

1 A bill to be entitled
2 An act relating to abortions; amending s. 390.011,
3 F.S.; revising and providing definitions; amending s.
4 390.0111, F.S.; conforming terminology to changes made
5 by the act; restricting the circumstances in which an
6 abortion may be performed in the third trimester or
7 after viability; providing certain physician and
8 location requirements with regard to performing
9 abortions; prohibiting instillation abortions;
10 requiring a physician who offers to perform or who
11 performs abortions to complete continuing education
12 related to ethics; prohibiting an abortion from being
13 performed in the third trimester in a location other
14 than a hospital; prohibiting any abortion from being
15 performed in a location other than a hospital,
16 abortion clinic, or physician's office; requiring that
17 certain requirements be completed 24 hours before an
18 abortion is performed in order for consent to an
19 abortion to be considered voluntary and informed;
20 conforming terminology; providing that substantial
21 compliance or reasonable belief that noncompliance
22 with the requirements regarding consent is necessary
23 to prevent the death of the pregnant woman or a
24 substantial and irreversible impairment of a major
25 bodily function of the pregnant woman is a defense to
26 a disciplinary action under s. 458.331 or s. 459.015,
27 F.S.; deleting a definition of the term "viability" to
28 conform to changes made by the act; providing that the

29 prevention of the death or a substantial and
30 irreversible impairment of a major bodily function of
31 the pregnant woman constitutes an overriding and
32 superior consideration to the concern for the life and
33 health of the fetus under certain circumstances;
34 prohibiting a physician from knowingly performing a
35 partial-birth abortion and thereby killing a human
36 fetus; providing exceptions for when a partial-birth
37 abortion is necessary; increasing the penalty imposed
38 for failing to properly dispose of fetal remains;
39 requiring the Department of Health to permanently
40 revoke the license of any health care practitioner who
41 is convicted or found guilty of, or enters a plea of
42 guilty or nolo contendere to, regardless of
43 adjudication, certain felony criminal acts; providing
44 that an infant born alive subsequent to an attempted
45 abortion is entitled to the same rights, powers, and
46 privileges as are granted by the laws of this state;
47 requiring a health care practitioner to exercise the
48 same degree of professional skill, care, and diligence
49 to preserve the life and health of an infant as a
50 reasonably diligent and conscientious health care
51 practitioner would render to any infant born alive if
52 the infant is born alive subsequent to an attempted
53 abortion; requiring that another physician be present
54 in order to take control of any infant born alive;
55 requiring the physician who performs the abortion to
56 take all reasonable steps consistent with the abortion

57 | procedure to preserve the life and health of the
58 | unborn child; requiring a health care practitioner who
59 | has knowledge of any violations to report the
60 | violations to the department; providing that it is a
61 | first-degree misdemeanor to unlawfully advertise how
62 | to obtain an abortion; requiring an abortion clinic to
63 | place a conspicuous notice on its premises and on any
64 | form or medium of advertisement of the abortion clinic
65 | which states that the abortion clinic is prohibited
66 | from performing abortions in the third trimester or
67 | after viability; providing a penalty; requiring the
68 | Agency for Health Care Administration to submit to the
69 | Governor and Legislature an annual report of aggregate
70 | statistical data relating to abortions and provide
71 | such data on its website; amending s. 390.01114, F.S.;
72 | conforming terminology to changes made by the act;
73 | deleting the definition of the term "medical
74 | emergency"; amending s. 390.0112, F.S.; requiring the
75 | director of a hospital, abortion clinic, or
76 | physician's office to submit a monthly report to the
77 | agency on a form developed by the agency which is
78 | consistent with the U.S. Standard Report of Induced
79 | Termination of Pregnancy from the Centers for Disease
80 | Control and Prevention; requiring that the submitted
81 | report not contain any personal identifying
82 | information; requiring the agency to submit reported
83 | data to the Division of Reproductive Health within the
84 | Centers for Disease Control and Prevention; requiring

85 | the physician performing the abortion procedure to
86 | report such data if the abortion was performed in a
87 | hospital, abortion clinic, or physician's office;
88 | requiring the agency to adopt rules; amending s.
89 | 390.012, F.S.; conforming a cross-reference; requiring
90 | the agency to adopt rules that prescribe standards for
91 | placing conspicuous notice to be provided on the
92 | premises and on any advertisement of an abortion
93 | clinic which states that the abortion clinic is
94 | prohibited from performing abortions in the third
95 | trimester or after viability; conforming terminology
96 | to changes made by the act; amending s. 390.014, F.S.;
97 | prohibiting a person from establishing, conducting,
98 | managing, or operating a clinic in this state without
99 | a valid and current license issued by the agency;
100 | requiring an abortion clinic to be owned and operated
101 | by a physician who has received training during
102 | residency in performing a dilation-and-curettage
103 | procedure or a dilation-and-evacuation procedure or by
104 | a corporation or limited liability company composed of
105 | one or more such physicians; providing an exception;
106 | providing a penalty; amending s. 390.018, F.S.;
107 | revising the amount of the fine that the agency may
108 | impose for a violation of ch. 390, F.S., relating to
109 | abortion, or part II of ch. 408, F.S., relating to
110 | licensure; amending s. 456.013, F.S.; requiring that
111 | each applicable board require a physician who offers
112 | to perform or performs abortions to annually complete

113 a course relating to ethics as part of the licensure
 114 and renewal process; providing that the course counts
 115 toward the total number of continuing education hours
 116 required for the profession; requiring the applicable
 117 board to approve the course; amending s. 765.113,
 118 F.S.; conforming a cross-reference; repealing ss.
 119 782.30, 782.32, 782.34, and 782.36, F.S., relating to
 120 the Partial-Birth Abortion Act; repealing s. 797.02,
 121 F.S., relating to the advertising of drugs for
 122 abortions; repealing s. 797.03, F.S., relating to
 123 prohibited acts related to abortions and their
 124 penalties; providing for severability; providing an
 125 effective date.

