

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2241

(SENATE AUTHORS: NIENOW, Hall and Hoffman)

DATE	D-PG	OFFICIAL STATUS
03/05/2012	4106	Introduction and first reading Referred to Health and Human Services

1.1 A bill for an act
1.2 relating to health; establishing state licensure for abortion facilities; providing
1.3 penalties; proposing coding for new law in Minnesota Statutes, chapter 144.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [144.65] ABORTION FACILITIES; LICENSURE AND INSPECTION.

1.6 Subdivision 1. Definitions. For purposes of this section, the following terms have
1.7 the meanings given.

1.8 (a) "Abortion" means the use or prescription of any instrument, medicine, drug,
1.9 or any other substance or device to terminate the pregnancy of a woman known to be
1.10 pregnant with an intention other than to increase the probability of a live birth, to preserve
1.11 the life or health of the child after live birth, or to remove a dead unborn child who died as
1.12 the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant
1.13 woman or her unborn child, and which causes the premature termination of the pregnancy.

1.14 (b) "Abortion facility" or "facility" means any clinic, hospital, or outpatient surgical
1.15 center, in which any second or third trimester elective abortion, or five or more first
1.16 trimester elective abortions, are performed in a month, excluding any abortion performed
1.17 due to a medical emergency as defined in this section.

1.18 (c) "Clinic" means any facility, other than a hospital or outpatient surgical center, in
1.19 which any second or third trimester, or five or more first trimester abortions are performed
1.20 in a month.

1.21 (d) "Commissioner" means the commissioner of health.

1.22 (e) "Elective abortion" means an abortion for any reason other than to prevent the
1.23 death of the mother upon whom the abortion is performed; provided, that an abortion may

2.1 not be deemed one to prevent the death of the mother based on a claim or diagnosis that
2.2 she will engage in conduct which would result in her death.

2.3 (f) "Gestational age" means the time that has elapsed since the first day of the
2.4 woman's last menstrual period.

2.5 (g) "Hospital" has the meaning provided in section 144.50, subdivision 2.

2.6 (h) "Medical emergency" means a condition that, in a reasonable medical judgment,
2.7 so complicates the medical condition of the pregnant woman as to necessitate the
2.8 immediate abortion of her pregnancy without first determining gestational age in order to
2.9 avert her death, or for which a delay necessary to determine gestational age will create
2.10 serious risk of substantial and irreversible physical impairment of a major bodily function.
2.11 No condition shall be deemed a medical emergency if based on a claim or diagnosis that
2.12 the woman will engage in conduct which would result in her death or in substantial and
2.13 irreversible physical impairment of a major bodily function.

2.14 (i) "Outpatient surgical center" has the meaning provided in section 144.55,
2.15 subdivision 2, paragraph (a).

2.16 Subd. 2. **License required.** (a) An abortion facility shall be licensed in accordance
2.17 with this section.

2.18 (b) Any facility seeking licensure for the performance of abortions shall submit an
2.19 application for a license to the commissioner on forms and in the manner required by the
2.20 commissioner. The application shall contain information the commissioner requires,
2.21 including evidence of the ability of the applicant to comply with reasonable standards and
2.22 rules adopted under this section.

2.23 (c) Upon receipt of an application and verification by the commissioner that the
2.24 applicant is in compliance with all applicable requirements, the commissioner shall issue a
2.25 license to the applicant.

2.26 (d) A license issued under this section shall be posted in a conspicuous place in a
2.27 public area within the facility. The issuance of a license does not guarantee adequacy of
2.28 individual care, treatment, personal safety, fire safety, or the well-being of any occupant of
2.29 such facility. A license is not assignable or transferable.

2.30 (e) The license shall be effective for one year following the date of issuance.
2.31 A license issued under this section shall apply only to the premises described in the
2.32 application and in the license issued thereon, and only one location shall be described
2.33 in each license.

2.34 (f) At the time application for a license is made, the applicant shall pay a license fee
2.35 in the amount of \$500. Fees paid according to this section are not refundable.

3.1 (g) The commissioner may make exceptions to the standards in this section if
3.2 the commissioner determines that the health and welfare of the community require the
3.3 services of the hospital or outpatient surgical center and that the exceptions, as granted,
3.4 will have no significant adverse impact on the health, safety, or welfare of the patients of
3.5 the hospital or outpatient surgical center.

