

CHAPTER 14-02.2

FETAL EXPERIMENTATION

14-02.2-01. Live fetal experimentation - Penalty.

1. A person may not use any live human fetus, whether before or after expulsion from its mother's womb, for scientific, laboratory, research, or other kind of experimentation. This section does not prohibit procedures incident to the study of a human fetus while it is in its mother's womb, provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus, and provided the fetus is not the subject of a planned abortion. In any criminal proceeding the fetus is conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study, that the mother was not planning an abortion.
2. A person may not use a fetus or newborn child, or any tissue or organ thereof, resulting from an induced abortion in animal or human research, experimentation, or study, or for animal or human transplantation.
3. This section does not prohibit or regulate diagnostic or remedial procedures, the purpose of which is to determine the life or health of the fetus involved or to preserve the life or health of the fetus involved, or of the mother involved.
4. A fetus is a live fetus for the purposes of this section when, in the best medical judgment of a physician, it shows evidence of life as determined by the same medical standards as are used in determining evidence of life in a spontaneously aborted fetus at approximately the same stage of gestational development.
5. Any person violating this section is guilty of a class A felony.

14-02.2-02. Experimentation on dead fetus - Use of fetal organs or tissue for transplantation or experimentation - Sale of fetus or fetal organs or tissue - Penalty.

1. An experimentation may not knowingly be performed upon a dead fetus resulting from an occurrence other than an induced abortion unless the consent of the mother has first been obtained; provided, however, that the consent is not required in the case of a routine pathological study. In any criminal proceeding, consent is conclusively presumed to have been granted for the purposes of this section by a written statement, signed by the mother who is at least eighteen years of age, to the effect that she consents to the use of her fetus for scientific, laboratory, research, or other kind of experimentation or study. Such written consent constitutes lawful authorization for the transfer of the dead fetus.
2. A person may not use a fetus or fetal organs or tissue resulting from an induced abortion in animal or human research, experimentation, or study, or for animal or human transplantation except for diagnostic or remedial procedures, the purpose of which is to determine the life or health of the fetus or to preserve the life or health of the fetus or mother, or pathological study.
3. A person may not perform or offer to perform an abortion where part or all of the consideration for the abortion is that the fetal organs or tissue may be used for animal or human transplantation, experimentation, or research or study.
4. A person may not knowingly sell, transfer, distribute, give away, accept, use, or attempt to use any fetus or fetal organs or tissue for a use that is in violation of this section. For purposes of this section, the word "fetus" includes also an embryo or neonate.

5. Violation of this section by any person is a class C felony.