126
 127 Be It Enacted by the Legislature of the State of Florida:

128
 129 Section 1. Section 390.011, Florida Statutes, is amended
 130 to read:

131 390.011 Definitions.—As used in this chapter, the term:

132 (1) "Abortion" means the termination of human pregnancy
 133 with an intention other than to produce a live birth or to
 134 remove a dead fetus.

135 (2) "Abortion clinic" or "clinic" means any facility in
 136 which abortions are performed. The term does not include:

137 (a) A hospital; or

138 (b) A physician's office, provided that the office is not
 139 used primarily for the performance of abortions.

140 (3) "Agency" means the Agency for Health Care

141 Administration.

142 (4) "Born alive" means the complete expulsion or
 143 extraction from the mother of a human infant, at any stage of
 144 development, who, after such expulsion or extraction, breathes
 145 or has a beating heart, pulsation of the umbilical cord, or
 146 definite and voluntary movement of muscles, regardless of
 147 whether the umbilical cord has been cut and regardless of
 148 whether the expulsion or extraction occurs as a result of
 149 natural or induced labor, cesarean section, induced abortion, or
 150 other method.

151 (5)~~(4)~~ "Department" means the Department of Health.

152 (6) "Health care practitioner" means any person licensed
 153 under chapter 457; chapter 458; chapter 459; chapter 460;
 154 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
 155 chapter 466; chapter 467; part I, part II, part III, part V,
 156 part X, part XIII, or part XIV of chapter 468; chapter 478;
 157 chapter 480; part III or part IV of chapter 483; chapter 484;
 158 chapter 486; chapter 490; or chapter 491.

159 (7)~~(5)~~ "Hospital" means a facility as defined in s.
 160 395.002(12) and licensed under chapter 395 and part II of
 161 chapter 408.

162 (8) "Instillation abortion" means an abortion induced by
 163 the injection of saline, urea, prostaglandin, or other chemical
 164 solution into the amniotic sac within the uterine cavity.

165 (9) "Medical emergency" means a condition that, on the
 166 basis of a physician's good faith clinical judgment, so
 167 complicates the medical condition of a pregnant woman as to
 168 necessitate the immediate termination of her pregnancy to avert

169 her death, or for which a delay in the termination of her
 170 pregnancy will create serious risk of substantial and
 171 irreversible impairment of a major bodily function.

172 ~~(10)(6)~~ "Partial-birth abortion" means an abortion a
 173 ~~termination of pregnancy~~ in which the physician performing the
 174 abortion: termination of pregnancy partially vaginally delivers
 175 ~~a living fetus before killing the fetus and completing the~~
 176 ~~delivery.~~

177 (a) Deliberately and intentionally vaginally delivers a
 178 living fetus until, in the case of a head-first presentation,
 179 the entire fetal head is outside the body of the mother, or, in
 180 the case of breech presentation, any part of the fetal trunk
 181 past the navel is outside the body of the mother, for the
 182 purpose of performing an overt act that the person knows will
 183 kill the partially delivered living fetus; and

184 (b) Performs the overt act, other than completion of
 185 delivery, which kills the partially delivered living fetus.

186 ~~(11)(7)~~ "Physician" means a physician licensed under
 187 chapter 458 or chapter 459 or a physician practicing medicine or
 188 osteopathic medicine in the employment of the United States.

189 ~~(12)(8)~~ "Third trimester" means the weeks of pregnancy
 190 after the 24th week of pregnancy.

191 (13) "Viability" means that stage of fetal development
 192 when the life of the unborn child may, with a reasonable degree
 193 of medical probability, be continued indefinitely outside the
 194 womb.

195 Section 2. Section 390.0111, Florida Statutes, is amended
 196 to read:

197 390.0111 Abortions ~~Termination of pregnancies.~~
 198 (1) ABORTION TERMINATION IN THIRD TRIMESTER OR AFTER
 199 VIABILITY; WHEN ALLOWED. ~~An abortion may not~~ ~~No termination of~~
 200 ~~pregnancy shall be performed on any human being in the third~~
 201 ~~trimester or after the period at which, in the best medical~~
 202 ~~judgment of the physician, the fetus has attained viability of~~
 203 ~~pregnancy unless:~~

204 (a) Two physicians certify in writing to the fact that, to
 205 a reasonable degree of medical probability, the abortion
 206 ~~termination of pregnancy is necessary to prevent the death of~~
 207 ~~the pregnant woman or the substantial and irreversible~~
 208 ~~impairment of a major bodily function~~ ~~save the life or preserve~~
 209 ~~the health~~ of the pregnant woman; or

210 (b) The physician certifies in writing to the existence of
 211 a medical emergency ~~medical necessity for legitimate emergency~~
 212 ~~medical procedures for termination of pregnancy in the third~~
 213 ~~trimester, and another physician is not available for~~
 214 ~~consultation.~~

215 (2) PHYSICIAN AND LOCATION REQUIREMENTS ~~PERFORMANCE BY~~
 216 ~~PHYSICIAN REQUIRED.~~

217 (a) An abortion may not ~~No termination of pregnancy shall~~
 218 ~~be performed at any time except by a physician as defined in s.~~
 219 ~~390.011.~~

220 (b) A physician who offers to perform or who performs
 221 abortions in an abortion clinic must annually complete a minimum
 222 of 3 hours of continuing education related to ethics.

223 (c) Except in the case of a medical emergency, an abortion
 224 may not be performed:

225 1. In the third trimester, or after the fetus has attained
 226 viability, in a location other than in a hospital. If such an
 227 abortion is to be performed, the physician shall offer to
 228 administer an anesthetic or analgesic to the fetus. The
 229 physician shall document in the medical record whether the
 230 administration of anesthetic or analgesic was accepted or
 231 declined.