3.6 Subd. 3. **License renewal.** Applicants for an annual license renewal shall file an
3.7 application with the commissioner and pay the license fee according to subdivision 2.
3.8 Applicants for an annual license renewal shall also be subject to a licensing inspection
3.9 according to subdivision 5.

3.10 Subd. 4. **Facility name.** (a) No proposed facility shall be named, nor may any
3.11 existing facility have its name changed to, the same or similar name as any other facility
3.12 licensed according to this section. If a facility is affiliated with one or more other facilities
3.13 with the same or similar name, then the facility licensed under this section shall have the
3.14 geographic area in which it is located included as part of its name.

3.15 (b) A facility shall apply for an amended license by submitting an application to the
3.16 commissioner within 30 days after the occurrence of either:

3.17 (1) a change of ownership either by purchase or lease; or

3.18 (2) a change in the facility's name or address.

3.19 Subd. 5. **Facility inspections.** (a) The commissioner shall inspect each facility
3.20 licensed under this section at least twice each calendar year and at other times as the
3.21 commissioner determines necessary to protect the public health and safety and to
3.22 implement and enforce the provisions of this section and any rules adopted hereunder. At
3.23 least one unannounced inspection shall be made each calendar year and authorized agents
3.24 of the commissioner shall have access to a facility during regular business hours.

3.25 (b) Information received by the commissioner through filed reports, inspections, or
3.26 as otherwise authorized under this section is classified as private data on individuals
3.27 according to chapter 13 and shall not be disclosed publicly in any manner that would
3.28 identify individuals.

3.29 Subd. 6. **Enforcement; penalties.** (a) When the commissioner determines that
3.30 a facility is in violation of any applicable statute or rule relating to the operation or
3.31 maintenance of a licensed facility, the commissioner, upon proper notice, may deny,
3.32 suspend, or revoke the license of a facility, or assess a monetary penalty after notice and
3.33 an opportunity for hearing has been given to the licensee.

3.34 (b) Either before or after formal charges have been filed, the commissioner and the
3.35 facility may enter into a stipulation which shall be binding upon the commissioner and
3.36 the facility. The commissioner may enter findings of fact and issue an enforcement order

4.1 based on a stipulation without filing any formal charges or holding hearings in the case.
4.2 An enforcement order based on a stipulation may include any disciplinary action against
4.3 the facility authorized by this subdivision.

4.4 (c) The commissioner may temporarily suspend or limit the license of any facility if
4.5 the commissioner determines that there is reason to believe that grounds exist under this
4.6 section for immediate action against the facility and that the facility's continued operation
4.7 would constitute an imminent danger to the public health and safety.

4.8 (d) Violations of this section or rules adopted hereunder are one of the following:

4.9 (1) Class I violations are those that the commissioner determines present an
4.10 imminent danger to the health, safety, or welfare of the patients of the facility or present
4.11 a substantial probability that death or serious physical harm could result. A physical
4.12 condition, or practice, mean, method, or operation in use in a facility, may constitute
4.13 a violation. The condition or practice constituting a Class I violation shall be abated
4.14 or eliminated immediately unless a fixed period of time, as set by the commissioner,
4.15 is required for correction. Each day the violation exists after the expiration of time is
4.16 considered a subsequent violation.

4.17 (2) Class II violations are those other than Class I violations that the commissioner
4.18 determines to have a direct or immediate relationship to the health, safety, or welfare of
4.19 the facility's patients. The citation of a Class II violation shall specify the time in which
4.20 the violation must be corrected. Each day a violation exists after expiration of the time to
4.21 correct is considered a subsequent violation.

4.22 (3) Class III violations are those that are not classified as Class I or II or those that
4.23 are against the best practices as determined by the commissioner. The citation of a Class
4.24 III violation shall specify the time in which the violation must be corrected. Each day a
4.25 violation exists after expiration of the time to correct is considered a subsequent violation.

4.26 (e) The commissioner shall consider the following factors when determining the
4.27 severity of a violation:

4.28 (1) specific conditions and the impact or potential impact on the health, safety, or
4.29 welfare of the facility's patients;

4.30 (2) efforts by the facility to correct the violation;

4.31 (3) overall conditions of the facility;

4.32 (4) the facility's history of compliance; and

4.33 (5) any other pertinent conditions that may be applicable.

