

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 521**

Final Reading

Introduced by Fulton, 29; McCoy, 39; Bloomfield, 17; Brasch, 16;  
Pirsch, 4.

Read first time January 18, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to abortion; to amend section 28-335, Reissue  
2 Revised Statutes of Nebraska; to require the physical  
3 presence of the physician who performs, induces, or  
4 attempts to perform an abortion as prescribed; to provide  
5 a penalty; to provide severability; and to repeal the  
6 original section.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-335, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-335 (1) The performing of an abortion by any person  
4 other than a licensed physician is a Class IV felony.

5           (2) No abortion shall be performed, induced, or attempted  
6 unless the physician who uses or prescribes any instrument, device,  
7 medicine, drug, or other substance to perform, induce, or attempt the  
8 abortion is physically present in the same room with the patient when  
9 the physician performs, induces, or attempts to perform or induce the  
10 abortion. Any person who knowingly or recklessly violates this  
11 subsection shall be guilty of a Class IV felony. No civil or criminal  
12 penalty shall be assessed against the patient upon whom the abortion  
13 is performed, induced, or attempted to be performed or induced.

14           Sec. 2. If any one or more provisions, sections,  
15 subsections, sentences, clauses, phrases, or words of this act or the  
16 application thereof to any person or circumstance is found to be  
17 unconstitutional, the same is hereby declared to be severable and the  
18 balance of this act shall remain effective notwithstanding such  
19 unconstitutionality. The Legislature hereby declares that it would  
20 have passed this act, and each provision, section, subsection,  
21 sentence, clause, phrase, or word thereof, irrespective of the fact  
22 that any one or more provisions, sections, subsections, sentences,  
23 clauses, phrases, or words be declared unconstitutional.

24           Sec. 3. Original section 28-335, Reissue Revised Statutes  
25 of Nebraska, is repealed.