

1                                   A bill to be entitled  
 2           An act relating to termination of pregnancies;  
 3           creating s. 390.035, F.S.; creating a cause of action  
 4           for physical and emotional injury resulting from a  
 5           termination of pregnancy; providing that this cause of  
 6           action is not an exclusive remedy; providing that laws  
 7           on medical malpractice actions do not apply to this  
 8           cause of action; providing a statute of limitations  
 9           and statute of repose; providing for tolling of the  
 10          limitations periods; authorizing an award of attorney  
 11          fees and costs to a prevailing plaintiff; defining the  
 12          term "damages"; providing an effective date.

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 14   Be It Enacted by the Legislature of the State of Florida:

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 16           Section 1. Section 390.035, Florida Statutes, is created  
 17   to read:

18           390.035 Liability for acts related to a termination of  
 19   pregnancy; remedies; limitations.—

20           (1) A woman who suffers injury or death as a result of an  
 21   abortion, or who suffers emotional distress as a result of a  
 22   physician's failure to obtain the informed consent as required  
 23   by s. 390.0111, has a cause of action for damages against the  
 24   physician who performed the abortion or failed to provide the  
 25   statutorily required informed consent.

26        (2) The signing of an informed consent form by the woman  
27 prior to the abortion does not bar a cause of action brought  
28 under this section.

29        (3) An action brought pursuant to this section is not a  
30 claim for medical malpractice, and chapter 766 does not apply.  
31 This section may not be construed as barring any other statutory  
32 or common law cause of action for medical malpractice otherwise  
33 available resulting from an abortion procedure or diminish the  
34 nature or the extent of those causes of action. The cause of  
35 action created in this section is in addition to any other  
36 statutory or common law cause of action available to an injured  
37 person.

38        (4) Notwithstanding s. 95.11 or any other provision of  
39 law, any action for damages brought under this section shall be  
40 commenced within the latter of 4 years from the time the  
41 incident giving rise to the action occurred or 4 years from the  
42 time the injury is discovered or should have been discovered  
43 with the exercise of due diligence; however, in no event shall  
44 the action be commenced later than 10 years from the time the  
45 incident giving rise to the action occurred. The limitations  
46 periods created by this subsection shall be tolled while the  
47 woman is a minor.

48        (5) A prevailing plaintiff in any action brought under  
49 this section is entitled to reasonable attorney fees and costs.

50        (6) For the purposes of this section, the term "damages"

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51 | means all special and general damages which are recoverable in  
52 | an intentional tort, negligence, survival, or wrongful death  
53 | action, including, but not limited to, actual and punitive  
54 | damages.

55 |       Section 2. This act shall take effect July 1, 2017.