4.34 (f) Any monetary penalty assessed by the commissioner shall be assessed according
4.35 to the following schedule:

5.1 (1) for Class I violations, the following number of violations within a 24-month
5.2 period shall result in the corresponding penalty amount:

5.3 (i) one violation, a penalty of not less than \$200 and not more than \$1,000;

5.4 (ii) two violations, a penalty of not less than \$500 and not more than \$2,000;

5.5 (iii) three violations, a penalty of not less than \$1,000 and not more than \$5,000; and

5.6 (iv) four or more violations, a penalty of \$5,000;

5.7 (2) for Class II violations, the following number of violations within a 24-month
5.8 period shall result in the corresponding penalty amount:

5.9 (i) one violation, a penalty of not less than \$100 and not more than \$200;

5.10 (ii) two violations, a penalty of not less than \$200 and not more than \$1,000;

5.11 (iii) three violations, a penalty of not less than \$500 and not more than \$2,000;

5.12 (iv) four violations, a penalty of not less than \$1,000 and not more than \$5,000; and

5.13 (v) five or more violations, a penalty of \$5,000;

5.14 (3) for Class III violations, the following number of violations within a 24-month
5.15 period shall result in the corresponding penalty amount:

5.16 (i) one violation, there shall be no penalty;

5.17 (ii) two violations, a penalty of not less than \$100 and not more than \$500;

5.18 (iii) three violations, a penalty of not less than \$200 and not more than \$1,000;

5.19 (iv) four violations, a penalty of not less than \$500 and not more than \$2,000;

5.20 (v) five violations, a penalty of not less than \$1,000 and not more than \$5,000; and

5.21 (vi) six or more violations, a penalty of \$5,000.

5.22 Subd. 7. **Abortions must be performed in licensed facilities.** Except in the case of
5.23 a medical emergency, as defined in this act, an abortion performed when the gestational
5.24 age of the unborn child is 22 weeks or more shall be performed in a hospital or outpatient
5.25 surgical center licensed according to this section. All other abortions shall be performed in
5.26 a hospital, outpatient surgical center, or clinic licensed according to this section, except
5.27 that a hospital or outpatient surgical center that does not meet the definition of an abortion
5.28 facility under this section and is licensed under section 144.55 may perform abortions.

5.29 Subd. 8. **Criminal penalties; unprofessional conduct.** (a) It is unlawful to operate
5.30 an abortion facility in Minnesota without possessing a valid license issued annually by the
5.31 commissioner according to this section.

5.32 (b) It is unlawful for a person to perform or induce an abortion unless the person is a
5.33 physician, with clinical privileges at a hospital located within 30 miles of the facility.

5.34 (c) A violation of paragraph (a) or (b) is a gross misdemeanor and constitutes
5.35 unprofessional conduct under section 147.091.

6.1 Subd. 9. Licensure requirements. (a) The commissioner shall adopt rules and
6.2 regulations for the licensure of abortion facilities.

6.3 (b) The commissioner shall adopt rules and regulations concerning sanitation,
6.4 housekeeping, maintenance, staff qualifications, emergency equipment and procedures
6.5 to provide emergency care, medical records and reporting, laboratory, procedure and
6.6 recovery rooms, physical plant, quality assurance, infection control, information on and
6.7 access to patient follow-up care, and any other areas of medical practice necessary to
6.8 carry out the purposes of this section for clinics for the performance of abortions. At a
6.9 minimum these rules and regulations shall set standards for:

6.10 (1) adequate private space that is specifically designated for interviewing,
6.11 counseling, and medical evaluations;

6.12 (2) dressing rooms for staff and patients;

6.13 (3) appropriate lavatory areas;

6.14 (4) areas for hand washing prior to a procedure;

6.15 (5) private procedure rooms;

6.16 (6) adequate lighting and ventilation for abortion procedures;

6.17 (7) surgical or gynecologic examination tables and other fixed equipment;

6.18 (8) postprocedure recovery rooms that are supervised, staffed, and equipped to
6.19 meet the patients' needs;

6.20 (9) emergency exits to accommodate a stretcher or gurney;

6.21 (10) areas for cleaning and sterilizing instruments; and

6.22 (11) adequate areas for the secure storage of medical records and necessary
6.23 equipment and supplies.

