

**Model Legislation**  
**Ending Chemical Abortions Act**

HOUSE/SENATE BILL NO. \_\_\_\_\_

*An Act prohibiting certain actions relating to abortifacient drugs in the state and providing penalties.*

SECTION 1. \_\_\_\_\_ is amended to add an additional section to read as follows:

A. **Definitions.** The definitions set forth in this section are controlling for purposes of this section and of this code/statute, irrespective of terms used in medical coding, notations, or billing documents. As used in this section:

“Abortifacient” means any medicine, drug or any other substance, or any combination of drugs, medicines, or substances; including but not limited to RU-486, mifepristone, Mifeprex, Mifegyne; or any substantially similar generic or non-generic drug or chemical dispensed for purposes of causing an abortion, or any future drug developed, marketed, sold, or distributed for the purpose of causing an abortion.

“Abortion” means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the preborn child.

A physician’s performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child is not an abortion under this section.

An act under this section is not an abortion if the act is performed with the purpose to:

- i. produce a live birth and save the life or preserve the health of the preborn child;
- ii. remove a dead preborn child and remaining tissue; or
- iii. remove a verified ectopic pregnancy.

“Attempts to provide” means conduct that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in a chemical abortion.

“Chemical Abortion” refers to the use of an abortifacient to:

- i. intentionally kill the preborn child of a woman known to be pregnant; or
- ii. intentionally terminate the pregnancy of a woman known to be pregnant, with an intention other than to:
  1. produce a live birth and save the life or preserve the health of the preborn child;
  2. remove a dead preborn child and remaining tissue; or
  3. remove a verified ectopic pregnancy.

"Contraceptive" or "contraceptive agent" means the prevention of pregnancy by interfering with the process of ovulation or fertilization.

"Ectopic pregnancy" means a pregnancy in which the fertilized human ovum, or blastocyst, implants and grows outside of the uterus.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

“Provide” means to dispense or prescribe an abortifacient or to otherwise make an abortifacient available to a patient or pregnant woman.

"Pregnancy" means the period of time from fertilization until birth and is calculated from the first day of the pregnant woman's last menstrual period.

“Preborn child” means an individual organism of the species *Homo sapiens* from fertilization until live birth.

#### **B. Abortifacient drugs, prohibited in the state.**

1. Notwithstanding any other provision of law to the contrary, it is unlawful for any person or entity to manufacture, distribute, prescribe, dispense, sell, provide, attempt to provide, or transfer RU-486, mifepristone, Mifegyne, or Mifeprex, or any substantially similar generic or nongeneric abortifacient drug in the state.
2. It is a violation of this section for a person to:
  - a. knowingly mail or send by common carrier an abortifacient to an address in this state or to a person in this state;

- b. knowingly disseminate an abortifacient in this state without a valid prescription; or
  - c. intentionally place an abortifacient into the stream of commerce when the person or entity knows that the abortifacient is substantially likely to be used in this state or mailed or sent by common carrier to an address in this state.
3. A person or entity who violates this section is guilty of a felony, punishable by a mandatory term of imprisonment not to exceed 10 years or with a fine not to exceed \$100,000, or both.
4. This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is conducted or attempted in which an abortifacient drug otherwise prohibited under this section is used.
5. This section shall not be construed to prohibit the sale, use, prescription, or administration of any contraceptive agent administered prior to conception or before a pregnancy can be confirmed through conventional medical testing.
6. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.