232 2. In cases in which subparagraph 1. does not apply, in a
 233 location other than a hospital, a validly licensed abortion
 234 clinic, or a physician's office.

235 (3) INSTILLATION PROHIBITION.-Performance of an
 236 instillation abortion is prohibited.

237 (4)-(3) CONSENTS REQUIRED.-An abortion ~~A termination of~~
 238 ~~pregnancy~~ may not be performed or induced except with the
 239 voluntary and informed written consent of the pregnant woman or,
 240 in the case of a mental incompetent, the voluntary and informed
 241 written consent of her court-appointed guardian.

242 (a) Except in the case of a medical emergency, consent to
 243 an abortion ~~a termination of pregnancy~~ is voluntary and informed
 244 only if the following requirements are completed at least 24
 245 hours before the abortion is performed:

246 1. The physician who is to perform the procedure, or the
 247 referring physician, has, at a minimum, orally, in person,
 248 informed the woman of:

249 a. The nature and risks of undergoing or not undergoing
 250 the proposed procedure which ~~that~~ a reasonable patient would
 251 consider material to making a knowing and willful decision of
 252 whether to obtain an abortion ~~terminate a pregnancy.~~

253 b. The probable gestational age of the fetus, verified by
254 an ultrasound, at the time the abortion ~~termination of pregnancy~~
255 is to be performed.

256 (I) The ultrasound must be performed by the physician who
257 is to perform the abortion or by a person having documented
258 evidence that he or she has completed a course in the operation
259 of ultrasound equipment as prescribed by rule and who is working
260 in conjunction with the physician.

261 (II) The person performing the ultrasound must offer the
262 woman the opportunity to view the live ultrasound images and
263 hear an explanation of them. If the woman accepts the
264 opportunity to view the images and hear the explanation, a
265 physician or a registered nurse, licensed practical nurse,
266 advanced registered nurse practitioner, or physician assistant
267 working in conjunction with the physician must contemporaneously
268 review and explain the images to the woman before the woman
269 gives informed consent to having an abortion procedure
270 performed.

271 (III) The woman has a right to decline to view and hear
272 the explanation of the live ultrasound images after she is
273 informed of her right and offered an opportunity to view the
274 images and hear the explanation. If the woman declines, the
275 woman shall complete a form acknowledging that she was offered
276 an opportunity to view and hear the explanation of the images
277 but that she declined that opportunity. The form must also
278 indicate that the woman's decision was not based on any undue
279 influence from any person to discourage her from viewing the
280 images or hearing the explanation and that she declined of her

281 own free will.

282 (IV) Unless requested by the woman, the person performing
283 the ultrasound may not offer the opportunity to view the images
284 and hear the explanation and the explanation may not be given
285 if, at the time the woman schedules or arrives for her
286 appointment to obtain an abortion, a copy of a restraining
287 order, police report, medical record, or other court order or
288 documentation is presented which provides evidence that the
289 woman is obtaining the abortion because the woman is a victim of
290 rape, incest, domestic violence, or human trafficking or that
291 the woman has been diagnosed as having a condition that, on the
292 basis of a physician's good faith clinical judgment, would
293 create a serious risk of substantial and irreversible impairment
294 of a major bodily function if the woman delayed terminating her
295 pregnancy.

296 c. The ability of the fetus to feel pain, if the
297 gestational age of the fetus is determined to be 20 weeks or
298 more. This information shall include, but need not be limited
299 to, the following:

300 (I) By 20 weeks gestational age, the fetus possesses all
301 the anatomical structures, including pain receptors, spinal
302 cord, nerve tracts, thalamus, and cortex, that are necessary to
303 feel pain.

304 (II) A description of the actual steps in the abortion
305 procedure to be performed or induced, and which steps could be
306 painful to the fetus.

307 (III) There is evidence that, by 20 weeks of gestational
308 age, fetuses seek to evade certain stimuli in a manner that, in

309 an infant or an adult, would be interpreted as a response to
 310 pain.

311 (IV) Anesthesia is given to fetuses who are 20 weeks or
 312 more gestational age who undergo prenatal surgery.

313 (V) Anesthesia is given to premature infants who are 22
 314 weeks or more gestational age who undergo surgery.

315 (VI) Anesthesia or analgesics are available in order to
 316 minimize or alleviate pain to the fetus.

317 (VII) The medical risks associated with a particular
 318 anesthetic or analgesic.

319 ~~d.e.~~ The medical risks to the woman and fetus of carrying
 320 the pregnancy to term.

321 2. Printed materials prepared and provided by the
 322 department have been provided to the pregnant woman, if she
 323 chooses to view these materials, including:

324 a. A description of the fetus, including a description of
 325 the various stages of development.

326 b. A list of entities that offer alternatives to abortion
 327 ~~terminating the pregnancy.~~

328 c. Detailed information on the availability of medical
 329 assistance benefits for prenatal care, childbirth, and neonatal
 330 care.

331 3. The woman acknowledges in writing, ~~before the~~
 332 ~~termination of pregnancy,~~ that the information required to be
 333 provided under this subsection has been provided.

334
 335 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a
 336 physician from providing any additional information that ~~which~~

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337 the physician deems material to the woman's informed decision to
338 obtain an abortion ~~terminate her pregnancy~~.

339 (b) If a medical emergency exists and a physician cannot
340 comply with the requirements for informed consent, a physician
341 may perform an abortion ~~terminate a pregnancy~~ if he or she has
342 obtained at least one corroborative medical opinion attesting to
343 the medical necessity for emergency medical procedures and to
344 the fact that to a reasonable degree of medical certainty the
345 continuation of the pregnancy would threaten the life of the
346 pregnant woman. If a second physician is not available for a
347 corroborating opinion, the physician may proceed but shall
348 document reasons for the medical necessity in the patient's
349 medical records.