6.24 (c) The commissioner shall adopt rules to set standards for facility supplies and
6.25 equipment, including supplies and equipment that must be immediately available for use
6.26 or in an emergency. At a minimum these rules shall:

6.27 (1) prescribe required equipment and supplies, including medications, required to
6.28 conduct, in an appropriate fashion, any abortion procedure that the medical staff of the
6.29 facility anticipates performing and for monitoring the progress of each patient throughout
6.30 the procedure and recovery period;

6.31 (2) require adequate equipment and supplies at the facility to ensure sufficient
6.32 quantities of clean and sterilized durable equipment and supplies to meet the needs
6.33 of each patient;

6.34 (3) prescribe required equipment, supplies, and medications that shall be available
6.35 and ready for immediate use in an emergency and requirements for written protocols and
6.36 procedures to be followed by staff in an emergency, such as the loss of electrical power;

7.1 (4) prescribe required equipment and supplies for required laboratory tests and
7.2 requirements for protocols to calibrate and maintain laboratory equipment at the facility or
7.3 operated by facility staff;

7.4 (5) require ultrasound equipment in facilities; and

7.5 (6) require that all equipment is safe for the patient and the staff, meets applicable
7.6 federal standards, and is checked annually to ensure safety and appropriate calibration.

7.7 (d) The commissioner shall adopt rules relating to facility personnel. At a minimum
7.8 these rules shall require that:

7.9 (1) the abortion facility designate a medical director of the facility who is licensed to
7.10 practice medicine and surgery in the state;

7.11 (2) physicians performing surgery in a facility are licensed to practice medicine and
7.12 surgery in the state, have demonstrated competence in the procedure involved, and are
7.13 acceptable to the medical director of the facility;

7.14 (3) a physician with admitting privileges at an accredited hospital located within 30
7.15 miles of the abortion facility is available;

7.16 (4) another individual is present in the room during a pelvic examination or during
7.17 the abortion procedure, and if the physician is male then the other individual must be
7.18 female;

7.19 (5) a registered nurse, nurse practitioner, licensed practical nurse, or physician
7.20 assistant is present and remains at the facility when abortions are performed to provide
7.21 postoperative monitoring and care until each patient who had an abortion that day is
7.22 discharged;

7.23 (6) surgical assistants receive training in the specific responsibilities of the services
7.24 the surgical assistants provide; and

7.25 (7) volunteers receive training in the specific responsibilities of the services
7.26 the volunteers provide, including counseling and patient advocacy as provided in the
7.27 procedures adopted by the director for different types of volunteers based on their
7.28 responsibilities.

7.29 (e) The commissioner shall adopt rules relating to the medical screening and
7.30 evaluation of each facility patient. At a minimum these rules shall require:

7.31 (1) a medical history including the following:

7.32 (i) reported allergies to medications, antiseptic solutions, or latex;

7.33 (ii) obstetric and gynecologic history; and

7.34 (iii) past surgeries;

7.35 (2) a physical examination including a bimanual examination estimating uterine
7.36 size and palpation of the adnexa;

8.1 (3) the appropriate laboratory tests including:

8.2 (i) for an abortion in which an ultrasound examination is not performed before the
8.3 abortion procedure, urine or blood tests for pregnancy performed before the abortion
8.4 procedure;

8.5 (ii) a test for anemia as indicated;

8.6 (iii) Rh typing, unless reliable written documentation of blood type is available; and

8.7 (iv) other tests as indicated from the physical examination;

8.8 (4) an ultrasound evaluation for all patients who elect to have an abortion of an
8.9 unborn child. If a person who is not a physician performs an ultrasound examination,
8.10 that person shall have documented evidence that the person completed a course in the
8.11 operation of ultrasound equipment as prescribed by rule. The physician or other health
8.12 care professional shall review, at the request of the patient, the ultrasound evaluation
8.13 results with the patient before the abortion procedure is performed, including the probable
8.14 gestational age of the unborn child; and

8.15 (5) that the physician is responsible for estimating the gestational age of the unborn
8.16 child based on the ultrasound examination and obstetric standards in keeping with
8.17 established standards of care regarding the estimation of fetal age and shall verify the
8.18 estimate in the patient's medical history. The physician shall keep original prints of each
8.19 ultrasound examination of a patient in the patient's medical history file.

