

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB521**

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**Hearing Date:** Wednesday March 09, 2011  
**Committee On:** Judiciary  
**Introducer:** Fulton  
**One Liner:** Provide how certain drugs used to induce an abortion shall be administered

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	5	Senators Coash, Harr, Larson, Lathrop, Lautenbaugh
<b>Nay:</b>	3	Senators Ashford, Council, McGill
<b>Absent:</b>		
<b>Present Not Voting:</b>		

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**Proponents:**

SEN. TONY FULTON  
JULIE SCHMIT-ALBIN  
GREG SCHLEPPENBACH  
MARY JANE ZIOLA

**Representing:**

INTRODUCER  
NEBRASKA RIGHT TO LIFE  
NEBRASK CATHOLIC CONFERENCE  
NEBRASKANS UNITED FOR LIFE

**Opponents:**

TRACY DURBIN

**Representing:**

PLANNED PARENTHOOD OF THE HEARTLAND

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 521 would require that drugs used for the purpose of inducing abortions be administered by or in the physical presence of the physician who prescribed, dispensed or provided it. The physician would have to make reasonable efforts to see the patient 12-18 days after the drug is administered to confirm the pregnancy was terminated and assess the patient's medical condition. The knowing or reckless violation of the provisions above would be a Class I misdemeanor. The bill would also create a civil cause of action against a person who performed an abortion in knowing or reckless violation of the provisions above for actual or consequential damages. The cause of action would be available to the patient, the father if married to the patient or a maternal grandparent. A cause of action would be available to the patient for an attempt to abort in knowing or reckless violation of the provisions above for actual or consequential damages. A cause of action for injunctive relief against the person who performed or attempted to perform an abortion in violation of the provisions above would be available to the patient; the patient's spouse, parent, sibling, guardian, current or former licensed health care provider; a county attorney; or the Attorney General. Reasonable attorney's fees would be awarded to the prevailing party in civil litigation under this bill. The patient would not be subject to civil or criminal liability under this bill. In litigation brought under this bill, the court would determine whether to maintain the anonymity of the patient if she does not consent to disclosure of her identity.

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**Explanation of amendments:**

Committee Amendment AM 1100 would strike the original sections and amend statute section 28-335 to create a new criminal penalty for a physician who is not in the room with the patient when performing, inducing or attempting an

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abortion. Any physician who knowingly or recklessly uses or prescribes any instrument, device, medicine, drug or other substance to perform, induce or attempt an abortion without being physically present in the same room as the patient would be guilty of a Class IV felony. No civil or criminal penalty could be assessed against the patient under this subsection.

There is a severability clause attached to this bill.

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Brad Ashford, Chairperson