350 (c) Violation of this subsection by a physician
351 constitutes grounds for disciplinary action under s. 458.331 or
352 s. 459.015. Substantial compliance or reasonable belief that
353 noncompliance ~~complying~~ with the requirements of this subsection
354 is necessary to prevent the death of the pregnant woman or a
355 substantial and irreversible impairment of a major bodily
356 function of the pregnant woman ~~informed consent would threaten~~
357 ~~the life or health of the patient~~ is a defense to any action
358 brought under this paragraph.

359 (5)-(4) STANDARD OF MEDICAL CARE TO BE USED DURING
360 VIABILITY.—If an abortion ~~a termination of pregnancy~~ is
361 performed during viability, a ~~no~~ person who performs or induces
362 the abortion ~~termination of pregnancy~~ shall ~~fail to~~ use that
363 degree of professional skill, care, and diligence to preserve
364 the life and health of the fetus which such person would be

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365 required to exercise in order to preserve the life and health of
 366 any fetus intended to be born and not aborted. ~~"Viability" means~~
 367 ~~that stage of fetal development when the life of the unborn~~
 368 ~~child may with a reasonable degree of medical probability be~~
 369 ~~continued indefinitely outside the womb.~~ Notwithstanding the
 370 provisions of this subsection, the prevention of the death of
 371 the pregnant woman or a substantial and irreversible impairment
 372 of a major bodily function of the pregnant woman constitutes the
 373 ~~woman's life and health shall constitute~~ an overriding and
 374 superior consideration to the concern for the life and health of
 375 the fetus when such concerns are in conflict.

376 ~~(6)~~~~(5)~~ PARTIAL-BIRTH ABORTION PROHIBITED; EXCEPTION.—

377 (a) A ~~No~~ physician may not ~~shall~~ knowingly perform a
 378 partial-birth abortion.

379 (b) A woman upon whom a partial-birth abortion is
 380 performed may not be prosecuted under this section for a
 381 conspiracy to violate the provisions of this section.

382 (c) This subsection does ~~shall~~ not apply to a partial-
 383 birth abortion that is necessary to save the life of a mother
 384 whose life is endangered by a physical disorder, physical
 385 illness, or physical injury, including a life-endangering
 386 physical condition caused by or arising from the pregnancy
 387 itself, if provided that no other medical procedure would
 388 suffice for that purpose.

389 ~~(7)~~~~(6)~~ EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A

390 ~~No~~ person may not ~~shall~~ use any live fetus, ~~or~~ live or dead, or
 391 a premature infant for any type of scientific, research,
 392 laboratory, or other kind of experimentation before ~~either prior~~

393 ~~to~~ or subsequent to any abortion ~~termination of pregnancy~~
 394 procedure except as necessary to protect or preserve the life
 395 and health of such fetus or premature infant.

396 (8) ~~(7)~~ FETAL REMAINS.—Fetal remains shall be disposed of
 397 in a sanitary and appropriate manner and in accordance with
 398 standard health practices, as provided by rule of the department
 399 ~~of Health~~. Failure to dispose of fetal remains in accordance
 400 with department rules is a misdemeanor of the first ~~second~~
 401 degree, punishable as provided in s. 775.082 or s. 775.083.

402 (9) ~~(8)~~ REFUSAL TO PARTICIPATE IN ABORTION ~~TERMINATION~~
 403 PROCEDURE.—~~Nothing in~~ This section does not ~~shall~~ require any
 404 hospital or any person to participate in an abortion ~~the~~
 405 ~~termination of a pregnancy~~, and a ~~nor shall any~~ hospital or any
 406 person is not ~~be~~ liable for such refusal. A ~~No~~ person who is a
 407 member of, or associated with, the staff of a hospital, or ~~nor~~
 408 any employee of a hospital or physician in which or by whom the
 409 abortion ~~termination of a pregnancy~~ has been authorized or
 410 performed, who states ~~shall state~~ an objection to such procedure
 411 on moral or religious grounds is not ~~shall be~~ required to
 412 participate in the procedure that ~~which~~ will result in the
 413 abortion ~~termination of pregnancy~~. The refusal of any such
 414 person or employee to participate does ~~shall~~ not form the basis
 415 for any disciplinary or other recriminatory action against such
 416 person.

417 (10) ~~(9)~~ EXCEPTION.—The provisions of this section do ~~shall~~
 418 not apply to the performance of a procedure that ~~which~~
 419 terminates a pregnancy in order to deliver a live child.

420 (11) ~~(10)~~ PENALTIES FOR VIOLATION.—Except as provided in

421 subsections (3) and (8) ~~(7)~~:

422 (a) Any person who willfully performs, or actively
 423 participates in, an abortion ~~a termination of pregnancy~~
 424 procedure in violation of the requirements of this section
 425 commits a felony of the third degree, punishable as provided in
 426 s. 775.082, s. 775.083, or s. 775.084.

427 (b) Any person who performs, or actively participates in,
 428 an abortion ~~a termination of pregnancy~~ procedure in violation of
 429 ~~the provisions of~~ this section which results in the death of the
 430 woman commits a felony of the second degree, punishable as
 431 provided in s. 775.082, s. 775.083, or s. 775.084.

432 (c) The department shall permanently revoke the license of
 433 any licensed health care practitioner who has been convicted or
 434 found guilty of, or entered a plea of guilty or nolo contendere
 435 to, regardless of adjudication, a felony as provided in this
 436 subsection.

437 ~~(12)(11)~~ CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;
 438 RELIEF.—

439 (a) The father, if married to the mother at the time she
 440 receives a partial-birth abortion, and, if the mother has not
 441 attained the age of 18 years at the time she receives a partial-
 442 birth abortion, the maternal grandparents of the fetus may, in a
 443 civil action, obtain appropriate relief, unless the pregnancy
 444 resulted from the plaintiff's criminal conduct or the plaintiff
 445 consented to the abortion.