8.20 (f) The commissioner shall adopt rules relating to the abortion procedure. At a
8.21 minimum these rules shall require:

8.22 (1) that medical personnel is available to all patients throughout the abortion
8.23 procedure;

8.24 (2) standards for the safe conduct of abortion procedures that conform to obstetric
8.25 standards in keeping with established standards of care regarding the estimation of fetal
8.26 age;

8.27 (3) appropriate use of local anesthesia, analgesia, and sedation if ordered by the
8.28 physician;

8.29 (4) the use of appropriate precautions, such as the establishment of intravenous
8.30 access at least for patients undergoing second or third trimester abortions; and

8.31 (5) the use of appropriate monitoring of the vital signs and other defined signs and
8.32 markers of the patient's status throughout the abortion procedure and recovery period until
8.33 the patient's condition is deemed to be stable in the recovery room.

8.34 (g) The commissioner shall adopt rules that prescribe minimum recovery room
8.35 standards. At a minimum, these rules shall require that:

9.1 (1) immediate postprocedure care consists of observation in a supervised recovery
9.2 room for as long as the patient's condition warrants;

9.3 (2) the facility arrange hospitalization if any complication occurs beyond the
9.4 management capability of the staff;

9.5 (3) a licensed health professional who is trained in the management of the recovery
9.6 area and is capable of providing basic cardiopulmonary resuscitation and related
9.7 emergency procedures remains on the premises of the facility until all patients are
9.8 discharged;

9.9 (4) a physician or nurse who is certified in advanced cardiovascular life support shall
9.10 remain on the premises of the facility until all patients are discharged or to facilitate the
9.11 transfer of emergency cases if hospitalization of the patient or viable unborn child is
9.12 necessary. A physician or nurse shall be readily accessible and available until the last
9.13 patient is discharged;

9.14 (5) a physician or trained staff member discusses Rho(d) immune globulin with
9.15 each patient for whom it is indicated and ensures it is offered to the patient in the
9.16 immediate postoperative period or that it will be available to her within 72 hours after
9.17 completion of the abortion procedure. If the patient refuses, a refusal form approved by
9.18 the commissioner of the Department of Health shall be signed by the patient and a witness
9.19 and included in the medical record;

9.20 (6) written instructions with regard to postabortion activities, signs of possible
9.21 problems, and general aftercare are given to each patient. Each patient shall have specific
9.22 instructions regarding access to medical care for complications, including a telephone
9.23 number to call for medical emergencies;

9.24 (7) there is a specified minimum length of time that a patient remains in the recovery
9.25 room by type of abortion procedure and gestational age of the unborn child;

9.26 (8) the physician ensures that a licensed health professional from the facility makes
9.27 a good-faith effort to contact the patient by telephone, with the patient's consent, within
9.28 24 hours after surgery to assess the patient's recovery; and

9.29 (9) equipment and services are located in the recovery room to provide appropriate
9.30 emergency resuscitative and life support procedures pending the transfer of the patient or
9.31 viable unborn child to the hospital.

9.32 (h) The commissioner shall adopt rules that prescribe standards for follow-up visits.
9.33 At a minimum these rules shall require that:

9.34 (1) if accepted by the patient, a postabortion medical visit is offered and scheduled
9.35 within four weeks after the abortion, including a medical examination and a review of
9.36 the results of all laboratory tests;

10.1 (2) a urine pregnancy test is obtained at the time of the follow-up visit to rule
10.2 out continuing pregnancy. If a continuing pregnancy is suspected, the patient shall be
10.3 evaluated and a physician who performs or induces abortions shall be consulted; and

10.4 (3) the physician performing or inducing the abortion, or a person acting on behalf
10.5 of the physician performing or inducing the abortion, shall make all reasonable efforts
10.6 to ensure that the patient returns for a subsequent examination so that the physician can
10.7 assess the patient's medical condition. A brief description of the efforts made to comply
10.8 with these requirements, including the date, time, and identification by name of the person
10.9 making these efforts, shall be included in the patient's medical record.

