

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 521

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABORTION; AMENDING SECTION 18-608, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING CERTAIN PERMITTED ABORTIONS AND TO PROVIDE THAT CERTAIN
3 ABORTIONS SHALL NOT BE MADE LEGAL; AND DECLARING AN EMERGENCY AND PRO-
4 VIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 18-608, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 18-608. CERTAIN ABORTIONS PERMITTED -- CONDITIONS AND GUIDELINES. The
10 provisions of sections 18-605 and 18-606, Idaho Code, shall not apply to and
11 neither this act nor other controlling rule of Idaho law shall be deemed to
12 make unlawful an abortion performed by a physician if:

13 (1) When performed upon a woman who is in the first trimester of preg-
14 nancy, the same is performed following the attending physician's consulta-
15 tion with the pregnant patient and a determination by the physician that such
16 abortion is appropriate in consideration of such factors as in his medical
17 judgment he deems pertinent, including but not limited to physical, emo-
18 tional, psychological and/or familial factors, that the pregnancy resulted
19 from rape, incest or other felonious intercourse, and a legal presumption is
20 hereby created that all illicit intercourse with a girl below the age of six-
21 teen (16) years shall be deemed felonious for purposes of this section, the
22 patient's age and any other consideration relevant to her well-being or di-
23 rectly or otherwise bearing on her health and, in addition to medically diag-
24 nosable matters, including but not limited to such factors as the potential
25 stigma of unwed motherhood, the imminence of psychological harm or stress
26 upon the mental and physical health of the patient, the potential stress upon
27 all concerned of an unwanted child or a child brought into a family already
28 unable, psychologically or otherwise, to care for it, and/or the opinion of
29 the patient that maternity or additional offspring probably will force upon
30 her a distressful life and future; the emotional or psychological conse-
31 quences of not allowing the pregnancy to continue, and the aid and assistance
32 available to the pregnant patient if the pregnancy is allowed to continue;
33 provided, in consideration of all such factors, the physician may rely upon
34 the statements of and the positions taken by the pregnant patient, and the
35 physician shall not be deemed to have held himself out as possessing special
36 expertise in such matters nor shall he be held liable, civilly or otherwise,
37 on account of his good faith exercise of his medical judgment, whether or
38 not influenced by any such nonmedical factors. Abortions permitted by this
39 subsection shall only be lawful if and when performed in a hospital or in a
40 physician's regular office or a clinic, which office or clinic is properly
41 staffed and equipped for the performance of such procedures and respect-
42 ing which the responsible physician or physicians have made satisfactory

1 arrangements with one (1) or more acute care hospitals within reasonable
2 proximity thereof providing for the prompt availability of hospital care as
3 may be required due to complications or emergencies that might arise.

4 (2) ~~When~~ An abortion performed upon a woman who is in the second
5 trimester of pregnancy, ~~shall only be lawful if the same is performed in a~~
6 ~~hospital and is, in the judgment of the attending physician, in the best med-~~
7 ~~ical interest of such pregnant woman, considering those factors enumerated~~
8 ~~in subsection (1) of this section and such other factors as the physician~~
9 ~~deems pertinent.~~

10 (3) ~~When~~ An abortion performed upon a woman who is in the third
11 trimester of pregnancy, ~~shall only be lawful if the same is performed in a~~
12 ~~hospital and, in the judgment of the attending physician, corroborated by a~~
13 ~~like opinion of a consulting physician concurring therewith, either is nec-~~
14 ~~essary for the preservation of the life of such woman or, if not performed,~~
15 ~~such pregnancy would terminate in birth or delivery of a fetus unable to~~
16 ~~survive. Third-trimester abortions undertaken for preservation of the life~~
17 ~~of a pregnant patient, as permitted by this subsection, shall, consistent~~
18 ~~with accepted medical practice and with the well-being and safety of such~~
19 ~~patient, be performed in a manner consistent with preservation of any rea-~~
20 ~~sonable potential for survival of a viable fetus.~~

21 (4) Nothing in this section shall make legal any abortion that is oth-
22 erwise illegal under any other law of this state, including section 18-622,
23 Idaho Code.

24 SECTION 2. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect thirty days fol-
26 lowing signature by the Governor.