446 (b) In a civil action under this section, appropriate
 447 relief includes:

448 1. Monetary damages for all injuries, psychological and

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449 physical, occasioned by the violation of subsection (6) ~~(5)~~.

450 2. Damages equal to three times the cost of the partial-
451 birth abortion.

452 (13) INFANTS BORN ALIVE.—

453 (a) An infant born alive subsequent to an attempted
454 abortion is entitled to the same rights, powers, and privileges
455 as are granted by the laws of this state to any other child born
456 alive in the course of birth that is not subsequent to an
457 attempted abortion.

458 (b) If an infant is born alive subsequent to an attempted
459 abortion, any health care practitioner present at the time shall
460 humanely exercise the same degree of professional skill, care,
461 and diligence to preserve the life and health of the infant as a
462 reasonably diligent and conscientious health care practitioner
463 would render to an infant born alive in the course of birth that
464 is not subsequent to an attempted abortion.

465 (c) An abortion may not be attempted pursuant to paragraph
466 (1)(a) unless a physician other than the physician performing
467 the abortion is in attendance to take control of any infant born
468 alive, to provide immediate medical care to the infant, and to
469 discharge the obligations imposed by paragraph (b). The
470 physician who performs the abortion shall take all reasonable
471 steps consistent with the abortion procedure to preserve the
472 life and health of the unborn child.

473 (d) A health care practitioner who has knowledge of a
474 violation of this subsection shall report the violation to the
475 department.

476 (14) PUBLIC NOTICES AND ADVERTISEMENTS.—

477 (a) A person may not knowingly advertise, print, publish,
 478 distribute, or circulate, or knowingly cause to be advertised,
 479 printed, published, distributed, or circulated, any pamphlet,
 480 printed paper, book, newspaper notice, advertisement, or
 481 reference containing words or language giving or conveying any
 482 notice, hint, or reference to any person, or the name of any
 483 person, real or fictitious, from whom, or to any place, house,
 484 shop, or office where any poison, drug, mixture, preparation,
 485 medicine, or noxious thing, or any instrument or means whatever,
 486 or any advice, direction, information, or knowledge that may be
 487 obtained for the purpose of performing an abortion in violation
 488 of this chapter.

489 (b) An abortion clinic must provide conspicuous written
 490 notice on its premises and on any advertisement that the
 491 abortion clinic is prohibited, except in a medical emergency,
 492 from performing abortions in the third trimester or after the
 493 fetus has attained viability.

494 (c) Any person who violates this subsection commits a
 495 misdemeanor of the first degree, punishable as provided in s.
 496 775.082 or s. 775.083.

497 (15) RESPONSIBILITIES OF THE AGENCY.—Before each regular
 498 legislative session, the agency shall report aggregate
 499 statistical data relating to abortions, which has been reported
 500 to the Division of Reproductive Health within the Centers for
 501 Disease Control and Prevention, on its website and provide an
 502 annual report to the Governor, the President of the Senate, and
 503 the Speaker of the House of Representatives regarding such data.
 504 Any information required to be reported under this subsection

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505 must not include any personal identifying information.

506 (16)~~(12)~~ FAILURE TO COMPLY.—Failure to comply with the
 507 requirements of this section constitutes grounds for
 508 disciplinary action under each respective practice act and under
 509 s. 456.072.

510 (17)~~(13)~~ RULES.—The applicable boards, or the department
 511 if there is no board, shall adopt rules necessary to implement
 512 the provisions of this section.

513 Section 3. Section 390.01114, Florida Statutes, is amended
 514 to read:

515 390.01114 Parental Notice of Abortion Act.—

516 (1) SHORT TITLE.—This section may be cited as the
 517 "Parental Notice of Abortion Act."

518 (2) DEFINITIONS.—As used in this section, the term:

519 (a) "Actual notice" means notice that is given directly,
 520 in person or by telephone, to a parent or legal guardian of a
 521 minor, by a physician, at least 48 hours before the inducement
 522 or performance of an abortion ~~a termination of pregnancy~~, and
 523 documented in the minor's files.

524 (b) "Child abuse" means abandonment, abuse, harm, mental
 525 injury, neglect, physical injury, or sexual abuse of a child as
 526 those terms are defined in ss. 39.01, 827.04, and 984.03.

527 (c) "Constructive notice" means notice that is given in
 528 writing, signed by the physician, and mailed at least 72 hours
 529 before the inducement or performance of the abortion ~~termination~~
 530 ~~of pregnancy~~, to the last known address of the parent or legal
 531 guardian of the minor, by first-class mail and by certified
 532 mail, return receipt requested, and delivery restricted to the

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533 parent or legal guardian. After the 72 hours have passed,
534 delivery is deemed to have occurred.

535 ~~(d) "Medical emergency" means a condition that, on the~~
536 ~~basis of a physician's good faith clinical judgment, so~~
537 ~~complicates the medical condition of a pregnant woman as to~~
538 ~~necessitate the immediate termination of her pregnancy to avert~~
539 ~~her death, or for which a delay in the termination of her~~
540 ~~pregnancy will create serious risk of substantial and~~
541 ~~irreversible impairment of a major bodily function.~~

542 ~~(d)(e)~~ "Sexual abuse" has the meaning ascribed in s.
543 39.01.

544 ~~(e)(f)~~ "Minor" means a person under the age of 18 years.