10.10 (i) The commissioner shall adopt rules to prescribe minimum facility incident
10.11 reporting. At a minimum these rules shall require that:

10.12 (1) the facility record each incident resulting in a patient's or viable unborn child's
10.13 serious injury occurring at a facility and shall report them in writing to the department
10.14 within ten days after the incident. For the purposes of this paragraph, "serious injury"
10.15 means an injury that occurs at a facility and that creates a serious risk of substantial
10.16 impairment of a major body organ;

10.17 (2) if a patient's death occurs, other than an unborn child's death properly reported
10.18 according to law, the facility shall report the death to the Department of Health no later
10.19 than the next department business day; and

10.20 (3) incident reports are filed with the Department of Health and appropriate
10.21 professional regulatory boards.

10.22 (j) The commissioner shall adopt rules requiring each facility to establish and
10.23 maintain an internal risk management program which, at a minimum, shall consist of:

10.24 (1) a system for investigation and analysis of the frequency and causes of reportable
10.25 incidents within the facility;

10.26 (2) measures to minimize the occurrence of reportable incidents and the resulting
10.27 injuries within the facility; and

10.28 (3) a reporting system based upon the duty of all health care providers staffing the
10.29 facility and all agents and employees of the facility directly involved in the delivery of
10.30 health care services to report reportable incidents to the chief of the medical staff, chief
10.31 administrative officer, or risk manager of the facility.

10.32 As used in this paragraph, "reportable incident" means an act by a health care
10.33 provider that: (i) is or may be below the applicable standard of care and has a reasonable
10.34 probability of causing injury to a patient; or (ii) may be grounds for disciplinary action by
10.35 the appropriate licensing agency.

11.1 (k) The rules adopted by the commissioner according to this subdivision do not limit
11.2 the ability of a physician or other health care professional to advise a patient on any
11.3 health issue. The commissioner shall periodically review and update current practice and
11.4 technology standards under this section and, based on current practice or technology,
11.5 amend adopted rules.

11.6 (l) The provisions of this section and the rules adopted according to this section are
11.7 in addition to any other laws that are applicable to facilities defined under this section.

11.8 (m) In addition to any other penalty provided by law, whenever the commissioner
11.9 determines a person has engaged, or is about to engage, in any act or practice that
11.10 constitutes, or will constitute, a violation of this section or rules adopted under this section,
11.11 the commissioner shall make application to a court of competent jurisdiction for an order
11.12 enjoining the act or practice, and upon a showing by the commissioner that the person has
11.13 engaged, or is about to engage, in a prohibited act or practice, an injunction, restraining
11.14 order, or other order shall be granted by the court without bond.

11.15 Subd. 10. **Abortions to be performed by licensed physician.** (a) No abortion
11.16 shall be performed or induced by any person other than a physician licensed to practice
11.17 medicine in this state. When RU-486 (mifepristone) or any drug is used for the purpose of
11.18 inducing an abortion, the drug must be administered by or in the same room and in the
11.19 physical presence of the physician who prescribed, dispensed, or otherwise provided the
11.20 drug to the patient.

11.21 (b) The physician inducing the abortion, or a person acting on behalf of the physician
11.22 inducing the abortion, shall make all reasonable efforts to ensure that the patient returns
11.23 12 to 18 days after the administration or use of such drug for a subsequent examination
11.24 so that the physician can confirm that the pregnancy has been terminated and assess the
11.25 patient's medical condition. A brief description of the efforts made to comply with this
11.26 paragraph, including the date, time, and identification by name of the person making the
11.27 efforts shall be included in the patient's medical record.

11.28 (c) A violation of this subdivision shall constitute unprofessional conduct under
11.29 section 147.091.

11.30 Subd. 11. **Prohibited abortions.** Nothing in this section shall be construed as
11.31 creating or recognizing a right to abortion. Notwithstanding any provision of this section,
11.32 a person shall not perform an abortion that is prohibited by law.

11.33 Subd. 12. **Severability.** If any one or more provision, section, subsection,
11.34 sentence, clause, phrase, or word of this section or the application thereof to any
11.35 person or circumstance is found to be unconstitutional, the same is hereby declared
11.36 to be severable and the balance of the section shall remain effective notwithstanding

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12.1 such unconstitutionality. The legislature hereby declares that it would have passed this
12.2 section and each provision, section, subsection, sentence, clause, phrase, or word thereof,
12.3 irrespective of the fact that any one or more provision, section, subsection, sentence,
12.4 clause, phrase, or word be declared unconstitutional.

12.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.