreversible impairment of a major bodily function of the pregnant woman.” Id. at 6.

This interpretation would mean that unless a woman has a life-threatening condition, an abortion is not permitted in order to preserve the *health* of the mother – even if the mother’s health would be at risk of substantial and irreversible impairment of a major bodily function. However, federal law, known as the Emergency Medical Treatment and Labor Act (EMTALA), currently preempts Iowa law to the extent that Iowa law conflicts with EMTALA. EMTALA defines “emergency medical condition” to encompass health-jeopardizing, and not merely life-threatening conditions. Therefore, if the treating physician determines that an abortion is necessary to stabilize a woman’s emergency medical condition, then EMTALA would control the decision under those circumstances.

While this potential conflict between state and federal law will come to the forefront in Iowa starting on July 29th, the issue of EMTALA pre-emption of a state abortion restriction was already addressed in June 2024 by the U.S. Supreme Court. In that case, the U.S. Supreme Court allowed an order by a federal judge in Idaho to remain in place that temporarily blocks the State of Idaho from enforcing an abortion ban (which is similar to Iowa’s fetal heartbeat law) to the extent that the Idaho law conflicts with EMTALA. This means that Idaho doctors currently have the discretion to perform emergency abortions if a provider determines that an abortion is necessary in order to stabilize a woman’s medical emergency. It is likely that other cases will come before federal courts across the country to test EMTALA pre-emption of abortion restrictions in the context of medical emergencies, so hospitals and providers should continue to monitor the status of these cases.

In order to better understand their EMTALA obligations, hospitals and physicians should review the [CMS guidance](#) which addresses the EMTALA obligations of hospitals and physicians in light of new state laws prohibiting or restricting access to abortion.

It is important to note that in addition to the fetal heartbeat law, there are other requirements in Iowa related to providing an abortion. For example, [Iowa Code Chapter 146A](#) includes a number of prerequisites that a physician performing an abortion must complete. These prerequisites include a written certification from the pregnant woman 24 hours prior to the abortion that she has undergone an ultrasound, an opportunity to view the ultrasound and hear a description of the ultrasound and heartbeat, and has been provided information regarding alternative options to abortion, risks associated with abortion and materials developed by the State. Notably, the Iowa Code Chapter 146A abortion prerequisites do not apply in the event of an abortion performed in a medical emergency.

We will continue to monitor the progress of these laws and provide updates in this blog. If you have any questions about these laws’ impact on you or your organization, please contact the authors or your regular Dorsey attorney.