545 (3) NOTIFICATION REQUIRED.—

546 (a) Actual notice shall be provided by the physician
547 performing or inducing an abortion with respect to the
548 ~~termination of pregnancy before the performance or inducement of~~
549 ~~the termination of~~ the pregnancy of a minor. The notice may be
550 given by a referring physician. The physician who performs or
551 induces the abortion ~~termination of pregnancy~~ must receive the
552 written statement of the referring physician certifying that the
553 referring physician has given notice. If actual notice is not
554 possible after a reasonable effort has been made, the physician
555 performing or inducing the abortion ~~termination of pregnancy~~ or
556 the referring physician must give constructive notice. Notice
557 given under this subsection by the physician performing or
558 inducing the abortion ~~termination of pregnancy~~ must include the
559 name and address of the facility providing the abortion
560 ~~termination of pregnancy~~ and the name of the physician providing

561 notice. Notice given under this subsection by a referring
562 physician must include the name and address of the facility
563 where he or she is referring the minor and the name of the
564 physician providing notice. If actual notice is provided by
565 telephone, the physician must actually speak with the parent or
566 guardian, and must record in the minor's medical file the name
567 of the parent or guardian provided notice, the phone number
568 dialed, and the date and time of the call. If constructive
569 notice is given, the physician must document that notice by
570 placing copies of any document related to the constructive
571 notice, including, but not limited to, a copy of the letter and
572 the return receipt, in the minor's medical file. Actual notice
573 given by telephone shall be confirmed in writing, signed by the
574 physician, and mailed to the last known address of the parent or
575 legal guardian of the minor, by first-class mail and by
576 certified mail, return receipt requested, with delivery
577 restricted to the parent or legal guardian.

578 (b) Notice is not required if:

579 1. In the physician's good faith clinical judgment, a
580 medical emergency exists and there is insufficient time for the
581 attending physician to comply with the notification
582 requirements. If a medical emergency exists, the physician shall
583 make reasonable attempts, whenever possible, without endangering
584 the minor, to contact the parent or legal guardian, and may
585 proceed, but must document reasons for the medical necessity in
586 the patient's medical records. The physician shall provide
587 notice directly, in person or by telephone, to the parent or
588 legal guardian, including details of the medical emergency and

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589 any additional risks to the minor. If the parent or legal
590 guardian has not been notified within 24 hours after the
591 abortion ~~termination of the pregnancy~~, the physician shall
592 provide notice in writing, including details of the medical
593 emergency and any additional risks to the minor, signed by the
594 physician, to the last known address of the parent or legal
595 guardian of the minor, by first-class mail and by certified
596 mail, return receipt requested, with delivery restricted to the
597 parent or legal guardian;

598 2. Notice is waived in writing by the person who is
599 entitled to notice and such waiver is notarized, dated not more
600 than 30 days before the abortion ~~termination of pregnancy~~, and
601 contains a specific waiver of the right of the parent or legal
602 guardian to notice of the minor's abortion ~~termination of~~
603 ~~pregnancy~~;

604 3. Notice is waived by the minor who is or has been
605 married or has had the disability of nonage removed under s.
606 743.015 or a similar statute of another state;

607 4. Notice is waived by the patient because the patient has
608 a minor child dependent on her; or

609 5. Notice is waived under subsection (4).

610 (c) Violation of this subsection by a physician
611 constitutes grounds for disciplinary action under s. 458.331 or
612 s. 459.015.

613 (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

614 (a) A minor may petition any circuit court in which the
615 minor resides for a waiver of the notice requirements of
616 subsection (3) and may participate in proceedings on her own

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617 | behalf. The petition may be filed under a pseudonym or through
618 | the use of initials, as provided by court rule. The petition
619 | must include a statement that the petitioner is pregnant and
620 | notice has not been waived. The court shall advise the minor
621 | that she has a right to court-appointed counsel and shall
622 | provide her with counsel upon her request at no cost to the
623 | minor.

624 | (b)1. Court proceedings under this subsection must be
625 | given precedence over other pending matters to the extent
626 | necessary to ensure that the court reaches a decision promptly.
627 | The court shall rule, and issue written findings of fact and
628 | conclusions of law, within 3 business days after the petition is
629 | filed, except that the 3-business-day limitation may be extended
630 | at the request of the minor. If the court fails to rule within
631 | the 3-business-day period and an extension has not been
632 | requested, the minor may immediately petition for a hearing upon
633 | the expiration of the 3-business-day period to the chief judge
634 | of the circuit, who must ensure a hearing is held within 48
635 | hours after receipt of the minor's petition and an order is
636 | entered within 24 hours after the hearing.

637 | 2. If the circuit court does not grant judicial waiver of
638 | notice, the minor has the right to appeal. An appellate court
639 | must rule within 7 days after receipt of appeal, but a ruling
640 | may be remanded with further instruction for a ruling within 3
641 | business days after the remand. The reason for overturning a
642 | ruling on appeal must be based on abuse of discretion by the
643 | court and may not be based on the weight of the evidence
644 | presented to the circuit court since the proceeding is a

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645 nonadversarial proceeding.

646 (c) If the court finds, by clear and convincing evidence,
647 that the minor is sufficiently mature to decide whether to
648 obtain an abortion ~~terminate her pregnancy~~, the court shall
649 issue an order authorizing the minor to consent to the
650 performance or inducement of an abortion ~~a termination of~~
651 ~~pregnancy~~ without the notification of a parent or guardian. If
652 the court does not make the finding specified in this paragraph
653 or paragraph (d), it must dismiss the petition. Factors the
654 court shall consider include:

655 1. The minor's:

656 a. Age.

657 b. Overall intelligence.

658 c. Emotional development and stability.

659 d. Credibility and demeanor as a witness.

660 e. Ability to accept responsibility.

661 f. Ability to assess both the immediate and long-range
662 consequences of the minor's choices.

663 g. Ability to understand and explain the medical risks of
664 an abortion ~~terminating her pregnancy~~ and to apply that
665 understanding to her decision.

666 2. Whether there may be any undue influence by another on
667 the minor's decision to have an abortion.

668 (d) If the court finds, by a preponderance of the
669 evidence, that the petitioner is the victim of child abuse or
670 sexual abuse inflicted by one or both of her parents or her
671 guardian, or by clear and convincing evidence that the
672 notification of a parent or guardian is not in the best interest

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673 of the petitioner, the court shall issue an order authorizing
 674 the minor to consent to the performance or inducement of an
 675 abortion ~~a termination of pregnancy~~ without the notification of
 676 a parent or guardian. The best-interest standard does not
 677 include financial best interest or financial considerations or
 678 the potential financial impact on the minor or the minor's
 679 family if the minor does not obtain the abortion ~~terminate the~~
 680 ~~pregnancy~~. If the court finds evidence of child abuse or sexual
 681 abuse of the minor petitioner by any person, the court shall
 682 report the evidence of child abuse or sexual abuse of the
 683 petitioner, as provided in s. 39.201. If the court does not make
 684 the finding specified in this paragraph or paragraph (c), it
 685 must dismiss the petition.

686 (e) A court that conducts proceedings under this section
 687 shall:

688 1. Provide for a written transcript of all testimony and
 689 proceedings;

690 2. Issue a final written order containing factual findings
 691 and legal conclusions supporting its decision, including factual
 692 findings and legal conclusions relating to the maturity of the
 693 minor as provided under paragraph (c); and

694 3. Order that a confidential record be maintained, as
 695 required under s. 390.01116.

696 (f) All hearings under this section, including appeals,
 697 shall remain confidential and closed to the public, as provided
 698 by court rule.

699 (g) An expedited appeal shall be made available, as the
 700 Supreme Court provides by rule, to any minor to whom the circuit

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701 court denies a waiver of notice. An order authorizing an
 702 abortion ~~a termination of pregnancy~~ without notice is not
 703 subject to appeal.

704 (h) Filing fees or court costs may not be required of any
 705 pregnant minor who petitions a court for a waiver of parental
 706 notification under this subsection at either the trial or the
 707 appellate level.

708 (i) A county is not obligated to pay the salaries, costs,
 709 or expenses of any counsel appointed by the court under this
 710 subsection.

711 (5) PROCEEDINGS.—The Supreme Court is requested to adopt
 712 rules and forms for petitions to ensure that proceedings under
 713 subsection (4) are handled expeditiously and in a manner
 714 consistent with this act. The Supreme Court is also requested to
 715 adopt rules to ensure that the hearings protect the minor's
 716 confidentiality and the confidentiality of the proceedings.

717 (6) REPORT.—The Supreme Court, through the Office of the
 718 State Courts Administrator, shall report by February 1 of each
 719 year to the Governor, the President of the Senate, and the
 720 Speaker of the House of Representatives on the number of
 721 petitions filed under subsection (4) for the preceding year, and
 722 the timing and manner of disposal of such petitions by each
 723 circuit court. For each petition resulting in a waiver of
 724 notice, the reason for the waiver shall be included in the
 725 report.

726 Section 4. Section 390.0112, Florida Statutes, is amended
 727 to read:

728 390.0112 Abortions ~~Termination of pregnancies~~; reporting.—

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729 (1) The director of any hospital, validly licensed
730 abortion clinic, or physician's office ~~medical facility~~ in which
731 an abortion is performed ~~any pregnancy is terminated~~ shall
732 submit a ~~monthly~~ report each month to the agency on a form
733 developed by the agency which is consistent with the U.S.
734 Standard Report of Induced Termination of Pregnancy from the
735 Centers for Disease Control and Prevention. The report must not
736 contain any personal identifying information ~~which contains the~~
737 ~~number of procedures performed, the reason for same, and the~~
738 ~~period of gestation at the time such procedures were performed~~
739 ~~to the agency.~~ The agency shall be responsible for keeping such
740 reports in a central place from which statistical data and
741 analysis can be made. The agency shall submit reported data to
742 the Division of Reproductive Health within the Centers for
743 Disease Control and Prevention.

744 (2) If the abortion ~~termination of pregnancy~~ is not
745 performed in a hospital, validly licensed abortion clinic, or
746 physician's office ~~medical facility~~, the physician performing
747 the procedure shall report ~~be responsible for reporting~~ such
748 information as required in subsection (1).

749 (3) Reports submitted pursuant to this section shall be
750 confidential and exempt from the provisions of s. 119.07(1) and
751 shall not be revealed except upon the order of a court of
752 competent jurisdiction in a civil or criminal proceeding or as
753 required in subsection (1).

754 (4) Any person required under this section to file a
755 report or keep any records who willfully fails to file such
756 report or keep such records may be subject to a \$200 fine for

757 each violation. The agency shall ~~be required to~~ impose such
758 fines when reports or records required under this section have
759 not been timely received. For purposes of this section, timely
760 received is defined as 30 days following the preceding month.

761 (5) The agency may adopt rules necessary to administer
762 this section.

763 Section 5. Paragraphs (b) and (c) of subsection (1),
764 paragraph (a) of subsection (3), and subsection (6) of section
765 390.012, Florida Statutes, are amended to read:

766 390.012 Powers of agency; rules; disposal of fetal
767 remains.—

768 (1) The agency may develop and enforce rules pursuant to
769 ss. 390.011-390.018 and part II of chapter 408 for the health,
770 care, and treatment of persons in abortion clinics and for the
771 safe operation of such clinics.

772 (b) The rules shall be in accordance with s. 390.0111(2)
773 ~~s. 797.03~~ and may not impose an unconstitutional burden on a
774 woman's freedom to decide whether to obtain an abortion
775 ~~terminate her pregnancy.~~

776 (c) The rules shall provide for:

777 1. The performance of abortion ~~pregnancy termination~~
778 procedures only by a licensed physician.

779 2. The making, protection, and preservation of patient
780 records, which shall be treated as medical records under chapter
781 458.

782 (3) For clinics that perform or claim to perform abortions
783 after the first trimester of pregnancy, the agency shall adopt
784 rules pursuant to ss. 120.536(1) and 120.54 to implement the

785 provisions of this chapter, including the following:

786 (a) Rules for an abortion clinic's physical facilities. At
787 a minimum, these rules shall prescribe standards for:

788 1. Adequate private space that is specifically designated
789 for interviewing, counseling, and medical evaluations.

790 2. Dressing rooms for staff and patients.

791 3. Appropriate lavatory areas.

792 4. Areas for preprocedure hand washing.

793 5. Private procedure rooms.

794 6. Adequate lighting and ventilation for abortion
795 procedures.

796 7. Surgical or gynecological examination tables and other
797 fixed equipment.

798 8. Postprocedure recovery rooms that are equipped to meet
799 the patients' needs.

800 9. Emergency exits to accommodate a stretcher or gurney.

801 10. Areas for cleaning and sterilizing instruments.

802 11. Adequate areas for the secure storage of medical
803 records and necessary equipment and supplies.

804 12. The display in the abortion clinic, in a place that is
805 conspicuous to all patients, of the clinic's current license
806 issued by the agency.

807 13. Conspicuous written notice to be provided on the
808 premises and on any advertisement of the abortion clinic, which
809 must state that the abortion clinic is prohibited, except in a
810 medical emergency, from performing abortions in the third
811 trimester or after the fetus has attained viability.

812 (6) The agency may adopt and enforce rules, in the

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813 interest of protecting the public health, to ensure the prompt
814 and proper disposal of fetal remains and tissue resulting from
815 an abortion ~~pregnancy termination~~.

816 Section 6. Subsection (1) of section 390.014, Florida
817 Statutes, is amended, and subsections (5), (6), and (7) are
818 added to that section to read:

819 390.014 Licenses; fees.—

820 (1) The requirements of part II of chapter 408 ~~shall~~ apply
821 to the provision of services that require licensure pursuant to
822 ss. 390.011-390.018 and part II of chapter 408 and to entities
823 licensed by or applying for such licensure from the agency ~~for~~
824 ~~Health Care Administration~~ pursuant to ss. 390.011-390.018. A
825 ~~license issued by the agency is required in order to operate a~~
826 ~~clinic in this state.~~

827 (5) A person may not establish, conduct, manage, or
828 operate a clinic in this state without a valid and current
829 license issued by the agency.

830 (6) A clinic must be wholly owned and operated by one or
831 more physicians who received residency training in performing
832 dilation-and-curettage and dilation-and-evacuation procedures or
833 by a professional corporation or limited liability company
834 composed solely of one or more such physicians. This subsection
835 does not apply to clinics licensed before July 1, 2012, or to
836 the renewal of licenses held by such clinics.

837 (7) A person who willfully violates subsection (5) or
838 subsection (6) commits a misdemeanor of the first degree,
839 punishable as provided in s. 775.082 or s. 775.083.

840 Section 7. Section 390.018, Florida Statutes, is amended

841 to read:

842 390.018 Administrative fine.—In addition to the
 843 requirements of part II of chapter 408, the agency may impose a
 844 fine upon the clinic in an amount not to exceed \$5,000 ~~\$1,000~~
 845 for each violation of any provision of this chapter, part II of
 846 chapter 408, or applicable rules.

847 Section 8. Subsection (7) of section 456.013, Florida
 848 Statutes, is amended to read:

849 456.013 Department; general licensing provisions.—

850 (7) (a) The boards, or the department when there is no
 851 board, shall require the completion of a 2-hour course relating
 852 to prevention of medical errors as part of the licensure and
 853 renewal process. The 2-hour course shall count towards the total
 854 number of continuing education hours required for the
 855 profession. The course shall be approved by the board or
 856 department, as appropriate, and shall include a study of root-
 857 cause analysis, error reduction and prevention, and patient
 858 safety. In addition, the course approved by the Board of
 859 Medicine and the Board of Osteopathic Medicine shall include
 860 information relating to the five most misdiagnosed conditions
 861 during the previous biennium, as determined by the board. If the
 862 course is being offered by a facility licensed pursuant to
 863 chapter 395 for its employees, the board may approve up to 1
 864 hour of the 2-hour course to be specifically related to error
 865 reduction and prevention methods used in that facility.

866 (b) In accordance with s. 390.0111, the board, or the
 867 department if there is no board, shall require a physician who
 868 offers to perform or performs abortions in an abortion clinic to

869 annually complete a 3-hour course related to ethics as part of
 870 the licensure and renewal process. The 3-hour course shall count
 871 toward the total number of continuing education hours required
 872 for the profession. The applicable board, or the department if
 873 there is no board, shall approve the course, as appropriate.

874 Section 9. Section 765.113, Florida Statutes, is amended
 875 to read:

876 765.113 Restrictions on providing consent.—Unless the
 877 principal expressly delegates such authority to the surrogate in
 878 writing, or a surrogate or proxy has sought and received court
 879 approval pursuant to rule 5.900 of the Florida Probate Rules, a
 880 surrogate or proxy may not provide consent for:

881 (1) Abortion, sterilization, electroshock therapy,
 882 psychosurgery, experimental treatments that have not been
 883 approved by a federally approved institutional review board in
 884 accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or
 885 voluntary admission to a mental health facility.

886 (2) Withholding or withdrawing life-prolonging procedures
 887 from a pregnant patient prior to viability as defined in s.
 888 390.011 s. ~~390.0111(4)~~.

889 Section 10. Section 782.30, Florida Statutes, is repealed.

890 Section 11. Section 782.32, Florida Statutes, is repealed.

891 Section 12. Section 782.34, Florida Statutes, is repealed.

892 Section 13. Section 782.36, Florida Statutes, is repealed.

893 Section 14. Section 797.02, Florida Statutes, is repealed.

894 Section 15. Section 797.03, Florida Statutes, is repealed.

895 Section 16. If any provision of this act or its
 896 application to any person or circumstance is held invalid, the

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897 invalidity does not affect other provisions or applications of
898 the act which can be given effect without the invalid provision
899 or application, and to this end the provisions of this act are
900 severable.

901 Section 17. This act shall take effect July 1, 2012.